

LAWS

PASSED BY

THE EIGHTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE
ON TUESDAY, THE SIXTH DAY OF JANUARY, A. D. 1903,
AND CONCLUDED MARCH SIXTH, 1903.

GRAND FORKS, N. D.
HERALD, STATE PRINTERS AND BINDERS.
1903.

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 eighth session thereof, beginning January 6th, 1903, and terminating March 6th, 1903, 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 1st day of June, 1903.

[SEAL]

E. F. PORTER,
Secretary of State.

THE LAWS

ACKNOWLEDGMENTS.

CHAPTER I.

[S. B. No. 116—Lavayea.]

ACKNOWLEDGMENTS BY DEPUTIES.

AN ACT to Amend and Re-enact Subdivision 6 of Section 3576 of Article 3, Civil Code of the Revised Codes of 1899. Relating to Acknowledgments by Deputies.

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

§ 1. AMENDMENT.] That subdivision 6 of section 3576, article 3, civil code of the revised codes of 1899, be amended and re-enacted to read as follows:

6. When any of the officers mentioned in this article are authorized by law to appoint a deputy, the acknowledgment or proof may be taken by such deputy in the name of his principal, as deputy, or by such deputy as deputy.

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 All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1903.

ACTIONS.

CHAPTER 2.

[H. B. No. 83—Buttz.]

COMMENCEMENT OF ACTIONS.

AN ACT to Amend Section 5201 of the Revised Codes of 1899, Relating to
Time of Commencing Actions.

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

§ 1. AMENDMENT.] That section 5201 of the revised codes of the state of North Dakota, 1899, be amended so as to read as follows:

§ 5201. SIX YEARS. . WITHIN SIX YEARS]:

1. An action upon a contract, obligation or liability, express or implied, excepting those mentioned in section 5200.

2. An action upon a liability created by statute, other than a penalty or forfeiture, when not otherwise expressly provided.

3. An action for trespass upon real property.

4. An action for taking, detaining or injuring any goods or chattels, including actions for the specific recovery of personal property.

5. An action for criminal conversation [conversion,] or any other injury to the person or rights of another not arising on contract and not hereinafter enumerated.

6. An action for relief on the ground of fraud in cases which heretofore were solely cognizable by the court of chancery, because of action in such cases not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

7. An action for the foreclosure of a mechanic's lien; provided, that subdivision 7 shall not apply to any mechanic's lien filed prior to the passage of this act.

Approved March 10, 1903.

CHAPTER 3.

[H. B. No. 115—Richmond.]

COMMENCEMENT OF CIVIL ACTIONS.

AN ACT to Amend Section 5249, Chapter 7, of the Revised Codes of 1899, Relating to the Commencement of Civil Actions and the Filing and Service of Complaints in the District Courts.

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

§ 1. AMENDMENT.] That section 5249 of the revised codes 1899 be amended to read as follows:

§ 5249. CONTENTS OF SUMMONS.] A copy of the complaint need not be served with the summons. In such case the summons must state that the complaint is, or will be, filed with the clerk of the district court in the county in which action is commenced, and if the defendant within thirty days thereafter causes notice of appearance to be given and in person, or by attorney, demands in writing a copy of the complaint, specifying a place within the state where it may be served, a copy thereof must, within thirty days thereafter, be served accordingly, and after such service the defendant has thirty days to answer, but only one copy need be served on the same attorney. Where the summons states that the complaint is or will be filed with the clerk of court and the same is not so filed within thirty days after the date of such summons, the action will be deemed discontinued.

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

Approved March 10, 1903.

CHAPTER 4.

[S. B. No. 6—Sharpe.]

PROCEDURE IN CIVIL ACTIONS.

AN ACT to Amend Chapter 61 of the Session Laws of 1901, being Section 6633 of the Revised Codes of North Dakota, 1899, Relating to Procedure in Civil Actions.

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

§ 1. AMENDMENT.] That chapter 61 of the session laws of 1901, being section 6633 of the revised codes of North Dakota, 1899, be amended and re-enacted to read as follows:

§ 6633. ACTIONS, WHERE COMMENCED AND TRIED.] The county

in which a civil action in a justice's court must be commenced and tried is as follows:

1. An action of forcible detainer or for trespass or any other injury to real property, or an action to recover specific personal property, or to foreclose or enforce a lien upon chattels or trespassing animals, must be brought in the county in which the subject of the action or property upon which the lien was claimed is situated.

2. An action to recover a penalty or forfeiture prescribed by statute, or to recover of a public officer, or his deputy, agent or surety for a violation of official duty, or any act done by color of his office, must be brought in the county in which the cause of action arose.

3. Every other action must be tried in the county in which the original defendant, or one of the several original defendants, resides, or in which a warrant of attachment is levied on property of the defendant.

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

Approved Feb. 4, 1903.

CHAPTER 5.

[S. B. 119—Simpson.]

DISMISSAL OF ACTION AFTER FIVE YEARS.

AN ACT Providing for the Dismissal of Actions in the Courts of Record of this State which have been Pending for a Period of Five Years, Wherein the Plaintiff or his Successor in Interest has Neglected to Prosecute said Action.

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

§ 1. ACTIONS ARE DEEMED DISMISSED, WHEN.] All actions which have been commenced, or hereafter may be commenced, in any of the courts of record in this state wherein the plaintiff, or his successor in interest, shall have neglected, or shall neglect, for a period of five years after the commencement of said action, to bring the same to trial and to take proceedings for the final determination thereof, are hereby deemed dismissed and abandoned by the plaintiff, and the defendant or his successor in interest, or any other person having an interest in said action, or in the subject matter thereof, may apply to the court for a formal order dismissing said action.

§ 2. COURT SHALL MAKE ORDER OF DISMISSAL.] If upon such application to the court, facts shall be presented thereto, showing that said action is one covered by the provisions of this act, the court shall make an order formally dismissing said action, which

order shall be entered of record in the office of the clerk of the court of the county where said action is pending, and shall have the effect of a final judgment of dismissal.

Approved March 9, 1903.

ADULTERATION OF FOOD.

CHAPTER 6.

[S. B. No. 26—Lewis.]

PURE FOOD LAW.

AN ACT to Prevent the Adulteration, Misbranding and Selling of Adulterated and Unwholesome Foods and Beverages, Prescribing a Penalty for the Violation, Providing for the Inspection and Analysis of Foods, Charging the North Dakota Government Agricultural Experiment Station with the Duty Thereof, Charging the State's Attorney with the Enforcement Hereof, and Making an Appropriation Therefor.

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

§ 1. ADULTERATING AND MISBRANDING FOODS AND BEVERAGES.] It shall be unlawful for any person, his servant or agent, or while acting as the servant or agent of any other person or corporation, to manufacture for sale or offer for sale any article of food or beverage which is unwholesome or adulterated within the meaning of this act.

§ 2. WHAT CONSTITUTES ADULTERATION.] Any article of food or beverage shall be considered as unwholesome or adulterated within the meaning of this act:

First. If it contains any form of aniline dye or other coal tar dye.

Second. If it contains formaldehyde, benzoic acid, sulphites, sulphurous acid or salicylic acid.

Third. If any substance or substances have been mixed with it so as to reduce or lower or injuriously affect its quality or strength, so that such article of food or beverage when offered for sale, shall deceive or tend to deceive the purchaser.

Fourth. If any inferior or cheaper substance or substances have been substituted wholly or in part for the article, so that the product, when sold, shall deceive or tend to deceive the purchaser.

Fifth. If any necessary or valuable constituent of the article has been in whole or in part abstracted.

Sixth. If it be an imitation of or offered for sale under the specific name of another article.

Seventh. If it be labeled or branded so as to deceive or mislead the purchaser.

Eighth. If it consists wholly or in part of a diseased, decomposed, filthy, or putrid animal or vegetable substance.

Provided, that an article of food or beverage shall not be deemed adulterated in the following cases:

1. If it be a compound or mixture of recognized food products and not included in definition sixth of this section.

2. In the case of candies and chocolates if they contain no terra alba, barytes, talc, chrome yellow or other mineral substances, or aniline dyes or other poisonous colors or flavors detrimental to health.

3. If in the case of baking powders or any mixture or compound intended for use as a baking powder they have affixed to each and every box, can or package containing such powder or like mixture or compound, a light colored label upon the outside and on the face of which there is distinctly printed with black ink and in clear, legible type, the name and address of the manufacturers, the true and correct analysis; and in a form to be prescribed by the North Dakota government agricultural experiment station, of each and all the constituents or ingredients contained in or contributing a part of such baking powders, or mixture or compound intended for use as a baking powder.

§ 3. PENALTY FOR SO DOING.] Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall for each offense be punished by a fine of not less than twenty-five dollars, or more than one hundred dollars, and all necessary costs, including the expense of analyzing such adulterated articles when said person has been found guilty under this act.

§ 4. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural experiment station, as provided for in sections 7 and 8 of this act.

§ 5. THE NORTH DAKOTA EXPERIMENT STATION TO INSPECT AND ANALYZE FOODS AND BEVERAGES.] The North Dakota government agricultural experiment station shall make analysis of food products and beverages on sale in North Dakota, suspected of being adulterated, at such times and places and to such extent as it may determine, and may appoint such agent, or agents, as it may deem necessary, and the sheriffs of the respective counties of the state are hereby appointed and constituted agents for the enforcement of this act, and agent or agents and sheriffs shall have free access, at [all] reasonable hours, for the purpose of examining into any place wherein it is suspected any article of food or beverage adulterated with any deleterious or foreign ingredient or ingredients exist, and such agent, agents or sheriffs upon tendering the market price of said article may take from any person, firm or corporation samples of any articles suspected of being adulterated as aforesaid, and the said station may

adopt or fix standards of purity, quality of strength when such standards are not specified or fixed by statute.

§ 6. CITIZEN MAY SEND SAMPLE OF FOOD OR BEVERAGE FOR ANALYSIS.] Any citizen of the state may, by prepaying the transportation charges, send any article of manufactured food or food product, or beverage, in the original package to said station to be analyzed. And such article, if not before analyzed, shall be analyzed and included in the next report of the station as provided for in section 9 or this act.

§ 7. FACTS, HOW TRANSMITTED.] Whenever said station shall find by its analysis that adulterated food products have been on sale in this state, it shall forthwith transmit the facts so found to the state's attorney of the county in which said adulterated food product was found.

§ 8. CERTIFICATES AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo, relating to the analysis of any food, food products or beverages, shall be presumptive evidence of the facts therein stated.

§ 9. STATION TO MAKE REPORT.] The said station shall make an annual report to the governor upon adulterated food products, and said report may be included in the report which the said station is already authorized by law to make to the governor, and in June and December of each year the said station shall furnish to the auditor of each county in the state a certified list of all adulterated foods, food products and beverages as found by such analysis, showing the name and brand of the article, the manufacturer and the name of the injurious adulterant. The county auditor of each county shall cause the said list to be printed in the official papers of such county. Said publication shall be made in July and January of each year, and shall continue for two successive issues, to be paid for by such county at the rate allowed by law for publishing the proceedings of the board of county commissioners.

§ 10. DUTY OF SHERIFF ON PRESENTATION OF COMPLAINT OF VIOLATION OF THIS ACT. COMPENSATION.] It is hereby made the duty of the sheriff of any county of this state, on presentation to him of a verified complaint of the violation of any provision of this act, to at once proceed to obtain by purchase a sample of the adulterated food, food product or beverage complained of, and forward the same to the said station for analysis, marking the package or wrapper containing the same, for identification, with the name of the person from whom procured, the date on which the same was procured and the substance therein contained. For his services hereunder the said sheriff shall be allowed the same fees for travel as are now allowed by law to sheriffs on service of criminal process, together with such compensation as may be by the county commissioners of his county deemed reasonable, and all amounts expended by him in procuring and transmitting the said samples, which fees and amount

expended shall be audited and allowed by the said commissioners and paid by his said county as other bills of said sheriff.

§ 11. APPROPRIATION.] To carry out the provisions of this act, out of any money in the state treasury, not otherwise appropriated, the sum of fifteen hundred dollars is hereby annually appropriated to the said North Dakota government agricultural experiment station, which sum shall be paid in equal quarterly installments to the treasurer of the board of trustees of such station, upon the order of the state auditor, who is hereby directed to draw his order for the same.

§ 12. NO ACTION IN COURT.] No action shall be maintained in any court in this state on account of any sale or other contract made in violation of this act.

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

Approved March 2, 1903.

AGRICULTURAL FAIRS.

CHAPTER 7.

[S. B. No. 147—Lewis.]

AGRICULTURAL FAIR CORPORATIONS.

AN ACT Relating to Agricultural Fair Corporations.

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

§ 1. POWERS.] Agricultural fair corporations are authorized and empowered to make any and all regulations, rules and provisions, not inconsistent with law, which shall in their judgment be necessary or proper for the government, management and control of the premises used by them for the holding of fairs, and all expositions to be held thereon, and all such needful rules and regulations concerning the government and deportment of the public thereon, which may be requisite or proper; provided, this act does not repeal article 2, of chapter 4, of the political code, revised codes of 1899.

§ 2. BOARD OF DIRECTORS.] The board of directors shall consist of not less than three, nor more than fifteen persons. The by-laws may provide that one or more persons, not stockholders, may be elected directors.

§ 3. LIABILITY OF STOCKHOLDERS.] The liability of stockholders shall not be other or greater than that provided in section 2902 of the civil code, as contained in the revised laws of 1899.

§ 4. EMERGENCY.] Whereas, the organization of agricultural

fair corporations is desirable and will be facilitated by increasing the number of directors, and by providing that directors need not necessarily be stockholders, therefore an emergency exists, and the foregoing act shall take effect from and after the date of its passage and approval.

Approved March 10, 1903.

APPROPRIATIONS.

CHAPTER 8.

[S. B. No. 16—Lavayea.]

AID FOR HIGH SCHOOLS.

AN ACT to Amend Sections 870, 871 and 872, Revised Codes, 1899, Relating to Education.

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

§ 1. AMENDMENT.] That sections 870, 871 and 872 of the revised codes of 1899 be amended and re-enacted to read as follows:

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

1. The high school board shall cause each school receiving aid under this act to be visited at least once 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 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: Four hundred dollars each year to each school maintaining four years' high school course and doing four years' high school work; the sum of three hundred dollars each year to each school having a three years' high school course and doing three years' high school work; the sum of two hundred dollars each year to each school having a two years' high school course and doing two years' high school work; provided, that moneys so apportioned to any high school shall be used to increase the efficiency of the high school work; provided, further,

that the total amount of the apportionment and expenses under this act shall not exceed ten thousand dollars in one year. The sum of ten thousand dollars is hereby appropriated annually for the purpose of this act, to be paid out of any moneys in the treasury not otherwise appropriated; which amount, or so much thereof as may be necessary, shall be paid upon the itemized vouchers of said board, duly certified and filed with the state auditor; provided, however, that in case the amount appropriated and available under this act for the payment of aid to such schools shall in any year be insufficient to apportion each of such high schools as are entitled thereto the full amount intended to be apportioned to the high schools of the various classes, then in such case such amount as is appropriated and available shall be apportioned pro rata among all the schools entitled thereto.

§ 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, 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 ten thousand dollars in any one year.

§ 872. DISCRETIONARY POWERS. ASSISTANT EXAMINER.] 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 three schools complying with the prescribed conditions shall have a right to aid from this appropriation before aid may be granted to a fourth school in any county. Any school once accepted and continuing to comply with the law and regulations of the board made in pursuance thereof, shall be aided not less than three years. The board shall have power to establish any necessary and suitable rules and regulations relating to examinations, reports, acceptance and classification of schools, courses of study and other proceedings under this article. Any assistant examiner appointed by the high school board, as authorized by law, shall be entitled to receive such compensation as the board may allow, not exceeding three dollars per day; provided, that no such compensation shall be paid to any person receiving a salary from the state or from any state institution.

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

Approved March 19, 1903.

CHAPTER 9.

[S. B. No. 184—Crane.]

APPROPRIATION FOR EXECUTIVE MANSION.

AN ACT Authorizing the Board of Trustees of Public Property to Purchase Vehicles, Harness and Necessary Equipment for the Use of the Governor's Office and Executive Mansion and Making Appropriation Therefor.

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

§ 1. BOARD OF TRUSTEES PUBLIC PROPERTY TO PURCHASE CARRIAGES, ETC.] The board of trustees of public property is hereby authorized to purchase one closed carriage, one open carriage, harness and other necessary equipment for the use of the governor's office and the executive mansion.

§ 2. APPROPRIATION.] For the purpose of carrying out the provisions of this act the sum of one thousand dollars is hereby appropriated out of any funds in the state treasury not otherwise appropriated.

§ 3. EMERGENCY.] An emergency exists in that there is no sufficient means of transportation for the use of the governor's office, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1903.

CHAPTER 10.

[S. B. No. 103—Lewis.]

APPROPRIATION FOR EXPERIMENT STATION.

AN ACT Appropriating Money for the Purchase of Pure Bred Stock for Breeding Purposes for the Experiment Station at Fargo, for Salary of State Veterinarian, for Enlarging the Scope of Investigation by the Station Staff of the Experiment Station at Fargo, for Maintaining the Sub-Experiment Station at Edgeley and Erecting Suitable Buildings Thereon, for Locating and Maintaining and Erecting Suitable Buildings on a Sub-Experiment Station at or Near Minot in Ward County, and Locating and Operating a Sub-Station at or Near Dickinson, in Stark County.

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

§ 1. APPROPRIATION.] There is hereby appropriated annually out of any money in the state treasury, not otherwise appropriated, the sum of twenty thousand dollars for state support and mainten-

ance of the agricultural experiment station at Fargo, for the purchase of pure bred live stock for breeding purposes, for salary of state veterinarian, for publishing additional bulletins and other needed agricultural literature, for maintaining and operating the sub-experiment station at Edgeley and erecting suitable buildings thereon, for locating and maintaining and erecting suitable buildings on a sub-experiment station at or near Minot, in Ward county, for locating and operating a grass trial station, and for other purposes as hereinafter provided; for extending the capacity of the agricultural station for making investigations in grain and plant breeding, seed testing, diseases of cereals and vegetables, improvement and dissemination of native and cultivated grasses, tree culture, and fruit improvement, crop rotation and methods of cultivation, dairy husbandry, diseases of domestic animals and animal husbandry, retention of moisture and maintenance of soil fertility, and for such other objects as may be of economic benefit to farmers and ranchmen.

§ 2. BOARD SHALL SET APART \$5,000 FOR SUB-EXPERIMENT STATION AT EDGELEY.] It shall be the duty of the board of trustees of the North Dakota agricultural college to set apart annually the sum of five thousand dollars of the amount appropriated in section 1 of this act for the expenses of maintaining the sub-experiment station at Edgeley, for erecting suitable buildings thereon, and for making such investigations and experiments as may be deemed necessary for the solution of agricultural, horticultural and other problems peculiar to districts of the state where the soil and climatic conditions differ from those of that portion of the state known as the Red River Valley.

§ 3. BOARD SHALL SET APART \$5,000 FOR SUB-EXPERIMENT STATION AT MINOT.] It shall be the duty of the board of trustees of the North Dakota agricultural college to set apart annually the sum of five thousand dollars of the amount appropriated in section 1 of this act for the expenses of locating a sub-experiment station at or near Minot, in Ward county, for erecting suitable buildings thereon and maintaining said station, and for making such investigations and experiments as may be deemed necessary for the solution of agricultural, horticultural and other problems, including experiments in grasses, and other problems peculiar to that portion of the state where the same differ, owing to soil and climatic conditions, from those of the eastern portion of the state; provided, that before the provisions of this section shall become operative not less than one hundred sixty acres of land, of a kind and character to be approved by the board of trustees of the North Dakota agricultural college, shall be donated to the state of North Dakota and transferred to said state by a good and sufficient deed of warranty, without expense to said state.

§ 4. BOARD SHALL ESTABLISH GRASS TRIAL STATION AT DICKINSON.] It shall be the further duty of the said board of trustees to establish a grass trial station at or near Dickinson, Stark county, for

the purpose of making experiments with native and other grasses with the view of improving the supply of forage and pasture of the grazing districts, and other products of the soil as the said board may authorize; and said board is hereby authorized to appropriate a sufficient sum of money as provided for in section 1 of this act to make such experiments; provided, however, that no such experiments as in this section provided shall be undertaken or authorized unless a suitable area of land shall be donated, free of charge, and placed at the disposal of the board of trustees during the period for which said experiments are authorized and conducted.

§ 5. EMERGENCY.] There being no available funds for the support and maintenance of the sub-experiment station at Edgeley, or for locating and establishing and maintaining a sub-experiment station at or near Minot, or for establishing a grass experiment station at or near Dickinson, and for other needed improvements and investigations, and such funds being required before July 1, 1903, an emergency exists, and this act shall take effect and be in force and effect from and after its passage and approval.

VETOED ITEMS.

This Senate Bill No. 103 is approved this 21st day of March, 1903, except as to the part or parts appropriating money for the purchase of pure bred stock for breeding purposes for the experiment station at Fargo, for the salary of the state veterinarian, for enlarging the scope of investigation by the station staff of the experiment station at Fargo, for locating and maintaining and erecting suitable buildings on a sub-experiment station at or near Minot, in Ward county, and locating and operating a sub-station at or near Dickinson, in Stark county, and to the excepted parts my approval is withheld by reason of the following objections:

First. The total appropriations made by the Eighth legislative assembly, together with the annual and fixed appropriations, as closely as I am able to estimate, will amount for the biennial period ending January 1, 1905, to \$1,250,000 to be paid out of the general fund. The total receipts of the fund for the biennial period ending July 1, 1902, as shown by the auditor's report, omitting the amounts borrowed on funding warrants and the receipts for the benefit of institutions and which by law are credited to the appropriation of such institution, amount to \$1,054,948.31. The receipts for the present biennial period will exceed this amount quite materially, and in estimating the probable revenue I have considered the annual increase in valuation equal to the average annual increase for the past three years, the levy the highest permitted by the constitution and the per cent. of collections equal to the average per cent. collected for the past twelve years. I have also taken into consideration the probable increase in the amount of fees that will come in from the various departments; the sum total, however, does not equal in amount the sum total of the appropriations.

Second. The income from present laws available for the payment of the expenses of the agricultural college and the experiment station attached thereto seem to me to be inadequate to meet all necessary expenses. The federal appropriation for the agricultural college is \$25,000 annually, to the experiment station \$15,000 annually; the income from the land grant of 130,000 acres to the agricultural college over and above the reservations for interest and sinking fund to care for bonds issued and authorized to be issued, will amount this year to over \$9,000, and will rapidly increase each year as the lands are sold; the special 2-10 of a mill tax, available for the expenses of the Agricultural college or any department connected therewith as the board of trustees may direct, will this year amount to \$26,000 and will increase annually as the valuation of the state increases. The total from all these sources exceeds \$75,000 annually, which amount will increase and keep pace with the increased needs of this institution. There are besides this, special appropriations to pay for the analysis of foods, for the salaries and expenses of holding farmers' institutes, for the salary and expenses of the assistant dairy commissioner, for the expenses of the state veterinarian, for the expenses of the geological survey, and for the analysis of fertilizers.

Third. The sub-station at Edgeley was established in 1893. The people of that community deeded to the state free of cost 160 acres of land as required under the terms of the act establishing the station. Since that time comparatively nothing has been done to carry out the provisions of that act. Until the sub-station established ten years ago be made a success it would not be good policy to establish others.

[Signed] FRANK WHITE,
Governor.

Filed in the office of the secretary of state March 21, 1903.

CHAPTER 11.

[S. B. No. 40—Kirkeide.]

APPROPRIATION FOR FARMERS' INSTITUTES.

AN ACT to Amend Sections 2 and 4 of Chapter 172 of the Session Laws of 1901, Relating to the Creation of a State Farmers' Institute Board of Directors and Prescribing Its Powers and Duties, and Making an Appropriation for Conducting Farmers' Institutes.

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

§ 1. AMENDMENT.] That sections 2 and 4 of chapter 172 of the session laws of 1901 be, and the said sections are hereby amended to read as follows:

§ 2. ORGANIZATION OF BOARD.] The state farmers' institute board of directors shall have power to organize, by electing one of

its members to act as president, and one to act as secretary, and shall have power, and it is hereby made its duty to employ a director of farmers' institutes and such other institute lecturers as may be deemed necessary; to authorize the holding of not less than forty farmers' institutes each year, the same to be of such a nature as to instruct the farmers of the state in maintaining the fertility of the soil, the improvement of cereal crops grown in the state, principles of breeding as applied to domestic animals, the making and handling of dairy products, the destruction of noxious weeds and injurious insects, forestry and growing of fruits, feeding and management of live stock, and in general such instruction as will tend to promote the prosperity, home life and comfort of the farming population.

§ 4. APPROPRIATION FOR INSTITUTE.] There is hereby appropriated, out of any money in the state treasury, not otherwise appropriated, the sum of eight thousand dollars biennially for carrying out the purposes of this act. All charges, accounts and expenses authorized by this act shall be paid by the treasurer of the state, upon the approval of the state board of audit, when certified by the president and secretary of the board of directors.

Approved March 19, 1903.

CHAPTER 12.

[H. B. No. 152—Dahl.]

APPROPRIATION FOR FIREMEN'S ASSOCIATION.

AN ACT to Amend Section 1031 of the Revised Codes of North Dakota, 1899, Making an Appropriation for the Use and Benefits of the Firemen's Association, and to Promote the Efficiency and Growth Thereof, and for the Holding of an Annual Tournament.

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

§ 1. AMENDMENT.] That section 1031 of the revised codes of the state of North Dakota, 1899, be, and the said section is hereby amended to read as follows:

§ 1031. APPROPRIATION FOR FIREMEN'S ASSOCIATION.] There is annually appropriated out of the money in the state treasury not otherwise appropriated the sum of fifteen hundred dollars for the use and benefit of the North Dakota firemen's association for the purpose of promoting the efficiency and growth of its different departments, and the holding of an annual tournament according to the rules and regulations of such association. Such money shall be paid to the treasurer of such association and by him paid out only on the order of the president and secretary of such association for the purpose herein mentioned.

Approved March 10, 1903.

CHAPTER 13.

[S. B. No. 197—Lewis.]

APPROPRIATION FOR GEOLOGICAL SURVEY.

AN ACT to Amend Section 9, of Chapter 8, of the Session Laws of 1901, Relating to the Agricultural and Geological Survey and Pertaining to the Appropriation Therefor.

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

§ 1. AMENDMENT.] Section 9 of chapter 8 of the session laws of 1901, is hereby amended so as to read as follows:

§ 9. APPROPRIATION.] There is hereby appropriated out of the money of the state treasury, not otherwise appropriated, the sum of one thousand dollars annually, which shall be paid by the state treasurer upon a draft from the secretary of the board of trustees, having in control this survey.

Approved March 10, 1903.

CHAPTER 14.

[S. B. No. 157—Taylor.]

GEOLOGICAL SURVEY.

AN ACT to Amend Section 904a of Article 1, Chapter 10 of the Political Code of 1899, Relating to Educational and Charitable Institutions, and Providing for an Appropriation for the Necessary Expenses Connected with the Geological Survey of the State of North Dakota.

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

§ 1. AMENDMENT.] That section 904a of article 1, chapter 10, of the political code of 1899, relating to education and charitable institutions, be amended and re-enacted so as to read as follows:

§ 904a. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of one thousand dollars annually, to meet the necessary expenses connected with the geological survey of the state, as provided for in sections 898 and 899 of chapter 10, article 1, of the revised codes of 1899.

Approved March 10, 1903.

CHAPTER 15.

[S. B. No. 196—LaMoure.]

APPROPRIATION FOR HISTORICAL SITES.

AN ACT to Provide for the Contribution, Purchase and Custody of Historical Sites and Relics in the State of North Dakota, and to Appropriate Money Therefor.

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

§ 1. POWERS OF -STATE HISTORICAL COMMISSION.] The state historical commission may from time to time receive contributions of historical sites and relics, or money for the purchase of such sites or relics, and may purchase such sites or relics. It may purchase not exceeding ten acres of land, embracing the site of old Fort Abercrombie, in Richland county, at a cost not exceeding five hundred dollars, and not exceeding ten acres of land, embracing the site of the first Christian mission grounds, at Walhalla, in Pembina county, at a cost not exceeding five hundred dollars. When land shall be contributed or purchased as herein authorized for historical purposes, title shall vest in the state of North Dakota, and the land may be placed in the custody of the old settlers' associations of the respective counties in which said sites are located, and may be improved and used by them for public park purposes and for the accumulation and care of relics of historical interest. When relics are contributed or purchased they shall be placed in the custody of the state historical commission and those of a local historical nature may be loaned to the county old settlers' associations where proper provision has been made for their care and preservation. Money contributed for the purchase of historical relics or sites shall be placed in the hands of the state treasurer and shall be paid out on the warrant of the state auditor when approved by the state historical commission, or a majority of its members.

§ 2. APPROPRIATION.] There is hereby appropriated for the purpose of this act the sum of one thousand dollars, or so much thereof as may be necessary, out of any money in the state treasury not otherwise appropriated; provided, that before said appropriation shall be available there shall have been placed in the hands of the treasurer of the state of North Dakota, to the credit and for the use and benefit of said state historical commission, the sum of one thousand dollars as a contribution from interested persons for carrying out the provisions of this act.

Approved March 19, 1903.

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CHAPTER 16.

[H. B. No. 7—Beck.]

DEFICIENCY APPROPRIATION FOR INSANE HOSPITAL.

AN ACT Making an Appropriation for a Deficiency in the Appropriation for the North Dakota Hospital for the Insane.

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

DEFICIENCY DECLARED.] Whereas, a deficiency exists in the amounts appropriated for the North Dakota hospital for the insane at Jamestown; such deficiency being caused by insufficient appropriations for employes' wages, incidentals and repairs, beds, bedding and furniture, drugs and medicines, library and amusements, paints and painting, engine room supplies, etc., which have been purchased out of the appropriation for maintenance, which is now exhausted and will cause a deficiency to the extent of ten thousand dollars to March 1st, 1903.

§ 1. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury, not otherwise appropriated, the sum of ten thousand dollars for the purpose of relieving said deficiency.

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

Approved March 2, 1903.

CHAPTER 17.

[S. B. No. 22—Crane.]

APPROPRIATION FOR HOSPITAL FOR INSANE.

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the state hospital for the insane, at Jamestown, for the fiscal years 1903 and 1904, the sum of one hundred forty-four thousand five hundred and fifty dollars, or so much thereof as may be necessary, as follows:

Resident officers' salaries.....	\$ 12,800 00
Maintenance.....	60,000 00

Employes' wages.....	34,000 00
Fuel.....	25,000 00
Beds, bedding and furniture.....	4,000 00
Drugs and medicines.....	2,500 00
Return of patients and burial of dead.....	1,600 00
Paints and painting.....	1,500 00
Library and amusements.....	1,000 00
Farm machinery.....	500 00
Electric supplies and repairs.....	250 00
Engine room supplies.....	300 00
Blacksmith shop supplies.....	300 00
Plumbing and repairs to steam and water supply.....	500 00
Laundry repairs.....	300 00
Fire department.....	300 00
Total.....	\$144,550 00

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal year for which this appropriation is made shall not begin before July 1, 1903, and the funds hereby appropriated will be needed before that time; therefore, this act shall take effect from and after its passage and approval.

ITEM VETOED.

This bill is approved except the item appropriating four thousand dollars for beds, bedding and furniture, and to the excepted item I withhold my approval by reason of the following objections: First, the total amount appropriated, in my opinion, exceeds the probable revenues for the biennial period; and, second, the total amount remaining in this appropriation will, I believe, be sufficient to meet all the necessary expenses of the institution.

(Signed) FRANK WHITE,
Governor.

Filed in the office of the secretary of state March 20, 1903.

CHAPTER 18.

[S. B. No. 23—Sharpe.]

APPROPRIATION FOR INDUSTRIAL SCHOOL.

AN ACT to Provide for the Maintenance of the Industrial School and School for Manual Training, Located at Ellendale, North Dakota, and for Making Necessary Improvements, 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 the money in the state treasury, not otherwise appropriated, the sum of twenty-eight thousand dollars, for the maintenance and improvement of the industrial school and school of manual training, for

the period beginning November 1, 1902, and ending March 31, 1905, viz:

For salaries, faculty.....	\$14,975
For janitor and engineer.....	2,000
For material and furnishing.....	1,500
For water supply..	75
For fuel.....	1,400
For incidental expenses.....	4,000
For domestic science and art.....	700
For fine arts and craft.....	500
For physical laboratory.....	350
For general library.....	200
For improvement of grounds.....	200
For lights.....	300
For mechanic arts.....	500
For gymnasium.....	100
For commercial department.....	500
For chemical department.....	400
For repairing manual training building.....	300
Total.....	\$28,000

§ 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 from and after its passage and approval.

ITEM VETOED.

This bill is approved except the item appropriating four thousand dollars for the incidental expenses, and to the excepted item my approval is withheld by reason of the following objections: First, in my opinion the total appropriations exceed the probable revenues for this biennial period; and, second, the increased amount available from the interest and income of the land grant of this institution will be more than sufficient to meet all incidental expenses.

(Signed) FRANK WHITE,
Governor.

Filed in the office of the secretary of state March 20, 1903.

CHAPTER 19.

[S. B. No. 30—Cashel.]

APPROPRIATION FOR INSTITUTION FOR FEEBLE MINDED.

AN ACT to Provide an Appropriation for the Finishing and the Furnishing of the Building and For the Current and Contingent Expenses of the Institution for Feeble Minded at Grafton, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any

money in the state treasury, not otherwise appropriated, for the purpose of finishing and furnishing the building, and for current and contingent expenses of the institution for feeble minded at the city of Grafton, North Dakota, the sum of fifty-nine thousand seven hundred sixty-five dollars, or so much thereof as may be necessary, as follows:

Finishing building, \$25,965, as follows:	
Lumber and carpenter work, including hardware and nails.....	\$ 8,450
Plastering, including lath.....	4,750
Painting, oiling and linting.....	1,310
Plumbing and fixtures, including outside cistern and two large tanks in tower.....	3,640
Steam heating and ventilating.....	6,415
Sundry expenses, including plans and supervision of work.....	1,400
	\$ 25,965
Furnishing building.....	5,000
Maintenance, including salaries, wages, fuel, etc., to March 1, 1905.....	25,000
Barn and ice house.....	750
Live stock, vehicles and agricultural implements.....	750
Improving grounds and sewerage.....	500
Lighting.....	1,000
Books and school supplies, periodicals and stationery.....	300
Transportation of patients from Jamestown to Grafton ..	500
	\$ 59,765

§ 2. EMERGENCY.] An emergency exists that work should be commenced on finishing the building long before July 1, 1903; therefore, this act shall take effect and be in force from and after its passage and approval.

ITEMS VETOED.

This bill is approved, except as to the following items:

Barn and ice house.....	\$ 750
Live stock, vehicles and agricultural implements.....	750
Improving grounds and sewerage.....	500
Lighting.....	1,000
Books and school supplies, periodicals and stationery.....	300
Transportation of patients from Jamestown to Grafton ..	500

And to these excepted items I withhold my approval by reason of the following objections: First, in my opinion the total appropriations exceed the probable revenues for the biennial period; and, second, the amount appropriated by the item "maintenance, including salaries, wages, fuel, etc., to March 1, 1905," is sufficient to cover all necessary expenses.

(Signed) FRANK WHITE,
Governor.

Filed in the office of the secretary of state March 20, 1903.

CHAPTER 20.

[S. B. No. 208—Simpson.]

APPROPRIATION FOR ARMORY RENT.

AN ACT to Amend Section 1419, of the Revised Codes of North Dakota for 1899, Relating to the Payment of Armory Rent to the Respective Organizations of the North Dakota National Guard.

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

§ 1. AMENDMENT.] That section 1419 of the revised codes of North Dakota for 1899, be, and the same is; hereby amended and re-enacted to read as follows:

§ 1419. ARMORY RENT. 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, fuels, lights, lockers, closets and gun racks for an armory, assembly room 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 four hundred dollars from the militia fund for the rent and furnishing of such armory or band quarters, for each organization of the national guard, to be paid by the state.

Approved March 6, 1903.

CHAPTER 21.

[S. B. No. 69—Voss.]

APPROPRIATION FOR REFORM SCHOOL.

AN ACT to Make an Appropriation for the Current and Contingent Expenses of the State Reform School at Mandan.

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

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the moneys of the state treasury, not otherwise appropriated, for the

purpose of paying the current and contingent expenses of the state reform school at Mandan:

For maintenance and salaries of superintendent and assistants	\$ 12,000
For transportation of children now in Plankinton reform school to Mandan	500
For physicians and medicines	500
For clothing	500
For lights and fuel	1,000
For incidental expenses	2,000
Total	\$ 16,500

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no appropriation available for the support and maintenance of the state reform school at Mandan, therefore this act shall be in force and take effect from and after its passage and approval.

ITEM VETOED.

This bill is approved except the item appropriating two thousand dollars for incidental expenses, and to the excepted item I withhold my approval by reason of the following objections: First, in my opinion the total amount appropriated exceeds the probable revenues for the biennial period; and, second, the total remaining in this appropriation for this institution is sufficient to pay all necessary expenses.

(Signed) FRANK WHITE,
Governor.

Filed in the office of the secretary of state March 20, 1903.

CHAPTER 22.

[H. B. No. 20—Buttz.]

APPROPRIATION FOR REGIMENTAL BAND.

AN ACT to Amend Section 1419 of Chapter 19 of the Political Code, Entitled "Militia."

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

§ 1. AMENDMENT.] That section 1419 of chapter 19 of the political code be, and the same is hereby amended to read as follows:

§ 1419. DUTY OF COMMANDING OFFICER. APPROPRIATION.] 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 six hundred dollars additional to be paid to the chief musician of each regimental band, as compensation for his services in training said band at his 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 each year.

§ 2. EMERGENCY.] An emergency existing in that there are not sufficient funds appropriated by law to meet the expenses of maintaining the regimental band attached to the militia; therefore, this act shall take effect from and after its passage and approval.

Approved February 28, 1903.

CHAPTER 23.

[H. B. No. 196—Senour.]

APPROPRIATION FOR CLERK OF COURT IN STARK COUNTY.

AN ACT Authorizing the Payment of the Sum of One Hundred Dollars to the Clerk of the District Court of Stark County for Services in Connection With Cases Arising in the Unorganized Counties of Allred, Wallace, McKenzie, Dunn, Hettinger and Bowman.

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 one hundred dollars to the clerk of the district court of Stark county in payment for services by him rendered as such clerk during the years 1901 and 1902 in connection with criminal cases in said court, arising in the unorganized counties of Allred, Wallace, McKenzie, Dunn, Hettinger, and Bowman.

Approved March 19, 1903.

CHAPTER 24.

[S. B. No. 117—Simpson.]

REIMBURSING AUDITOR OF STARK COUNTY.

AN ACT Appropriating Moneys to John Reissbeck of Dickinson, Stark County, For Services Rendered During the Years 1901 and 1902, While Acting as Auditor of Stark County, in Performing the Duties in Connection With His Office Arising From the Unorganized Counties of Williams, Dunn, Hettinger, Bowman, McKenzie, Allred and Wallace.

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 seven hundred and fifty dollars to John Reissbeck of Stark county for services performed by him for the years 1901 and 1902 while auditor of Stark county, arising in the unorganized counties of Williams, Dunn, Hettinger, Bowman, McKenzie, Allred, and Wallace.

Approved March 10, 1903.

CHAPTER 25.

[S. B. No. 110—Simpson.]

APPROPRIATION FOR STATES ATTORNEY OF STARK COUNTY.

AN ACT Appropriating Money from the State Treasury, not Otherwise Appropriated, to Compensate the State's Attorney of the County of Stark, for the Years 1901 and 1902, for Services in Prosecuting Criminals and in Doing and Performing all the Other Acts that the Law Provides a State's Attorney Shall Do and Perform in the Unorganized Counties of Allred, Wallace, McKenzie, Dunn, Hettinger and Bowman During Said Years of 1901 and 1902.

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 five hundred dollars for the purpose of compensating the state's attorney of the county of Stark for the years 1901 and 1902, for services in prosecuting criminals and in doing and performing all

the other acts that the law provides a state's attorney shall do and perform, in the unorganized counties of Allred, Wallace, McKenzie, Dunn, Hettinger, and Bowman, during said years of 1901 and 1902.

§ 2. EMERGENCY.] An emergency exists in this, that there is now no law providing for payment for the services above mentioned, and the same having been duly performed during the aforesaid years of 1901 and 1902; therefore, this act shall be in force and take effect from and after its passage and approval.

Approved March 19, 1903.

CHAPTER 26.

[S. B. No. 18—Little.]

APPROPRIATION FOR STATE PENITENTIARY.

AN ACT Making Appropriations for the Current and Contingent Expenses of the State Penitentiary, and for Making Permanent Improvements 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 the 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.....	\$ 4,000
Deputy warden's salary.....	2,000
Bookkeeper and assistant gatekeeper.....	1,200
Matron and housekeeper.....	400
Chaplains.....	500
Guards and employes.....	18,000
Maintenance.....	12,400
Heating and lighting.....	3,000
Repairs and improvements.....	500
Incidentals.....	1,000
Physicians and medicines.....	2,000
Transportation, temporary aid, clothing, etc., (discharged inmates).....	2,000
Clothing for inmates.....	3,500
Bedding.....	500
Books, stationery, etc.....	500
Finishing building of yard wall and towers and gates for same.....	4,000
Water supply.....	5,000
Total.....	\$ 60,500

§ 2. EMERGENCY.] An emergency exists in this, that there is no provision made for the payment of the expenses of the peniten-

tiary after March 1, 1903; therefore, this act shall take effect from and after its passage and approval.

Approved March 19, 1903.

CHAPTER 27.

[S. B. No. 63—Little.]

EXTENSION OF CAPITOL BUILDING.

AN ACT to Provide for the Erection and Construction of the North Wing of the Capitol, for the Issuance and Sale of One Hundred Thousand Dollars of Bonds, and for the Sale of Lands Granted the State for the Purpose of Erecting Public Buildings at the Capital and for the Purpose of Extending the Grounds and Improving the Buildings at the Executive Mansion.

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

§ 1. BONDS AUTHORIZED.] The governor, state auditor and state treasurer are hereby authorized and empowered to prepare for issue negotiable bonds for the state of North Dakota, to the amount of one hundred thousand dollars, for the purposes hereinafter stated. Such bonds shall be in denomination of one thousand dollars each, payable to purchaser or bearer, and payable in twenty years from date of issue, or the said bonds, or any of them, may be paid off at periods of five years from the date of issue, and shall bear interest at a rate not to exceed four per cent per annum, interest payable semi-annually on the first day of January and July of each year, with coupons attached for each interest payment, said coupons to be payable anywhere in the United States; said bonds shall be executed 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. TREASURER TO RECEIVE PROPOSALS.] The state treasurer shall receive sealed proposals for the purchase of said bonds, and he shall give public notice for four successive weeks in two or more newspapers in general circulation, one of which shall be published in the city of New York, giving date of such sale, and said bonds shall be sold to the highest bidder for cash at not less than their par value.

§ 3. TREASURER TO PAY INTEREST COUPONS.] When the interest coupons become due, and whenever the said bonds mature, it shall be the duty of the state treasurer to pay the same on presentation out of any funds in the treasury applicable thereto, and to cancel the same when paid.

§ 4. DATE.] Said bonds shall bear date July 1, 1903, and the proceeds of the sale thereof shall be placed to the credit of the "Capitol Building Fund," to be paid out only as hereinafter provided.

Whenever, from any cause, there shall not be sufficient funds available to pay the interest accrued on said bonds, it shall be the duty of the treasurer to pay the interest out of any other unappropriated funds belonging to the state, and it shall be the duty of the state treasurer to pay such interest promptly at the time it falls due.

§ 5. APPROPRIATION.] The sum of one hundred thousand dollars so realized and received into the state treasury from the sale of the bonds, as hereinbefore provided, or so much thereof as may be necessary, is hereby appropriated for the purpose of erecting, constructing and completing the north wing of the capitol building at Bismarck, and for the extension of the grounds and improvement of the buildings of the executive mansion, and such funds shall be paid out by the state treasurer only upon warrant drawn by the state auditor upon such fund, and no such warrant shall be issued by the state auditor except upon itemized and verified vouchers, duly approved by the board of capitol commissioners.

§ 6. DUTY OF BOARD OF CAPITOL COMMISSIONERS.] As soon as the money arising from the sale of said bonds shall be paid into the treasury, the board of capitol commissioners shall proceed to erect, construct and complete the said north wing to said capitol building according to the original plans and specifications, as near as may be, and they are hereby authorized to employ an architect, if deemed necessary. The said board shall contract for and purchase necessary material, and shall employ a sufficient number of skilled workmen, and shall, so far as the same can reasonably and profitably be done, utilize the labor of the convicts in the state penitentiary, nor otherwise employed according to law, and it is hereby made the duty of the warden of said penitentiary, whenever requested by the said board, to place any or all available convicts of proper character and condition that he may have in his charge, with proper guards and attendants therefor, at the disposal of said board, to be used in performing the labor required in erecting said structure, or in the manufacture of material to be used therein.

§ 7. WHAT LAWS CONTINUED.] That sections 7, 9, 10, 11, 12, 13, 14, and 15 of chapter 29 of the laws of 1893, are hereby continued in force, and made applicable to the provisions of this chapter.

Approved February 13, 1903.

CHAPTER 28.

[S. B. No. 134—Senate Committee on Appropriations.]

MAINTENANCE OF CAPITOL.

AN ACT to Amend Section 338 of the Revised Codes of 1899, Providing for an Appropriation for Supplies for the Capitol Building, Executive Mansion and the Public Grounds and Parks Connected Therewith and for Necessary Repairs Upon the Capitol Building.

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

§ 1. AMENDMENT.] Section 338 of the revised codes of 1899 is hereby amended so as to read as follows:

§ 338. SUPPLIES FOR PUBLIC OFFICES. APPROPRIATION.] The board of trustees of public property are authorized and empowered to provide all necessary furniture, fuel, lights, stationery, postage, express, freight, drayage and all other necessary supplies for the state offices and executive mansion, and the public grounds and parks connected therewith, and to make all necessary repairs upon the capitol building, and there is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of eighteen thousand dollars, or so much thereof as may be necessary, to carry out the provisions of this section, and the state auditor is empowered to draw his warrant for such sums as shall be found due on account of claims or accounts against such appropriation, upon approval thereof by the state auditing board, and upon approval the state treasurer is hereby directed to pay such warrants from the general fund of the state.

§ 2. EMERGENCY.] Whereas, by written communication, the board of trustees of public property have furnished an estimate of the amount of appropriation required for the ensuing two years, which said amount is different from the present appropriation; now, therefore, an emergency exists, and this act shall be in force and effect from and after its passage and approval.

Approved March 9, 1903.

CHAPTER 29.

{H. B. No. 221—Brown.]

AUTHORIZING TROLLEY LINE TO CAPITOL.

AN ACT to Authorize the Board of Trustees of Public Property to Construct, Keep in Repair and Operate a Single Track Electric Trolley Railway from the Capitol Building to the Northern Pacific Depot, in the City of Bismarck, and to Install an Electric Plant at the Capitol Building Sufficient to Furnish Power to Run Said Electric Railway, and for Use at the Capitol Building and to Light the Same, and also to Appropriate the Sum of Twenty Thousand Dollars Therefor.

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

§ 1. BONDS AUTHORIZED TO CONSTRUCT.] The board of trustees of public property is hereby authorized to construct, keep in repair and operate a single track electric trolley line of railway from the capitol building to the Northern Pacific depot or a point conveniently near said depot in the city of Bismarck; that said board is authorized and empowered to secure the necessary right of way for such railway over the most convenient and feasible route; provided, that said board shall, so far as the same can reasonably and profitably be done, utilize the labor of the convicts in the state penitentiary, and it is hereby made the duty of the warden of the said penitentiary, whenever requested by the said board, to place any available convicts of the proper character and condition, that he may have in his charge, with proper guards and attendants therefor, at the disposal of the said board, to be used in performing the labor required in installing said electric light and power plant and constructing said electric railway.

§ 2. TO INSTALL LIGHT AND POWER PLANT.] That said board is further authorized to install at the capitol building an electric light and power plant with sufficient capacity to run said railway and to furnish power and light for use at the capitol building.

§ 3. APPROPRIATION.] For the purpose of carrying out the provisions of this act, the sum of twenty thousand dollars, or as much thereof as may be necessary, is hereby appropriated out of the capitol building fund, not otherwise appropriated.

Approved March 4, 1903.

CHAPTER 30.

[H. B. No. 93—Underwood.]

APPROPRIATION FOR SOLDIERS' HOME.

AN ACT Making Appropriation For the Current and Contingent Expenses of the Soldiers' Home, Located at Lisbon, North Dakota, For Making Permanent Improvements and Additions Thereto, and For Erecting a Monument in Oakwood Cemetery.

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 moneys in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the soldiers' home located at Lisbon, North Dakota, and for the purpose of making permanent improvements and additions thereto, and for other purposes, for the two years from July 1, A. D. 1903, to June 30, 1905, inclusive, as follows:

For current expense fund.....	\$ 3,000
For clothing.....	1,000
For subsistence.....	7,000
For household.....	2,500
For hospital.....	2,400
For transportation.....	300
For construction.....	500
For farm.....	1,500
For repairs.....	1,000
For the erection of a central monument in Oakwood cemetery and appropriate markings to commemorate the names and mark the graves of deceased Union soldiers, who have or may die in the soldiers' home and have been or may be buried in such cemetery at Lisbon, N. D., and for the purpose of purchasing and keeping an appropriate record of the names, company and regiment of soldiers dying in the soldiers' home at Lisbon, N. D., said money to be expended for the purpose above set forth under the direction of the board of trustees of said soldiers' home.....	1,000
Total.....	\$20,200

Approved March 10, 1903.

CHAPTER 31.

[S. B. No. 172—LaMoure.]

SELECTIONS OF INDEMNITY LANDS.

AN ACT to Appropriate Money to Pay the Expense of Completing the Records in the Land Department Pertaining to Indemnity Lands and for the Completion of Indemnity Selections.

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 two thousand dollars, or so much thereof as may be found necessary, for the purpose of paying the expense of completing records in the land department pertaining to indemnity selections, and for the completion of such indemnity selections as the state is entitled to.

§ 2. EMERGENCY.] Whereas, an emergency exists inasmuch as there are not sufficient funds available to pay for the completing of records and selections of indemnity land belonging to the state of North Dakota, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 32.

[S. B. No. 171—Cox.]

APPROPRIATION FOR NATIONAL GUARD.

AN ACT to Provide for a Sufficient Appropriation to Enable the National Guard to Comply With the "Dick" Bill, Lately Enacted by the United States Congress, and, Whereas, Said Bill Provides Among Other Things for the Exchange by the Federal Government of the Obsolete Arms and Military Equipment Now in Possession of the National Guard for the Modern Arms and Equipment Now in Use in the Regular Army Without Expense to the Several States, Provided the National Guard Hold an Annual Encampment of Not Less Than Five Days Duration and for the Further Purpose of Carrying Out the Provisions of the State Militia Law.

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

§ 1. AMENDMENT.] That section 1425 of the revised codes of 1899 be, and the same is hereby made to read as follows:

§ 1425. APPROPRIATION.] For the purpose of paying the expenses for the maintenance of the national guard there is hereby

annually appropriated the sum of nineteen thousand dollars out of any moneys in the state treasury, not otherwise appropriated, and all warrants against such appropriation shall be drawn by the state auditor upon the state treasurer, upon the voucher of the chief of supply, certified to by the adjutant general, and approved by the governor; said sum of nineteen thousand dollars per annum to remain subject to warrants drawn as herein provided, until expended.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that the present appropriation is not sufficient to enable the national guard to comply with the requirements of what is generally known as the "Dick" bill, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1903.

CHAPTER 33.

[S. B. No. 156—Carroll.]

APPROPRIATION FOR PUBLIC PRINTING.

AN ACT Prescribing the Duties and Authority of the Commissioners of Public Printing in Relation to Certain Printing, and Making an Appropriation to Pay for the Public Printing Authorized by Law.

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

§ 1. COMMISSIONERS SHALL HAVE AUTHORITY TO INCREASE NUMBER OF LAWS, ETC., PRINTED.] The commissioners of public printing shall have authority to increase the number of session laws authorized by law to be printed to not exceed 3,000 copies, which shall be disposed of by the secretary of state according to law. The commissioners shall also have authority to increase the number of the bound edition of the journals of the legislative assembly to 500, and may also authorize the printing of an extra number of such statistical, historical or immigration documents, maps and pamphlets as may be deemed of value to the state, when the same shall have first been approved by the governor. All accounts for public printing shall be audited according to law and a sufficient sum is hereby appropriated out of the state treasury, not otherwise appropriated, to pay for the public printing and binding of the state, not exceeding twenty thousand dollars annually.

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

§ 3. EMERGENCY.] Whereas, the number of session laws and

journals now printed is insufficient and the secretary of state asks for an increased number, and whereas, the appropriation for public printing should be available prior to July 1, 1903, and the amount herein designated is the sum estimated as necessary by the governor and commissioners of public printing, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 34.

[S. B. No. 31—Crane.]

ST LOUIS EXPOSITION.

AN ACT to Provide for the Collection, Arrangement and Display of the Products and Resources of the State of North Dakota at the St. Louis World's Fair, to be Held in 1904 at the City of St. Louis, Missouri, and at the Lewis and Clark Centennial and Pacific Exposition and Oriental Fair to be Held in 1905 at the City of Portland, Oregon, and Providing, for a Board of Commissioners Therefor, and Making an Appropriation For the Purpose.

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

§ 1. COMMISSION CREATED. MEMBERS OF.] For the purpose of exhibiting the resources, products and advantages of the state of North Dakota at the world's fair to be held in St. Louis in 1904, and at the Lewis and Clark Centennial and Pacific Exposition and Oriental fair to be held at Portland, Oregon, in 1905, a commission is hereby created, to be known as the World's Fair Commission, which commission shall be composed of the governor, state auditor, lieutenant governor and commissioner of agriculture, and Warren N. Steele of Rolette county. The governor shall be the president of the commission, and the commissioner of agriculture shall be secretary. The governor shall fill by appointment any vacancy that may for any cause occur in said commission.

§ 2. MEETINGS. APPOINTMENT OF MANAGER. HIS DUTIES. MUST GIVE BOND.] The commission shall meet at the call of the governor at such time and place as he may designate. They shall select an executive commissioner or manager, who shall be authorized and required to assume and exercise, subject to the supervision of the board, all such executive powers and functions as may be necessary to secure a complete and creditable exhibit of the industries of the state at said world's fair, and shall have personal charge of the solicitation, collection, transportation, arrangement and exhibition of the products and resources of the state. Such executive commissioner shall employ all assistance necessary to carry out the purpose of this act, and shall, before assuming the

duties of his office, execute a bond in a sum equal to one-half the amount appropriated by this act, to be approved by the governor and filed with the secretary of state. Said bond shall run to the state of North Dakota, and shall be conditioned for the faithful performance of his duties as such executive commissioner.

§ 3. COMPENSATION OF BOARD.] The members of the commission herein provided for shall not be entitled to any compensation for their services, except their actual necessary expenses for transportation, and five dollars per day for subsistence for each day they are necessarily absent from their homes on the business of said commission; provided, that the executive commissioner herein provided for shall receive such compensation as may be allowed by the commission.

§ 4. EXPENSES, HOW PAID.] The expenses incurred under this act shall be audited and paid in the same manner as provided for the payment of expenses of state affairs [officers;] provided, that no bill shall be audited or paid unless the same is endorsed by the executive commissioner "approved."

§ 5. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury the sum of fifty thousand dollars, or so much thereof as may be necessary for the purpose of carrying out the provisions of this act; provided, that of the amount appropriated herein so much thereof as may be necessary shall be used for the purpose of preservation, packing and transportation of the exhibit of the state of North Dakota to be held in St. Louis, which such exhibit shall be carefully preserved and removed at the close of the St. Louis fair to the Portland fair named herein.

§ 6. COMMISSIONERS SHALL HOLD OFFICE DURING LEWIS AND CLARK EXPOSITION.] The commission named in section 1, or their successors in office, shall hold their office as such commission for and during the term ending with the close of the Lewis and Clark exposition named herein.

§ 7. COMMISSION SHALL REPORT, WHEN.] Said commission shall report to the next session of the legislature an itemized statement of its receipts and disbursements.

§ 8. EMERGENCY.] Whereas, an emergency exists in that said commission will require all the time possible to give them, to properly perform their duties, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 17, 1903.

ASSESSMENTS.

CHAPTER 35.

[H. B. No. 169—Wall.]

LIEN OF SPECIAL ASSESSMENTS AS BETWEEN VENDOR AND VENDEE.

AN ACT to Provide for the Lien of Special Assessments as Between Vendor and Vendee.

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

§ 1. SPECIAL ASSESSMENTS SHALL BECOME A LIEN, WHEN.] As between vendor and vendee all special assessments upon real property for local improvements shall become and be a lien upon the real property upon which the same are assessed, from and after the first day of December next, after such assessments shall have been certified and returned to the county auditor, to the amount so certified and returned, and no more.

§ 2. EMERGENCY.] There being no law providing when special assessments shall become a lien on real property as between vendor and vendee, this act shall take effect and be in force after its passage and approval.

Approved March 12, 1903.

ASSESSORS.

CHAPTER 36.

[S. B. No. 27—Regan.]

DUTIES AND COMPENSATION OF ASSESSORS.

AN ACT to Amend and Re-enact Section 1209 of the Revised Codes of 1899, Relating to the Compensation of Assessors.

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

§ 1. AMENDMENT.] That section 1209 of the revised codes of 1899 be amended and re-enacted to read as follows:

§ 1209. ASSESSORS' DISTRICTS, HOW FORMED. VACANCY, HOW FILLED. COMPENSATION.] All counties, or parts of counties, in this state, not organized into civil townships, shall be divided into assessor districts, which shall be the same as the commissioner 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. In case of vacancy in the office of assessor in any such districts, 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, further, that cities, towns and villages organized under the general laws of this state shall not be included in the districts provided for in this section, but assessors of such cities, towns and villages 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 assessing any one civil or congressional township; provided, further, that no person shall 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. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in this, that assessment must be made by assessors prior to July 1, therefore this act shall take effect and be in force from and after its passage and approval.

Approval March 9, 1903.

ATTORNEYS.

CHAPTER 37.

[S. B. No. 112—Little.]

AN ACT Amending Section 424 of the Revised Codes of 1899. Relating to Admission of Attorneys on Certificates From Other States.

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

§ 1. AMENDMENT.] Section 424 of the revised codes of 1899 is hereby amended so as to read as follows:

§ 424. ADMISSION ON CERTIFICATE, HOW.] Any person becoming a resident of this state, after having been admitted to the bar in any of the states of the United States, in which he has previously resided, may, at the discretion of the court, be admitted to practice in this state without examination or proof of period of study as hereinbefore provided, on proof of the other qualifications by this article required and on satisfactory proof that he has practiced law regularly for not less than three years in the state from which he comes after having been admitted to the bar according to the laws of such state.
Approved March 9, 1903.

BARBERS.

CHAPTER 38.

[H. B. No. 113—Rose.]

REGULATING BARBERS.

AN ACT to Amend Section 9 of Chapter 30, Session Laws of 1901, Relating to the Practice of Barbering and Additional Provisions Relating Thereto.

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

§ 1. AMENDMENT.] That section 9 of chapter 30, session laws of 1901, be amended to read as follows:

§ 9. APPRENTICE.] Nothing in this act shall prohibit any person from serving as an apprentice in said trade under a barber authorized to practice same under this act, nor from serving as a student in any school for the teaching of such trade under the instruction of a qualified barber; provided, that in shops where there are two or more barbers there shall not be more than one apprentice to two barbers authorized under this act to practice said occupation; provided, further, that all persons serving as apprentices shall within ninety days after the taking effect of this act file with the secretary of said board an affidavit setting forth his name, residence, and the length of time and place he has practiced as such apprentice, and shall pay the treasurer of said board two dollars, and a certificate of registration entitling him to practice as a barber's apprentice shall thereupon be issued to him, which certificate shall be kept posted in a conspicuous place in front of his working chair.

§ 2. SUNDAY BARBERING PROHIBITED.] It shall be unlawful for any registered barber or barber's apprentice to practice the occupation of a barber as defined under the act regulating the practice of barber-

ing, upon Sunday; provided, that nothing in this act shall prevent or prohibit a barber from shaving or otherwise preparing the dead for burial on Sunday.

§ 3. PENALTY.] Any violations of the provisions herein proposed shall be subject to the penalties prescribed in section 14, chapter 30, session laws of 1901, relating to the practice of barbering.

§ 4. EMERGENCY.] An emergency exists in this, that the present law does not provide for the registration of apprentices, therefore this act shall be in force and in effect from and after its passage and approval.

Approved March 10, 1903.

BENEVOLENT ASSOCIATIONS.

CHAPTER 39.

[H. B. No. 238—Mallough.]

LICENSING OF SOLICITORS FOR BENEVOLENT ASSOCIATIONS.

AN ACT to License Solicitors for Benevolent Organizations.

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

§ 1. UNLAWFUL, WHEN.] It shall be unlawful for any person to solicit contributions for an orphan asylum, children's home, rescue home, hospital or such like charitable organization, organized or established in any other state, without having first obtained a license from the state examiner, until such time as a state board of charities shall have been established, when said license shall be issued by the secretary of such board of charities, as hereinafter provided.

§ 2. LICENSE, HOW OBTAINED.] When any person desires to solicit aid for any charitable organization, as described in section 1 of this act, they shall first file a statement with the state examiner, until there shall be a state board of charities established, duly verified under oath, giving a detailed history of the work and needs of the organization they represent. It shall then be the duty of the state examiner, or of the board of public charities when established, to investigate the case, and if satisfied that the cause is trustworthy, a permit shall be issued to such applicant, giving him or her the right to solicit within the state of North Dakota. Such permit shall be good for one year only and may be renewed from year to year, but shall be subject to revocation at any time for just cause.

§ 3. LICENSE MUST BE SHOWN.] Any person receiving such a permit must at all times when soliciting, produce the same if called

upon to do so, and a refusal shall be deemed prima facie evidence that the solicitor is violating the provisions of this act.

§ 4. EXCEPTIONS.] This act shall not apply to sisters of charity, salvation army, deaconesses, who wear a distinct garb, nor to taking up collections in churches for organizations distinctly denominational in character and management.

§ 5. PENALTY.] Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and shall be subject to punishment as provided in section 6812 of the revised codes.

Approved March 10, 1903.

BOARDS OF HEALTH.

CHAPTER 40.

[H. B. No. 186—McLain.]

COMPENSATION OF MEMBERS OF COUNTY BOARDS OF HEALTH.

AN ACT Amending Section 250 of the Revised Codes 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 section 250 of the revised codes of North Dakota be amended so as to read as follows:

§ 250. COMPENSATION.] The president and vice president of the board shall receive three dollars per day for every day in which they may be actually and necessarily engaged in the performance of their duties, and five cents per mile for every mile actually and necessarily traveled in the discharge of their duties. The county superintendent of health shall receive five dollars per day for every day in which he may be actually and necessarily engaged and five cents for each mile actually and necessarily traveled in the performance of his duties. Physicians employed by the county board of health shall not receive less than two dollars per visit for medical attendance upon any patient, and not to exceed ten cents per mile for each mile actually and necessarily traveled in visiting such patient. No member of such board of health shall receive any other or further compensation for his services than as herein provided.

Approved March 19, 1903.

CHAPTER 41.

[S. B. No. 77—Taylor.]

EXPENSES OF LOCAL BOARDS OF HEALTH.

AN ACT to Amend Section 273 of the Revised Codes of North Dakota.
Relating to Expenses Incurred by Local Boards of Health.

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

§ 1. AMENDMENT.] That section 273 of the revised codes of North Dakota be amended so as to read as follows:

§ 273. BOARD HAS FULL POWER. EXPENSES.] Local boards of health may employ such persons as may be necessary to carry into effect the provisions of this article and the regulations established by them, and such physicians as they deem necessary, and provide such necessaries of life as in their judgment shall be needed for the maintenance, welfare and comfort of persons afflicted with contagious and infectious diseases. All expenses incurred by any local board of health in carrying into effect the provisions of this article, and in providing for the care and maintenance of such sick persons, and all expenses incurred under any of the provisions of this article, shall be audited and allowed by the board incurring the same; such expenses in case of township boards of health shall be certified to the township clerk and paid out of the general fund of the township, and in case of city boards of health shall be certified to the city auditor and paid out of the general fund of the city, and in case of county boards of health, shall be certified to the county auditor and paid out of the general fund of the county; all expenses incurred by such boards of health for the care, medical attendance or support of any such sick person shall be a charge upon such person and upon the person legally chargeable with the support of such person, and may be collected by suit in the name of the township, city or county, which shall have incurred such expense; provided, however, that in cases where, after due investigation, such township or city board of health is satisfied that such sick person or the person legally charged with the support of such person is too poor to pay the expenses incurred in his behalf, then and in such cases the local board of health shall make an indorsement to such effect on the bill of expenses incurred in such case, and the clerk of such township or the city auditor of such city shall send a certified statement of such bill of expenses with the endorsement of such local board of health to the county auditor; such statement shall contain the date upon which such claims were allowed, to whom allowed, for what purpose and the amount allowed, and an itemized statement of the expenses incurred; upon receipt of such statement the county auditor shall

refer the same to the county board of health, and if approved by the county board of health, the county auditor shall issue his warrant upon the county treasurer, payable out of the general fund of the county, the amount allowed by such township or city; such warrant shall be made payable to the treasurer of such township or city, as the case may be.

§ 2. EMERGENCY.] Whereas, there now exists no adequate law for the payment of expenses incurred in preventing the spread of contagious and infectious diseases, an emergency exists; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1903.

BOARD OF PARDONS.

CHAPTER 42.

[S. B. No. 73—LaMoure.]

RELATING TO BOARD OF PARDONS.

AN ACT Amending Section 2, Chapter 34, Session Laws of 1901, Relating to the Board of Pardons and Prescribing the Powers and Duties Thereof.

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

§ 1. AMENDMENT.] That section 2, chapter 34, session laws of 1901, be amended to read as follows:

§ 2. Every pardon or commutation of sentence shall be in writing and shall have no force or effect unless the same be granted by unanimous vote of those present of said board convened as such, four of whom shall constitute a quorum. A reprieve in a case where capital punishment has been imposed may be granted by the governor, but for such time only as may be reasonably necessary to secure a meeting of said board of pardons for the consideration of an application for a reprieve, pardon or commutation of the sentence of the person so reprieved. Said board may grant an absolute or conditional pardon, and any conditional pardon shall state the terms and conditions on which it was granted. Such board of pardons may issue its warrant under the seal of said board to any proper officers to carry into effect such pardon, which warrant shall be obeyed and executed instead of the sentence which was first originally pronounced.

§ 3. EMERGENCY.] An emergency exists in this, that the present law does not define what shall constitute a quorum of the board of

pardons; and it is necessary in order to facilitate the business of the board that this be determined before the 1st of July, therefore this act shall be in force and in effect from and after its passage and approval.

Approved February 3, 1903.

BONDS.

CHAPTER 43.

[S. B. No. 102—Lewis.]

ADDITIONAL BUILDINGS FOR AGRICULTURAL COLLEGE.

AN ACT Authorizing the Board of Trustees of the Agricultural College to Issue Bonds, to Provide a Fund to Provide for the Erection and Equipment of Necessary Additional Buildings, for Conservatories, for Installation of Electric Light Plant, for Equipment of Science Hall and for Other Necessary Buildings and Improvements for the North Dakota Agricultural College at Fargo.

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

§ 1. NORTH DAKOTA AGRICULTURAL COLLEGE. ADDITIONAL BUILDINGS AND IMPROVEMENTS.] To provide for the erection and equipment of necessary additional buildings, for conservatories, for a heating plant, for installing an electric light plant, equipment of science hall and for other necessary improvements for the North Dakota agricultural college at Fargo, the board of trustees of said agricultural college may issue bonds for such sum or sums of money as can actually be used in the construction and equipment of such necessary additional buildings, conservatories, electric light plant, equipment of science hall and for other necessary improvements, not exceeding the sum of one hundred and thirty-five thousand dollars; said bonds shall be in denominations of one thousand dollars each; shall bear interest at a rate not exceeding four per cent 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 granted to the said North Dakota agricultural college. The interest of such bonds shall be payable annually on the first day of January each year, and shall be payable from the interest and income accumulating from the sale, rental or lease of said lands; provided, that 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 accumu-

lating in the interest and income fund from sale or rental of land or lands granted to the North Dakota agricultural college, 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.

§ 2. BONDS, HOW EXECUTED. NOTICE OF SALE.] Such bonds shall be executed under the seal of the board of trustees of the said North Dakota agricultural college; shall be attested by the president and secretary of said board of trustees, and when executed the said board of trustees shall receive sealed proposals for the purchase of the same and shall give public notice of such sale for at least thirty days preceding such sale, in two or more newspapers in general circulation, giving date of such sale, and such bonds shall be sold to the highest bidder for cash and the proceeds thereof delivered to the treasurer of the North Dakota agricultural college, to be used exclusively in pursuance of the provisions of this act.

§ 3. MONEYS. TO BE DEPOSITED WITH STATE TREASURER.] All moneys that may arise or be derived from the sale, rental or lease of said lands granted to the North Dakota agricultural college shall be deposited with the state treasurer to be used in pursuance of the provisions of this act for the benefit of the North Dakota agricultural college.

§ 4. EMERGENCY.] Whereas, an emergency exists in that it is necessary to begin the construction of the said additional buildings and other necessary improvements before July 1, therefore this act shall take effect immediately upon its passage and approval.

Approved March 13, 1903.

CHAPTER 44.

[H. B. No. 2—Chevalier.]

BLIND ASYLUM BONDING ACT.

AN ACT to Provide for the Issuance of Bonds for the Erection of Necessary Buildings for the Blind Asylum at Bathgate, North Dakota.

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

§ 1. BLIND ASYLUM. ERECTION OF BUILDINGS.] To provide for the erection of necessary buildings, their proper equipment, and for the establishment of the blind asylum at Bathgate, North Dakota, the board of trustees of the said blind asylum may issue bonds for such sum or sums of money as can be actually used in the construction of permanent buildings, and necessary furnishing and other necessary improvements, to be made for the establishment and maintenance of said blind asylum, not exceeding the sum of twenty thousand dollars; said bonds shall be in denominations of one

thousand dollars each, and 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 blind asylum by section 17 of the Enabling Act for the admission of North Dakota, South Dakota, Montana and Washington, approved February 22, 1889, and confirmed by article 19, section 216, of the Constitution of North Dakota, or from the rental or lease of said 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 institutions; 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 blind asylum, 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 at maturity.

§ 2. MONEYS TO BE DEPOSITED WITH STATE TREASURER.] All moneys that may arise or be derived from the sale, rental or lease of lands appropriated to the blind asylum, shall be deposited with the state treasurer, to be used exclusively for the benefit of said blind asylum.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the state of North Dakota has no institution for the care, education and proper training of the blind and must send them at heavy expense to a neighboring state, therefore, this act shall take immediate effect on its passage and approval.

Approved February 11, 1903.

CHAPTER 45.

[S. B. No. 151—Hale.]

BONDS FOR DEAF AND DUMB ASYLUM.

AN ACT Authorizing the Board of Trustees of the Deaf and Dumb Asylum to Issue Bonds to Provide a Fund for the Purchase of Additional Land, for the Erection of Necessary Additional Buildings, and for Such Other Improvements as May be Needed for the Deaf and Dumb Asylum at Devils Lake, North Dakota.

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

§ 1. [ISSUE OF BONDS.] To provide for the purchase of additional land, and for the erection of necessary additional buildings for the

deaf and dumb asylum at Devils Lake, and for other needed and necessary improvements, and for the proper equipment of such buildings, the board of trustees of the deaf and dumb asylum may issue bonds for such sum or sums of money as can actually be used in the construction of such necessary additional buildings, and needed improvements, not exceeding the sum of sixty-six thousand dollars; said bonds shall be in denominations of two thousand dollars each, shall bear interest at a rate not exceeding four per centum per annum and shall be made payable as may be deemed advisable by said board of trustees in not to exceed 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 deaf and dumb asylum, by article 14 of the Enabling Act 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 July 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; providing, that a sufficient amount of funds accumulating in the interest and income fund, from the sale or rental of land, or lands appropriated to the deaf and dumb asylum, 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; provided, that if there shall not be sufficient money in such funds to pay such interest, there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, a sum sufficient to meet such deficiency and the state shall be reimbursed for such expenditure from the first moneys received in such interest and income fund.

§ 2. MONEY, WHERE DEPOSITED.] All moneys that may arise or be deposited from the sale of land or lands, appropriated to the deaf and dumb asylum shall be deposited with the state treasurer, to be used exclusively for the benefit of the deaf and dumb asylum.

§ 3. The state treasurer is hereby authorized and required to retain out of the interest and income fund of said deaf and dumb asylum each year:

First. A sufficient amount to pay the annual interest upon the bonds issued for the benefit of the deaf and dumb asylum, and,

Second. For a sinking fund to be used to pay off the bonds as they mature, an amount equal to one-twentieth of the total of the bonds issued for the benefit of the deaf and dumb asylum. He is further authorized and required to pay over and transfer quarterly to the maintenance fund of the deaf and dumb asylum any and all balances there may be remaining in said interest and income fund over and above the reservations above provided for.

Approved February 28, 1903.

CHAPTER 46.

[S. B. No. 183—Crane.]

BONDS FOR HOSPITAL FOR INSANE.

AN ACT Authorizing the Issuing of Bonds to Provide Funds for the Erection of Necessary Additional Buildings, Properly Equipping Same and Improving Present Buildings at the State Hospital for the Insane at Jamestown, North Dakota; the Terms on Which Such Bonds Shall be Issued, and Providing a Sinking Fund for the Payment of Such Bonds and Interest, and Directing How the Money Arising From the Sale of Such Bonds Shall be Disposed Of.

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

§ 1. [ISSUE OF BONDS.] The governor, secretary of state and state treasurer are hereby authorized and empowered to prepare for issue negotiable bonds of the state of North Dakota in an amount not exceeding seventy thousand dollars for the purposes hereinafter stated; such bonds shall be in denominations of not exceeding ten thousand dollars; shall bear interest at a rate not in excess of four per cent per annum, payable on the first day of January of each year, with coupons attached for each interest payment, and shall be payable in twenty years from date of issue, but may be redeemed after ten years at discretion of the state treasurer, at any place in the United States; such 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. [BOARD OF EQUALIZATION SHALL LEVY TAX TO PAY INTEREST AND CREATE A SINKING FUND.] 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, and create a sinking fund to pay such bonds at maturity, which tax shall be collected in the same manner that other state taxes are collected.

§ 3. [PROCEEDS OF BONDS. HOW USED.] The funds accruing from the sale of such bonds shall be deposited by the state treasurer; shall be paid out upon duly approved and audited vouchers of the board of the insane hospital, and only for the purposes herein provided, viz :

For a new ward building and equipment	\$ 40,000.00
For additions to assembly hall and congregate dining rooms	14,000.00
For a cold storage building	8,500.00
For repairs to present building	7,500.00
Total	\$ 70,000.00

§ 4. EMERGENCY.] Whereas, an emergency exists in that it is necessary to begin construction of additional buildings provided for in this act before July 1, 1903, therefore this act shall take effect immediately upon its passage and approval.

Approved March 10, 1903.

CHAPTER 47.

[S. B. No. 123—Sharpe.]

BONDS FOR INDUSTRIAL SCHOOL.

AN ACT Authorizing the Board of Trustees of the Industrial School and School for Manual Training to Issue Bonds, to Provide a Fund for the Outstanding Floating Indebtedness, and for the Completion of the Furnishing and Equipment of the Building of Said Institution.

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

§ 1. BONDS. INDUSTRIAL SCHOOL TO ISSUE.] To provide for the outstanding floating indebtedness, and for the completion of the furnishings and equipment of the building of the state industrial school and school for manual training, the board of trustees of said state industrial school and school for manual training may, if the majority of said board so decide, issue bonds in the sum not exceeding forty thousand dollars.

§ 2. BONDS. DENOMINATION OF.] Said bonds shall be issued in the denomination of one thousand dollars each; they shall be signed by the chairman of the board of trustees and attested by the secretary of said board under the seal of said institution, and shall be payable twenty years from date of issue.

§ 3. BONDS. INTEREST ON.] Said bonds shall bear interest at the rate of 4 per cent per annum, which interest shall be payable on the first day of January each year at the office of the state treasurer. The principal and interest of said bonds shall be payable out of the interest on the funds accumulated from the sale of lands and income of the lands donated and apportioned to said state industrial school and school for manual training. In the event that income from said lands and interest on such funds in any one year shall be insufficient to pay the interest due upon said bonds for such year, the balance of said interest shall be paid out of the annual appropriation for said state industrial school and school for manual training for such year.

Approved March 3, 1903.

CHAPTER 48.

[S. B. No. 207—Simpson.]

NATIONAL GUARD ARMORIES.

AN ACT to Authorize the Various Organizations Composing the North Dakota National Guard to Build Armories, to Create a Board to Supervise the Construction Thereof and to Issue Bonds Therefor.

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

§ 1. BONDS TO BE ISSUED. WHEN.] Whenever a company, troop battery or regimental band of the North Dakota National Guard shall deposit with the state treasurer the sum of two thousand dollars, and shall convey to the state of North Dakota, by good and sufficient deed of warranty, the title to a site for an armory, which site shall be subject to the approval of the board of armory supervisors, bonds of the state of North Dakota shall be issued, the proceeds of which, together with the said sum of two thousand dollars deposited with the state treasurer, shall be used to construct an armory.

§ 2. BOARD OF ARMORY SUPERVISORS CREATED. DUTIES.] The governor, adjutant general and the colonel commanding the regiment are hereby constituted a board of armory supervisors, whose duty it shall be to approve the selection of all armory sites, to approve the plans and specifications for the erection of all armories, and to audit and approve all bills, claims, accounts in connection with the construction of all armories before such bills, claims, and accounts shall be paid.

§ 3. DUTY OF STATE TREASURER.] The state treasurer shall keep a separate account with each company, troop, battery or regimental band that shall avail itself of the provisions of this act, crediting the same with the money deposited with the state treasurer, and the proceeds of the bonds authorized by this act, and all bills for the construction of armories, after being approved by the board of armory supervisors and the state board of auditors shall be paid out of said account, or fund upon the warrant of the state auditor.

§ 4. BONDS. HOW ISSUED.] For the purpose of carrying out the provisions of this act the governor, state auditor and state treasurer are hereby authorized and empowered to prepare for issue negotiable bonds of the state of North Dakota to the amount of five thousand dollars for each company, troop, battery or regimental band whenever the same desires to avail itself of the provisions of this act. Such bonds shall be in the denomination of one thousand dollars each, payable to the purchaser or bearer; one thousand dollars thereof payable in five years; one thousand dollars thereof payable in ten years; one

thousand dollars thereof payable in fifteen years, and two thousand dollars thereof payable in twenty years from date of issue, and shall bear interest at a rate not to exceed four 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 executed 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.

§ 5. INTEREST. HOW PAID. SINKING FUND CREATED.] Whenever any company, troop, battery or regimental band shall avail itself of the provisions of this act, the amount now appropriated by law as and for army [armory] rent, shall be used for the purpose of paying the interest on the bonds, authorized by this act, and to create a sinking fund to retire said bonds when the same shall mature; such company, troop or battery, or regimental band, shall not receive any other or further amount or appropriation for armory rent as such.

§ 6. STATE TREASURER TO PAY INTEREST.] When the said interest coupons become due and whenever the bonds mature, it shall be the duty of the state treasurer to pay the same on presentation out of any funds in the treasury applicable thereto, and to cancel the same when paid.

§ 7. EMERGENCY.] An emergency exists in this, that there is now no law authorizing the issuance of bonds for construction of armories, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1903.

CHAPTER 49.

[S. B. No. 81—Cox.]

NORMAL SCHOOL BONDING ACT.

AN ACT Authorizing the Board of Trustees of the State Normal Schools to Issue Bonds to Provide a Fund for the Erection and Equipment of Necessary Additional Buildings and for Other Necessary Improvements for the Normal Schools at Valley City and Mayville.

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

§ 1. BOARD OF TRUSTEES AUTHORIZED TO ISSUE BONDS.] The board of trustees of the state normal schools, in order to provide a fund for the erection and the equipment of the necessary additional buildings and other needed improvements at the normal schools at Valley City and Mayville, are hereby authorized and empowered to issue bonds for such sum, or sums, of money as is actually needed for the purposes herein specified, not exceeding sixty thousand dollars for each of said normal schools.

§ 2. NAME. DENOMINATION.] Said bonds shall be designated as the "Bonds of the State Normal School at Valley City," and "Bonds of the State Normal School at Mayville." They shall be issued under the seal of the board of trustees of the state normal schools, and signed by its president and secretary. They shall be in denominations of two thousand dollars each, shall bear four per cent interest, and shall mature at such times as may be deemed advisable by said board of trustees, and in not to exceed thirty years.

§ 3. WHEN INTEREST DUE. HOW PAID. APPROPRIATION FOR DEFICIENCY.] The interest shall be paid annually on the first day of July from the interest and income accumulating from the sale, rental and lease of the lands granted by the state to the respective state normal schools; provided, if there shall not be sufficient money in each of the said funds to pay such interest, there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, a sufficient amount to meet such deficiency.

§ 4. DUTY OF STATE TREASURER.] The state treasurer is hereby authorized and required to retain out of the interest and income fund of each of said normal schools each year, first a sufficient amount to pay the annual interest upon the bonds issued for the benefit of the respective normal schools, and second, for a sinking fund to be used to pay off the bonds as they mature, an amount equal to one-thirtieth of the total of the bonds issued for the benefit of the respective normal schools. He is further authorized and required to pay over and transfer quarterly to the maintenance fund of the respective normal schools, any and all balances there may be remaining in said interest and income fund, over and above the reservations above provided for.

§ 5. HOW SOLD.] These bonds shall first be offered for sale to the board of university and common school lands at par, and, if not purchased by said board, the board of trustees of state normal schools shall receive sealed proposals for the purchase of the same, and shall give public notice of the sale for at least thirty days preceding such sale, and the bonds shall be sold to the highest bidder. The proceeds of such sale shall be delivered to the treasurers of the respective normal schools, to be used exclusively in pursuance of the provisions of this act.

§ 6. EMERGENCY.] Whereas, an emergency exists in that the proceeds from the sale of these bonds will be needed before the first day of July in order that the buildings be completed before the opening of the next school year, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 13, 1903.

CHAPTER 50.

[H. B. No. 138—Connolly.]

BONDS FOR NORTH DAKOTA ACADEMY OF SCIENCE.

AN ACT to Amend and Re-enact Sections 923, 924, 925, 926, 927, 929, 930, 932, 933, and to Repeal Sections 928 and 931 of the Revised Codes of North Dakota, 1899, Relating to the North Dakota Academy of Science, and Providing for the Issuing of Bonds for the Purpose of Erecting Suitable Buildings for the Said Academy and for the Maintenance Thereof.

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

§ 1. AMENDMENT.] That article 3 of chapter 10 of the revised codes of North Dakota relating to the North Dakota Academy of Science be and it is hereby amended so as to read as follows:

§ 923. CONTINUATION. OBJECT.] The North Dakota academy of science heretofore established at Wahpeton is hereby continued as such. The object of such academy shall be to furnish instruction in the physical sciences, higher mathematics, political science and pedagogy, covering such courses in these subjects as are commonly prescribed in standard colleges.

§ 924. HOW GOVERNED.] Such school shall be under the direction and management of a board of trustees and shall be erected, governed and maintained as hereinafter provided.

§ 925. BOARD. HOW CONSTITUTED.] Such board of trustees shall consist of five members, who shall be appointed by the governor, by and with the consent of the senate, and shall hold their office for a term of four years; provided, that immediately upon the taking effect of this act the governor shall appoint three members of this board who shall hold office for four years and two members who shall hold office for two years, each member of said board to hold office until his successor is appointed and qualified; and the governor may fill vacancies by appointment as in other cases. The members of such board shall meet at Wahpeton annually on the first Tuesday in April and shall from among their number elect a president and secretary, and said board may provide for such other meetings at such times and places as may be deemed expedient; provided, that the governor may designate the time for holding the first meeting of said board.

§ 926. POWERS OF BOARD.] Such board shall have power to buy or procure the necessary ground and to erect and equip the necessary buildings for said school, to appoint a principal and assistants to take charge of such school and such other teachers and officers as may be required, and fix the salaries of each and prescribe their several duties. It shall also have power to remove, either principal, assistant or teacher and appoint others in their stead. The board shall pre-

scribe the various books to be used in such school and shall make all the regulations and by-laws necessary for good government and maintenance of the same and shall have power to procure all necessary apparatus, instruments and appurtenances for instruction in said school.

§ 927. RULES AND REGULATIONS.] The board shall prescribe such rules and regulations for the admission of pupils to said school as it shall deem necessary and proper and may in its discretion require applicants for admission into such school to pay such fees or tuition as the board may deem reasonable.

§ 929. COMPENSATION.] All necessary expenses incurred by members of the board of trustees and the sum of three dollars per diem for the time actually and necessarily employed in the discharge of the duties of their office shall be paid on the proper voucher out of the general funds of the state. The principal, assistants, teachers and other officers and employes in such school shall be paid out of the fund of the North Dakota academy of science.

§ 930. APPROPRIATION. BONDS AUTHORIZED.] All moneys received from the interest and income derived from the sale or leasing of the forty thousand acres of land donated by congress and appropriated by the constitution of this state for the benefit of such school are hereby appropriated for the construction and maintenance thereof; and, to further provide for the erection of necessary buildings for such school and for their proper equipment and for the establishment of such school, the board of trustees are hereby authorized and empowered to issue bonds for such sum or sums of money as is actually needed for the purposes herein specified, not exceeding thirty thousand dollars. Said bonds shall be designated as "Bonds of the North Dakota Academy of Science." They shall be issued under the seal of the board of trustees of the said academy of science and signed by its president and secretary. They shall be in denominations of two thousand dollars each, shall bear four per cent interest and shall mature at such times as may be deemed advisable by said board of trustees and in not to exceed twenty years. The interest shall be paid annually on the first day of July from the interest and income accumulating from the sale, rental and lease of the land granted by the state to the North Dakota academy of science; provided, if there shall not be sufficient money in the said funds to pay such interest, there is hereby appropriated out of any funds in the state treasury not otherwise appropriated a sufficient amount to meet such deficiency. The state treasurer is hereby authorized and required to retain out of the interest and income fund of said academy of science each year, first, a sufficient amount to pay the annual interest upon the bonds issued, and second, for a sinking fund to be used to pay off the bonds as they mature, an amount equal to one-twentieth of the total of the bonds issued for the benefit of the academy of science. He is further authorized and required to pay over and transfer quarterly to the maintenance fund of the academy

of science any and all balances there may be remaining in said interest and income fund over and above the reservations above provided for. These bonds shall first be offered for sale to the board of university and common school lands at par, and if not purchased by said board, the board of trustees of said academy of science shall receive sealed proposals for the purchase of the same, and shall give public notice of the sale for at least thirty days preceding such sale and the bonds shall be sold to the highest bidder for cash at not less than par.

§ 932. DUTIES OF STATE TREASURER.] The state treasurer shall be the custodian of all funds belonging to such school, from whatever source received, and the same shall be deposited with him and by him kept in a separate fund which shall be known as the North Dakota academy of science fund, and shall be used exclusively for the benefit of such academy; provided, however, that any sum or sums received by such board of trustees for tuition or fees for scholarships in such school, may be kept and disbursed by the secretary of such board upon the order of the president thereof, for correct [current] expenses of such school.

§ 933. MAJORITY SHALL CONSTITUTE QUORUM.] A majority of the members of the board of trustees shall constitute a quorum, but a less number may adjourn from time to time. All proceedings of the board shall be recorded in a book to be kept for that purpose, which shall be open to inspection to any person on request; and the secretary shall keep a strict account of all moneys received by him in such manner as may be prescribed by the board, and such accounts shall at all times be open to inspection by said board or any member thereof.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that in order that the buildings provided for in this act be erected in time to open the school during the coming year, it is necessary that this act take effect before the first day of July, therefore, this act shall take effect and be in force from and after its passage and approval.

§ 3. Sections 928 and 931 of the revised codes of North Dakota, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1903.

CHAPTER 51.

[S. B. No. 79—Voss.]

REFORM SCHOOL BONDING ACT.

AN ACT Authorizing the Board of Trustees of the State Reform School to Issue Bonds to Provide for the Furnishing of the Reform School, and for the Construction of Stables and Workshop and Equipment of the Same, and for the Purchase of Lands Adjoining the State Reform School Necessary to Furnish Employment for the Inmates of Said Reform School.

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

§ 1. BONDS AUTHORIZED.] To provide for the furnishing of the state reform school and for the construction of workshop and stables, and equipping of the same, and to purchase lands adjoining said reform school necessary to furnish employment for the inmates of said reform school, the board of trustees of said reform school, or majority thereof, may issue bonds in the sum not to exceed twenty thousand dollars.

§ 2. DENOMINATION OF.] Said bonds shall be issued in denominations of one thousand dollars each, which bonds shall be signed by the president of the board of trustees, and attested by the secretary of said board under the seal of said institution, and shall be payable twenty years from and after the date of issue.

§ 3. RATE OF INTEREST. PAYABLE WHEN.] Said bonds shall bear interest at the rate of four per cent per annum. This interest shall be payable on the first day of January of each year at the office of the state treasurer. The principal and interest of said bonds shall be payable out of the interest on the funds accumulated from the sale and rental of lands donated and apportioned to said state reform school. In the event that the income from said lands and the interest on such funds in any one year shall be insufficient to pay the interest due upon said bonds for such year, the balance of such interest shall be paid out of the annual appropriations for said state reform school for such year.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no appropriation for the furnishing and equipment of such state reform school, therefore, this act shall be in force and take effect immediately after its passage and approval.

Approved February, 13, 1903.

CHAPTER 52.

[S. B. No. 43—Taylor.]

UNIVERSITY BONDING ACT.

AN ACT Authorizing the Board of Trustees of the State University and School of Mines to Issue Bonds to Provide a Fund for the Necessary Repairs of the Buildings of the State University and School of Mines, and to Pay the Outstanding Floating Indebtedness of Said University and School of Mines, Providing the Manner of Issuing Such Bonds and Prescribing How the Principal and Interest of Such Bonds Shall be Paid.

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

§ 1. BONDS AUTHORIZED.] To provide for the necessary repairs of the buildings of the state university and school of mines and to pay the outstanding floating indebtedness of such institutions, the board of trustees of such state university and school of mines may, if the majority of said board so decide, issue bonds in a sum not exceeding one hundred and fifty thousand dollars.

§ 2. DENOMINATION. WHEN PAYABLE.] Such bonds shall be issued in denominations of one thousand dollars each. They shall be signed by the president of the board of trustees, and attested by the secretary of such board, under the seal of the board, and shall be payable twenty years from date of issue.

§ 3. RATE OF INTEREST. HOW PAID.] Such bonds shall bear interest at the rate of four per cent per annum, which interest shall be payable on the first day of January of each year at the office of the state treasurer. The principal and interest of such bonds shall be payable out of the interest on the funds accumulated from the sale of the lands, and income of the lands donated and apportioned to such state university and the school of mines. In the event that the income from such lands and the interest on such funds in any one year shall be insufficient to pay the interest due upon such bonds for such year, the balance of such interest shall be paid out of the funds in the state treasury not otherwise appropriated.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is a large floating indebtedness outstanding against such university and school of mines, and numerous repairs now need to be made on the buildings of the state university and school of mines, therefore, this act shall be in force and take effect from and after its passage and approval.

Approved February 13, 1903.

CITY OFFICES.

CHAPTER 53.

[H. B. No. 126—Rose.]

VACANCIES IN CERTAIN CITY OFFICES.

AN ACT Relating to the Appointment of City Treasurer, Police Magistrate or City Justice of the Peace, in Case of Vacancy.

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

§ 1. VACANCIES. HOW FILLED.] Whenever a vacancy occurs in the office of city treasurer, police magistrate, or city justice of the peace, in any city in this state, the same shall be filled by an appointment made by the mayor, by and with the consent and approval of the city council, which appointee or appointees, shall qualify and hold their offices until their successors are elected at the next annual election, and have qualified and entered upon the discharge of their duties.

§ 2. REPEAL.] All acts or parts of acts in so far as they conflict with any of the provisions of this act, are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in this, that there is no power of appointment to fill vacancies herein contemplated, and that said offices might become vacant for a time, to the injury of the public, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 9, 1903.

CITY ORDINANCES.

CHAPTER 54.

[S. B. No. 174—Lewis.]

VALIDATING CERTAIN CITY ORDINANCES.

AN ACT to Validate Ordinances and Resolutions Providing for Local Improvements in Cities and Contracts Made and Obligations Incurred Pursuant Thereto, and to Prescribe the Duties of Courts in Relation Thereto.

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

§ 1. VALIDATING CITY ORDINANCES.] All ordinances and resolutions heretofore enacted or adopted by the city council of any city in this state, under and pursuant to which any work of local improvements has been undertaken and completed in such, are hereby declared to be valid, notwithstanding any irregularity in the enactment or adoption of such ordinance or resolution.

§ 2. CONTRACTS AND OBLIGATIONS VALID.] All contracts heretofore made, and all obligations heretofore incurred, and evidences of debt issued thereunder, by any city in this state, for the execution of any work of local improvement in such city, which work has been completed, are hereby declared to be valid, notwithstanding any irregularity in the proceedings relative to such special improvement, or omission by any officer or officers, of any act required to be done by such officer or officers, under the law pursuant to which the local improvement was ordered done, and notwithstanding the invalidity of the ordinance or resolution providing for such local improvement.

§ 3. COURTS TO DETERMINE AMOUNT OF ASSESSMENT IN ACTIONS TESTING VALIDITY.] In all actions now pending or hereafter commenced in any of the courts of this state, in which the validity of any assessment for local improvements in any city comes in question, the courts shall, if the proceedings relative to the local improvement are found to be irregular, ascertain the true amount for which the property involved in said action is liable for such improvement. In order to ascertain the amount for which any lot or tract is liable, the court shall hear the evidence and ascertain the total cost of the improvement and the several lots or tracts liable to assessment therefor under the laws pursuant to which the work was done, and shall thereupon ascertain and determine the amount for which the lots or tracts in question should properly be assessed, according to the provisions of the law

prescribing the method of paying for such local improvement. The amount so ascertained, together with interest thereon at the rate of seven per cent per annum from the date on which interest would attach, had the assessment been valid from the beginning, shall be adjudged to be a lien upon the lot or tract affected by such action, and shall be collected in the same manner as other taxes of like nature are collected under the laws in force and at the time the judgment is entered.

§ 4. ACTION TO TEST VALIDITY. COMMENCED WHEN.] No person shall be heard to object to the validity of any assessment heretofore made for local improvements in any city of this state, unless the action or proceeding in which the validity of such assessment comes in question shall be commenced before the first day of January, 1904.

§ 5. EMERGENCY.] Whereas, an emergency exists in this, that a large amount of the taxes for local improvements are outstanding, and cannot be collected, by reason of irregularities in the proceedings relative to such assessments, therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved March 5, 1903.

CLERKS OF COURT.

CHAPTER 55.

[S. B. No. 231—Talcott.]

FEEs OF CLERKS OF DISTRICT COURTS.

AN ACT to Amend and Re-enact Chapter 92 of the Session Laws of 1901, Relating to the Fees of Clerks of the District Court.

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

§ 1. AMENDMENT.] That chapter 92 of the session laws of 1901 be amended and re-enacted so as to read as follows:

§ 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 actions 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 execution on return, fifty cents.
9. For filing and indexing a mechanic's lien, one dollar.
10. 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.
11. For making certified abstracts 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.
12. For entering satisfaction of any judgment or lien, fifty cents.
13. For taking declaration of intention to become a citizen of the United States and making a certified copy of the record thereof, one dollar.
14. For final naturalization papers, including copy of the record thereof, one dollar.
15. For each additional copy of either of such citizen's papers, fifty cents.
16. For approving bond of a notary public, fifty cents.
17. For entering and indexing commission of notary public, fifty cents.
18. For taking an acknowledgment or administering an oath, twenty-five cents.
19. 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.
20. For a certificate of the official capacity of a notary public, or other officer, fifty cents.
21. 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.
22. 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.
23. For issuing commission to take depositions, one dollar.
24. 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.
25. For all services on remittitur from supreme court, two dollars
26. For taking depositions, per folio, ten cents.
27. For making certified transcripts of any judgment, one dollar.

28. For filing and docketing transcript of judgment from justices' court or from any other county, one dollar.

29. For filing and entering affidavit and other papers, for renewal of any judgment, two dollars.

Approved March 10, 1903.

COMMISSION MERCHANTS.

CHAPTER 56.

[H. B. No. 223—Movius.]

LICENSES OF COMMISSION MERCHANTS.

AN ACT to Amend Sections 1738, 1739, 1741 and 1743a, Relating to Licenses of Commission Merchants.

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

§ 1. AMENDMENT.] That section 1738 of the political code of the state of North Dakota be and it is hereby amended so as to read as follows:

§ 1738. MUST HAVE LICENSE.] It shall be unlawful for any commission merchant or other factor to receive any wheat, flax or other grain, or butter, cheese or other dairy or creamery product, in this state to be sold for other persons or to have any agent or correspondent in this state receiving or soliciting any consignment or deposit of grain or creamery or dairy product to be sold or forwarded for sale here or elsewhere, without being licensed and authorized so to do as hereinafter prescribed.

§ 2. AMENDMENT.] That section 1739 of the political code of the state of North Dakota be and it is amended to read as follows:

§ 1739. LICENSE. HOW TO OBTAIN. BOND REQUIRED.] To obtain such license, a statement must be filed in the office of the secretary of state giving the name of the person, firm or corporation making application therefor, and the place at which said person, firm or corporation has its headquarters or principal place of business and post office address. There must also be filed and deposited in the office of the secretary of state, subject to his approval, a good and sufficient bond in a penal sum not less than ten thousand dollars, nominally payable to the state of North Dakota, executed by the applicant and at least one surety having the qualification of a fidelity insurance company authorized to do business as such in this state and containing a condition to the effect that the person, firm or corporation named as principal therein shall well and truly pay and discharge any and all liability which said principal shall incur to con-

signors within this state in or on account of any disposition that shall be made of any and all grain, creamery or dairy product, or the proceeds thereof, or of either, received by such principal wherever the same shall be received.

§ 3. AMENDMENT.] That section 1741 of the political code of the state of North Dakota be and the same is hereby amended so as to read as follows:

§ 1741. APPROVAL OF BONDS. CERTIFICATE ISSUED. REVOKED. HOW.] When the requirements of section 1740 are complied with and the secretary of state finds the bond and the surety thereon sufficient, he shall approve the same and issue to the applicant a certificate to the effect that, having complied with the law, such applicant is duly authorized by agent or otherwise, to procure and receive consignments of grain and creamery products from owners and shippers in this state, to be sold or disposed of for the consignors in the usual course of trade. Such certificate shall continue in force until revoked by the secretary of state, because the surety on said bonds has given notice of withdrawal therefrom or become insufficient and no new surety with the requisite qualifications has been substituted, or for other sufficient cause.

§ 4. AMENDMENT.] That section 1743a of the political code of the state of North Dakota be and the same is hereby amended so as to read as follows:

§ 1743a. PENALTY.] Every person who shall solicit or procure within this state any consignment or deposit of wheat, flax or other grain, or of butter, cheese or other creamery or dairy product, or any farm product, to be sold or consigned for sale or otherwise disposed of for the benefit of the consignor or depositor without having license and authority so to do as heretofore provided, and every person who shall act as agent, solicitor or correspondent in procuring any consignment or deposit of grain, or creamery or dairy product, for consignment to be so sold or disposed of to any person, firm or corporation not having such license and authority, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

§ 5. EMERGENCY.] Whereas, there is no law in this state protecting the creamery or dairy interests of said state, and the same requires and should have immediate protection, therefore, this act shall take effect from and after its passage and approval.

Approved March 12, 1903.

COMMISSIONERS OF DEEDS.

CHAPTER 57.

[S. B. No. 29—Cashel.]

AUTHORIZING APPOINTMENT OF COMMISSIONERS OF DEEDS.

AN ACT Authorizing the Appointment of Commissioners of Deeds and Declaring an Emergency to Exist.

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

§ 1. APPOINTMENT.] The governor may appoint in each of the states of the United States and the territories thereof, but not more than one in any town or city, one or more commissioners under the seal of this state, to continue in office for the term of six years, who shall have the power to administer oaths, and to take depositions and affidavits to be used in this state, and also to take acknowledgments of any deed or other instrument to be used or recorded in the state.

§ 2. OATH, SEAL AND FEE.] Before any commissioner, appointed as aforesaid, shall proceed to perform any of the duties of his office, he shall take and subscribe an oath before any clerk of a court of record, or other officer having an official seal, authorized to administer oaths in the state or territory for which such commissioner is appointed, that he will faithfully discharge all the duties of his office, which oath shall be filed in the office of the secretary of state, and shall provide and keep an official upon which must be engraved his name and the words, "Commissioner of Deeds for the State of North Dakota," and the name of the state or territory for which he is commissioned, with the date on which his commission expires, and shall file an impression of said seal in the office of the secretary of state of North Dakota, and shall furnish a bond to this state by a surety company in the sum of five hundred dollars, conditioned that he will perform the duties of his office, which bond shall be filed in the office of the secretary of state of North Dakota, and shall pay into the state treasury the sum of ten dollars.

§ 3. COMPENSATION FOR SERVICES.] Such commissioner shall be entitled to collect and charge for his services the same fees as are allowed a notary public in the state for which he is appointed.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no act for appointing commissioners of deeds, therefore, this act shall take effect immediately after its passage and approval.

Approved March 9, 1903.

COMMISSIONERS OF INSANITY.

CHAPTER 58.

[S. B. No. 89—Cox.]

FEES OF COMMISSIONERS OF INSANITY.

AN ACT to Amend Section 1530, Revised Codes of 1899, Relating to the Compensation and Expenses of the Board of Insanity.

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

§ 1. AMENDMENT.] That section 1530 of the revised codes of 1899 be amended to read as follows:

§ 1530. SALARIES AND FEES AND BY WHOM PAID.] The commissioners of insanity shall each be allowed the sum of two dollars per day for the time actually employed in the duties of their office. The county judge, in addition to what he is entitled to as commissioner of insanity, shall be allowed one-half as much more for making the required record entries in all cases of inquest, and of meetings of the board for any purpose, and for the filing of any papers required to be filed. He shall also be allowed twenty-five cents for such notice or process given or issued under seal as herein required. The examining physician shall be entitled to five dollars for each case examined, and mileage at the rate of ten cents per mile each way. The sheriff shall be allowed for services, other than conveying a patient to the hospital and returning therefrom, the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses in the district court. The compensation and expenses provided for above shall be allowed and paid out of the county treasury in the usual manner, except the fees and expenses of the sheriff for conveying the patient to the hospital for the insane, or to the authorities of another state, which shall be paid out of the state treasury in the usual manner.

Approved March 9, 1903.

CORPORATIONS.

CHAPTER 59.

[S. B. No. 13—Robinson.]

SETTLEMENT OF AFFAIRS OF CORPORATION ON DISSOLUTION.

AN ACT to Amend Section 2914 of the Revised Codes of North Dakota of the Revision of 1899, Relating to the Settlement of the Affairs of Corporations Upon Dissolution.

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

§ 1. AMENDMENT.] That section 2914 of the revised codes of North Dakota, of the revision of 1899, be amended so as to read as follows:

§ 2914. DIRECTORS TRUSTEES ON DISSOLUTION.] Unless other persons are appointed by the court, the directors or managers of the affairs of such corporation at the time of its dissolution, are trustees of the creditors and stockholders or members of the corporation dissolved, and have full power to settle the affairs of the corporation, and to collect and pay debts, and divide among the stockholders the property which remained after the payment of debts and necessary expenses; and for such purposes may maintain or defend actions, in their own names, by the style of the trustees of such corporation dissolved, naming it; and no action whereto any such corporation is a party shall abate by reason of such dissolution. And the said trustees, for the purposes aforesaid, may convey, in the name of such corporation dissolved, any real or personal property owned by it at the time of such dissolution, and execute proper instruments of conveyance for the transfer thereof, and satisfy any real estate or chattel mortgages and other liens, which may appear of record in favor of such corporation dissolved, which instruments shall be acknowledged, in the form as near as may be, as prescribed for the acknowledgment of instruments by corporations, such trustees being treated as officers. The form of signature shall be as follows, viz:

The
A Corporation Dissolved.
By
Trustees.

§ 2. EMERGENCY.] Whereas an emergency exists in that there is no way prescribed by law for the conveyance of the property of corporations dissolved, this act shall take effect upon and after its approval.

Approved February 6, 1903.

COURTS.

CHAPTER 60.

[S. B. No. 210—McArthur.]

INCREASED JURISDICTION OF COUNTY COURTS.

AN ACT Regulating Calling of Elections to Determine Whether or Not County Courts Shall Have Increased Jurisdiction.

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

§ 1. MAY HAVE INCREASED JURISDICTION. HOW.] Whenever the board of county commissioners of any county shall be presented with a petition signed by at least two hundred qualified voters and taxpayers of said county, praying for the submission to the voters of the county, of the question whether the county court of said county shall have increased jurisdiction, it shall be the duty of said board to cause the same to be submitted to the voters of the county at the next general election; provided, that said board, may in its discretion call a special election to determine said question; notice of said special election shall be given by publishing a notice of same, stating the object of said election, in three newspapers in the county once each week, for three successive weeks; provided, that the last publication shall be at least ten days, and not more than fifteen days, immediately preceding said election. In case there are not three newspapers published in the county, then said notice shall be published in such newspapers as are situated in said county, and in not more than the three nearest newspapers published in adjoining counties.

§ 2. CONTENTS OF PETITION.] The petition presented to the board of county commissioners, as provided in the preceding section, must show the population of said county to be at least two thousand, that the petitioners are qualified voters and taxpayers of said county and must be verified by at least three of the petitioners showing these facts.

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

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no provision for calling of elections to determine whether or not

county courts shall have increased jurisdiction, therefore, this act shall take effect from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 61.

[H. B. No. 245—Ellison.]

TERMS OF COURT IN LAMOURE COUNTY.

AN ACT Fixing the Terms of District Court in LaMoure County, North Dakota.

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

§ 1. DISTRICT COURT HELD IN LA MOURE COUNTY. WHEN.] Two terms of district court shall be held each year at the county seat in LaMoure county, commencing on the first Monday in February and the fourth Monday in September.

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

Approved March 12, 1903.

CHAPTER 62.

[S. B. No. 209—Robinson.]

TERMS OF COURT IN THIRD DISTRICT.

AN ACT to Amend Section 405 of the Revised Codes of 1899, Fixing the Time of Holding the Terms of Court in the Several Counties of the Third Judicial District.

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

§ 1. AMENDMENT.] That section 405 of the revised codes of 1899 be, and the same is, hereby amended to read as follows:

§ 405. BOUNDARIES AND TERMS OF COURT.] The third judicial district consists of the counties of Cass, Steele and Traill, and terms of the district court shall be held at the county seat in each of such counties each year, as follows:

In Cass county, commencing on the first Tuesday after the first Monday in January, the fourth Tuesday in April, the first Tuesday in September, and the first Tuesday in November. A jury must be called for the November term and for the April term, unless a jury shall have been called for the previous January term, in which case a jury at the April term may be dispensed with. No jury shall be called at the September term.

In Steele county, commencing on the third Tuesday in June, and the third Tuesday in October.

In Traill county, commencing on the second Tuesday in February and the first Tuesday in June.

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

§ 3. EMERGENCY.] Whereas, the terms of court in the third judicial district are not now so arranged as to be the most convenient for the dispatch of business, therefore, an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 63.

[S. B. No. 160—Wipperman.]

TERMS OF COURT IN FOURTH DISTRICT.

AN ACT Fixing the Time for Holding Terms of the District Court in the Various Counties Comprising the Fourth Judicial District of North Dakota.

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

§ 1. WHEN HELD.] Terms of the district court in the various counties comprising the fourth judicial district shall be held as follows:

In Richland county, commencing on the first Tuesday in June and the first Tuesday in December.

In Ransom county, commencing on the first Tuesday in May and the second Tuesday in January.

In Sargent county, commencing on the third Tuesday in May and the third Tuesday in November.

In Dickey county, commencing on the fourth Tuesday in June and the first Wednesday after the first Tuesday in November.

In McIntosh county, commencing on the fourth Tuesday in April and the third Tuesday in October.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that great inconvenience is caused to jurors by being compelled to attend teams of the district court during the harvest season, as the law now exists in said district, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

COUNTIES.

CHAPTER 64.

[S. B. No. 74—Simpson.]

ORGANIZATION OF COUNTIES.

AN ACT to Amend and Re-enact Sections 1823, 1824 and 1825 of the Revised Codes of the State of North Dakota for the Year 1899, Relating to the Organization of Counties.

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

§ 1823. AMENDMENT. PETITION FOR ORGANIZATION.] Any number of contiguous unorganized counties in this state which in the aggregate possess a population of at least one thousand bona fide inhabitants, may become organized as one county by presenting to the governor a petition signed by at least one hundred and fifty qualified electors of such contiguous unorganized counties, setting forth that in the aggregate said counties have the requisite number of inhabitants to form a county organization, and requesting him to organize such county as hereinafter provided; provided, however, that no unorganized county mentioned in the petition for the organization of such proposed contiguous unorganized counties shall become a part thereof unless a majority of the qualified electors residing within such unorganized county shall, by a majority vote, so decide, at the election hereinafter provided for.

§ 1824. DUTY OF THE GOVERNOR.] Whenever the qualified electors from any contiguous unorganized counties in this state shall petition the governor as provided in the preceding section, and the governor shall be satisfied that such contiguous counties contain a population of at least one thousand bona fide inhabitants, it shall be the duty of the governor, and he is authorized to call an election in the territory composing such contiguous unorganized counties and fix one or more places in such territory as the polling places therein, and shall fix the time for holding such election. And the governor shall thereupon issue a notice of election, which shall be substantially in the following form:

Notice is hereby given that on the day of 190. . . at in the unorganized county of an election will be held for the purpose of electing the following officers in the organization of the proposed county of to be formed out of the following named contiguous unorganized counties,

viz: (Name the officers to be elected) and also for the temporary location of the county seat of such proposed county, at which election the polls will be open at the hour of 8 o'clock in the morning and will continue open until 5 o'clock in the afternoon of said day.

Dated this day of 190...

.....
Governor.

Attest:

.....
Secretary of State.

§ 1825. ELECTION OF OFFICERS.] There shall be elected by the qualified electors of such contiguous unorganized counties all of the officers of such proposed county which are now, or may hereafter be provided by law for organized counties, which officers shall hold their respective offices until the next general election thereafter, and until their successors are elected and qualified.

Approved March 19, 1903.

CHAPTER 65.

[S. B. No. 204—Simpson.]

EXTENSION OF JURISDICTION OVER UNORGANIZED COUNTIES.

AN ACT Extending the Jurisdiction of Justices of the Peace in Organized Counties Over Unorganized Counties Which Are a Part of the Same Judicial Subdivision and Providing for the Payment of Expenses in Criminal Prosecutions Arising in Said Unorganized Counties.

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

§ 1. JURISDICTION EXTENDED.] The civil and criminal jurisdiction of justices of the peace in organized counties in any judicial subdivision containing one or more unorganized counties, shall extend over the said unorganized counties in said subdivision; and all summons, warrants, orders, or other process issued by such justices of organized counties shall be served or executed by the sheriff or any constable of the said organized county, and the costs in all criminal prosecutions in the district or justice's courts of offenses charged to have been committed in said unorganized counties, shall be audited and paid out of the state treasury; but no such costs shall be audited or paid unless a duplicate itemized account of the same shall be certified to as correct by the judge of the district court for said district, one of which accounts shall be preserved as a public record in the office of the clerk of the district court of said subdivision, and the court shall have full authority to disallow any or all such costs and fees whenever it deems the same illegally or unnecessarily incurred.

§ 2. EMERGENCY.] Whereas, there is a large area of territory within the state of North Dakota which is numerously populated, and which said territory is unorganized, and whereas, there is now no law on the statute books giving justices of the peace of the organized county, which is a part of the same judicial subdivision, jurisdiction over said unorganized territory, and no law providing for the prosecution of criminal cases in said unorganized territory, or for the payment of the expenses thereof, therefore, an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 66.

[S. B. No. 84—LaMoure.]

REIMBURSING COUNTIES FOR SALARIES PAID COUNTY JUDGES.

AN ACT to Amend Section 2071 of the Revised Codes of 1899, Relating to Reimbursing Counties for Salaries Paid to Judges of County Courts.

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

§ 1. AMENDMENT.] Section 2071 of the revised codes of 1899, relating to reimbursing counties for salaries paid to judges of county courts, is hereby amended so as to read as follows:

§ 2071. COUNTY TO BE REIMBURSED. How.] For the purpose of reimbursing the county for the salaries provided in the foregoing sections to be paid to the judges of the county courts, each petitioner for letters testamentary, of administration or guardianship, before filing the same in the county court, shall pay or cause to be paid into the county treasury, for the use and benefit of the county in whose county court proceedings are to be instituted to settle the estate of any deceased person, or for the appointment of a guardian, a sum of money according to the value of the estate of such deceased person, or of such ward, as appears from the sworn statement in the petition of such applicant: Five dollars when the value of the estate does not exceed one thousand dollars; five dollars additional for each and every one thousand dollars additional value thereto; and in all cases in addition thereto, all sums necessarily expended in publishing or serving notices required by law. In all civil and criminal actions the same fees and costs shall be paid as in like actions in the district court, the same to be paid to the judge of the county court, a record to be kept thereof and the same turned over by him to the county treasurer.

§ 2. EMERGENCY.] Whereas, the fees to be paid judges of the county courts to reimburse counties for the salaries paid to said judges of county courts, is insufficient, an emergency exists and this act shall

take effect and be in force from and after its passage and approval.
Approved March 9, 1903.

CHAPTER 67.

[H. B. No. 257—Senour.]

DEFINING BOUNDARIES OF BILLINGS COUNTY.

AN ACT Changing and Defining the Boundaries of Billings County.

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

§ 1. SUBMITTED TO VOTERS.] At the general election in 1904 the question of changing and defining the boundaries of Billings county as hereinafter provided in this act, shall be submitted to the voters of said county, and of the unorganized county affected hereby, and if a majority of the votes cast at said election shall be in favor of changing and defining the boundary lines of said Billings county, then the boundaries of said Billings county shall be as in this act hereinafter provided, and shall include all the territory hereinafter stated.

§ 2. The board of county commissioners of Billings county, at the said general election in 1904, shall give due notice that the question of changing and defining the boundaries of Billings county will be submitted to the voters of said county and the unorganized county affected hereby, and said notice shall contain a description of the boundaries in this act hereinafter described, and the proposition shall be submitted to the voters in substantially the following form: "Shall the boundaries of Billings county be changed as described in this act," giving in said notice the title and date of approval of this act.

§ 3. If at said election a majority of the voters residing within the territory hereinafter described shall vote for a change in the boundary lines of said Billings county, then the boundary lines of Billings county shall be as follows:

Beginning on the south boundary line of North Dakota, at the southeast corner of township 129 N, range 99 W; thence north and along the line between ranges 98 and 99 W, to the 8th standard parallel; thence east and along the 8th standard parallel to the southeast corner of township 133 N. of range 98 W; thence north and along the line between ranges 97 and 98 W. to the 9th standard parallel; thence west and along the 9th standard parallel to the southeast corner of township 137 N of range 100 W; thence north and along the line between ranges 99 and 100 to the 10th standard parallel; thence east and along the 10th standard parallel to the southeast corner of township 141 N. of range 98 W; thence north and along the line between ranges 97 and 98 W. to the 11th standard parallel; thence west and along said 11th standard parallel to the west boundary line of North Dakota; thence south and along the west boundary line of North Da-

kota to the southwest corner of the state of North Dakota; thence eastward along the south boundary line of North Dakota to the southeast corner of township 129 N. of range 99 W., and the place of beginning.

§ 4. GOVERNOR TO ESTABLISH VOTING PRECINCTS AND APPOINT JUDGES OF ELECTION.] In due time prior to said election the governor shall establish voting precincts in the unorganized counties affected by this act and appoint judges of election therein, who shall be residents of the unorganized county in which they are appointed to act, and provide booths and ballot boxes for said precincts, and perform such other acts as are necessary in giving the residents of such unorganized county a vote for the carrying out of the provisions of this act.

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

Approved March 13, 1903.

CHAPTER 68.

[H. B. No. 261—Dieball.]

DEFINING THE BOUNDARIES OF MERCER COUNTY.

AN ACT Changing and Defining the Boundaries of Mercer County
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SUBMITTED TO VOTERS.] At the general election in 1904 the question of changing and defining the boundaries of Mercer county, as hereinafter provided in this act, shall be submitted to the voters of said county, and of the unorganized county affected hereby, and if a majority of the votes cast at said election shall be in favor of changing and defining the boundary lines of said county, then the boundaries of said Mercer county shall be as in this act hereinafter provided and shall include all the territory hereinafter stated.

§ 2. SUBMITTED TO VOTERS.] The board of county commissioners of Mercer county, at the said general election in 1904, shall give due notice that the question of changing and defining the boundaries of Mercer county will be submitted to the voters of said county and the unorganized county affected hereby, and said notice shall contain a description of the boundaries in this act hereinafter described, and the proposition shall be submitted to the voters in substantially the following form: "Shall the boundaries of Mercer county be changed as described in this act," giving in said notice the title and date of approval of this act.

§ 3. DEFINING NEW BOUNDARIES.] If at said election a majority of the voters residing within the territory hereinafter described, shall vote for the change in the boundary lines of said Mercer county, then

the boundary lines of Mercer county shall be as follows: Commencing at the southwest corner of township 141, N. of range 90 W; thence north between ranges 90 and 91 W. to the 11th standard parallel; thence west and along the 11th standard parallel to the southwest corner of township 145, N of range 93 W; thence north between ranges 93 and 94 W, to the 12th standard parallel; thence west and along the 12th standard parallel to the southwest corner of township 149, N of range 93 W; thence north between ranges 93 and 94 W to the Missouri river; thence southeasterly along the right bank of the Missouri river to the line between ranges 83 and 84 W; thence south to the southeast corner of township 144 N, range 84 W; thence west between townships 143 and 144 N to the northwest corner of township 143, N of range 87 W; thence south between ranges 87 and 88 W to the 10th standard parallel; thence west and along the 10th standard parallel to the southwest corner of township 141, N of range 90 W and to the place of beginning.

§ 4. VOTING PRECINCTS ESTABLISHED.] In due time prior to said election, the governor shall establish voting precincts in the unorganized county affected by this act, and appoint judges of election therein, who shall be residents of the unorganized county in which they are appointed to act, and provide booths and ballot boxes for said precincts, and perform such other acts as are necessary in giving the residents of such unorganized county a vote for the carrying out of the provisions of this act.

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

Approved March 13, 1903.

CHAPTER 69.

[H. B. No. 258—McClure.]

DEFINING BOUNDARIES OF STARK COUNTY.

AN ACT Changing and Defining the Boundaries of Stark County.

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

§ 1. SUBMITTED TO VOTERS.] At the general election in 1904 the question of changing and defining the boundaries of Stark county as hereinafter provided in this act, shall be submitted to the voters of said county, and of the unorganized counties and parts of unorganized territory affected hereby, and if a majority of the aggregate votes cast at said election shall be in favor of changing and defining the boundary lines of said Stark county, then the boundaries of said Stark county shall be as in this act hereinafter provided and shall include all the territory hereinafter stated.

§ 2. The board of county commissioners of Stark county, at the

said general election in 1904, shall give due notice that the question of changing and defining the boundaries of Stark county will be submitted to the voters of said county and of the unorganized counties and parts of unorganized territory affected hereby, and said notice shall contain a description of the boundaries as in this act hereinafter described, and the proposition shall be submitted to the voters in substantially the following form: "Shall the boundaries of Stark county be changed as described in this act," giving in said notice the title and date of approval of this act.

§ 3. If at said election a majority of the voters residing within the territory hereinafter described shall vote for a change in the boundary lines of said Stark county, then the boundary lines of Stark county shall be as follows:

Commencing on the south boundary of North Dakota at the southwest corner of township 129 north of range 98 west; thence north and along the line between ranges 98 and 99 W to the 8th standard parallel; thence east and along the 8th standard parallel to the southwest corner of township 133 N of range 97 W; thence north and along the line between ranges 97 and 98 W to the 9th standard parallel; thence west and along the 9th standard parallel to the southwest corner of township 137 N of range 99 W; thence north and along the line between ranges 99 and 100 W to the 10th standard parallel; thence east and along the 10th standard parallel to the southwest corner of township 141 N of range 97 W; thence north and along the line between ranges 97 and 98 W to the 11th standard parallel; thence west and along the 11th standard parallel to the southwest corner of township 145 N of range 97 W; thence north and along the line between ranges 97 and 98 W to the 12th standard parallel; thence east and along the 12th standard parallel to the northeast corner of township 148 N of range 94 W; thence south and along the line between ranges 93 and 94 W to the 11th standard parallel; thence east and along the 11th standard parallel to the northeast corner of township 144 N of range 91 W; thence south and along the line between ranges 90 and 91 W to the 10th standard parallel; thence east and along the 10th standard parallel to the northeast corner of township 140 N of range 91 W; thence south and along the line between ranges 90 and 91 W to the 9th standard parallel; thence east and along the 9th standard parallel to the northeast corner of township 136 N of range 91 W; thence south and along the line between ranges 90 and 91 W to the 8th standard parallel; thence east and along the 8th standard parallel to the northeast corner of township 132 N of range 91 W; thence south and along the line between ranges 90 and 91 W to the south boundary line of North Dakota; thence west and along the south boundary line of North Dakota to the southwest corner of township 129 N of range 98 W and the place of beginning.

§ 4. GOVERNOR TO ESTABLISH VOTING PRECINCTS AND APPOINT JUDGES OF ELECTION.] In due time, prior to said election, the gov-

ernor shall establish voting precincts in the unorganized counties and unorganized territory included in this act, and appoint judges of election therein, who shall be residents of the unorganized county or territory in which they are appointed to act, and provide booths and ballot boxes for said precincts, and perform such other acts as are necessary in giving the residents of such unorganized counties or territories a vote for the carrying out of the provisions of this act.

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

Approved March 13, 1903.

CHAPTER 70.

[S. B. No. 203—Simpson.]

ATTACHING UNORGANIZED TERRITORY TO STARK COUNTY.

AN ACT Attaching Certain Unorganized Counties and Territory to the Organized County of Stark for Judicial Purposes.

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

§ 1. UNORGANIZED COUNTIES ATTACHED TO STARK COUNTY FOR JUDICIAL PURPOSES.] The unorganized counties of McKenzie, Wallace, Dunn, Hettinger and Bowman and the territory formerly known as the unorganized county of Williams, the same lying south of the Missouri river and between the unorganized county of Dunn and the county of Mercer, is hereby attached to the county of Stark for judicial purposes.

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

§ 3. EMERGENCY.] Whereas, there is a question under the present law as to what, if any, organized county in the state has jurisdiction over the unorganized territories herein mentioned, therefore, an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 71.

[H. B. No. 281—Palmer.]

ALLRED COUNTY ATTACHED TO WILLIAMS FOR JUDICIAL PURPOSES.

AN ACT Attaching and Annexing the Unorganized County of Allred, in the State of North Dakota, to the County of Williams, in the Eighth Judicial District of the State of North Dakota, for Judicial Purposes, and Providing for the Transcribing of the Records of the County of Stark Affecting Property in the Said Unorganized County of Allred, by the Register of Deeds of Williams County.

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

§ 1. COUNTY ATTACHED.] The unorganized county of Allred, in the state of North Dakota, is hereby attached to Williams county, in the eighth judicial district, in said state, for judicial purposes.

§ 2. TRANSCRIBING OF RECORDS.] The register of deeds of said Williams county is hereby authorized and empowered to transcribe all records in the county of Stark, North Dakota, affecting property in said unorganized county of Allred, and the county commissioners of said county of Williams are hereby empowered to contract for said transcribing of records and to audit and pay the bill for the same.

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

§ 4. EMERGENCY.] An emergency exists in this, that the unorganized county of Allred is not now attached to any county for judicial purposes, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

COUNTY AUDITOR.

CHAPTER 72.

[H. B. No. 112—Patterson.]

COMMENCEMENT OF TERM OF COUNTY AUDITOR.

AN ACT to Amend Section 2072a of the Revised Codes of North Dakota for 1899, Fixing Date When Term of County Auditor Shall Begin.

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

§ 1. AMENDMENT.] That section 2072a of the revised codes of 1899 be amended and re-enacted so as to read as follows:

§ 2072a. TERM SHALL COMMENCE. WHEN.] The term of office of the county auditor shall commence on the first Monday in April next succeeding his election.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1903.

COUNTY BUILDING FUNDS.

CHAPTER 73.

[H. B. No. 99—Dieball.]

COUNTY BUILDING FUNDS.

AN ACT Amending Section 1917 of the Revised Codes, Authorizing the Creating of a County Building Fund, and the Transfer of Certain Unexpended Balances.

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

§ 1. AMENDMENT.] That section 1917 of the revised codes be amended and re-enacted to read as follows:

§ 1917. BOARD MAY TRANSFER UNEXPENDED BALANCES. WHEN.] The board of county commissioners may at any regular meeting thereof, whenever in their judgment there is immediate need for the erection and repairing of court houses, jails or other necessary build-

ings within and for the county, by resolution, create a county building fund, and thereafter at their regular meeting in July of each year, may transfer to said building fund any unexpended balances which are or may be in the hands of the treasurer belonging to the road and bridge fund, penalty and interest fund or emergency fund, after current bills or authorized expenditures against said funds have been audited and paid, or any balance in the interest on bonds fund in excess of the forthcoming installment of interest on any outstanding bonds, or any balance remaining in any sinking fund created for the purpose of paying bonded indebtedness, when all bonds for which said fund was created have been retired and paid. In cases where there are no immediate demands for the erection and repairing of any court houses, jails or other necessary buildings within and for the county, then the transfers herein contemplated may be made to the county general fund.

Approved March 10, 1903.

COUNTY COMMISSIONERS.

CHAPTER 74.

[S. B. No. 101—Devlin.]

TERM OF OFFICE OF COUNTY COMMISSIONER.

AN ACT to Amend Section 1896 of the Revised Codes of 1899, as Amended by Section 3, of Chapter 52, of the Session Laws of 1901, Relating to Term of Office of County Commissioners, and Also to Repeal Chapter 33 of the Special Laws of 1885.

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

§ 1. AMENDMENT.] That section 1896 of the revised codes be amended so as to read as follows:

§ 1896. TERM OF OFFICE OF COMMISSIONERS.] The commissioners shall hold their office for the term of four years, except as provided by law for the organization of counties, and in counties now organized the order of their election and succession shall be as herein provided, and commissioner districts in such county shall continue as now constituted until changed as provided by law; provided, that in all counties in this state, wherein heretofore commissioners have been elected under the provisions of any special law, that at the next regular meeting of the board of county commissioners immediately after the passage and approval of this act the county commissioners in such counties shall by lot settle and determine upon the order of their succession, three commissioners to hold their office for four years and

two for two years from the first Monday in January, 1903.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, and especially is chapter 33 of the special laws of 1885 hereby repealed.

§ 3. EMERGENCY.] Emergency exists in this, that there is now no law by which to determine the order of succession of the county commissioners heretofore elected under the provisions of special laws, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

COUNTY FUNDS.

CHAPTER 75.

[S. B. No. 175—Herbrandson.]

TIME DEPOSITS OF COUNTY FUNDS.

AN ACT Authorizing and Empowering the Board of County Commissioners of Each County in This State, to Make Time Deposits of the County Funds, and Designate Depositories Therefor.

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

§ 1. DUTY OF COUNTY COMMISSIONERS.] Whenever there shall be accumulated in the sinking fund, or any other revenue county fund established by law, in any of the counties in this state, an amount of money exceeding three thousand dollars, and for which there is no immediate use, the board of county commissioners of such county are authorized and empowered to direct a time deposit of such funds for a period of one year, or six months, as they may deem expedient, either in one or more of the county depositories as created by law, or such state or national bank as the said board of county commissioners may designate.

§ 2. DEPOSITORIES. HOW DESIGNATED.] The depositories for such time deposits of the said county funds, may be designated at any regular meeting of the board of county commissioners of such county, upon the advertisement and proposals as provided by law for designating the depositories of the general county funds, and the bank or banks designated as the depository or depositories of such time deposits of such county funds, shall be required to furnish a bond in the same amount, manner and form as prescribed by law for the several county depositories.

§ 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 is now no provision of law authorizing time deposits of the county funds, or any part thereof, therefore, this act shall take effect and be in force immediately on and after its passage and approval.

Approved March 10, 1903.

COUNTY JUDGES.

CHAPTER 76.

[H. B. No. 121—Underwood.]

SALARIES OF COUNTY JUDGES.

AN ACT to Amend Section 6615 of the Revised Codes of 1899, Regulating the Salaries of County Judges in Counties Having Increased Jurisdiction.

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

§ 1. AMENDMENT.] Section 6615 of the revised codes of 1899, of the state of North Dakota, be, and the same is hereby amended so as to read as follows:

§ 6615. SALARY OF JUDGE.] As compensation for their services under this article there shall be allowed and paid to the judges of county courts, having civil and criminal jurisdiction, in all counties having a population of eighteen thousand inhabitants, the sum of two thousand five hundred dollars per annum, and in counties having less than eighteen thousand inhabitants, the sum of one thousand six hundred dollars per annum, payable monthly by such county, which said sums shall cover all services under the prohibition law.

Approved March 4, 1903.

COUNTY RECORDS.

CHAPTER 77.

[S. B. No. 165—Main.]

COUNTY RECORDS TO BE KEPT IN COURT HOUSE.

AN ACT Relating to Where County Records Shall Be Kept.

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

§ 1. WHERE RECORDS TO BE KEPT.] The office of county auditor, county treasurer, clerk of court, county judge, sheriff, county superintendent of schools, or any other county office having in charge any public records, shall be in the court house in said county, in rooms provided for said offices by the county commissioners.

§ 2. PENALTY FOR REFUSAL OR NEGLECT TO COMPLY.] Any person elected to any office mentioned in section 1 of this act, who refuses or neglects to keep the records of his office in the room in the court house provided for that purpose, shall be deemed guilty of a misdemeanor; provided, however, that in counties not having court houses of sufficient size to accommodate all of these offices, the commissioners may make other provision for same.

§ 3. EMERGENCY.] Whereas, certain county officials in this state refuse to keep the records of their office in the court house, and cause inconvenience to persons transacting business with those offices, therefore, an emergency exists and this act shall take effect after its passage and approval.

Approved March 10, 1903.

DEAF AND DUMB.

CHAPTER 78.

[H. B. No. 103—Davis.]

ENUMERATION OF DEAF AND DUMB AND BLIND.

AN ACT to Amend Section 707 of Article 6, of the Revised Codes of 1899, Relating to Education, Providing for an Enumeration Each Year of the Deaf and Dumb, Blind and Feeble Minded Persons in Each District in the State.

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

§ 1. AMENDMENT.] That section 707 of article 6, of the revised codes of 1899, be amended as follows:

§ 707. SCHOOL CENSUS. 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 age of such persons and the names of the parents or guardian having the care or custody of each, also the names, ages and post office addresses of parents or guardians of each deaf and dumb, blind and feeble minded person between the ages of five and twenty-five years, residing in the district, including all such persons as may be too deaf or feeble minded to acquire an education in the common schools. The enumeration shall be made upon, and in accordance with, the blanks furnished therefor by the county superintendent, and shall be returned to the county superintendent prior to the 20th day of June. A copy of the enumeration of such deaf and dumb persons shall be furnished the superintendent of the school for the deaf; a copy of the enumeration of such blind persons shall be furnished to the superintendent of the school for the blind, and an enumeration of such feeble minded persons shall be furnished the superintendent of the institute of the feeble minded, by the county superintendent, immediately upon receipt of the same. A copy of such enumeration shall also be kept in the office of the district clerk. The board shall also cause the district clerk to make out an annual report for the year beginning July 1, and ending June 30, containing such financial and statistical statements and items as shall be required by the superintendent of public instruction, upon and in accordance with the blanks furnished therefor by the county superintendent. Such report shall be carefully examined, and certified as

correct by the board at its regular meeting in July, and transmitted to the county superintendent prior to the first day of August following. A copy of such report shall be filed in the district clerk's office; 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.

§ 2. REPEAL.] Section 961 of the revised codes of the state of North Dakota is hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that under the present law the enumeration of such deaf and dumb persons would be made by the assessor, and not the school clerk, at a time prior to July 1 of this year, this law shall be in full force and effect after its passage and approval.

Approved March 4, 1903.

DEPENDENT CHILDREN.

CHAPTER 79.

[H. B. No. 143—Mallough.]

REGULATING IMPORTATION OF DEPENDENT CHILDREN.

AN ACT to Regulate the Importation of Dependent Children.

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

§ 1. SOCIETY MUST GIVE BONDS.] That before any association or society, incorporated in any other state, for the purpose of caring for orphans or dependent children, shall bring or send any child or children into the state of North Dakota, for the purpose of being placed in a family home, by adoption or otherwise, they shall first file a bond in favor of the state of North Dakota in the penal sum of two thousand dollars with the treasurer of the county where such child is to be placed, conditioned that such child has no contagious or incurable disease, or has no deformity, or is not of feeble mind, or of vicious character, and that said association or society will promptly receive and remove from the state of North Dakota such child if it shall become a public charge within the period of five years after being brought into the state; provided, that this act shall not be construed so as to prohibit any person residing in the state of North Dakota from receiving and adopting into his family any child or children of relatives from another state.

§ 2. MUST BE APPROVED BY COUNTY COMMISSIONERS.] Such

bonds shall be furnished for each and every child to be placed in North Dakota by said association or societies, and must be signed by at least one freeholder of the state of North Dakota, and be approved by the board of county commissioners.

§ 3. PENALTY.] Any agent of any association or society violating the provisions of this act, or any person receiving a child in violation of this act, shall be deemed guilty of a misdemeanor.

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

Approved March 10, 1903.

DRAINAGE.

CHAPTER 80.

{S. B. No. 88—Cashel.}

ESTABLISHMENT AND MAINTENANCE OF DRAINS.

AN ACT to Amend Section 1447 of the Revised Codes as Amended by Section 1, Chapter 79, of the Laws of 1899, 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 section 1447 of the revised codes of 1899, as amended by section 1, chapter 79, of the laws of 1899, be amended so as to read as follows:

§ 1447. HOW ESTABLISHED.] 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 petition shall be signed by at least six or more freeholders whose property shall be affected by the proposed drain. Upon the presentation of a petition as hereinbefore provided, and filing of the same, the board of drain commissioners shall, personally, as soon as practicable, proceed to examine the line of the proposed drain, and if in its opinion it is necessary 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 the 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 opinion upon the matters pertaining thereto.

§ 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 March 9, 1903.

DRUGS AND MEDICINES.

CHAPTER 81.

[S. B. No. 115—Taylor.]

TO PREVENT INDISCRIMINATE DISTRIBUTION OF SAMPLE DRUGS OR MEDICINES.

AN ACT to Prohibit the Delivery or Depositing of Drugs, Medicines, Antiseptics, Disinfectants and Cosmetics, Either for Internal or External Use Upon the Premises of Another, and to Provide a Penalty for the Violation of This Act.

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

§ 1. FREE DISTRIBUTION PROHIBITED.] Any person who shall by himself, his servant or agent, or as the servant or agent of any other person, leave, throw or deposit upon the doorstep or premises owned or occupied by another, or who shall deliver to any child under fourteen years of age, any patent or proprietary medicine or any preparation, pill, tablet, powder, cosmetic, disinfectant or antiseptic or any drug or medicine that contains poison, or any ingredient that is deleterious to health, as a sample, or in any quantity whatever for the purpose of advertising, shall be deemed guilty of a misdemeanor.

§ 2. DEFINED.] The terms drug, medicine, patent or proprietary medicine, pill, tablet, powder, cosmetic, disinfectant or antiseptic as used in this act, shall include all remedies for internal or external use, either in packages or bulk, simple, mixed or compounded.

§ 3. PENALTY.] Whoever violates the provisions of section 1 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding one hundred dollars, nor less than twenty-five dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both, for each and every violation.

Approved March 9, 1903.

DRUGGISTS' PERMITS.

CHAPTER 82.

[H. B. No. 204—Sheils.]

DRUGGISTS' PERMITS TO SELL LIQUORS.

AN ACT to Amend Sections 7594 and 7596 and to Repeal Section 7599 of the Revised Codes of North Dakota, 1899, Relating to the Method of Obtaining Druggists' Permits to Sell Liquor, Regulating Sales of Liquor Under Such Permit and Regulating Life of Same.

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

§ 1. AMENDMENT.] That section 7594 of the revised codes of North Dakota, 1899, be, and the said section is hereby amended to read as follows:

§ 7594. DRUGGIST'S PERMITS. HOW OBTAINED. APPLICATION TO BE PUBLISHED. BOND AND APPROVAL. APPEAL.] It shall be unlawful for any person or persons to sell or barter, for medicinal, scientific or mechanical purposes, any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having procured a druggist's permit therefor from the county judge of the county wherein such druggist may be doing business at the time; and such county judge is hereby authorized in his discretion to grant a druggist permit for the period of one year, to any person of good moral character who is a registered pharmacist under the laws of this state, and lawfully and in good faith engaged, personally and individually, in the business of a druggist in his county, and who in his judgment can be entrusted with the responsibility of selling such liquors for the purposes aforesaid in the manner hereinafter provided. In order to obtain a druggist permit under this act, the applicant shall file in the office of the county judge of the county wherein he is doing business, not less than thirty days prior to the hearing thereof, a petition signed by the applicant and eighty per cent of the reputable freeholders, having the qualifications of electors of the town, village, township or ward of any city, and seventy per cent of the reputable women over twenty-one years of age who are residents of the town, village, township or ward of any city wherein such business is located. All petitions shall set forth:

1. The town, village, city or township, and particular place therein wherein such business is located, and that the applicant is a person of good moral character, and does not use intoxicating liquors as a

beverage, and can be entrusted with the responsibility of selling the same.

2. That said applicant is a pharmacist as aforesaid, and is lawfully and in good faith engaged personally in the business of a druggist, as the proprietor thereof, at the place designated in the petition, and well versed in the profession.

3. That said applicant has, in his said business, exclusive of intoxicating liquors and fixtures, a stock of drugs and druggist's sundries, if in any city, of the value of at least two thousand dollars, and if elsewhere, of the value of at least fifteen hundred dollars.

Before any such petition shall be heard, or any permit issued to such applicant, he shall publish for at least thirty days next prior thereto, a notice in some newspaper in the town, village, township or city, where such business is located, or if none is published therein, then in some paper of general circulation in the county, stating the time and place set by said judge for the hearing of such petition. The applicant shall be required to prove the truthfulness of each and every statement contained in such petition, and the state's attorney of the county shall, and any other citizen of the county may, appear and cross-examine the witnesses of the applicant, and may introduce evidence in rebuttal of the evidence offered by the applicant. If satisfied that the signatures of such petition were signed by such persons, and that such petitioners are freeholders and citizens of such town, village, township, city or ward as above expressed, and that the statements in such petition are true, the county judge may in his discretion grant a permit to the applicant to sell intoxicating liquors for medicinal, mechanical and scientific purposes only; and such permit shall be recorded upon the journal of the county court, and a certified copy thereof shall be posted in a conspicuous place in the store wherein said business is carried on before it shall be of any validity. Before such permit shall be of any validity, such druggist shall file with the county judge, to be approved by him, a good and sufficient bond to the state of North Dakota, in the sum of one thousand dollars, executed by five freeholders of the county, who shall justify in double the amount of said bond, conditioned that such applicant and any one in his employ will neither use, sell, barter or give away any intoxicating liquors in violation of law, and on violation of any provisions of said bond the same shall thereby become forfeited in the full amount thereof; and the conviction of said pharmacist or anyone in his employ shall be deemed prima facie evidence of such violation. Any applicant or any citizen feeling himself aggrieved by the decision of the county judge may, within ten days thereafter, upon filing a bond, made payable to the state of North Dakota, in the sum of fifty dollars, to be approved by the county judge, conditioned that he will prosecute the same to a speedy determination, and pay the costs occasioned by such appeal if the order of the county judge shall be sustained, prosecute the cause upon appeal to the district court. The procedure in any case taken on appeal to the district court from the order of the

county judge shall be as prescribed by article 9 of chapter 3 of the probate code, so far as applicable, and a statement of the case with exceptions may be made, signed and certified by the county judge. If the district court shall find that the county judge has abused his discretion, or if it deems the permit to have been improperly granted or refused, it shall have power to reverse the judgment of the lower court and cause the county judge to comply with its judgment, otherwise the order of the county judge shall be by the district court affirmed. If the order of the county judge shall be reversed, the costs shall be paid by the county. If at any time there shall be filed with the county judge a petition stating that any druggist, naming him, who has a permit to sell intoxicating liquors, is not in good faith conforming to the provisions of this chapter, verified by the affidavit of at least one of the petitioners hereinafter named, and signed by the state's attorney or ten reputable men, all of whom reside in the town, village, township or city in which the business of said druggist is carried on, requesting that the permit of such druggist be cancelled, the county judge shall immediately issue an order citing such druggist to appear before him on the day named, not more than ten days from the issuing of such order at which time the question of cancellation of such permit shall be considered. Such examination shall be conducted in the same manner in all respects as herein provided for the hearing of the original petition for granting such permit, and such county judge shall, if there are reasonable grounds for believing such druggist is not in good faith carrying out all the provisions of this chapter, cancel such permit. An appeal may be had from the decision of such county judge to the district court as herein provided for appeals from the application for a permit; provided, the permit of such druggist shall be inoperative till such appeal is finally decided. If any county judge shall issue a permit to any person not registered as a pharmacist, or shall knowingly grant the same to a person in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist as a proprietor thereof, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars; and if any person shall sign a petition, as provided herein, of any applicant known by such person to be in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty nor more than one hundred dollars. Before the petition of a druggist for a permit to sell intoxicating liquors shall be heard by the county judge, the applicant shall pay a fee of five dollars to the county judge, who shall pay the same into the county treasury on or before the first day of the following month for the benefit of the general revenue fund.

§ 2. AMENDMENT.] That section 7596 of the revised codes of North Dakota, 1899, be, and the said section is hereby amended:

§ 7596. DRUGGIST SALE REGULATED. AFFIDAVITS. OATHS. BLANKS FURNISHED. SALES RECORDED. PENALTY.] Any druggist having a permit to sell intoxicating liquors under the provisions of this chapter, may sell the same only by himself in person, or by a clerk who is a registered pharmacist or assistant pharmacist under the laws of this state, for medical purposes only, upon the printed or written affidavit of the applicant, setting forth the particular medical purposes for which such liquor is required, the kind and quantity desired; that it is necessary and actually needed for the particular purpose, by the patient to be named; and that it is not intended for a beverage, nor to sell or give away; that the applicant is over twenty-one years of age; which affidavit shall be in the following form and subscribed by the applicant in ink:

No Date.....

State of North Dakota, County ofss.

I, the undersigned, do solemnly swear that my real name is; that I reside at (if in a city the street and number must be given; if in a town or village, name of street must be given; if in the country, the quarter section, township and range;) county of state of that of is necessary and actually needed by to be used as a medicine for the disease of; that it is not intended as a beverage, nor to sell nor to give away, and that I am over twenty-one years of age. I therefore make application to, druggist, for said liquor.

.....
Applicant.

Subscribed in my presence and sworn to before me this day of 190.....

.....
Pharmacist.

State of North Dakota, County ofss.

On this day of in the year, before me personally appeared, known to me (or proved to me on oath of) to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

.....
Pharmacist.

And such druggist may sell intoxicating liquors for mechanical, scientific, and wine for sacramental purposes only, upon the written or printed or written affidavit of the applicant, setting forth the particular purpose for which such liquor is required, the kind and quantity desired, that it is not intended to be used as a beverage, nor to sell nor to give away, and that it is intended only for his own use, and that the applicant is over twenty-one years of age. Such affidavit shall be in the following form, and subscribed by the applicant in ink:

No Date

State of North Dakota, County ofss.

I, the undersigned, do solemnly swear that my real name is
; that I reside at (if in a city, the
 street and number must be given, and if in a town or village, the
 name of the street must be given; if in the country, the quarter sec-
 tion, township and range,) county of state of
; that of is required by my-
 self to be used for purposes, to be used for;
 that it is not intended for a beverage, nor to sell, nor to give away, and
 that I am over twenty-one years of age. I therefore make application
 to, druggist, for said liquor.

.....,
Applicant.

Subscribed in my presence and sworn to before me this day
of, 19....

.....,
Pharmacist.

State of North Dakota, County ofss.

On this day of in the year, be-
 fore me personally appeared known to me
 (or proved to me on oath of) to be the
 person who is described in and who executed the within instrument
 and acknowledged to me that he executed the same.

.....,
Pharmacist.

And there shall be but one sale, and one delivery, of not to exceed
 one-half pint of any intoxicating liquors, on any one affidavit, to any
 one person in each twenty-four hours, but no druggist shall permit
 the drinking on his premises, nor in any apartment connected there-
 with and under his control, any of the intoxicating liquors purchased
 by affidavit or otherwise; provided, such druggist shall be permitted
 to sell any of the liquors mentioned herein, in quantities not less than
 one gallon, to any other druggist within the state holding a permit
 as provided in this chapter. The affidavits provided for in this sec-
 tion shall be made before the pharmacist or assistant pharmacist mak-
 ing sale of such liquors, upon proper printed blanks, which it is
 hereby made the duty of the county auditor of the county in which
 such sales are made, to furnish to such druggist at a cost equal to
 the actual and necessary outlay made therefor by him. Such blanks
 shall be in series of 100 each, numbered from 1 to 100 consecutively,
 and bound in book form, each series being of uniform style through-
 out, except that no two blanks of the same series shall be of the same
 number. It shall be the duty of the county auditor to indorse each
 such book with the date of delivery and to whom made, to sign such
 indorsement and attest to the same with his official seal, and to keep
 two exact printed copies, except as to numbers, of the blanks of each
 series, one of which shall be filed in his office and one in the office of

the county judge; he shall also keep a record of the series, and of the number of each series, of such blanks furnished to each druggist, and shall, within ten days after the same are delivered to such druggist, file a copy thereof, together with a copy of the blank affidavits, in the office of the county judge of his county. For such services the county auditor shall be entitled to a fee of twenty-five cents for each series of blanks so furnished, to be paid by the druggist obtaining such blanks. All pharmacists and assistant pharmacists are hereby empowered to administer oaths for the purpose of this chapter, and no such affidavit shall be received by any pharmacist or assistant pharmacist until it shows on its face that it has been properly subscribed and sworn to by the applicant. The affidavits provided for in this section shall be retained by the druggist in the original book form, and on or before the first day of each month shall, together with the affidavit of such druggist that the liquors therein mentioned are all the intoxicating liquors sold by him during the month, except the liquor sold to other druggists, be returned intact and filed in the office of the county judge who issued the permit, where they shall be safely kept for the period of two years from the date of filing. Before said affidavits shall be received or filed by said county judge, he shall make strict examination of the copies of affidavits and record of numbers thereof furnished him by the county auditor, and ascertain whether such druggist has returned all affidavits furnished him in blank by the county auditor, and if any such affidavit or blank is missing, said county judge shall require such druggist to file instead thereof his affidavit, showing as near as he can what has become of such affidavit or blank. And any person having a permit to sell intoxicating liquors under the provisions of this chapter, shall each month, at the time he files the affidavit herein provided for, also file with the county judge an affidavit setting forth the amounts and kinds of liquors, as nearly as can be done, which such person or firm of which he is a member has on hand on the day such affidavit is made, as well as the amounts and kinds of liquors he has purchased or procured during the preceding month and the name or names of the persons, companies or corporations and their place of doing business, from whom, and the dates on which such liquors were purchased or procured.

For each series of affidavits filed under the provisions of this chapter, the county judge shall collect one dollar and fifty cents from the druggist filing the same, or the proportionate part thereof for the number filed, which shall be paid by him on the first day of each month into the county treasury for the benefit of the general county fund. The county judge shall receive no fees for his services under this chapter, except a salary of fifteen dollars per annum for each one thousand inhabitants in such county, the number to be determined by the last census return of such county, but in no case shall such salary exceed in the aggregate the sum of one thousand dollars per annum, to be paid by the county commissioners as other salaries.

Every person, whose affidavit so made for the purpose of obtaining intoxicating liquors shall be false in any material matter, shall be deemed guilty of perjury, and is punishable by imprisonment in the penitentiary not less than one and not exceeding two years, or in the county jail not less than six months. Any person who shall subscribe any name or character other than his own name to any affidavit for the purpose of obtaining intoxicating liquors as provided herein, shall be deemed guilty of forgery in the fourth degree, and punished therefor by imprisonment in the penitentiary not exceeding two years and not less than one year. Any person who shall sell or furnish any intoxicating liquors so obtained by him upon affidavit or certificate, to others as a beverage, or shall use the same as a beverage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty nor more than ninety days. Every such druggist shall keep a book wherein shall be recorded, daily, all sales of intoxicating liquors made by him or his employes, showing the name and residence of the purchaser, the kind and quantity of liquor sold, the purpose for which it was sold, and the date of sale. Such record and affidavit shall be open for the inspection of the public at all reasonable times during business hours, and any person so desiring may take memoranda or copies thereof.

§ 3. REPEAL.] That section 7599 of the Revised Codes of North Dakota, 1899, be, and the said section is hereby repealed.

Approved March 19, 1903.

EDUCATION.

CHAPTER 83.

[H. B. No. 35—Davis.]

AMENDING EDUCATIONAL LAW.

AN ACT to Amend Sections 687, 694, 696, 704, 715, 741 and 774 of the Revised Codes, Relating to Education.

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

§ 1. AMENDMENT.] That section 687 of the revised codes be, and the same is hereby amended to read as follows:

§ 687. WARRANTS TO BE ENDORSED WHEN NO FUNDS TO PAY.] When a warrant is presented to the treasurer for payment, and there is no money in his hands, or subject to his order, belonging to the proper fund for the payment of such warrant, he shall endorse on

such warrant, "presented for payment this day of 190. . . and not paid for want of funds," and shall sign such endorsement. If he has in his hands, or subject to his order, money for the part payment of such warrant, he shall make such part payment, and endorse the sum on the warrant, and add, "balance not paid for want of funds," signing the same. He shall keep a correct register of all warrants so presented and endorsed. Each warrant thus presented and endorsed shall draw interest on the amount unpaid at a rate not to exceed eight per cent per annum from the date of such presentation and endorsement until paid; provided, that when there shall come into the hands of the treasurer or subject to his order, money applicable to the payment of any warrant which has been so presented and registered, the treasurer shall notify in writing by mail, the drawee of such warrant, at his last known place of residence, to present such warrant for payment, and interest shall cease upon every such warrant ten days after such notice shall have been sent, and such money shall be held for the payment of such warrant.

§ 2. AMENDMENT.] That section 694 of the revised codes be, and the same is hereby amended to read as follows:

§ 694. FURNITURE, MAPS, REGISTER, SCHOOL LIBRARY.] It shall furnish to each school all necessary and suitable furniture, maps, charts, and apparatus, including Webster's International dictionary. The school register, and all school blanks used, shall be those furnished by the state department of public instruction. It may appropriate and expend each year not less than ten, nor more than twenty-five dollars for each school, or separate department thereof, of the district for the purpose of a school library, to be selected by the school board and the county superintendent of schools, from any list of books prepared by the superintendent of public instruction, and furnished by him to the county superintendents for that purpose, and it shall not purchase any books not contained in such list, or which have not been approved by the superintendent of public instruction. It shall have the care and custody of the library and may appoint as librarian any suitable person, including one of their number, but whenever practicable, the library shall be kept in the school house, and always so when school is in session. It shall make rules to govern the circulation and care of the books while in the hands of pupils or other persons, subject to such general rules as may be prescribed by the state superintendent of public instruction, and may impose and collect penalties for injuries done to any book by the act, negligence or permission of the person who takes the same or while in his possession, but no book shall be loaned to any person not a resident of the district. It may at any time temporarily exchange any part or all of its library with any other district or person, so far as different books may be obtained, but each district shall recall its books before the close of the school term. It may at any time accept donations of books for the library, but it shall exclude therefrom all books unsuited to the cultivation of good character and good morals

and manners, and no sectarian publication, devoted to the discussion of sectarian differences and creeds shall be admitted to the library. It shall be held accountable for the proper care and preservation of the library, and shall report annually to the county superintendent all library statistics which may be required by the blanks furnished for that purpose by the superintendent of public instruction.

§ 3. AMENDMENT.] That section 696 of the revised codes be, and the same is hereby amended 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 conveniently be taught therein, for paying their tuition, and for arranging and paying for their transportation to and from the school in such district; and when petitioned by a majority of the voters of a district it shall be the duty of the board of any district to arrange for sending to such district such pupils as can conveniently be taught therein, for paying their tuition, and for arranging and paying for their transportation to and from the school in such district. 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 tuition; but in no instance shall a board refuse privileges to or 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.

§ 4. AMENDMENT.] That section 704 of the revised codes be, and the same is hereby amended to read as follows :

§ 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 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 one-third of the

voters in the district, shall call an election to determine the question of "conveying pupils at the expense of said district to and from schools already established," or "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 the majority of the votes cast at such election are in favor of conveying pupils to and from schools already established, or 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 schools. It shall establish routes of travel, adopt rules and regulations for such transportation, and shall contract with responsible parties for such transportation.

§ 5. AMENDMENT.] That section 715 of the revised codes be, and the same is hereby amended to read as follows:

§ 715. APPORTIONMENT OF STATE TUITION FUND BY COUNTY SUPERINTENDENT.] Within thirty days and 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 district, over six and under twenty years of age, excluding all married persons, as appears from the last enumeration 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 tuition fund in the county treasury, due each 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.

§ 6. AMENDMENT.] That section 741 of the revised codes be, and the same hereby is amended to read as follows:

§ 741. TEACHERS' GRADES, HOW ESTABLISHED. RE-EXAMINATION. WHEN ALLOWED.] County certificates shall be of three regular grades, the first grade for a term of three years, the second grade for a term of two years, and the third grade for one year, according to the ratio of correct answers of each applicant and

other evidence of qualification appearing from the examination. No certificate shall be granted unless the applicant shall be found proficient in and qualified to teach the following branches of a common English education: Reading, writing, orthography, language lessons and English grammar, geography, United States history, arithmetic, civil government, physiology and hygiene, and can pass a satisfactory examination in physical culture and theory and practice of teaching. In addition to the above, applicant for a first grade certificate shall pass a satisfactory examination in physical geography, elements of natural philosophy, elements of psychology, elementary geometry and algebra. The percentage required to pass any branch shall be prescribed by the superintendent of public instruction. In addition to the regular grades of certificates, drawing, vocal music, kindergarten and primary certificates, entitling holders thereof to teach such subjects only, shall be issued when conditions so require, each for a term of three years, under such regulations as the superintendent of public instruction shall prescribe. The county superintendent may grant permission to teach until the results of the next regular examination are received from the superintendent of public instruction, to any person applying at any other time than at a regular examination, who can show satisfactory reasons for failing to attend such examination and satisfactory evidence of qualifications, subject to such rules and regulations as may be prescribed by the superintendent of public instruction. Such permit shall not be granted more than once in any county to the same person. The written answers of all candidates for county certificates, after being duly examined by the superintendent of public instruction, shall be kept by him for the space of six months after such examination, and any candidate, thinking an injustice has been done him may, by paying a fee of two dollars into the institute fund of the county, and notifying both the county superintendent and the superintendent of public instruction of the same, have his papers reviewed by the superintendent of public instruction in person, and if such answers warrant it, he shall instruct the county superintendent to issue such candidate a county certificate of the proper grade, and the county superintendent shall carry out such instructions.

§ 7. AMENDMENT.] That section '774 of the revised codes be, and the same is hereby amended to read as follows:

§ 774. PROPOSALS FOR CONTRACTS.] No contract, except for teachers' or janitors' wages, or school text books, involving the expenditure of school funds or money appropriated for any purpose relating to the educational system of this state or any county, district or school corporation therein, when the amount exceeds one hundred dollars, shall be let until proposals are advertised for, and after such advertisement, only to the lowest responsible bidder. Any violation of this section shall be a misdemeanor.

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

Approved March 10, 1903.

CHAPTER 84.

[S. B. No. 173—Senate Committee on Education.]

COMPULSORY ATTENDANCE AT SCHOOLS.

AN ACT to Amend and Re-enact Sections 759 and 761 of the Revised Codes, Relating to Education.

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

§ 1. AMENDMENT.] That sections 759 and 761 of the revised codes be, and the same are hereby amended and re-enacted to read as follows:

§ 759. SCHOOL AGE. WHO EXEMPT FROM COMPULSORY ATTENDANCE.] Every parent, guardian or other person who resides in any school district or city who has control of any child or children of or between the ages of eight and fourteen years, shall send such child or children to a public school in each year during the entire time the public schools of such district or city are in session; and every parent, guardian, or other person having control of any deaf or feeble minded child or youth between seven and twenty-one years of age shall be required to send such deaf child to the school for the deaf at the city of Devils Lake, and any feeble minded child to the feeble minded institution at Grafton, for at least eight months in each school year; provided, that such parent, guardian or other person having control of any child shall be excused from such duty by the school board of the district or the board of education of the city or village, whenever it shall be shown to their satisfaction, subject to appeal, as provided by law, that one of the following reasons therefor exists:

1. That such child is taught for the same length of time in a parochial or private school approved by such board; that no school shall be approved by such board unless the branches usually taught in the public schools are taught in such schools.
2. That such child is actually necessary to the support of the family.
3. That such child has already acquired the branches of learning taught in the public schools.
4. That such child is in such a physical or mental condition (as declared by the county physician, if required by the board) as to render such attendance inexpedient or impracticable. If no school is taught the requisite length of time within two and one-half miles of the residence of such child by the nearest route, such attendance will not be enforced except in cases of consolidated schools or where transportation may be arranged for by the school board. In districts having consolidated schools where transportation is arranged for by the school board, or in other districts providing transportation, at-

tendance shall be required of pupils residing within four miles of such school or schools, but this provision shall not apply to deaf or feeble minded children in the state. The common schools provided for in this chapter shall be at all times equally free, open and accessible to all children over six and under twenty years of age, residents of the school district where they are held or entitled to attend school under any special provisions of this chapter, subject to the regulations herein made, and to such regulations as the several school boards and boards of education may prescribe equitably and justly and not in conflict with the provisions of law.

§ 761. PROSECUTION FOR NEGLECTING THIS DUTY.] It shall be the duty of the president of the board of education of any city, town or village, or the president of the school board of any district to inquire into all cases of neglect of the duty prescribed in this article and ascertain from the person neglecting to perform such duty the reason therefor, if any, and shall forthwith proceed to secure the prosecution of any offense occurring under this article, and any such president neglecting to secure such prosecution for such offense within fifteen days after written notice has been served by any taxpayer in such city, town, village or district, or by the county superintendent in such county, unless such person so complained of shall be excused by the board of education or school board for one of the reasons hereinbefore stated, he shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined a sum not less than five nor more than twenty dollars; provided, further, that the board of education in any city of over five thousand inhabitants may employ a truant officer who shall perform the duties implied in this section.

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

Approved March 10, 1903.

CHAPTER 85.

[S. B. No. 52—Hale.]

DISTRICT HIGH AND GRADED SCHOOLS.

AN ACT to Amend and Re-enact Section 706, Revised Codes, 1899, Relating to District High Schools, and Providing for the Establishment of District Graded Schools.

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

§ 1. AMENDMENT.] Section 706, revised codes, 1899, is amended and re-enacted to read as follows:

§ 706. DISTRICT HIGH AND GRADED SCHOOLS. HOW ESTABLISHED AND CONTROLLED.] In any district containing four or more common schools, and having an enumeration of sixty or more persons of

school age residing therein, the board may call, and if petitioned so to do by ten or more voters in the district, shall call a meeting of the voters of such district in the manner prescribed in section 700 to determine the question of the establishment of a district high school. If a majority of the voters at such meeting vote in favor of establishing such high school, the meeting shall further proceed to select a site therefor, and to provide for the erection or purchase of a school building, or for the necessary addition to some school building therefor. Thereupon the board shall erect or purchase a building or make such addition for such high school, as shall be determined at such meeting, and shall establish therein a district high school containing one or more departments, and employ teachers therefor. Such school shall be kept in session for such time each year, not less than three months, as the board may determine. The board shall, subject to the approval of the county superintendent, grade such high school, and prescribe the studies to be pursued therein, and shall have the same management and control thereof as of the common schools in the district. Two or more adjacent school districts may join in the establishment and maintenance of such high school, or of a graded school, or of both, when empowered to do so by a majority of the voters in each district, at a meeting called and held as provided for in this section, in which case the building and furniture occupied and used for such high school or graded school shall belong to the districts so uniting, and all the costs of maintaining such school, or schools, including wages of teachers and all necessary supplies, shall be paid by such districts in proportion to the assessed valuation of the property in each, and the employment of teachers therefor, and the management, control and grading thereof shall be vested in the joint boards of such districts, subject to the approval of the county superintendent of the county in which such districts are located.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for joint graded schools, this act shall be in force on and after its passage and approval.

Approved February 24, 1903.

CHAPTER 86.

[S. B. No. 60—Main.]

MEETINGS OF SCHOOL OFFICERS AND BOARDS.

AN ACT to Amend and Re-enact Chapter 84 of the Session Laws of 1901,
Relating to Education.

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

§ 1. AMENDMENT.] That section 643 of the revised codes of 1899, as amended in 1901, be amended so as to read as follows:

§ 643. MEETINGS WITH SCHOOL OFFICERS.] He may arrange for meetings with school officers at designated times and places, due notice of which has been given, for the purpose of inspecting the district records and instructing in the manner of keeping the same, and of preparing the reports of district officers. He shall visit the officers of the several school districts as often as may be necessary to secure the correct keeping of the records. He shall, on or before the first day of April of each year, prepare and furnish to the several assessors of the county a correct sectional map of their respective districts, showing the boundaries and names or numbers of all school districts therein; provided, also, that in counties having the district system, he may convene the presidents and clerks of school boards in his county, and in counties having the township system, he may convene the members and clerks of the school boards in his county, or such representatives of the school officers of each district as the president or members of the school boards may appoint, in case he or they cannot attend personally, for the purpose of discussing plans and methods for the improvement and general care of the schools; provided, further, that such general meeting shall not occur more than once in each year.

§ 2. AMENDMENT.] That section 681 of the revised codes of 1899, as amended in 1901, be amended so as to read as follows:

§ 681. MEETING OF BOARD. FEES.] The board shall, on the second Tuesday in January, April, July and October of each year, hold regular meetings for the transaction of business at such hour and place as may be fixed by the board. A special meeting may be held upon the call of the president or the other two members. Written notice of the time and place of any special meeting shall be given to each member of the board at least forty-eight hours before the time of such meeting. Each member of the board shall be paid the sum of eight dollars per annum, less two dollars for each regular meeting which he fails to attend; provided, that in counties having the district system, the president and clerk, and in counties having the township system, the members and clerks, or such officers, as such presi-

dent or board may appoint to represent them, shall receive ten cents a mile for the distance necessarily traveled in attending general meetings of the presidents, members and clerks of school boards convened by the county superintendent of schools, and also a salary of two dollars; but the total sum of such salary and mileage shall not exceed five dollars for each representative in attending any one meeting.

§ 3. AMENDMENT.] That section 682 of the revised codes of 1899, as amended in 1901, be amended so as to read as follows:

§ 682. DUTIES OF THE PRESIDENT.] The president shall preside at all meetings of the board, and shall perform such duties as usually pertain to such office, and in accordance with the customary rules of order. In his absence a president pro tempore shall preside. The president shall perform such other duties as are prescribed in this chapter. It shall also be the duty of the president to attend such general meetings of school officers as may be convened by the county superintendent of schools. When the president cannot attend such meetings personally, he shall appoint some other school officer to represent the district at such general meeting.

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

Approved March 9, 1903.

CHAPTER 87.

[S. B. No. 50—Cashel.]

PUBLICATION OF PROCEEDINGS OF EDUCATIONAL ASSOCIATION.

AN ACT Requiring the Superintendent of Public Instruction to Publish and Distribute the Proceedings of the North Dakota Educational Association.

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

§ 1. DUTIES OF SUPERINTENDENT OF PUBLIC INSTRUCTION.] The state superintendent of public instruction is hereby authorized and required to publish annually, as public matter, two thousand five hundred copies of the proceedings of the North Dakota educational association, the same to be distributed throughout the state by the department of public instruction; provided, that a copy of the proceedings of said association shall be filed by the secretary or other officer of said association with the superintendent of public instruction, on or before the first day of February of each year.

Approved February 24, 1903.

CHAPTER 88.

[H. B. No. 98—Davis.]

SALARY OF COUNTY SUPERINTENDENT OF SCHOOLS AND
DEPUTY.

AN ACT to Amend Section 652 of the Revised Codes of 1899, Relating to the Salary and Mileage of County Superintendents of Schools, Providing for a Deputy and Clerical Assistance.

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

§ 1. AMENDMENT.] Section 652, revised codes of 1899, is hereby amended to read as follows:

§ 652. SALARY. DEPUTY. TRAVELING EXPENSES.] The salary of the county superintendent of schools shall be as follows: In each county having one school and not over five, one hundred and fifty dollars; six schools and not over ten, three hundred dollars; eleven schools and not over fifteen, four hundred dollars; sixteen schools and not over twenty, five hundred dollars; twenty-one schools and not over twenty-five, six hundred dollars; twenty-six schools and not over thirty, seven hundred dollars; thirty-one schools and not over thirty-five, eight hundred dollars; thirty-six schools and not over forty, nine hundred dollars; forty-one schools and not over fifty, one thousand dollars, and for each additional school, ten dollars additional; provided, that in computing the salary of such superintendent no school shall be included unless the same shall have been taught at least four months during the preceding school year; provided, further, such salary shall not exceed one thousand five hundred dollars in any county where the number of schools does not exceed one hundred thirty, and in counties where the number of schools exceeds one hundred thirty, the county superintendent shall be allowed, in computing such salary, five dollars additional for each school above one hundred thirty; provided, always, that such salary shall in no case exceed two thousand dollars. In addition thereto he shall receive ten cents a mile for the distance actually and necessarily traveled by him in the discharge of his duties. He shall, at the end of every three months, make and furnish to the county commissioners an itemized statement of the distance so traveled in the discharge of his duties, which shall be audited and ordered paid by the board of county commissioners. The amount of his salary and the appropriation for clerical assistance shall be determined each year by the actual number of schools or separate departments in graded and high schools over which such superintendent had official supervision during the preceding year, and the same shall be paid out of the county general fund monthly, upon the warrant of

the county auditor; provided, that whenever the number of schools in a county is diminished by reason of the consolidation of schools or other provision for the instruction of pupils in any district or districts, the same number of schools shall be counted for such district or districts, in computing the salary of the county superintendent, as existed before said consolidation or other provision, until such time as the number of separate departments in the general school or schools provided for the pupils of vacated schools shall equal the number of original schools vacated. In each county which shall be organized for school purposes after the adoption of this code, the county superintendent shall be paid a salary at the rate of one hundred dollars a year until the first Monday in January, next following his election, after which his salary shall be as provided for in this section. The county superintendent may appoint a deputy who shall perform the duties of county superintendent during his absence from the county, but no additional salary shall be paid such deputy except in counties having sixty or more schools. In counties having sixty schools the board of county commissioners shall appropriate one hundred dollars for clerical assistance in the county superintendent's office and five dollars for each additional school, to be paid monthly; provided, that not more than six hundred dollars shall be appropriated for clerical assistance in any one year.

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

Approved March 4, 1903.

ELECTIONS.

CHAPTER 89.

[S. B. 47—Bacon.]

QUALIFICATION OF ELECTORS.

AN ACT to Amend Section 479 of the Political Code of the State of North Dakota for the Year 1899, Relating to the Qualifications of Electors.
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That section 479 of the political code of the state of North Dakota for the year 1899 be, and the same is hereby amended, so as to read as follows:

§ 479. WHO ENTITLED TO VOTE.] Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state one year, and in the county six months, and in the precinct ninety days next preceding any election, shall be a qualified elector at such election:

First—Citizens of the United States.

Second—Civilized persons of Indian descent who shall have severed their tribal relations, two years next preceding such election, provided, he has complied with the provisions of any law which is now or may in the future be in force relating to the registration of voters, and all persons possessing the qualifications mentioned in this section, and who have resided in this state one year, shall be eligible to any office in this state, except as otherwise provided in the constitution; provided, however, that persons shall vote in the precinct where they reside and not elsewhere, except in case of voters otherwise qualified moving from one voting precinct to another, within the same county, in which case they shall have a right to vote in the precinct from which they move until they have resided ninety days in the precinct to which they move.

Approved March 9, 1903.

CHAPTER 90.

[S. B. No. 61—McArthur.]

FORMATION OF ELECTION PRECINCTS.

AN ACT to Amend Section 481 of the Revised Codes of 1899, Providing for the Formation of Election Precincts.

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

§ 1. AMENDMENT.] Section 481 of the revised codes of 1899 is hereby amended so as to read as follows:

§ 481. PRECINCTS. HOW FORMED.] The board of county commissioners of each county in the state shall, at its first session after the taking effect of this act, divide its county into election precincts and establish the boundaries of the same, if it has not heretofore done so, and the said board of county commissioners, whenever deemed necessary, shall subdivide any precinct containing two or more congressional townships; providing, that every precinct so established shall comprise at least one congressional township. The entirety of civil townships, cities or villages as voting precincts shall be preserved when possible, except when such preservation would conflict with the provisions of this section. In such case the civil township, city or village, except as hereinafter provided, shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships, or part of a township and city or village, excepting as hereinafter provided. Such board of commissioners shall designate one voting place in each precinct. No precinct shall contain more than three hundred electors. If at any election hereafter held, more than three hundred votes shall be cast at any voting place, it shall be the duty of the inspector in such precinct to

report such fact to the board of county commissioners, which board shall at its next regular meeting divide such precinct as nearly as possible, so that the new precincts formed therefrom shall each contain two hundred and fifty electors, as nearly as practicable; provided, that nothing in this section shall be construed as prohibiting townships adjoining or having within their boundaries an incorporated city, town or village, of less than fifteen hundred inhabitants, from holding their election and having their voting place within the corporate limits of such city, town or village; provided, further, that when the combined vote of any township and incorporated city, town or village, or the combined vote of any township and any portion of any incorporated city, town or village, within its boundaries or within the town lines or section lines which form the boundaries thereof, does not exceed three hundred, such township and incorporated city, town or village, may have but one voting place.

Approved February 24, 1903.

CHAPTER 91.

[H. B. No. 3—Midgarden.]

REGULATING THE CANVASS OF ELECTION RETURNS.

AN ACT Providing for the Procedure of the County Canvassing Board When Defective Returns are Made by the Respective Election Precinct Officers.

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

§ 1. DEFECTIVE RETURNS. DUTY OF CANVASSING BOARD.] That when the returns of the election precinct officers are made to the county canvassing board as now provided by law, in case any provision of the law relative to the duties of said election precinct officers has not been complied with by said election precinct officers, and which is capable of correction or compliance by said board, the county canvassing board is authorized and empowered to issue its subpoenas to the officers of the election precinct wherein the defect occurs, requiring said officers to appear forthwith before said county canvassing board and correct any omission or mistake according to the facts, and said amended or corrected returns shall then be acted on by said county canvassing board, and said county canvassing board shall issue its certificate of election to the party entitled thereto, as shown by the returns as amended or corrected.

§ 2. PENALTY.] In case any officer of any election precinct so subpoenaed should neglect or refuse to obey said subpoena, the said person so refusing shall be arrested by bench warrant issued out of the office of the clerk of district court, in the county where said proceedings occur, and brought before said canvassing board and there

make the necessary correction according to the facts, and a refusal of said officer to make the said correction shall be deemed a contempt of the district court, to be punished as provided for ordinary contempt of court, upon the proper showing, and the procedure shall be the same as in ordinary cases of contempt of court.

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

Approved March 5, 1903.

CHAPTER 92.

[S. B. No. 57—Williams.]

NOTICE OF ELECTION OF TOWNSHIP OFFICERS.

AN ACT to Amend Section 2559 of the Revised Codes of the State of North Dakota of 1899, Relating to Notice of Election to Township Officers.

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

§ 1. AMENDMENT.] That section 2559 of the revised codes of North Dakota be amended so as to read as follows:

§ 2559. DUTY OF TOWNSHIP CLERK.] The clerk of each township meeting shall, immediately after the votes are canvassed, transmit to each person elected to any township office, a notice of his election.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that there will be an election of township officers before July 1, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

CHAPTER 93.

[S. B. No. 100—Plain.]

VILLAGE ANNUAL ELECTIONS.

AN ACT Relating to the Time of Holding Village Annual Elections in Incorporated Villages and to Amend and Re-enact Sections 2355 and 2358, of the Revised Codes of North Dakota, for the Year A. D. 1899.

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

§ 1. AMENDMENT.] That section 2355 of the revised codes of

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:

ESTATES.

CHAPTER 94.

[S. B. No. 200—Williams.]

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.

ESTRAYS.

CHAPTER 96.

[H. B. No. 101—Aandahl.]

NOTICE OF TAKING ESTRAYS.

AN ACT to Amend Section 1572 of the Revised Codes of North Dakota for 1899, Relative to Notice of Taking Estrays.

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

§ 1. AMENDMENT.] That section 1572 of the revised codes of North Dakota of 1899 be and the same is hereby amended so as to read as follows:

§ 1572. NOTICE OF TAKING UP ESTRAYS.] Each person taking up an estray horse, mare, colt, mule, ass or any neat cattle, sheep, hog or goat, shall within ten days thereafter give notice of the finding and taking up of such animal in a weekly newspaper, if there is such a newspaper published in the county; if not, in the nearest newspaper, which advertisement shall give a description of such estray and the marks and brands thereon. Any person taking up such estray shall also file, within ten days, with the county auditor of the county wherein such estray is taken up, a description of such estray and the marks and brands thereon. Any person taking up such estrays who fails to advertise as aforesaid and file a description thereof with the county auditor as herein provided, shall be guilty of a misdemeanor and shall be liable to the owners of such estray for all damage caused by neglecting to advertise as herein provided.

Approved March 10, 1903.

CHAPTER 97.

[H. B. No. 27—Lyons.]

RELATING TO ESTRAYS.

AN ACT to Amend Sections 1576, 1578 and 1580 of the Revised Codes of 1899, Relating to Estrays.

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

§ 1. AMENDMENT.] That section 1576 of the revised codes of 1899 be and the same is hereby amended to read as follows:

§ 1576. ADVERTISER BECOMES OWNER. WHEN. EXCEPTION.] If such estray shall not be claimed and taken away within one year after advertisement thereof in such official newspaper, and if the person taking up such estray shall have caused the same to be duly advertised as herein provided, and shall not in any respect have violated the provisions of this article, the property therein shall immediately vest in the person taking up the same; provided, the appraised value of such estray does not exceed twenty-five dollars.

§ 2. AMENDMENT.] That section 1578 of the revised codes of 1899 be and the same is hereby amended to read as follows:

§ 1578. CHARGES ALLOWED.] Any person taking up estrays may charge for actual time employed and for actual damage done to his crops or premises. He shall also be allowed his actual cost of feeding and caring for such estrays; provided, however, that if any person taking up an estray shall have caused the same while so in his possession to perform any labor for his own benefit, no compensation whatever shall be allowed him for feeding or caring for such estray for any portion of the time after such animal shall have been taken up by him.

§ 3. AMENDMENT.] That section 1580 of the revised codes of 1899 be and the same is hereby amended to read as follows:

§ 1580. MAY BE SOLD. WHEN.] If the appraised value of any estray exceeds twenty-five dollars, and the same is not called for within one year after the advertisement in the official estray paper, the person taking up such estrays shall notify some justice of the peace of the county, and such justice shall designate a place where such sale shall be held, and shall name the day, and the time of day for such sale, and cause notice of such sale to be published three times in a weekly newspaper, if there is one published in the county; in case no paper is published in the county, this notice shall be posted in three public places in the county at least twenty-two days before such sale, and on the appointed day the person taking up such estray shall have the same present at the place, and the justice shall proceed to sell such estray at public auction for cash, and after paying the proper fees and charges for taking up such estray and feeding and caring for same, to be fixed by such justice, and the fees advanced for the advertisement and appraisal of such estray as herein provided, and after deducting the fees allowed such justice for such sale and advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer, who shall receipt to the justice therefor. All moneys so deposited with the county treasurer shall by him be retained in the treasury for six months thereafter, separate and apart from all other moneys, and if the owner of any such estray shall within such period appear before the board of county commissioners and establish his title to such estray, such board shall order the amount so paid into the treasury to be paid to such owner. If no

such person appears within six months after the deposit of such money as herein provided, the same shall be passed to the school fund of the county and shall be accounted for and expended as other school money.

Approved February 28, 1903.

EXAMINATIONS.

CHAPTER 98.

[H. B. No. 6—Ryan.]

EXAMINATION OF ADVERSE PARTY UNDER RULES OF CROSS-EXAMINATION.

AN ACT to Provide for the Examination of a Party, or of Officers of a Corporation, at the Instance of an Adverse Party, as if Under Cross-Examination at the Instance of the Adverse Party or Parties Without the Party Calling Such Witness Being Concluded by the Testimony Given.

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

§ 1. WHO MAY BE EXAMINED.] A party to the record of any civil action or proceeding, or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent or managing agents of any corporation which is a party to the record in such action or proceeding, may be examined upon the trial thereof as if under cross-examination at the instance of the adverse party or parties, or any of them, and for that purpose may be compelled in the same manner and subject to the same rules of examination as any other witness to testify; but the party calling for such examination shall not be concluded thereby, but may rebut it by counter testimony; provided, that this act shall not apply to cases tried under the provisions of section 5630 of the revised codes, unless the party plaintiff or defendant invoking the statute is at the time exercising the right of rebuttal.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in this, there is now no adequate provision of law providing for the examination of an adverse party under the rules of cross-examination, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

EXECUTIONS.

CHAPTER 99.

[S. B. No. 39—Johnson.]

PROVIDING FOR ALL EXECUTIONS AT STATE PENITENTIARY.

AN ACT Defining the Mode of Inflicting the Death Penalty; Designating the Warden of the North Dakota Penitentiary Executioner; Prescribing that the Death Penalty Shall Only be Inflicted Within the Walls of the North Dakota Penitentiary; How Execution May be Suspended and Amending Sections 8305 and 8308, of the Revised Codes of North Dakota of 1899.

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

§ 1. DEATH PENALTY. HOW INFLICTED. WHERE.] The mode of inflicting the punishment of death shall be by hanging by the neck until the person is dead; and the warden of the North Dakota penitentiary, or in case of his death, inability or absence, the deputy warden shall be the executioner; and when any person shall be sentenced, by any court of the state having competent jurisdiction, to be hanged by the neck until dead, such punishment shall only be inflicted within the walls of the North Dakota penitentiary at Bismarck, North Dakota, within an enclosure to be prepared for that purpose under the direction of the warden of the penitentiary and the board of trustees thereof, which enclosure shall be higher than the gallows, and so constructed as to exclude public view.

§ 2. TRIAL JUDGE TO FIX DATE OF EXECUTION. COMPENSATION OF EXECUTIONER.] All executions of the death penalty by hanging shall take place according to the provisions of this act, and on the day designated by the judge passing sentence, but before the hour of sunrise of the designated day, and the warden or deputy warden executing the sentence shall receive for his services twenty-five dollars, which amount shall be in addition to other compensation allowed said warden or deputy warden by law.

§ 3. DUTY OF SHERIFF. FEES.] When a person is sentenced to death, all writs for the execution of the death penalty shall be directed to the sheriff by the court issuing the same, and the sheriff of the county wherein the prisoner has been convicted and sentenced, shall, within the next ten days thereafter, in as private and secure a manner as possible to be done, convey the prisoner to the North Dakota penitentiary, where the said prisoner shall be received by the warden, superintendent or keeper thereof, and securely kept in close confine-

ment until the day designated for the execution, and the sheriff must also deliver to the warden or other proper officer a certified copy of the judgment and warrant to execute, as described in section 8305, and take from the warden or other proper officer a receipt for the defendant and make due return thereof to the court; and the sheriff shall receive for conducting the prisoner sentenced to death to the North Dakota penitentiary, the same fees and mileage from the county where the conviction was had, that is provided by law for the conducting of other prisoners sentenced to the state penitentiary, when duly approved by the board of county commissioners of said county.

§ 4. WHOM ALLOWED AT EXECUTION.] Besides the warden and such number of guards as he thinks necessary, or his deputy, the following persons may be present at the execution, but none others: The sheriff of any county in the state, the board of trustees and physician of the North Dakota penitentiary, the clergyman in attendance upon the prisoner, and such other persons as the prisoner may designate, not exceeding five in number, representatives of the newspapers in the county in which the crime was committed, and one reporter from each newspaper published in the city of Bismarck, North Dakota.

§ 5. DUTY OF WARDEN OR DEPUTY.] Unless a suspension of the execution be ordered by the governor, the warden or deputy warden shall proceed at the time and place named in the warrant, to cause the prisoner sentenced to be hanged by the neck until he be dead; and of the manner of his execution of the warrant and his doings thereon, he shall forthwith make returns to the clerk of the district court of the county from whence the prisoner was sentenced, who shall record the warrant and returns in the record of the case.

§ 6. DISPOSITION OF BODY.] The body of the executed person shall be returned to the friends in any county in the state for burial, that they may request in writing, if made on the warden the day before the day set for execution; providing, that all expenses for the transportation and burial shall be borne by the person or persons making such request. If no such request is made, burial is to be made under the supervision of the warden or other proper officer of the penitentiary.

§ 7. PROCEEDING IN CASE OF ESCAPE.] If the accused escapes after sentence, and be not retaken before the time fixed for execution, he may be re-arrested and committed to the jail of the proper county, and the sheriff shall make return thereof to the court in which the sentence was passed; and thereupon the court shall again fix the time for execution, which shall be carried into effect as provided in this chapter.

§ 8. WHEN CONVICT APPEARS INSANE.] If a convict sentenced to death appears to be insane the sheriff of the county wherein conviction was had, upon notice thereof from the warden of the penitentiary, or his deputy, shall forthwith give notice thereof to the judge of the district court wherein the convict was sentenced, and to the

state's attorney, and shall summon a jury of six impartial men to inquire into such insanity at the time and place to be fixed by the judge.

§ 9. WHO SHALL ATTEND INQUIRY.] The judge, clerk of court and state's attorney shall attend the inquiry; witnesses may be produced and examined before the jury; if it be found that the convict is sane, the sheriff must forthwith return the prisoner to the penitentiary together with a certified copy of the findings at the examination and the warden or his deputy must execute the judgment; if the convict is found insane, the judge shall suspend the execution until the sheriff receives a warrant from the governor directing the same; and the finding of the jury and order of the judge, certified by the judge, shall be entered on the journal of the court by the clerk.

§ 10. DUTY OF SHERIFF.] The sheriff shall immediately transmit a certified copy of such finding to the governor, who may, as soon as he is convinced that the convict has become of sound mind, issue a warrant appointing a time for his execution. The sheriff must thereupon in the same manner deliver the prisoner to the warden, or other proper officer, of the penitentiary, in like manner as described in section 3 hereof, except that the sheriff shall deliver to the said warden or other proper officer of the penitentiary, a certified copy of the warrant of the governor only.

§ 11. WHEN CONVICTED FEMALE IS PREGNANT.] When there is good reason to suppose that a female against whom judgment of death is rendered is pregnant, the warden, or other proper officer of the penitentiary, must summon a jury of three regularly practicing physicians of this state to inquire into the supposed pregnancy.

§ 12. SENTENCE SUSPENDED. WHEN.] If by such finding it appears that such female convict is with child, the warden or other proper officer shall in like manner suspend the execution of her sentence, and shall transmit the findings to the governor, who, on being satisfied that such woman is no longer pregnant, shall issue a warrant directed to the warden or other proper officer, appointing a day for her execution.

§ 13. FEES AND MILEAGE.] All fees and mileage incurred under this act shall, when duly approved by the warden of the penitentiary, be paid out of any fund on hand appropriated for the maintenance and support of the North Dakota penitentiary.

§ 14. AMENDMENT.] That section 8305 of the revised codes of 1899, relating to judgment of death, warrant to execute, be amended so as to read as follows:

§ 8305. JUDGMENT OF DEATH. WARRANT TO EXECUTE.] When the judgment of death is rendered the judge must sign and deliver to the sheriff of the county a warrant duly attested by the clerk under the seal of the court, stating the conviction and judgment and appointing a day upon which the judgment is to be executed, which must not be less than six months after the day in which the judgment is entered, and not longer than nine months thereafter.

§ 15. AMENDMENT.] That section 8308 of the revised codes of

1899, relating to "governor only can reprieve," be amended to read as follows:

§ 8308. GOVERNOR ONLY CAN REPRIEVE.] No judge, court or other officer [other than the governor] can reprieve or suspend the execution of the judgment of death, except the warden or his duly acting deputy, as provided in this act, unless an appeal is taken.

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

§ 17. EMERGENCY.] Whereas, an emergency exists in this, that there are now several persons in the state under sentence of death before the first of July, 1903, and if the said persons are executed according to the existing laws the erection of several scaffolds will be necessary, which will entail considerable cost, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

FENCES.

CHAPTER 100.

[H. B. 118—Richmond.]

LEGAL FENCES.

AN ACT Defining Legal Fences, Providing for the Construction and Maintenance of Partition Fences, How Controversies Over Construction of Legal Fences May be Settled and Providing Penalties for Violating the Provisions of this Act.

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

§ 1. LEGAL FENCES DEFINED.] All fences four and a half feet high and in good repair, consisting of rails, timber, boards or stone walls, or any combination thereof, and all brooks, rivers, ponds, creeks ditches and hedges, or other things which shall be equivalent thereto, in the judgment of the fence viewers within whose jurisdiction the same may be, or any such fences as the parties interested may agree upon, shall be deemed legal and sufficient fences.

§ 2. WIRE FENCE LEGAL.] In all cases where any law of this state requires to be erected or maintained any fence or fences for any purpose whatever, it shall be sufficient and a compliance with such law, if there shall be erected and maintained a barbed wire fence, consisting of two barbed wires and one smooth wire, with at least forty barbs to the rod, the wire to be firmly fastened to the posts not more than two rods apart, with one stay between the posts, the top wire to be not more than fifty-two inches high or less than forty-eight, and the

bottom wire not less than sixteen inches from the ground; or four smooth wires with posts not more than two rods apart, and with good stays not to exceed eight feet apart, the top wire to be not more than fifty-six inches high nor less than forty-eight, and the bottom wire not less than sixteen inches nor more than twenty inches from the ground, provided, that five smooth wires shall be required to constitute a legal partition fence; provided, that any other fence authorized by law shall also be held a legal fence.

§ 3. OCCUPANTS TO MAINTAIN PARTITION FENCES.] The respective occupants of land enclosed with fences shall keep up and maintain partition fences between their own and the next adjoining inclosures, in equal shares, so long as both parties continue to improve the same.

§ 4. PENALTY FOR NEGLECT.] In case any party neglects to repair or rebuild any partition fence which of right he ought to maintain, the aggrieved party may complain to the civil township supervisors or a majority of them, who, after due notice to each party, shall proceed to examine the same and if they determine that the fence is insufficient, they shall signify the same in writing to the delinquent occupant of the land, and direct him to repair or rebuild the same within such time as they deem reasonable; and if such fence is not repaired or rebuilt accordingly, it shall be lawful for the complainant to repair or rebuild the same.

§ 5. SAME. VALUE OF REPAIRS, ETC., RECOVERABLE.] When any deficient fence, built or repaired by any complainant as provided in the preceding section, is adjudged sufficient by two or more of said supervisors, and the value of such repairing or building up, together with their fees, is ascertained by a certificate under their hands, the complainant shall have a right to demand, either of the owner or occupant of the land where the fence was deficient, the sum so ascertained; and in case of neglect or refusal to pay the sum so due for one month after demand thereof is made, the complainant may recover the same, with interest at one per cent a month, in civil action.

§ 6. CONTROVERSY. HOW SETTLED.] When any controversy arises about the rights of respective occupants in partition fences, or their obligation to maintain same, either party may apply to a majority of the supervisors of the civil township where the lands lie, who, after due notice to each party, may, in writing, assign to each his share thereof and direct the time within which each party shall erect or repair his share of the fence, in the manner before provided; which assignment, being recorded in the registry of deeds, shall be binding upon the parties, and upon all the succeeding occupants of the lands; and they shall be obliged always thereafter to maintain their respective portions of said fence.

§ 7. PARTY NEGLECTING TO MAINTAIN FENCE. HOW LIABLE.] In case any party refuses or neglects to erect or maintain the part of any fence assigned to him as aforesaid, the same may be erected and main-

tained by the aggrieved party, in the manner before provided, and he shall be entitled to the value thereof, ascertained in the manner aforesaid, and be recovered in like manner.

§ 8. DIVISION OF FENCES VALID.] All divisions of fences made by supervisors according to the provisions of this chapter, or which shall be made by the owners of adjoining lands, in writing, witnessed by two witnesses, signed, sealed and acknowledged by the parties making the same, being recorded in the registry of deeds, shall be good and valid against the parties thereto, and their heirs and assigns.

§ 9. PARTY VOLUNTARILY ERECTING WHOLE FENCE MAY RECOVER. WHEN.] When any controversy that may arise between the occupants of adjoining lands, as to their respective rights in any partition fence, it shall appear to the supervisors that either of the occupants had, before any complaint made to them, voluntarily erected the whole fence, or more than his just share of the same, or otherwise become proprietor thereof, the other occupant shall pay for as much as shall be assigned to him to repair and maintain, the value of which shall be ascertained and recorded in the manner provided in this chapter.

§ 10. FENCES TO BE KEPT IN REPAIR THROUGHOUT THE YEAR.] All partition fences shall be kept in good repair throughout the year, unless the occupants of the lands on both sides otherwise mutually agree.

§ 11. PROCEEDINGS WHEN LAND IS BOUNDED BY RIVERS.] When lands of different persons which are required to be fenced are bounded upon or divided by any river, brook, pond or creek, which of itself, in the judgment of the supervisors, is not a sufficient fence, and it is in their opinion impracticable, without unreasonable expense, for the partition fence to be made in such waters, in the place where the true boundary line is; if in such case the occupant of the land on one side refuses or neglects to join with the occupant of the land on the other side, in making a partition fence on the one side or the other, or if such person disagrees respecting the same, then two or more supervisors of the civil township in which such lands lie, on application to them made, shall forthwith proceed to view such river, brook, pond or creek.

§ 12. SUPERVISORS TO GIVE NOTICE AND RENDER DECISION.] If such supervisors determine that such river, brook, pond or creek will not answer the purpose of a sufficient fence, and that it is impracticable, without unreasonable expense, to build a fence on the true boundary line they shall, after giving notice to the parties, determine how, or on which side thereof, the fence shall be set up and maintained, or whether partly on one side and partly on the other side, and shall reduce such determination to writing and sign the same; and if either party refuses or neglects to make or maintain his part of the fence, according to the determination of said supervisors, the same may be made and maintained by the other party as before provided in this chapter, and the delinquent party shall be subject to the same charges and costs, to be recovered in like manner.

§ 13. LANDS OCCUPIED IN COMMON. HOW FENCED.] When any lands belonging to different persons in severalty have been occupied in common without a partition fence between them, and one of the occupants is desirous to occupy his part in severalty, and the occupant refuses or neglects, on demand, to divide with him the line where the fence ought to be built, or to build a sufficient fence on his part of the lines when divided, the party desiring it may have the same divided and assigned by a majority of the supervisors of the same civil township, in the manner provided in this chapter.

§ 14. SUPERVISORS TO ASSIGN TIME FOR MAKING FENCE.] Upon the division and assignment as provided in the preceding section, the supervisors may, in writing under their hands, assign a reasonable time for making the fence, having regard to the season of the year; and, if either party shall not make his part of the fence within the time assigned, the other party may, after having completed his part of the fence, make the part of the other, and recover therefor the ascertained expense thereof, together with the fees of the supervisors, in the manner provided in this chapter.

§ 15. PARTITION FENCE. WHEN REMOVABLE.] When one party ceases to improve his land, or opens his enclosure, he shall not take away any part of the partition fence belonging to him, and adjoining the next enclosure, if the owner or occupant of such adjoining enclosure will, within two months after the same is ascertained, pay therefor such sum as a majority of the supervisors shall, in writing under their hands, determine to be the value of such partition fence belonging to such parties.

§ 16. RULE IN CASE OF UNINCLOSED LANDS AFTERWARDS FENCED.] When any uninclosed grounds are afterwards inclosed, the owner or occupant thereof shall pay one-half of each partition fence, standing upon the line between his land and the inclosure of any other owner or occupant, and the value thereof shall be ascertained by a majority of the supervisors of the civil township, in writing under their hands, in case the parties do not agree; and if such owner or occupant neglects or refuses for sixty days after the value has been ascertained and demand made to pay for one-half of such partition fence, the proprietor of each fence may maintain a civil action for such value and the cost of ascertaining the same.

§ 17. SUPERVISORS. HOW SELECTED IN CERTAIN CASES.] In all cases where the line upon which the partition fence is to be made, or to be divided is the boundary line between civil townships, or partly in one civil township and partly in another, a supervisor shall be taken from each civil township.

§ 18. RULE WHEN PARTITION FENCE RUNS INTO WATER.] When a partition fence running into the water is necessary to be made, the same shall be done in equal shares, unless otherwise agreed by the parties; and in case either party refuses or neglects to make or maintain the share belonging to him, similar proceedings shall be had as in case of the other fences, and with like effect.

§ 19. EFFECT OF RECORD OF DIVISION.] In all cases where the line upon which a partition fence, to be built between unimproved lands, has been divided by the supervisors, or by agreement in writing between the owners of such lands, recorded in the office of the register of deeds of the county where such lands lie, the several owners thereof, and their heirs and assigns forever, shall erect and support said fence agreeably to such divisions.

§ 20. NOTICE OF DETERMINATION NOT TO IMPROVE LANDS.] If any person determines not to improve any of his lands adjoining any partition fence that may have been divided according to the provisions of this chapter, and gives six months' notice of such determination to all the adjoining occupants of the lands, he shall not be required to keep up or support any part of such fence during the time his lands are open and unimproved, and he may thereafter remove his portion thereof, if the owner or occupant of the adjoining inclosure will not pay therefor, as provided in the fourteenth section of this chapter.

§ 21. SUPERVISOR NEGLECTING TO PERFORM DUTY. PENALTY.] Any supervisor who shall, when requested, unreasonably neglect to view any fence, or to perform any other duty required of him in this chapter, shall forfeit the sum of five dollars, and shall be liable to the party injured for all damages consequent upon such neglect.

§ 22. FEES OF SUPERVISORS] Each supervisor shall be paid by the person employing him, at the rate of one dollar per day for the time he is so employed; and if such person neglects to pay the same within thirty days after the service is performed, each supervisor having performed any such service may recover in civil action the amount of such fees.

§ 23. FENCE VIEWERS.] In all counties not divided into civil townships, the county commissioners shall act as fence viewers, and be governed by the provisions of this chapter; provided, the provisions of this act shall apply to the respective occupants of the land enclosed with fences for the purpose of pasturage or grazing.

§ 24. CIVIL ACTION FOR FAILURE TO BUILD. RECOVERY.] In case any person neglects or refuses to erect or maintain the part of any such fence assigned to him to erect or maintain, the same may be erected and maintained by the party aggrieved thereby in a good and substantial manner, and he may recover of the party so neglecting or refusing, in a civil action in any court having jurisdiction of the amount involved, the value of that part of said fence so erected or maintained which was assigned to the party so neglecting or refusing, together with all the costs and expenses of such action, and all the costs and expenses of the assignment in the first section of this act provided for.

Approved March 10, 1903.

FERTILIZERS.

CHAPTER 101.

[H. B. No. 130—Heath.]

SALE AND ANALYSIS OF COMMERCIAL FERTILIZERS.

AN ACT to Regulate the Sale and the Analysis of Commercial Fertilizers, and Prescribing a Penalty for the Violation Thereof.

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

§ 1. DEALERS MUST AFFIX CERTIFICATE ON PACKAGES. CONTENTS.] Every person who shall sell, offer or expose for sale in this state any commercial fertilizer or any material to be used as a fertilizer, the selling price of which exceeds five dollars per ton, shall stamp on or affix to each package of such fertilizer, in a conspicuous place on the outside thereof, a plainly printed statement which shall certify as follows:

1. The number of net pounds of fertilizer in the package sold or offered for sale.
2. The name, brand or trade mark under which the fertilizer is sold.
3. The name and address of the manufacturer of the fertilizer.
4. The chemical composition of the fertilizer expressed in the following form and order:
 - Per cent phosphoric acid soluble in water.
 - Per cent phosphoric acid reverted.
 - Per cent phosphoric acid insoluble.
 - Per cent phosphoric acid total.
 - Per cent nitrogen in nitrates.
 - Per cent nitrogen as ammonia.
 - Per cent nitrogen total.
 - Per cent potash soluble in water.
 - Per cent chlorin.

If any such fertilizer be sold, offered or exposed for sale in bulk, such printed statement shall accompany every lot and parcel so sold, offered or exposed for sale.

§ 2. WHAT DEEMED VIOLATION.] It shall be a violation of the provisions of this act if the statement required by section 1 of this act shall be false in regard to the number of net pounds of fertilizer in the package sold, offered or exposed for sale, or in the name, brand or trade mark under which the fertilizer is sold, or in the name and address of the manufacturer of the fertilizer. It shall also be a vio-

lation of the provisions of this act if any commercial fertilizer or material to be used as a fertilizer shall contain a smaller percentage of nitrogen, phosphoric acid or potash than is certified therein, when such deficiency shall be greater than one-third of one per centum of nitrogen, or one-half of one per centum of available phosphoric acid (or one per centum of total phosphoric acid in the case of undissolved bone,) or one-half of one per centum of potash soluble in distilled water.

§ 3. CONDITIONS TO BE COMPLIED WITH BEFORE OFFERING FOR SALE.] Before any commercial fertilizer or any material to be used as a fertilizer is sold, offered or exposed for sale in this state, the manufacturer, importer or person who causes the same to be sold, offered or exposed for sale, shall file with the North Dakota government agricultural experiment station a certified copy of the statement prescribed in section 1 of this act, and, in addition, such statement shall be filed thereafter annually during the month of December. Each manufacturer, importer or person, before selling, offering or exposing for sale in this state any brand of commercial fertilizer, shall annually, during the month of December, pay to the director of the North Dakota government agricultural experiment station a license fee of twenty dollars for each and every brand of fertilizer, bearing a distinctive name, brand or trade mark, which said manufacturer, importer or person is to sell, offer or expose for sale in this state during the calendar year next succeeding said payment; provided, always, that the placing of any new brand upon the market at any time during said calendar year shall be preceded by such payment. Each manufacturer, importer or person who has complied with the provisions of this act relative to filing the aforesaid certified statement and to the payment of the aforesaid license fee shall be entitled to receive a certificate from the director of said station setting forth said facts. Said director shall pay all money received as aforesaid to the treasurer of the North Dakota government agricultural experiment station, which treasurer, when said money is so appropriated by the board of trustees of said station, shall pay the money so received, or so much of it as may be necessary, in maintaining the expenses of enforcing the provisions of this act. Said board of trustees shall report annually the expenditures so incurred for salaries, laboratory expenses, chemical supplies, traveling expenses and printing.

§ 4. WHAT PROHIBITED.] No person shall sell, offer or expose for sale in this state leather or its product or other inert nitrogenous material in any form, as a fertilizer or as an ingredient of any fertilizer, unless an explicit printed statement of the fact shall be conspicuously affixed to every package of such fertilizer, and shall accompany every parcel or lot of the same.

§ 5. PENALTY FOR VIOLATION.] Every person violating any of the provisions of this act shall forfeit and pay to the people of the

state of North Dakota the sum of one hundred dollars for every such violation.

§ 6. CERTIFICATE OF CHEMIST PRESUMPTIVE EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station, at Fargo, relating to the analysis of any commercial fertilizer, shall be presumptive evidence of the facts therein stated.

§ 7. WHAT CONSTITUTES VIOLATION.] The doing of anything prohibited by this act shall be evidence of the violation of the provisions of this act relating to the things so prohibited, and the omission to do anything directed to be done shall be evidence of a violation of the provisions of this act relative to the things so directed to be done.

§ 8. DIRECTOR OF EXPERIMENT STATION TO ENFORCE.] The director of the North Dakota government agricultural experiment station is charged with the enforcement of the provisions of this act, and for this purpose, may employ agents, chemists and experts, and whenever he shall know or have reason to believe that any penalty has been incurred by any person for the violation of any of the provisions of this act, or that any sum has been forfeited by reason of any such violation, he shall report the said violation with a statement of the facts to the state's attorney for the district wherein the offense is committed, who shall begin proceedings according to the state law.

§ 9. EMERGENCY:] This act shall take effect when approved.

Approved March 19, 1903.

FISHWAYS.

CHAPTER 102.

[H. B. No. 262—Buttz.]

FISHWAYS.

AN ACT to Amend Section 1653 of the Revised Codes of 1899, Relating to Fishways.

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

§ 1. AMENDMENT.] That section 1653 of the revised codes of 1899 be amended and re-enacted to read as follows:

§ 1653. COUNTY COMMISSIONERS SHALL BUILD FISHWAYS.] Whenever the owner or occupant of any such dam neglects or refuses to construct such fishway or chute over the same, the commissioners of the county in which such dam is maintained shall proceed

within thirty days, on notice to them in writing, made by five freeholders of any county through which the waterways so dammed shall pass, to let the work of erecting such fishway or chute, and providing material therefor, to the lowest responsible bidder, and all expenses attendant upon the erection or maintenance of the same shall be paid by the owner or occupant of the dam, and shall be recovered in the name of the person building such fishway or chute upon the acceptance of the same by the county commissioners; and if not paid by such dam owners or occupants, the same shall become a lien upon such property and shall be collected as is provided for enforcing mechanics' liens. If said board of county commissioners shall refuse or neglect to erect and maintain such fishway or chute, after the notice to them required by this section, they shall upon conviction therefor be adjudged guilty of a misdemeanor and shall be punished by removal from office and payment of the costs of prosecution.

Approved March 12, 1903.

GAME WARDENS.

CHAPTER 103.

[S. B. No. 82—Cox.]

DIVIDING STATE INTO TWO GAME WARDEN DISTRICTS.

AN ACT to Amend Sections 1642, 1644, 1645, 1646, 1647, 7678, 7683a, 7683b, 7683c, 7683d and 7683f of the Revised Codes of North Dakota, 1899, Relating to the Protection of Game, the Division of the State Into Game Districts, the Appointment of District Game Wardens, 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. AMENDMENT.] That sections 1642, 1644, 1645, 1646, 1647, 7678, 7683a, 7683b, 7683c, 7683d and 7683f of the revised codes of North Dakota, 1899, be and the said sections are hereby amended to read as follows:

§ 1642. DISTRICT GAME WARDENS. HOW APPOINTED. BOND. DUTIES. DEPUTIES.] The state shall be divided into two game districts.

District number one shall consist of the following counties: Pembina, Walsh, Grand Forks, Nelson, Ramsey, Cavalier, Benson, Town-er, Wells, Pierce, Rolette, McLean, McHenry, Bottineau, Ward, Williams, Allred, Wallace and all unorganized adjacent territory.

District number two shall consist of the following counties: Traill, Steele, Griggs, Eddy, Foster, Cass, Barnes, Stutsman, Richland, Ransom, LaMoure, Sargent, Dickey, McIntosh, Logan, Emmons, Kidder, Oliver, Burleigh, Morton, Hettinger, Bowman, Billings, Stark, Mercer, Dunn, McKenzie and all unorganized adjacent territory.

There shall be appointed by the governor in each of said game districts a game warden, who shall be known as the district game warden, and 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 one thousand dollars, conditioned for the faithful performance of his duties. It is the duty of the district game wardens to superintend and aid in the enforcement of all laws of this state for the preservation of game therein. The district game wardens shall appoint deputy game wardens in the counties of their respective districts 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 they deem it advisable.

Every deputy shall be an elector of the county for which he is appointed, and shall hold office at the pleasure of the district game warden, or until disqualified for any reason.

§ 1644. PERMITS. FORM OF.] The district game wardens 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, County ofss.
, 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 not transferable.

Dated at this day of 19..

.....
 County Auditor.

Such permits shall be endorsed by the district game wardens, and issued by them to the county auditors of the several counties in their respective districts.

§ 1645. 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 district game warden of the district in which said permit is issued, 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 district game wardens or any of their 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 a 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.

§ 1646. 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 district game warden by the county auditor of each county within his district, 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 between them, and shall be in 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.

§ 1647. POWERS AND DUTIES OF DISTRICT GAME WARDENS AND DEPUTIES.] For the purpose of enforcing the laws of this state for the protection of game, the district game wardens and their 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.

§ 7678. POSSESSION OF GAME ILLEGAL, WHEN.] Every person who has in his or her possession any of the birds or animals mentioned in the last section, at any time prior to the opening of the respective seasons during which it shall be lawful to hunt or kill the same, shall be guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of the county in which such offense is committed, is punishable in the manner and to the extent provided in the last section for the killing of the same; provided, that any person may retain possession of such birds or game five days from the close of their respective seasons; and further provided, if any person having the possession of any such birds or game, lawfully killed, desires to retain same for a longer period than five days from the close of their respective seasons, he may apply to the state game warden, or his deputy, for a tag, properly stamped, and describing such game, which tag shall be attached to each bird or separate part of game, and shall remain securely fastened thereto until the same is used for food.

§ 7683a. DISTRICT GAME WARDENS, DEPUTIES AND PEACE OFFICERS SHALL SEIZE GAME.] It shall be the duty of district game wardens and their 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 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 district 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 district game warden and shall be considered in his possession.

§ 7683b. 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 ditrict game warden, either directly or through any deputy or peace officer, shall be sold or disposed of within this state, and the district game warden may issue a certificate to the person purchasing, certifying that the same were legally obtained and possessed, and anyone 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 laws 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 district game warden shall be entitled to one-third of the proceeds of such sale.

§ 7683f. 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 the state at any time, except upon such lands as are known to be Indian reservation lands. It shall be the duty of the district game wardens, their 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 the 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.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the present law providing for the appointment of a state game warden and the protection of game is inadequate, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1903.

GASOLINE.

CHAPTER 104.

[H. B. No. 246—Wagner.]

REGULATING SALE OF GASOLINE.

AN ACT Regulating the Handling and Selling of Gasoline.

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

§ 1. MARKING OF VESSELS IN WHICH GASOLINE IS KEPT.] Every person, firm or corporation buying gasoline for the purpose of selling same, shall paint or color red, or cause the same to be done, every barrel, keg, can or vessel into which is put any gasoline, for the purpose of storing or keeping the same, or for the sale thereof.

§ 2. LABELING OF VESSELS IN WHICH GASOLINE IS SOLD.] Every person, firm or corporation, shall first label with a red label, not less than three inches long, by two inches wide, with the word "gasoline" printed in black thereon, all bottles, cans, jugs or vessels, into which gasoline is placed, before allowing such vessels to be filled or given the person or persons buying the same.

§ 3. PENALTY.] Every person, firm or corporation keeping or handling gasoline, except in vessels marked, or selling the same without first labeling, as provided by this chapter, is guilty of a misdemeanor.

Approved March 10, 1903.

HOSPITAL FOR INSANE.

CHAPTER 105.

[H. B. No. 189—Rogers.]

REGULATING ADMISSION OF PATIENTS TO THE HOSPITAL FOR THE INSANE.

AN ACT to Amend Sections 998 and 998a of the Revised Codes of North Dakota, of 1899, Relating to Patients of the Hospital for the Insane and Powers and Duties of Commissioners of Insanity and Board of Trustees of Said Hospital.

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

§ 1. AMENDMENT.] That sections 998 and 998a of the revised codes be amended so as to read as follows:

§ 998. PATIENTS.] All patients of the hospital who are residents of this state, shall receive their board and treatment free of charge, unless in the judgment of the said board of trustees of said hospital the patient's estate is amply sufficient, without hardship to his or her family, to meet the first cost of his board and treatment, or such proportion thereof as said board of trustees of said hospital may by resolution recommend. And it shall be the duty of said board of trustees at each of its regular meetings, by resolution to determine the sufficiency of the estate of each patient admitted to said hospital not theretofore determined upon by said board of trustees, to pay the cost of board and treatment. To enable said board of trustees to determine the sufficiency of such estates, the county commissioners of insanity must inquire into the matter of the estate of such patient, his or her husband or wife, guardian or parents or other person or persons responsible for his or her support. To enable the county board of insanity commissioners to inquire into and report upon this matter their chairman shall subpoena witnesses and shall fully comply with the provisions of section 1526 of the revised codes of 1899. The provisions of this section shall be liberally construed in favor of the applicant for admission to said hospital. The residents of other states or territories may be admitted to the hospital upon payment of the first cost of such board and treatment, as provided by the by-laws adopted by the board of trustees; provided, that no resident of another state or territory shall be received or retained to the exclusion of any resident of this state; provided, further, that should any patient be unwilling to accept gratuitous board and treatment, the

superintendent is authorized to receive pay therefor, and is required to account for the same in an itemized monthly statement to the board of trustees, as donations, to be duly credited to the persons from whom they were received, and if the superintendent shall receive any money for the purpose of furnishing extra attention and comforts to any patient, he shall account for the same and for the expenditure in like manner.

§ 998a. POWERS OF COMMISSIONERS OF INSANITY AND BOARD OF TRUSTEES.] In any case in which, in the judgment of the board of trustees of said hospital, the patient, his or her estate, relatives, parents, guardian or other person responsible for the patient's support, should be required to meet all or any part or portion of the patient's cost for board and treatment aforesaid, such board of trustees are hereby authorized to empower the steward or some other suitable person to collect by suit or otherwise from the estate of such patient or from the husband, parent or guardian of a married woman or minor child, as the case may be, such amount as such board of trustees of said hospital shall deem sufficient, which sum, when collected, shall be paid into the treasury of the state and placed to the debit of the proper hospital fund; provided, it is hereby made the duty of the county commissioners of insanity to faithfully inquire into and report upon the value, kind, quality and quantity of the estate of all inmates sent from their respective counties to said hospital. This provision to apply to any patients from their respective counties during the past six years, whether they now remain in said hospital or not, and it shall be the duty of said board of trustees to apply the provisions of this article to them. And the said patients, their estates, husband, parent or guardian of a married woman or minor child shall be liable for such cost and treatment of such patient, or so much thereof as shall be determined by said board of trustees.

§ 2. REPEAL.] All acts or parts of acts or laws conflicting herewith are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that it is necessary to collect moneys from such patients, their estates, parents or guardians forthwith, this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 106.

[H. B. No. 190—Rogers.]

ADMISSION OF PATIENTS TO HOSPITAL FOR INSANE.

AN ACT to Amend Section 1526 of the Revised Codes of North Dakota of 1899, Relating to Interrogatories and Property Statement Pre-requisite to Admission of Patients to Hospital for Insane.

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

§ 1. AMENDMENT.] That section 1526 of the revised codes be amended so as to read as follows:

§ 1526. QUESTIONS TO BE ANSWERED ON APPLICATION FOR ADMISSION TO HOSPITAL.] In each case of application for admission to the hospital, full and correct answers must be given to the following interrogatories, so far as they can be obtained by examination of the patient and other witnesses, and shall accompany the physician's certificate; and if on further examination, after the answers are stated, any of them are found to be erroneous, the commissioners shall cause them to be corrected. All questions under the heading "property statement" must be fully answered and a statement thereof and the certificate accompany the patient before the patient is entitled to admission to the hospital. A failure on the part of the county commissioners of insanity to fully inquire and report upon the property of the patients, their estate or husbands, parents, guardians or relatives, shall be a sufficient excuse for refusal to receive such patients at said hospital:

1. What is the patient's name? Married or single? If any children, how many? Age of youngest child, and age of patient.
2. Where was the patient born?
3. Where is his place of residence?
4. What has been the patient's occupation?
5. Is this the first attack? If not, when did others occur and what was their duration?
6. When were the first symptoms of this attack manifested, and in what way?
7. Does the disease appear to be increasing, decreasing or stationary?
8. Is the disease variable, and are there rational intervals? If so, do they occur at regular periods?
9. On what subject or in what way is derangement now manifested? (State fully.)
10. Has the patient shown any disposition to injure others?
11. Has suicide ever been attempted? If so, in what way? Is the propensity now active?

12. Is there a disposition to filthy habits, destruction of clothing, breaking glass, etc?
13. What relatives, including grandparents and and cousins, have been insane?
14. Did the patient manifest any peculiarities of temper, habits, disposition or pursuits, before becoming insane? Any predominant passion, religious impression, etc?
15. Has the patient been subject to any bodily disease, epilepsy, suppressed eruptions, discharge of sores, or ever had an injury of the head?
16. Was the patient ever addicted to intemperance in any form?
17. Has restraint or confinement been employed? If so, what kind and how long?
18. What is supposed to be the cause of the disease?
19. What treatment has been pursued for the relief of the patient? (Mention particulars and the effect.)
20. State any other matters supposed to have any bearing on the case.

PROPERTY STATEMENT.

..... of being first duly sworn, makes answer to the following questions as herein set forth:

1. What is your name, address and relation to the above insane person?
2. What is the description and value of the real estate of said insane person?
3. What, if any, mortgages are out against it? Give date, amount, rate of interest, and when due and to whom given.
4. What personal property, insurance or money has said insane person? Give full description, stating value of each.
5. What, if any, mortgages are out against said personal property? Give date, amount, when due, and rate of interest.
6. What real estate has the parents of said insane person, if is under 21 years of age?
7. Is same incumbered? If so, give date, amount, and when such incumbrance is due.
8. What personal property, money, grains, etc., have the parents of said insane person?
9. What is the rental value of said real estate of said insane person?
10. What is the saleable value thereof?
11. What is the value of the personal property of said insane person?
12. What is the value of the real estate of the parents of said insane person?
13. What is the value of the personal property of the parents of said insane person?

14. If said insane person is married, give description of his wife's or her husband's real estate. Give value of same.

15. Is it mortgaged? If so, for how much, to whom, when, and when due.

16. Give description and value of personal property of the husband or wife of said insane person.

17. Who is the guardian of said insane person? What, if any, property does he hold belonging to him or her? Give its value.

(Signed)

I hereby certify that the foregoing was by me duly sworn and that he gave the foregoing answers, and after reading (or having read) the same, made oath that the said answers were true, to the best of his knowledge and belief, and subscribed his name thereto this day of A. D. 190....

.....
County Judge and Chairman of Commissioners of Insanity in and for County, North Dakota.

CERTIFICATE OF VALUE OF PROPERTY.

In the matter of the insanity of
This is to certify that we.....and.....
and.....the commissioners of insanity of.....
county, have made a thorough examination and faithful investigation as to the property holdings of the above insane person.....
parents or guardian, and attach hereto a duplicate copy of our testimony and we find the property of.....worth.....
dollars.

By order of the insanity board of county, North Dakota.

Dated this.....day of.....190....

.....
County Judge.
.....
Member.

.....
Member.
Approved March 12, 1903.

INSANE.

CHAPTER 107.

[S. B. No. 111—Lewis.]

DISPOSITION OF NON-RESIDENT INSANE.

AN ACT Providing for Sending Non-Resident Insane Persons to their Place of Residence at Expense of the State.

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

§ 1. INSANE NON-RESIDENT. DISPOSITION OF.] Whenever any person shall be found by the commissioners of insanity to be insane, and a fit subject for custody and treatment in the hospital for the insane, and such person has no legal residence within this state, such person shall be sent, at the expense of the state, to the place where such person belongs in every case where such place of residence can be ascertained. And it shall be the duty of the commissioners of insanity at the inquest, to ascertain the place where such person belongs when the same can be conveniently done. The sheriff of the county shall convey such person to the place where he belongs, and shall charge the same fees for such services as he is now allowed by law for transporting patients to the hospital for the insane, which shall be paid out of the state treasury.

§ 2. EMERGENCY.] An emergency exists in this, that there is no law authorizing the transporting to their homes of non-resident insane persons found in this state, therefore, this act shall be in force and take effect from and after its passage and approval.

Approved March 9, 1903.

INSTITUTION FOR FEEBLE MINDED.

CHAPTER 108.

[S. B. No. 4—Cashel.]

INSTITUTION FOR FEEBLE MINDED.

AN ACT to Establish an Institution for the Feeble Minded and to Provide for its Support and Management.

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

§ 1. LOCATION;] That there shall be located and permanently maintained at or near the city of Grafton, in the county of Walsh, an institution for the feeble minded, upon the grounds conveyed by the United States of America to the state of North Dakota for that purpose, to be known and designated as "The Institution for Feeble Minded."

§ 2. BOARD OF TRUSTEES.] That said institution shall be controlled by a board of five trustees who shall be appointed by the governor, by and with the advice and consent of the senate, for the term of four years each, and until their successors are appointed and qualified; provided, however, that of the first board of trustees appointed under this act, three shall be appointed for the term of four years, and the other two for the term of two years. All vacancies occurring in said board shall be filled by appointment in like manner as aforesaid, to fill the unexpired term.

§ 3. TERM OF OFFICE.] Such board of trustees shall annually elect from among their number a president and a secretary, who shall hold office for two years and until their successors are chosen and qualified. Three of said trustees shall constitute a quorum, and shall meet annually in the month of April and as often thereafter as may be deemed necessary for the proper transaction of business, upon the call of the president or secretary.

§ 4. DUTIES.] Said trustees shall have the general management and superintendency of said institution; shall prescribe all rules and regulations for the government thereof, and the admission of pupils thereto, and generally perform all acts necessary to render the said institution efficient for the purposes for which the same is established, to-wit: For the relief and instruction of the feeble minded and for the care and custody of the epileptic and idiotic of the state, and they may introduce and establish such trades and manual industries as in their judgment will best train their pupils for future self-support.

§ 5. APPOINTMENT OF SUPERINTENDENT.] Such board shall appoint a superintendent of said institution, who shall be a physician skilled in caring for, and in instructing the class of unfortunates to be provided for by this act. Such superintendent shall name all the subordinate officers, and such nominations shall be confirmed or rejected by the board.

§ 6. WHO ADMITTED.] All feeble minded persons residents of this state who, in the opinion of the superintendent, are of suitable age and capacity to receive instruction in this institution, and whose defects prevent them from receiving proper training in the public schools of the state, and all idiotic and epileptic persons residents of this state may be admitted to and receive the benefits of this institution free of charge, subject to such rules and regulations as may be made by the board of trustees; and they shall be provided by their friends, relatives, or the county from which they come, sufficient funds to furnish them with proper clothing and transportation.

§ 7. DUTIES OF OFFICERS.] The president shall preside at all meetings of the board, when present, and in his absence a president pro tempore may be chosen to perform the duties of president. He shall sign all contracts on behalf of the board and all orders upon the treasurer. The secretary shall countersign all contracts and orders upon the treasurer and shall keep a correct report of the proceedings of the board, and shall have charge in trust for the institution of all papers and records of the same. Such board shall appoint a treasurer who may or may not be one of their number, as they deem best, as provided in section 310 of the revised codes of 1899.

§ 8. SUPERINTENDENT TO FURNISH CLOTHING.] When the pupils of such institution are not otherwise provided or supplied with suitable clothing, they shall be furnished therewith by the superintendent who shall make out an account thereof in each case against the parent or the guardian, if the pupil be a minor, and against the pupil if he or she has no parent or guardian, or has attained the age of majority, which account shall be certified to be correct by the superintendent, and when so certified such account shall be presumed correct in all courts. The superintendent shall thereupon transmit such account by mail to the treasurer of the county from which the pupil so supplied shall have come, and such treasurer shall proceed at once to collect the amount by suit in the name of his county, if necessary, and pay the amount into the state treasury; the superintendent shall, at the time, transmit a duplicate of such account to the state auditor, who shall credit the same to the account of such institution and charge it to the proper county; provided, that if it shall appear by the affidavit of three disinterested citizens of the county, not of kin to the pupil, that such pupil or his parents would be unreasonably oppressed by such suit, then such treasurer shall not commence such action, but shall credit the same to the state on his books and report the amount of such account to the board of county commissioners of his

county, which board shall audit the same and charge it to the general fund of the county.

§ 9. DUTIES OF COUNTY COMMISSIONERS.] The board of county commissioners shall order to be paid the expenses of transportation to and from such institution of any indigent, feeble minded children entitled to admission thereto, and they shall, at the time of levying other taxes, levy a sufficient tax to reimburse the county therefor. In order to avoid long delay in transporting indigent children to and from the institution, the superintendent may, upon correspondence with the auditor of such county, pay such transportation and forward to such county auditor an itemized statement of the expenses. The board of county commissioners shall order the county treasurer to draw his warrant for such amount in favor of the superintendent of such institution, who shall account for such money as provided by law.

§ 10. DUTIES OF TRUSTEES.] The board of trustees shall take and hold in trust for said institution all lands or property hereafter granted, given, devised or conveyed to the institution for feeble minded, to be applied and used at Grafton aforesaid, and any moneys, now or hereafter, appropriated or entrusted to said institution may be drawn at any time from the state treasury upon the order of the board of trustees, on the presentation of proper vouchers to the state auditor.

§ 11. OFFICERS TO REPORT. WHEN.] On or before the first day of November, 1904, and biennially thereafter, or oftener if required, the superintendent, secretary and treasurer shall render to the board of trustees full and complete reports, accompanied by such recommendations as may seem to them wise and proper, and biennially, and on or before the first day of December, preceding the regular sessions of the legislature, said board of trustees shall furnish the governor a printed report of said institution for the two years ending on the preceding June 30th. Said report shall contain such matters as are of interest to the institution, with reports of the superintendent, such as is common from like institutions; with a detailed statement of the disbursements. The state authorities shall print and deliver to the proper officers for the use of the legislature and state officers, five copies for each, and shall deliver to the officers of such institution the number estimated by them to be necessary for the use thereof, not to exceed five for each member enrolled therein.

§ 12. COMPENSATION.] Each member of the board shall receive as full compensation for his services as such trustee three dollars per day for each day necessarily and actually employed in his duties as such trustee, together with the actual and necessary expenses in going to and returning from the place of meeting of said board; provided, however, that the secretary shall receive such additional sum for his services as the board may agree upon, the same, however, not to exceed fifty dollars annually.

§ 13. REPEAL.] Chapter 36 of the session laws of 1901 is hereby

repealed; provided, however, that the board of trustees appointed pursuant thereto shall continue to act until their successors, to be appointed under this act, shall have been appointed, and shall have qualified.

§ 14. EMERGENCY.] An emergency exists in this, that there is no legislation authorizing the appointment of successors for the present board of trustees, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1903.

INSURANCE.

CHAPTER 109.

[H. B. No. 123—Mooney.]

PROHIBITING BUSINESS BY FOREIGN MUTUAL HAIL INSURANCE COMPANIES.

AN ACT Prohibiting Foreign Mutual Insurance Companies From Transacting a Hail Insurance Business in This State, Making Contracts Void and Providing a Penalty for the Violation Thereof.

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

§ 1. PROHIBITING HAIL INSURANCE.] No foreign insurance company incorporated upon the mutual plan shall directly, or indirectly, take any hail risk, or transact the business of hail insurance in this state.

§ 2. CONTRACTS AND NOTES VOID.] All contracts, notes, mortgages and other evidence of indebtedness made or taken in violation of section 1 hereof is hereby declared void.

§ 3. PENALTY.] Any person who violates any of the provisions of this act or who procures or induces another to do so is guilty of a misdemeanor.

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

§ 5. EMERGENCY.] Whereas, an emergency exists in this, that there is no law prohibiting foreign mutual insurance companies from transacting a hail insurance business, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1903.

CHAPTER 110.

[H. B. No. 248—Allen.]

ELECTION OF DIRECTORS OF MUTUAL INSURANCE COMPANIES.

AN ACT to Amend Section 3146 of the Revised Codes of 1899, Relating to the Time for the Holding of the Annual Meeting for the Election of Directors, and Who May Vote.

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

§ 1. AMENDMENT.] That section 3146 of the revised codes of 1899 be amended so as to read as follows:

§ 3146. ELECTION OF DIRECTORS.] The directors of each company so formed, shall be chosen by a vote at the annual election thereof, which shall be held on the last Tuesday in June of each year, and every member shall have one vote, but no person shall vote by proxy at such election; provided, that in any company organized under the provisions of this article, whose policies of insurance shall not run for a longer period than one year, all persons holding policies of insurance therein during the year immediately preceding the annual election, shall be considered as members of said company and shall be entitled to vote at such election.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no sufficient law governing same, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 111.

[S. B. No. 25—Lewis.]

SUICIDE NO DEFENSE IN LIFE INSURANCE.

AN ACT in Relation to the Defense of Suicide in Suits Brought Upon Life Insurance Policies.

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

§ 1. SUICIDE NO DEFENSE AFTER ONE YEAR.] In all suits upon policies of insurance on life hereafter issued by any regular or assessment insurance company, doing business in this state, it shall be no defense after the policy has been in force one year, that the insured committed suicide, and any stipulation in the policy to the contrary shall be void.

Approved March 5, 1903.

CHAPTER 112.

[S. B. No. 17—Little.]

LICENSING INSURANCE AGENTS.

AN ACT to Provide for the Licensing of Agents to Solicit for Insurance Companies and Fixing the Penalty for Violation of the Same.

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

§ 1. AGENTS DEFINED.] Whoever solicits insurance on behalf of any insurance corporation or person desiring insurance of any kind, or transmits an application for a policy of insurance, other than for himself, to or from any such corporation, or who makes any contract for insurance, or collects any premium for insurance, or in any manner aids or assists in doing either, or in transacting any business of like nature for any insurance corporation, or advertising to do any such thing, shall be held to be an agent of such corporation to all intents and purposes, unless it can be shown that he receives no compensation for such services. This section shall not apply to fraternal, assessment or beneficiary associations.

§ 2. MUST HAVE LICENSE. PENALTY FOR NON-COMPLIANCE.] No officer or broker, agent or sub-agent of any insurance corporation of any kind, except county mutual insurance corporations of this state, shall act or aid in any manner in transacting the business of or with such corporation, in placing risks or effecting insurance therein, without first procuring from the commissioner of insurance a certificate of authority as provided by law, nor after the period named in such certificate shall have expired. Every person violating the provisions of this act shall be guilty of a misdemeanor and be punished by a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the present law is inadequate to prevent unauthorized persons or agents from soliciting insurance without a certificate of authority, this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1903.

CHAPTER 113.

[H. B. No. 32—Underwood.]

FIDELITY INSURANCE AND CORPORATE SURETYSHIP.

AN ACT to Provide Uniform Regulations Governing Corporations Organized in Whole or in Part for the Purpose of Transacting the Business of Fidelity Insurance and Corporate Suretyship.

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

§ 1. FIDELITY INSURANCE AND CORPORATE SURETYSHIP. MAY BE SOLE SURETY ON BONDS.] Any corporation organized under the laws of the state of North Dakota, or of any state of the United States, or of any foreign country, to transact the business of fidelity insurance and corporate suretyship, and authorized to do business in this state, as hereinafter provided, may make contracts of insurance to guarantee the fidelity of persons holding positions of trust in private or public employment or responsibility, and may; if accepted and approved by the court, magistrate, obligee or person competent to approve such bond act as surety upon the official bond or undertaking of any person or corporation, to the United States, to the state of North Dakota, or to any county, city, town, school district, court, judge, magistrate or public officer, or to any corporation or association, public or private; and may also act as surety upon any bond or undertaking to any person or corporation conditioned upon the performance of any duty or trust, or for the doing or not doing of anything in such bond specified, and to indemnify against loss any person who is responsible as surety upon a written instrument or otherwise, for the performance of the officers of any office, employment, contract or trust. When by law two or more sureties are required upon any obligation, any corporation qualified as herein provided is authorized to insure, and it may act as sole surety thereon, and may be accepted as such by the court, magistrate or other officer or person authorized to approve of the sufficiency of such bond or undertaking.

§ 2. ACCEPTANCE OF SUCH BOND.] Whenever any bond, undertaking, recognizance or other obligation is, by law, or the charter, ordinance, rules or regulations of any municipality, board, body, organization, court, judge, or public officer, required or permitted to be made, given, tendered or filed with any surety or sureties, and whenever the performance of any act, duty or obligation or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guarantee may be executed by a surety company, qualified under this chapter; provided, that such execution by such company of such bond, undertaking, obligation, recognizance or guarantee, shall be in all respects a full and complete

compliance with every requirement of every law, chapter [charter] ordinance, rule or regulation; and such bond shall be valid and shall be accepted notwithstanding any requirement of law that such bond, undertaking, obligation, recognizance or guarantee shall be executed by one or more sureties, or that such sureties shall be residents or householders or freeholders, or either or both, or possess any other qualifications, and all courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character, shall accept and treat such bond, undertaking, obligation, recognizance or guarantee when so executed by such company, as conforming to and fully and completely complying with every such requirement, and every such law, charter, ordinance, rule or regulation.

§ 3. EXPENSE OF BOND. HOW PAID.] Any receiver, assignee, guardian, trustee, committee, executor, administrator or other fiduciary required by law or ordered by any court or judge to give a bond or other obligation as such, may include as a part of the lawful expense of executing his trust, such reasonable sum paid to a corporation authorized under the laws of this state so to do, for acting as surety on such bond, as may be allowed by the court in which the judge before whom he is required to account, not exceeding one per cent per annum, or fraction thereof, on the amount of such bond, and in all actions and proceedings a party entitled to recover disbursements therein shall be allowed, and may tax and recover such sum paid such corporation for executing any bond, recognizance or undertaking therein, not less than five dollars, nor more than one per cent per year, or fraction thereof, on the amount of the penalty or liability in such bond, recognizance or undertaking specified, while the same has been in force.

§ 4. MUST COMPLY WITH THE LAWS OF STATE.] Every corporation not organized under the laws of the state of North Dakota, to be qualified to act as surety or guarantor, must comply with the requirements of every law of this state applicable to such company, and to foreign insurance companies doing business thereunder; must be authorized under the laws of the state wherein incorporated, and under its charter to be surety upon such bond, undertaking, recognizance or obligation, must have fully paid up and safely invested and unimpaired capital of at least two hundred thousand dollars; must have good and available assets exceeding its liabilities, which liabilities, for the purpose of this article, shall be taken to be its capital stock, debts outstanding, and a premium reserve at the rate of fifty per centum of the current annual premiums on each outstanding bond or obligation of like character in force; must file with the commissioner of insurance a certified copy of its certificate or incorporation, a written application to be authorized to do business in this state, also with such application, and in each year thereafter, a statement, verified under oath, made up to December 31 preceding, stating the amount

of its paid up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings and obligations of like character in force upon which it is surety, the amount of liability for unearned portion thereof, estimated at the rate or fifty per centum of the current annual premiums on such bond, undertaking, recognizance and obligation in force, stating also the amount of debts outstanding, obligations of all kinds, and such further facts as may be by the laws of this state required of such company in transacting business therein; and if such company be organized under the laws of any other state than this state, it must have on deposit with a state officer of one of the states of the United States not less than one hundred thousand dollars in securities prescribed by law, deposited with and held by such officer for the benefit of the holders of its obligations. It must also, by a duly executed instrument, filed in his office, constitute and appoint the commissioner of insurance of this state and his successors, its true and lawful attorney, upon whom all process in any action or proceeding against it may be served, and therein must agree that any process which may be served upon its attorney shall be of the same force and validity as if served upon the corporation, and that the authority thereof shall continue in force irrevocable, so long as any liability of the company remains outstanding in this state. Service upon such attorney shall be deemed sufficient service upon the corporation.

§ 5. DOMESTIC SURETY COMPANIES.] Every corporation organized under the laws of this state, and for the purpose in whole or in part of transacting the business of fidelity or corporate suretyship, must comply with the provisions of chapter 20½, civil code, 1899, revised codes, being chapter 142 of the laws of 1897, and amendments thereto, and section 3132, revised codes of 1899, and upon such corporations filing in the office of the commissioner of insurance a certificate issued by the state auditor, to the effect that such corporation has complied with the provisions of section 3258c, together with a certified copy of its articles of incorporation, and the payment of the proper fees therefor, the commissioner of insurance shall issue to such corporation a certificate as provided in section 3115d, and shall issue to its agents certificates as provided in section 3124, which certificate shall be issued yearly on the filing by such corporation of a statement of its condition as of December 31 of the year last ending.

§ 6. CONCURRENT UNDERTAKINGS.] Whenever any bond, undertaking or other obligation is by law, or the charter, ordinances, rules and regulations of any municipality, board, body, organization, court or public officer, required or permitted to be made, given or filed as hereinbefore provided, and whenever the amount thereof is fixed by law or by the charter, ordinances, rules or regulations of any municipality, board, body, organization, court, judge or public officer, then two or more such bonds executed by corporations qualified under the laws of this state, and aggregating the amount so fixed or determined, may be accepted and shall be in all things treated as one bond or ob-

ligation, and in case of loss or liability thereunder, the amount of such loss or liability, chargeable against each such bond or undertaking, shall be the same proportion of the entire loss or liability, as such bond or obligation bears to the aggregate amount of the penalty or liability specified in all of such bonds, whether such proportion be stated therein or not.

§ 7. RELIEF FROM LIABILITY.] The surety, or the representative of any surety upon a bond of any officer or fiduciary, may apply by petition to the court wherein said bond is directed to be filed or which may have jurisdiction of the beneficiary thereunder, praying to be relieved from further liability thereon, and to require said officer or fiduciary to show cause why he should not account and said surety be relieved from such further liability as aforesaid, and the said principal be required to give a new bond, and thereupon and upon the filing of said petition, said court shall issue an order returnable at such time and place, and to be served in such manner as said court shall direct, and may restrain such officer or fiduciary from acting except in such manner as it may direct therein, to preserve the trust estate, and upon the return of such order to show cause, if the principal in the bond account in due form of law and file a new bond, duly approved; then said court must make an order releasing said surety filing the petition aforesaid from further liability upon the bond for any subsequent act or default of the principal, and in default of said principal this accounting and filing said new bond, the said court shall make an order directing such officer and fiduciary to account in due form of law within thirty days, and that if the trust fund or estate shall be found or made good, or properly secured in the manner directed by the court, such company shall be discharged from any and all further liabilities as such for the subsequent acts or omissions of the said officer or fiduciary after the date of the said surety being so relieved or discharged, and discharging said trustee, officer or other fiduciary.

§ 8. REPORT OF TAXES.] Every foreign corporation doing business in this state, under the provisions of this article, shall, at the time of making the annual statement of business done as required by law, pay to the commissioner of insurance two and one-half per cent of the gross premiums, fees or charges received in this state during the preceding year upon all bonds or undertakings written by it, for or in behalf of any person in this state, and only upon and after the payment of such sum, the commissioner of insurance shall issue the annual certificate provided by law.

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

§ 10. EMERGENCY.] Whereas, there are now in force apparently conflicting provisions of law relating to fidelity insurance, therefore, this act shall take effect upon its passage and approval.

Approved March 10, 1903.

CHAPTER 114.

[H. B. No. 97—Watts.]

REGULATING MUTUAL HAIL INSURANCE COMPANIES.

AN ACT Requiring Mutual Hail Insurance Companies to Deposit with the State Treasurer Funds for the Security of their Members.

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

§ 1. MUTUAL INSURANCE COMPANIES CAN ENGAGE IN HAIL INSURANCE. WHEN.] No mutual insurance company hereafter organized under the laws of this state, or now or hereafter organized under the laws of any state or country, shall engage in the business of hail insurance in this state without first depositing and thereafter keeping on deposit with the treasurer of this state, the sum of twenty-five thousand dollars in money, or in lieu thereof bonds of this state or of the United States, of the par value of twenty-five thousand dollars.

§ 2. DUTIES OF STATE TREASURER.] Said money or securities so deposited shall be and remain in the hands of the treasurer of this state as a fund to secure the payment of all losses occurring under all policies or contracts for hail insurance, made by such company in this state, or covering property situated within the state. And the treasurer of this state shall not permit said deposit or any part thereof to be withdrawn by said company from his custody except as hereinafter provided.

§ 3. PENALTY.] If any such company hereafter organized under the laws of this state shall violate any of the provisions of this act, the charter of said company or association shall thereupon be forfeited and it shall be the duty of the attorney general, on complaint of the commissioner of insurance, to take all legal proceedings necessary to have such forfeiture enforced and such company dissolved and its affairs wound up.

§ 4. CAN RELINQUISH BUSINESS. How.] When any such company or corporation, having made the deposit as herein provided, desires to relinquish the transaction of the business of hail insurance in this state and withdraw such deposit, and shall file with the commissioner of insurance an application, under the oath of its officers, stating that all its liabilities arising under the contracts or policies above mentioned are paid, the commissioner of insurance shall thereupon publish notice of such application in a newspaper published at the capital of the state, twice a week for a period of three months, and after such publication, on his being satisfied by the exhibition of the books and papers of such company, and on examination by himself or a person appointed by him, that all liabilities under the policies or contracts herein mentioned have been fully paid and extinguished, the

commissioner of insurance shall thereupon file a certificate to that effect with the treasurer of this state, who shall thereupon deliver such deposit to said company, or its assigns. Or if it shall appear from such application and examination that all the liabilities of such company have not been paid and extinguished, and that the amount of such deposit is more than equal to twice the amount of such remaining liabilities, and the treasurer shall thereupon pay to such company, or its assigns, a part of such deposit, retaining an amount equal to twice the amount of the liabilities so remaining.

§ 5. COMPANIES MAY COLLECT INTEREST.] So long as any deposit required by this act is kept good, and the depositing company is solvent, the state treasurer may permit the company to collect the interest on the securities so deposited, and from time to time to withdraw any such certificate [securities] on depositing with him others of the value and character required by this act.

§ 6. WHO MAY INSTITUTE PROCEEDINGS.] Any insurance company which has made such deposit, or the commissioner of insurance in the name of the state, or any person entitled to the benefit of such deposit, may at any time institute in the district court of Burleigh county legal proceedings against this state and other parties properly joined therein to enforce, administer or terminate the trust created by such deposit. The process in such suits shall be served upon the insurance commissioner of this state, who shall appear and answer in its behalf, and he and the treasurer of this state shall perform such orders and decrees as the court may make therein.

§ 7. EMERGENCY.] Whereas, an emergency exists in this, that there is no law prohibiting mutual insurance companies from transacting hail insurance business without first making deposit with the state treasurer, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

JUDGMENTS.

CHAPTER 115.

[H. B. No. 176—Young.]

ABSTRACTS OF JUSTICES' JUDGMENTS.

AN ACT to Amend Section 5498, Revised Codes of 1899, Relating to the Filing of Abstracts of Justices' Judgments in the Office of the Clerk of the District Court and Prescribing the Effect Thereof.

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

§ 1. AMENDMENT.] That section 5498 of the revised codes of 1899 be amended to read as follows:

§ 5498. JUSTICE MUST GIVE ABSTRACT. DUTY OF CLERK OF COURT.] A justice of the peace, on the demand of a party in whose favor he shall have rendered a judgment, must give a certified abstract thereof in substantially the form prescribed by section 6717 of the justice' code, which may be filed in the office of the clerk of the district court of the county or subdivision in which the judgment was rendered, and such clerk must thereupon enter such judgment in the judgment book and upon the judgment docket; and from the time of the docketing thereof it becomes a judgment of such district court, for purposes of execution, and a lien upon real property owned by the debtor, and a certified transcript of the docket of such judgment may be filed, and the judgment docketed accordingly, in any other county or subdivision with the like effect in every respect as if the judgment had been rendered in the district court where such judgment is filed.

Approved March 4, 1903.

JUDICIAL DISTRICTS.

CHAPTER 116.

[H. B. No. 70—Welo.]

CREATING THE EIGHTH JUDICIAL DISTRICT.

AN ACT to Create the Eighth Judicial District of the State of North Dakota, and Defining the Boundaries of the Second and Eighth Judicial District, and Providing for Terms of Court in the Second and Eighth Judicial Districts and for the Holding of Chambers in the Eighth Judicial District, and Regulate Practice on Motions.

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

§ 1. SUBDIVISIONS OF DISTRICT.] The state of North Dakota shall be divided into eight judicial districts.

Districts numbers one, three, four, five, six and seven shall be and remain as they are at present constituted.

District number two shall consist of the counties of Ramsey, Towner, Benson, Rolette and Pierce.

District number eight shall consist of the counties of Bottineau, McHenry, Ward and Williams.

§ 2. GOVERNOR SHALL APPOINT JUDGE.] There shall be appointed by the governor a judge of the district court, for the eighth judicial district, who shall hold office until the next general election, and until his successor is duly elected and qualified. At the next general election there shall be elected in the eighth judicial district, a judge of the district court, whose term of office shall be four years from the first Monday in January succeeding his election, and until his successor is duly qualified.

§ 3. TERMS OF COURT.] Any terms of court heretofore called in the counties of Bottineau, McHenry, Ward and Williams, by the present presiding judge of the second judicial district, shall be duly held at the time they are so called for by the judge of the second district.

§ 4. ACTIONS AND JUDGMENTS IN FULL FORCE.] All actions brought, and now pending in the counties of Bottineau, McHenry, Ward and Williams, and entitled in the second judicial district, shall be continued in, and tried in the eighth judicial district, and any judgment rendered thereon shall be in full force and effect in the said eighth judicial district, and the court upon its own motion shall direct and authorize said actions to be entitled in the eighth judicial district.

§ 5. TERMS OF COURT. WHEN HELD.] The terms of the district

court of the second judicial district, shall be held each year at the county seat of such counties comprising said district as follows:

In Ramsey county, commencing on the first Monday in January and the first 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 February and the fourth Monday in June.

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

In Pierce county, commencing on the fourth Monday in January and the third Monday in June.

The terms of court of the eighth judicial district shall be held each year in each of the counties comprising said district at the county seats of such counties comprising the said eighth judicial district as follows:

In Bottineau county, commencing on the second Monday in February, the first Monday in June and the fourth Monday in November; provided, that at the said terms appointed to be held in the month of February, no jury shall be called except in the discretion of the court for the trial of criminal cases.

In McHenry county, commencing on the second Monday in March, the fourth Monday in June and the third Monday in September; provided, that at said term appointed to be held in the month of June no jury shall be called except in the discretion of the court for the trial of criminal cases.

In Ward county, commencing on the fourth Monday in January, the fourth Monday in April and the fourth Monday in October; provided, that at the said term appointed to be held in the month of January, no jury shall be called, unless called by the court for the trial of criminal cases.

In Williams county, commencing on the fourth Monday in February, the fourth Monday in July and the fourth Monday in September; provided, that at said term appointed to be held in the month of July, no jury shall be called except in the discretion of the court for the trial of criminal cases.

§ 6. CHAMBERS. WHEN AND WHERE HELD.] The court of the eighth judicial district shall, except at those times when the court shall be actually engaged in the holding of a term of court in any of the counties of the said district, have its chambers for the purpose of hearing and transacting such business as may come before it, in each of the counties comprising the eighth judicial district, in each year, at the county seats of such counties as follows:

In the county of Ward, on the first Monday in the months of January, March, May, July, September and November.

In the county of McHenry, on the first Monday in the months of February, April, June, August, October and December.

In the county of Bottineau, on the third Monday in the months of January, March, May, July, September and November.

In the county of Williams, on the third Monday in the months of February, April, June, August, October and December.

Provided, that any matter or application or motion set for hearing before the judge of the said district, at any of the said times and places designated for the holding of chambers, which do not come on for a hearing and determination at such time and place, by reason of the absence of the judge therefrom, shall be continued until the next regular day set for the holding of chambers at the said place, where said application or motion was noticed for hearing, without any further order or notice to that effect; provided, further, that the judge of the said second judicial district shall act as the judge of the said eighth judicial district until the judge of the said eighth judicial district shall have been appointed and qualified.

§ 7. REPEAL.] All acts or parts of acts not consistent with, or in conflict with the provisions of this act, are hereby repealed.

§ 8. EMERGENCY.] Inasmuch as an emergency exists, in that the second judicial district as at present constituted is too populous for one judge to transact the business thereof, and the size thereof is too great, therefore, this act shall take effect from and after its passage and approval.

Approved March 4, 1903.

JURORS.

CHAPTER 117.

[S. B. No. 8.—Plain.]

PER DIEM OF JURORS.

AN ACT to Amend Section 2096 of the Revised Codes of North Dakota for 1899, Relating to the Per Diem of Jurors.

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

§ 1. AMENDMENT.] That section 2096 of the revised codes of the state of North Dakota for 1899, be amended so as to read as follows:

§ 2096. FEES ALLOWED.] Jurors are entitled to receive:

1. For each day's attendance in district court as grand, petit or special juror, to be paid by the county, three dollars.
2. Traveling expenses for each mile actually and necessarily traveled each way, to be paid by the county, five cents.
3. For each day's attendance as juror in justice's court, one dollar.

4. For each day's attendance as juror at coroner's inquest, to be paid by the county, one dollar.

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

Approved February 9, 1903.

LANDLORDS AND TENANTS.

CHAPTER 118.

[H. B. No. 268—Bostrom.]

TENANT TO NOTIFY LANDLORD BEFORE REMOVAL OF GOODS.

AN ACT Making it a Misdemeanor for a Tenant or Tenants to Remove Goods, Chattels or Personal Property from Leased Premises Without Giving Due Notice to the Landlord, His Agent or Duly Authorized Attorney, and Providing a Punishment for the Violation of This Act.

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

§ 1. LESEES MUST GIVE WRITTEN NOTICE BEFORE REMOVAL OF PROPERTY.] Any person, firm, association or corporation occupying premises under a written lease, who fraudulently and clandestinely removes his or their goods, chattels or personal property from any leased or demised premises without first giving due notice to the landlord, his agent, or duly authorized attorney, shall be deemed guilty of a misdemeanor.

§ 2. PENALTY.] Any person, firm, association or corporation found guilty of a misdemeanor as provided in the foregoing section shall be punishable by a fine of not less than twenty dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than ten days nor more than ninety days, or by both such fine and imprisonment.

Approved March 12, 1903.

LEGISLATURE.

CHAPTER 119.

[H. B. No. 237—McClure.]

CERTIFICATES OF MEMBERS OF THE LEGISLATURE.

AN ACT to Provide for the Issuance of Certificates of Election for Members of the Legislative Assembly by the Secretary of State.

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

§ 1. CERTIFICATES OF ELECTION.] The secretary of state shall issue certificates of election to all members of the legislative assembly at the time that certificates of election to state officers by him are issued.

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

Approved March 10, 1903.

LIENS.

CHAPTER 120.

[H. B. No. 165—Young.]

FORECLOSURE OF LIENS.

AN ACT to Amend Section 4845 of the Revised Codes of North Dakota, Relating to the Foreclosure of Liens on Personal Property.

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

§ 1. AMENDMENT.] That section 4845 of the revised codes of North Dakota of 1899 be and the same is hereby amended and re-enacted so as to read as follows:

§ 4845. HOW LIENS FORECLOSED.] Upon default being made in the payment of a debt secured by a lien upon personal property, such lien may be foreclosed upon the notice, and in the manner provided for the foreclosure of mortgages upon personal property, and the holder of such lien shall be entitled to the possession of the property covered thereby for the purpose of foreclosing the same. The costs

and fees for such foreclosure shall be the same as are provided in section 5892 of the revised codes. A report of such foreclosure shall be made in the manner set forth in section 5888 of the revised codes; provided, that when the lien has not been filed in the office of any register of deeds, then a report of such sale shall be filed in the office of the register of deeds of the county wherein the property is sold. Such liens may also be foreclosed by action as provided in chapter 28 of the code of civil procedure.

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

Approved March 10, 1903.

LIVE STOCK.

CHAPTER 121.

[H. B. No. 198—McClure.]

INSPECTION OF LIVE STOCK.

AN ACT to Amend and Re-enact Chapter 121 of the Laws of North Dakota for the Year 1901, Concerning the Inspection of Live Stock.

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

§ 1. AMENDMENT.] That chapter 121 of the laws of North Dakota for the year 1901 be and the same is hereby amended to read as follows;

§ 1. STOCK INSPECTION.] Whenever the board of county commissioners in any county are petitioned so to do by at least ten per cent of the voters of their county, as evidenced by the number of votes cast for congressman at the last general election, they may appoint the sheriff of their county as live stock inspector, and when so appointed, the said sheriff shall perform the duties and receive the compensation therefor as hereinafter prescribed by this act.

§ 2. INSPECTION BEFORE SHIPPING.] It shall be the duty of said stock inspector to inspect all horses of which he has knowledge are about to be loaded for shipment, or to be driven or shipped out of the county in which he resides, to any other point within the state or to a point outside the state, before the same is shipped.

§ 3. INSPECTOR TO KEEP RECORD.] Said inspector shall make and keep a record in his office in a book expressly for that purpose, which record shall be open to the public, and shall contain: First, the marks and brands upon each of said animals; and, second, if no marks or brands appear thereon, he shall take a general description of the same; third, the owner of said horses, if ascertainable, and if not, he shall so

state in his record; fourth, the person in whose name said horses are shipped; fifth, the name of the person in charge of the same; and, sixth, the point of destination, together with such other information as may assure the inspector that the person shipping or driving is the owner, or has lawful right to ship or drive the same. If the inspector shall be satisfied from his inspection that the person shipping or driving said horses is the owner or has lawful right to ship or drive the same, he shall, on payment of the fees hereinafter prescribed, give to such person a permit to ship or drive the same, which permit shall be in writing and shall set forth the number and description of the animals.

§ 4. UNLAWFUL TO SHIP WITHOUT PERMIT.] It shall be unlawful for any person or persons to cause to be shipped or driven, any horses from any county in this state or any other county therein, or to a point without said state, without such person or persons first notifying the said stock inspector of the proposed shipment or driving, and request that an inspection of the animals to be shipped or driven be made, and until the permit shall have been issued, as specified in this act, no railway or transportation company shall ship any such stock until said permit shall have been issued. But the said stock inspector may at his discretion issue a written permit to drive horses from one county to another within this state without any personal inspection or fees.

§ 5. INSPECTOR'S FEES.] The said stock inspector shall be entitled to demand and collect the following fees for inspection, viz: Ten cents per head for each horse, and he is hereby given a lien upon said animals for such inspection fees, and mileage at the rate of ten cents per mile for each mile actually traveled in going to and returning from the place of inspection.

§ 6. PENALTY.] Any person who shall ship any horses from any county in this state without having first procured the inspection of said stock and received a permit authorizing said shipment, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than two hundred dollars, or imprisonment in the county jail for not less than thirty days, nor more than six months, or by both such fine and imprisonment.

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

Approved March 12, 1903.

MECHANICS' LIENS.

CHAPTER 122.

[S. B. No. 138—Robinson.]

RELATING TO MECHANICS' LIENS.

AN ACT to Amend Section 4795 of the Revised Codes, Relating to Sales of Buildings Upon Foreclosure of Mechanics' Liens Thereon.

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

§ 1. AMENDMENT.] That section 4795 of the revised codes of 1899 be, and the same is hereby amended to read as follows:

§ 4795. WHEN PRIOR TO PRIOR LIEN ON LAND. POWER OF COURT.] The liens for the things aforesaid or the work, including liens for additions, repairs and betterments, shall attach to the building, erection or improvement, for which they were furnished or done, in preference to any prior lien or incumbrance or mortgage upon the land upon which such erection, building, or improvement, belongs or is erected or put. If such material was furnished, or labor performed, in the erection or construction of an original and independent building, erection or other improvement commenced since the attaching of such prior lien, incumbrance or mortgage, the court may, in its discretion, order and direct such building, erection or improvement, to be separately sold under execution, and the person [purchaser] may remove the same within such reasonable time as the court may fix. But if in the opinion of the court it would be for the best interest of all parties that the land and the improvements thereon should be sold together, it shall so order and the court shall take an account and ascertain the separate values of the land and of the erection, building or other improvement, and distribute the proceeds of the sale so as to secure to the prior mortgage or other lien, priority upon the land, and to the mechanic's lien, priority upon the building, erection or other improvements. If the material furnished or labor performed was for an addition to, repairs of, or betterment upon buildings, erections or other improvements, the court shall take an account of the values before such material was furnished or labor was performed, and ascertain the increased value caused by such addition, repairs or betterments, and upon the sale of the premises, distribute the proceeds of the sale so as to secure to the prior mortgage or lien priority upon the land and improvements as they existed prior to the attachment of the mechanic's lien, and to the mechanic's lien priority upon the increased value caused by such addition, repairs or betterments; provided, that

when sales are made of the buildings apart from the land and their removal is ordered by the court, such sale shall be made, and the notice thereof given the same as in sales upon execution in district court.

Approved March 9, 1903.

JAMES McKECHNIE.

CHAPTER 123.

[H. B. No. 11—Buttz.]

RELIEF OF JAMES M'KECHNIE.

AN ACT for the Relief of James McKechnie, a Member of Battery "A,"
North Dakota National Guard.

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

§ 1. ADMITTED TO AGRICULTURAL COLLEGE.] That the trustees of the agricultural college at Fargo are authorized to admit James McKechnie to said college as a student for one year, and for such further period as said trustees shall deem just and proper, to give the said beneficiary a suitable education that will enable him to earn a livelihood.

§ 2. BOARD SHALL PROVIDE FOR MAINTENANCE.] That said James McKechnie, while a member of Battery A of the national guard of the state of North Dakota, without any fault on his part, and while in the performance of his duty as a soldier of the state, on July 4, 1902, at Lisbon, North Dakota, lost his right arm by reason of the premature discharge of a gun belonging to said battery. Said board of trustees shall provide for the maintenance (including suitable clothing) for said beneficiary during the time he remains a student in said college, and they are authorized to designate a class of studies suitable for him.

§ 3. POWERS OF BOARD.] That if said board of trustees shall at any time deem it advisable to discharge said beneficiary from said college, they are authorized so to do.

§ 4. SOLDIERS' HOME AUTHORIZED TO ADMIT.] That if at any time after said James McKechnie shall have left the said agricultural college, his physical condition becomes such that he is not able to provide for the necessaries of life, said condition not having been brought about by his own vicious habits, then the board of trustees of the soldiers' home at Lisbon, in said state, shall upon the application of said James McKechnie, examine him, with a view to his admission in the said soldiers' home, and if, upon examination, the said board of

trustees deem it advisable, they are authorized to admit said James McKechnie as an inmate to the said soldiers' home on an equality with the ex-soldiers of the United States; provided, however, that the additional expense of maintaining said James McKechnie shall be borne by the state of North Dakota.

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

§ 6. EMERGENCY.] Whereas, an emergency exists in this, that there is no law providing for the admission and maintenance of beneficiaries to the agricultural college or other educational institutions of the state, and such institutions close their school year prior to July 1, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1903.

MINORS.

CHAPTER 124.

[S. B. No. 236—Cox.]

ADOPTION OF MINORS.

AN ACT to Provide for the Adoption of a Minor Child Under Certain Specified Conditions.

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

§ 1. AMENDMENT.] Amend section 2800 of the revised codes of 1899 to read as follows:

§ 2800. CONSENT OF PARENTS OR GUARDIAN.] A legitimate child cannot be adopted without the consent of its parents, if living, nor an illegitimate child without the consent of its mother, if living, except that such consent is not necessary from a parent deprived of civil rights, or adjudged guilty of adultery or cruelty, and for either cause divorced, or from a parent adjudged to be an habitual drunkard, or of unsound mind, or who has been judicially deprived of the custody of the child on account of cruelty or neglect. In case the child has no parent living, or the consent of the parent living is not necessary under the provisions of this section, consent to the adoption may be given by the guardian, if the child has a guardian, and if there is no guardian, consent to the adoption may be given by the person having the custody of the child, or by the next of kin of the child residing in this state; provided, however, that if a child under the age of four years, who has been in the sole care of persons other than its parents, with or without their consent and approval, for the period of two

years or over, whose parent or parents have refused or neglected to support such child, then and in such case it may be legally adopted by the persons so having the custody of such child, by first obtaining the consent of the mother, or upon due proof of the facts of the parent or parents having refused to support such child for the period above specified, then such child may be adopted without the consent of such parent or parents.

§ 2. EMERGENCY.] Whereas, an emergency exists inasmuch as there is no provision of law to cover such extreme cases as may exist at the present time, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

NORMAL SCHOOLS.

CHAPTER 125.

[S. B. No. 80—Cox.]

INTEREST AND SINKING FUNDS NORMAL SCHOOL BONDS.

AN ACT Authorizing the State Board of Equalization to Include in the Annual Levy for Bond Interest and Bond Sinking Fund a Sufficient Amount to Pay the Interest and Provide a Sinking Fund for the State Normal School Bonds Issued Under the Provisions of Section 10, Chapter 89, Session Laws of 1891.

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

Whereas, by the constitution of the state two normal schools were permanently located, one at Valley City and one at Mayville, and the 80,000 acres granted by congress for the endowment of normal schools were apportioned between them; and,

Whereas, under the provisions of section 10, chapter 89, session laws of 1891, twenty thousand dollars of bonds were issued by each of said institutions for the purpose of erecting suitable buildings for normal schools, said act pledging the interest and income fund arising from their respective land grants for the payment of the annual interest, and the creating of a sinking fund to pay the bonds at maturity; and,

Whereas, no direct or other appropriation has ever been made by the state to those institutions for the erection of buildings, except the proceeds of the above mentioned bonds, and the buildings erected out of said proceeds have long since become overcrowded to such an ex-

tent that more room is imperatively needed to carry out the aim and purpose of these institutions ; and,

Whereas, it is proposed to ask the legislative assembly to authorize the issuing of sufficient bonds to erect the needed buildings, pledging the interest and income of these land grants for the payment of the interest and the creating of a sinking fund ; and,

Whereas, there is not sufficient money now coming into the interest and income funds of the respective normal schools to pay the interest, and provide sinking funds for the proposed issue, and also to pay the interest and provide a sinking fund for the bonds issued under the provisions of section 10, chapter 89, session laws 1891 ; therefore,

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

§ 1. DUTIES OF STATE BOARD OF EQUALIZATION.] The state board of equalization at its meeting in 1903, and annually thereafter, is hereby authorized and required to include in the tax levy for bond interest, a sufficient amount to pay the interest on the state normal school bonds issued under the provisions of section 10, chapter 89, session laws of 1891.

§ 2. SINKING FUND CREATED.] The state board of equalization at its meeting in 1903, and annually thereafter, is hereby authorized and required to include in the tax levy for bond sinking fund a sufficient amount to create a fund to pay the state normal school bonds issued under the provisions of section 10, chapter 89, session laws of 1891, at maturity.

§ 3. DUTIES OF STATE TREASURER.] The state treasurer is hereby authorized and required to pay all interest that may hereafter become due upon the state normal school bonds issued under the provisions of section 10, chapter 89, session laws of 1891, out of the state bond interest fund, and he is further authorized and required to pay said bonds at maturity out of the state bond sinking fund as provided in section 2 of this act.

Approved February 13, 1903.

NOTARIES PUBLIC.

CHAPTER 126.

[H. B. No. 48—Wagner.]

NOTARIES PUBLIC COMMISSIONS.

AN ACT to Amend Chapter 126 of the Session Laws of 1901, Relative to Notaries Public Commissions.

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

§ 1. AMENDMENT.] That chapter 126 of the session laws of 1901 be amended to read as follows:

Chapter 126. NOTARIES PUBLIC COMMISSIONS. DATE OF EXPIRATION.] Every notary public taking an acknowledgment to any instrument shall, immediately following his signature to the jurat or certificate of acknowledgment, indorse the date of the expiration of such commission; such indorsement may be legibly written, stamped or printed upon the instrument but must be disconnected from the seal, and shall be substantially in the following form:

My commission expires 19.....

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

Approved March 2, 1903.

OFFICERS.

CHAPTER 127.

[H. B. No. 129—Richmond.]

AUTHORIZING FIDELITY BONDS FOR CERTAIN OFFICERS.

AN ACT to Provide for the Bonding of Certain Officers.

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

§ 1. FURNISHING OF BONDS.] Whenever any county, township, city, village or school district officer, hereafter elected, shall be required by law to give or furnish a bond for the faithful performance of his duties, such bond may be executed by some responsible surety,

fidelity insurance or bonding company, authorized and qualified to do business within the state of North Dakota, and approved by the board of commissioners, trustees, supervisors, council or directors charged with the approval of same; the premium for such bond shall be audited by such board and paid out of the general fund of the county, township, city or school district, as the case may be, for whose benefit the same is given.

§ 2. EXISTING LAWS NOT AFFECTED.] This act shall not affect the provision of section 343a of the revised codes relating to county treasurers, nor the furnishing of a personal bond by any officer as may be provided for by any existing law.

Approved March 3, 1903.

CHAPTER 128.

[H. B. No. 9.—Wagner.]

OFFICIAL BONDS.

AN ACT to Amend Section 342 of the Revised Codes of 1899, Relative to Approval of Bonds.

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

§ 1. AMENDMENT.] That section 342 of the revised codes of 1899 is hereby amended so as to read as follows:

§ 342. APPROVAL OF BONDS.] The bonds of all state and district officers shall be given to the state, shall be approved by the governor as to sufficiency, and by the attorney general as to form, and such bonds, and a duplicate original of the oaths of all other such officers shall be deposited in the office of the secretary of state. The secretary of state shall keep a book in which shall be made a correct copy of such bond, which book shall be called the "bond record," and, when such bonds have been recorded they shall be deposited with and kept on file in the office of the state treasurer, except the bonds of the state treasurer, which shall be deposited with and kept on file in the office of the state auditor. The secretary of state and state treasurer on receipt of such bonds shall issue a receipt therefor, and such receipt shall be filed in the office of the state auditor. The bonds of all county, township and municipal officers shall be given to the county; those of all county and municipal officers under the county shall be approved by the state's attorney as to form, and by the board of county commissioners as to sufficiency, and such bonds and a duplicate original of the oaths of office of all other such officers shall be filed with the county auditor, except the bond and oath of such auditor, and the bonds and oaths of all county justices of the peace, which shall be filed with the clerk of the district court for the county or judicial subdivision. The bonds of township officers shall

be approved by the chairman of the board of supervisors of the township.

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

Approved February 10, 1903.

OIL INSPECTION.

CHAPTER 129.

[Sub. for H. B. No. 215.]

OIL INSPECTION.

AN ACT for the Inspection of Illuminating Oils and Gasoline; for the Appointment of a State Inspector, and Deputies, of Oils and Gasoline, Prescribing Their Duties, Designating Their Fees for Such Inspections, and Providing for the Payment and Disposition of Such Fees; Providing for Making Chemical Tests; Providing Penalties for the Violation of this Act; Requiring the State Inspector and Deputies to Make Reports, and Designating Ports of Entry Where Illuminating Oils and Gasoline Shipped Into This State Shall be Inspected.

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

§ 1. APPOINTMENT OF INSPECTORS.] The governor shall, by and with the advice and consent of the senate, appoint a suitable person, a citizen of this state, who is not engaged directly or indirectly in the manufacturing, dealing or vending of illuminating oils, whose title shall be state inspector of oils, and whose term of office shall be two years, commencing on the first Tuesday in April succeeding his appointment, or until his successor shall be appointed and shall qualify. The state inspector of oils shall appoint a suitable number of persons, residents of this state and not engaged directly or indirectly in the manufacture, dealing or vending of illuminating oils, who shall act as deputy inspectors of oils. The said state inspector of oils and his deputies shall have the right to enter into or upon the premises of any manufacturer, dealer or vendor of illuminating oils at any time and to inspect any books or papers of such manufacturer, dealer or vendor pertaining to the shipment or sale of such oils, and all barrels, casks, packages, tanks or other receptacles in which such oils are or may be contained.

§ 2. BONDS.] The state inspector of oils and his deputies shall each, before entering upon the discharge of his duties, take oath or affirmation according to the constitution of this state and the laws thereof, and shall file the same with the secretary of state. The state

inspector of oils shall execute a bond to the state of North Dakota in the penal sum of five thousand dollars, with such surety as shall be approved by the governor of the state, conditioned for the faithful performance of the duties herein imposed, which bond shall be for the use of the state of North Dakota, and of all persons aggrieved by the act or failure to act of the state inspector of oils, and the same shall be filed with the secretary of state. Each of said deputy inspectors of oils shall, before entering upon the discharge of his duties, execute a bond to the state of North Dakota in the penal sum of not less than one thousand dollars, nor more than five thousand dollars, as the state inspector of oils shall prescribe, which bond shall be approved by the governor, and shall be filed with the secretary of state; and such bond shall be conditioned for the faithful performance of the duties herein imposed and shall be for the use of the state of North Dakota, and of all persons aggrieved by the act or failure to act of the said deputy inspector of oils.

§ 3. APPARATUS.] The state inspector of oils shall immediately, upon the appointment and qualification of the deputies, named in section 2 of this act, procure and furnish to such deputies such apparatus as may be necessary to carry out the provisions of this act. He may also purchase from time to time the apparatus for making tests of illuminating oils and gasoline as hereinafter provided. The funds for the purchases shall be taken from the funds set aside for the purchase of apparatus as are hereinafter provided for.

§ 4. OILS TO BE INSPECTED.] All mineral and petroleum oils or any fluid or substance which is a product of petroleum or into which petroleum or any product thereof enters as a constituent element, whether manufactured in this state or not, shall be inspected by the state inspector of oils, or his deputies, before being used or offered for sale or consumption in this state.

§ 5. BRANDS REQUIRED.] Every person, firm or corporation offering for sale to the trade, or manufacturing within this state such illuminating oils or gasoline shall stamp or brand every package, barrel or cask, containing such illuminating oils, with the name of the brand of the oil contained in such package, cask or barrel. Every package, cask or barrel which contains gasoline shall be branded before being shipped into this state, "Unsafe for Illuminating Purposes."

§ 6. METHODS OF INSPECTION.] It shall be the duty of the oil inspector or his deputies to examine and test within this state all oil and gasoline offered for sale by any manufacturer, vendor or by any person or corporation in this state, as follows:

For oil: All illuminating oil, a product of petroleum, shall be inspected as follows:

First. The color shall be water white when viewed by transmitted light through a layer of oil four inches long.

Second. It shall not give a flash test below one hundred and five

degrees Fahrenheit, closed cup test (Elliott or Foster,) and shall not have a fire test below one hundred and twenty-five degrees Fahrenheit.

Third. It shall not have a gravity test of more than seventy-nine degrees.

Fourth. It shall not contain more than a trace of any sulphur compound.

Fifth. It shall be the duty of the state inspector of oils or his deputies to at least once in each ninety days have a chemical test made at the state university or the state agricultural college, demonstrating whether or not such oils contain more than four per cent residuum, after being distilled at a temperature of five hundred and seventy degrees Fahrenheit, and shall not contain more than six per cent of oil distilling below three hundred and ten degrees Fahrenheit. The result of such chemical tests shall be included in the state oil inspector's annual report to the governor. If upon such testing and examining such oil, such oil shall meet the requirements as to the various tests herein specified, such oil shall be marked upon the package, barrel or cask containing the same, "Approved," giving the date of such inspection and the name of the inspector or deputy. If upon such examination and testing such oil shall not meet the requirements as to the flash and fire tests herein specified, such oil shall be marked upon the barrel, package or cask containing the same, "Rejected for Illuminating Purposes," giving the date of such examination and the official signature of the inspector or deputy making such inspection. And it shall be unlawful for any person or persons, or corporation, to sell any such oil so rejected for illuminating purposes for consumption in this state.

For gasoline: All gasoline offered for sale within the state shall be tested for gravity. All gasoline which tests 66 degrees (Beaume) or higher shall be branded "Approved for Sale." And any gasoline which tests below 66 degrees (Beaume) shall be marked "Rejected for Sale." All gasoline, whether it is of required test or not, shall be branded "Unsafe for Illuminating Purposes." But this clause shall in no way be construed as preventing the sale or use of said gasoline providing it has been inspected and branded as above, "Approved for Sale."

§ 7. RECORDS AND FEES.] Each and every inspector and deputy inspector who shall inspect any consignment of oils or gasoline, as provided in this act, shall demand and receive from the owner of such oils and gasoline, at the time such inspection is made, the sum of thirty cents for testing and marking a single barrel, twenty-five cents each when not exceeding ten in number, and fifteen cents per barrel when the number of barrels is greater than ten, submitted at one time for inspection. When the amount contained in any tank, cask or vessel shall exceed fifty gallons, each fifty gallons shall constitute a barrel. Every such inspector and deputy inspector shall

keep an accurate record of all the oils inspected, rejected, branded or certified to by him, which record shall state:

Date of each inspection.

The number of packages, barrels, casks or tanks approved.

The number rejected.

The manufacturer's brand.

The name of the person for whom inspected.

The name of the person to whom consigned, with his address.

The sum of money received for such inspection.

And such record shall be open to all persons interested.

On the first day of each and every month every deputy inspector of oils shall transmit to the state inspector of oils all inspection fees received during the preceding month, and shall at the same time forward to the auditor of state and to the state inspector of oils true copies of said record for the month preceding. On the fifteenth day of each and every month the state inspector shall transmit to the state treasurer thirty-five per cent of all the inspection fees received during the preceding month, and shall at the same time forward to the auditor of state a true copy of said record for the month preceding. Thirty per cent of the thirty-five per cent so remitted shall go to the general fund of the state. The remaining five per cent shall constitute an experiment and apparatus fund, and the state inspector of oils is authorized to use such fund, or any part thereof, in carrying forward such tests and experiments, and the auditor of state shall on the requisition of the state inspector of oils issue his warrant for the same. On the first day of January of each year all sums remaining in said fund shall be covered into the general fund, of the state treasury. The state inspector of oils shall, in the month of January of each year, make and deliver to the governor a report of his acts, and those of his deputies during the year preceding, together with remarks and suggestions for the benefit of the service, which report shall include a copy and summary of the reports submitted by the said deputies as provided in this section.

§ 8. INSPECTORS MUST NOT TRAFFIC IN OILS.] It shall be unlawful for the state inspector of oils or any of his deputies to directly or indirectly while in office traffic in any of the oils which he has been appointed to inspect. Any person violating the provisions of this section shall be subject to a penalty of not exceeding five hundred dollars and be removed from office.

§ 9. PROSECUTION.] It shall be the duty of the state inspector of oils, or any of his deputies, or any person having cognizance of the violation of the provisions of this act, to forthwith make complaint to the state's attorney for the county in which the offense is alleged to have been committed, against the person or persons so offending, and it is hereby made the duty of such state's attorney to represent and prosecute on behalf of the people in his county all cases of offenses arising under the provisions of this act. Any inspector or state's attorney who wilfully refuses or neglects to carry out the pro-

visions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be removed from office.

§ 10. PENALTY.] It shall be unlawful for any person, firm or corporation whether vendor, dealer or manufacturer, to knowingly use, sell, attempt to sell or deliver to any person in this state any of the illuminating oils or gasoline hereinbefore mentioned until the same shall have been inspected and approved according to the provisions of this act. It shall be unlawful for any person to falsely brand any package, barrel or cask or falsely certify to any tank car containing illuminating oils or gasoline for the purpose of deceiving the purchaser thereof in any manner as to the contents of the same. It shall be unlawful for any person to sell or dispose of any empty barrel, cask, or package that has once been used for illuminating oils or gasoline, and has been branded in accordance with the provisions of this act before thoroughly canceling, removing or effacing the inspection brand on the same. It shall be unlawful for any person, firm or corporation to adulterate with parafine or other substance for the purpose of sale, or use any of the illuminating oils and gasoline specified in this act in such manner as to render them unsafe for use, nor shall any person knowingly use, sell or offer for sale for illuminating purposes any oil which shall emit a combustible vapor at a temperature of less than one hundred and five degrees Fahrenheit, according to the test herein prescribed, nor any gasoline which is below 66 degrees gravity (Beaume.) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a penalty of not exceeding five hundred dollars' fine, or imprisonment in the state penitentiary not exceeding one year, or both such fine and imprisonment.

§ 11. RESPONSIBILITY FOR DAMAGE.] Whoever shall knowingly use, sell or cause to be sold unlawfully any of the illuminating oils specified in this act which are below one hundred and five degrees Fahrenheit, as tested by the official tests herein prescribed, shall be liable to any person purchasing such oil or to any person injured thereby for any damage to person or property arising from any explosion thereof.

§ 12. EXAMINATION OF DEPUTIES' ACCOUNTS.] It shall be the duty of the state inspector of oils to at least once in each sixty days make a thorough examination of the books and other accounts of each of his deputies, to determine whether such deputies are fully complying with the law, and to make such other examinations as may be necessary to ascertain, as far as practicable, whether any of the provisions of this act are being violated. When the state inspector of oils shall discover any violation of the provisions of this act, he shall at once make complaint and institute prosecutions thereunder.

§ 13. REMOVALS.] It shall be the duty of the governor, whenever he shall find that the state inspector of oils is guilty of refusal or neglect to discharge any of the duties enjoined upon him by this

act, to promptly remove him from office. It shall be the duty of the state inspector of oils to promptly remove from office any of his deputies who shall prove himself to be unfaithful or dishonest in the discharge of his duties.

§ 14. PORTS OF ENTRY.] All illuminating oils and gasoline when shipped into this state shall be inspected on entering this state, the following points being designated as ports of entry: Fairmount, Wahpeton, Fargo, Grand Forks, Hankinson, Oakes and Ellendale. For making inspections other than at said points, the inspector or his deputies shall be entitled in addition to the fees prescribed, to mileage at the rate of ten cents per mile for each mile actually traveled, such mileage to be paid by the party for whom the inspection is made.

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

§ 16. EMERGENCY.] Whereas, there is now no law requiring the inspection of gasoline, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1903.

OPTOMETRY.

CHAPTER 130.

[H. B. No. 18—Beck.]

REGULATING PRACTICE OF OPTOMETRY.

AN ACT to Regulate the Practice of Optometry in the State of North Dakota, Defining the Same, Creating a State Board of Optometry, and Defining the Duties of Such Board, Providing for Compensation of Its Members, and Prescribing Who, and the Conditions Upon Which Any Person May Practice Optometry in this State, and Providing Penalties for the Violation of the Provisions of this Act.

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

§ 1. DEFINED.] The practice of optometry is defined as follows, namely: The employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general.

§ 2. UNLAWFUL TO PRACTICE WITHOUT CERTIFICATE.] It shall be unlawful for any person to practice optometry in the state of North Dakota, unless he shall first have obtained a certificate of registration and filed the same, or a certified copy thereof, with the register of deeds of the county of his residence, all as hereinafter provided.

§ 3. BOARD CREATED.] There is hereby created a board, whose duty it shall be to carry out the purposes and enforce the provisions of this act, and shall be styled the North Dakota State Board of Examiners of Optometry. Said board shall be appointed by the governor as soon as practicable after the passage of this act, and shall consist of five resident opticians who are members of the North Dakota Optical association, engaged in the actual practice of optometry. Each member of said board shall hold office for a term of three years, and until his successor is appointed. Appointments to fill vacancies caused by death, resignation or removal shall be made for the residue of such term by the governor. The members of said board, before entering upon their duties, shall respectively take and subscribe to the oath required to be taken by other state officers, and said board shall have a common seal.

§ 4. GOVERNOR TO APPOINT OFFICERS. MEETINGS.] The governor shall appoint one of the members of said board president, and one member secretary, who severally shall have the power during the term of office to administer oaths and take affidavits, certifying thereto under their hand and the seal of the board. Said board shall meet at least once in each year at a place designated by the board, and in addition thereto, whenever and wherever the president and secretary thereof shall call a meeting; a majority of said board shall at all times constitute a quorum. The secretary of said board shall keep a full record of the proceedings of said board, which records shall at all reasonable times be open to public inspection.

§ 5. EXAMINATIONS.] Every person before beginning to practice optometry in this state, after the passage of this act, shall pass an examination before said board of examiners. Such examination shall be confined to such knowledge as is essential to the practice of optometry. Any person having signified to said board his desire to be examined by them shall appear before them at such time and place as they may designate, and before beginning such examination shall pay to the secretary of said board, for the use of said board, the sum of ten dollars, and if he shall successfully pass such examination, shall pay to the said secretary, for the use of said board, a further sum of five dollars on the issuance to him of a certificate. All persons successfully passing such examination shall be registered in the board register, which shall be kept by said secretary, as licensed to practice optometry, and shall also receive a certificate of such registration to be signed by the president and secretary of said board, which shall be filed as hereinbefore provided.

§ 6. FEES.] Every person who is residing and engaged in the practice of optometry in the state of North Dakota at the time of the passage of this act, shall, within six months thereafter, file an affidavit in proof thereof with said board, who shall make and keep record of such person, and shall for the consideration of the sum of three dollars, issue to him a certificate of registration.

§ 7. WHO EXEMPT FROM PROVISIONS OF SECTION 5.] All per-

sons entitled to a certificate of registration under the full provisions of section 6 shall be exempt from the provisions of section 5 of this act.

§ 8. DUTY OF REGISTER OF DEEDS.] Recipients of said certificate of registration shall present the same for record to the register of deeds of the county in which they reside, and shall pay a fee of fifty cents to the register of deeds for recording the same. Said register of deeds shall record said certificate in a book to be provided by him for that purpose. Any person so licensed removing his residence from one county to another in this state shall, before engaging in the practice of optometry in such other county, obtain from the register of deeds of the county in which said certificate of registration is recorded, a certified copy of such record, or else obtain a new certificate of registration from the board of-examiners, and shall, before comencing practice in such county, file the same for record with the register of deeds of the county to which he removes and pay the register of deeds thereof for recording the same a fee of fifty cents. Any failure, neglect or refusal on the part of any person holding such certificate or copy of record to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same. Such board shall be entitled to a fee of one dollar for the re-issue of any certificate, and the register of deeds of any county shall be entitled to a fee of one dollar for making and certifying a copy of the record of any such certificate; this is not to prevent a registered optician from practicing in any county of the state.

§ 9. PENALTY.] Any person entitled to a certificate, as provided for in section 6 of this act, who shall not within six months after the passage thereof make written application to the board of examiners for a certificate of registration, accompanied by a written statement, signed by him, and duly verified before an officer authorized to administer oaths within this state, fully setting forth the grounds upon which he claims such certificate, shall be deemed to have waived his right to a certificate under the provisions of said section. Any failure, neglect or refusal on the part of any person holding such certificate to file the same for record as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same.

§ 10. CERTIFICATE TO BE DISPLAYED.] Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted.

§ 11. COMPENSATION OF BOARD.] Out of the funds coming into the possession of said board, each member thereof may receive, as compensation, the sum of five dollars for each day actually engaged in the duties of his office and mileage at three cents per mile for all distance necessarily traveled in going to and coming from the meetings of the board. Said expenses shall be paid from the fees and assessments received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever

be paid out of the state treasury. All moneys received in excess of said per diem allowance and mileage, as above provided for, shall be held by the secretary as a special fund for meeting expenses of said board and carrying out the provisions of this act, and he shall give such bonds as the board shall from time to time direct, and the said board shall make an annual report of its proceedings to the governor on the first Monday of December of each year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act; all surplus moneys shall go to the state school fund.

§ 12. ANNUAL LICENSE FEE.] Every registered optician shall in every year after 1903, pay to the said board of examiners the sum of two dollars as a license fee for each year. Such payment shall be made prior to the first day of April in each and every year, and in case of default in such payment, by any person, his certificate may be revoked by the board of examiners, upon twenty days' notice of the time and place of considering such revocation. But no license shall be revoked for such non-payment if the person so notified shall pay before or at such time of consideration his fee and such penalty as may be imposed by said board; provided, that said board may impose a penalty of five dollars and no more on any one person so notified, as a condition of allowing his license to stand; provided, further, that said board of examiners may collect any such dues by suit.

§ 13. CERTIFICATE REVOKED. WHEN.] Said board shall have power and must revoke any certificate of registration granted by it under this act for conviction of crime, habitual drunkenness for six months immediately before a charge is made, gross incompetency, contagious or infectious disease, or for advertising himself as an eye specialist or doctor, or for holding himself out to the public as being other than an optician, skilled in the art of optometry; provided, that before any certificate shall be so revoked, the holder thereof shall have notice in writing of the charge or charges against him, and at a day specified in said notice, at least five days after the service thereof, be given a public hearing, and have opportunity to produce testimony in his behalf and to confront the witnesses against him. Any person whose certificate has been so revoked may, after the expiration of ninety days, apply to have the same re-granted, and the same shall be re-granted him, upon a satisfactory showing that the disqualification has ceased.

§ 14. PENALTY.] Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction may be fined not less than twenty dollars, nor more than one hundred dollars, or to be confined not less than one month nor more than three months in the county jail. And all fines thus received shall be paid into the common school fund of the county in which such conviction takes place.

§ 15. JUSTICES OF PEACE TO HAVE JURISDICTION.] Justices of the peace and the respective municipal courts shall have jurisdiction of

violations of this act. It shall be the duty of the respective county attorneys to prosecute all violations of this act.

§ 16. WHO EXEMPT.] Nothing in this act shall be construed to apply to physicians and surgeons authorized to practice under the laws of the state of North Dakota, nor to persons who sell spectacles or eyeglasses as any other article of merchandise without attempting to traffic upon assumed skill in adapting them to the eye, nor to student practitioners under the supervision of registered opticians.

Approved March 4, 1903.

PERSONAL INJURY.

CHAPTER 131.

[H. B. No. 17—McKenzie.]

PERSONAL INJURY ACT.

AN ACT Fixing the Liability of Railroad Companies for Injuries Sustained by Employes of Such Companies in Consequence of the Negligence of Fellow Employes.

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

§ 1. RAILROADS LIABLE FOR DAMAGES TO EMPLOYES.] Every railroad company organized or doing business in this state shall be liable for all damages done to any employe of such company, in consequence of any negligence of its agents, or by any mismanagement of its engineers, or other employes, to any person sustaining such damage; and no contract which restricts such liability shall be legal or binding.

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

Approved March 10, 1903.

PERSONAL PROPERTY.

CHAPTER 132.

[H. B. No. 181—Palfrey.]

DISPOSING OF CHATTEL PROPERTY SUBJECT TO LIEN.

AN ACT to Amend Section 7668 of the Revised Codes, Relating to the Crime of Removing, Concealing, Selling of Disposing of Chattel Property Subject to Lien.

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

§ 1. AMENDMENT.] That section 7668 of the revised codes be amended so as to read as follows:

§ 7668. REMOVING, CONCEALING, SELLING OR DISPOSING CHATTELS SUBJECT TO LIEN.] Every person having in his possession, or under his control, any personal property upon which there is known to him to be a subsisting lien, either by operation of law or by contract, who willfully destroys, removes from the county, conceals, sells or in any manner disposes of, otherwise than is prescribed by law, or materially injures such property or any part thereof, without the written consent of the then holder of such lien, is guilty of:

1. A misdemeanor, if the value of the property does not exceed one hundred dollars; or,

2. A felony, if the value of the property exceeds such sum.

Approved March 12, 1903.

CHAPTER 133.

[S. B. No. 218—Hale.]

EXECUTION OF MORTGAGES ON PERSONAL PROPERTY.

AN ACT Amending and Re-enacting Section 4738, Revised Codes, 1899, Relating to the Execution of Mortgages on Personal Property.

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

§ 1. AMENDMENT.] Section 4738 of the revised codes, 1899, is hereby amended and re-enacted to read as follows:

§ 4738. HOW EXECUTED.] A mortgage of personal property must be signed by the mortgagor in the presence of two persons who must sign the same as witnesses thereto, or acknowledge the execu-

tion of the same before some officer qualified to take acknowledgments, and no further proof is required to admit to be filed.

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

Approved March 10, 1903.

CHAPTER 134.

[H. B. No. 51—Cassell.]

RELATING TO DELINQUENT PERSONAL PROPERTY.

AN ACT to Amend Sections 1243 and 1244 of the Revised Codes of North Dakota, Relating to Delinquent Personal Property Taxes.

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

§ 1. AMENDMENT.] That sections 1243 and 1244 of the revised codes are hereby amended so as to read as follows:

§ 1243. 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. The county treasurer shall, during the month of December preceding the time when such taxes shall become delinquent, give notice of the fact by mailing to each person, firm or corporation a written notice, stating the amount of such tax due from such person, firm or corporation, and the date when the same will become delinquent. On or before the fifteenth day of October in each year the county treasurer shall make out a list of the unpaid delinquent personal property taxes, in the same order as they appear on the tax list, and deliver the same to the sheriff of his county, who shall notify by mail each of such delinquents that such taxes have been placed in his hands 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, firm or corporation 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 by posting notices in three public places in the town or district where such property is taken, and by publishing a notice in an official newspaper, if there is one in the county, stating the time when and the place where such property will be sold, and the amount of such delinquent tax, together with the penalty and accrued interest, which place

of sale shall be at the residence or place of business of the person, firm or corporation whose goods have been distrained, or in case such person, firm or corporation has no residence or place of business within the town or district where such goods have been distrained, then at the place for the sale of mortgaged chattel property within such town or district, and no personal property shall be exempt from such distraint and sale, and if the tax for which such property is distrained, together with the penalty and accrued interest and costs is 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 such taxes, penalty, interest and costs of such distress and sale, and any surplus arising from such sale shall be disposed of as in the case of sale of mortgaged personal property. ● On the first and fifteenth days of each month after receiving such list from the county treasurer, such sheriff shall make out and file with the county treasurer a statement of the personal property taxes collected by him since the date of his last preceding statement, giving the name, town or district and post office address of each person, firm or corporation from whom collected, and the amount of the tax, including the penalty and interest collected from each, and at the same time turn over to such county treasurer the moneys collected as shown by such statement, and the treasurer shall issue receipts for the same as provided in section 1235, mailing such receipts to the person, firm or corporation entitled thereto. Such sheriff shall at the time of filing such statement with the county treasurer file a duplicate thereof with the county auditor; and shall on or before the fifteenth day of December next after receiving such list from the county treasurer, file his final statement of the taxes collected as herein provided, together with the list of uncollected taxes as provided in section 1244; 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.

§ 1244. LIST OF UNCOLLECTED TAXES. HOW DISPOSED OF.] If the sheriff is unable to collect any of the taxes appearing on the list of delinquent taxes delivered to him by the treasurer, he shall write in the margin opposite the name of the person against whom such tax is assessed the word "uncollected," and append to such list his affidavit, or the affidavit of his deputy entrusted with the collection thereof, stating that he has made diligent search and enquiry for goods and chattels out of which to make collection of the taxes so remaining uncollected, and is unable to make or collect the same; he shall also note on the margin of such list the place to which any delinquent taxpayer has removed, with the date of removal, if he can ascertain such facts, and shall on or before the fifteenth day of December following

the receipt of such list, deliver the same, with the affidavit aforesaid, to the county auditor. The county auditor shall exhibit such list to the board of county commissioners at its next regular meeting, and the board shall thereupon examine and compare the same with the sheriff's statement to the auditor and treasurer of taxes collected, and may cancel on such list such taxes as they are satisfied cannot be collected, and it shall be the duty of the county auditor to certify to the state auditor the amount of state taxes so cancelled, and the state auditor shall enter the same to the credit of the county accordingly.

Approved February 24, 1903.

PHARMACY.

CHAPTER 135.

[H. B. No. 36—McLain.]

REGISTRATION OF APPRENTICES IN PHARMACY.

AN ACT to Provide for the Registration of Apprentices in Pharmacy.
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPRENTICES REQUIRED TO FILE CERTIFICATE.] That any person desiring to register as an apprentice in pharmacy shall, at the date of entering into his apprenticeship, file with the secretary of the state board of pharmacy a certificate, stating that he has entered into an apprenticeship, and stating his age, name and that he has educational qualifications sufficient to enable him to pass an entrance examination to the high schools of the state of North Dakota, and he shall at the same time file with the said secretary a certificate from his employer, who must be a regularly licensed pharmacist of the state of North Dakota, which certificate shall set forth that the applicant has been regularly indentured to him as an apprentice in pharmacy, and that said applicant possesses to the knowledge of such registered pharmacist, educational qualifications which would enable him to pass the entrance examination to the high schools of the state of North Dakota.

§ 2. REGISTRATION OF APPRENTICE.] That upon the receipt of the certificate above mentioned by the secretary of the state board of pharmacy, and the sum of twenty-five cents as a fee for filing same, the applicant shall be registered as an apprentice, and that at the expiration of two years from the date of such registration the said applicant shall be permitted to take the examination prescribed by the state board of pharmacy for assistant pharmacist upon the conditions imposed by the said state board of pharmacy.

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

there is no law relating to the registration of apprentices in pharmacy, this law shall be in force and effect from and after the date of its passage and approval.

Approved February 28, 1903.

CHAPTER 136.

[H. B. No. 37—McLain.]

REGISTERED ASSISTANTS IN PHARMACY.

AN ACT to Amend Section 288 of the Revised Codes of 1899 of North Dakota, Relating to Qualifications of Registered Assistants in Pharmacy.

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

§ 1. AMENDMENT.] That section 288 of the revised codes of 1899 relating to qualifications of registered assistants in pharmacy, be amended so as to read as follows:

§ 288. REGISTERED ASSISTANTS. QUALIFICATIONS OF FEES.] Any registered apprentice in pharmacy, or any assistant in pharmacy, over the age of eighteen years, not having the qualifications of a registered pharmacist, who shall have been engaged in good faith for two years in assisting in the compounding of prescriptions of medical practitioners under the supervision of a registered pharmacist, in a drug store where the prescriptions of medical practitioners are compounded, and shall furnish satisfactory evidence to that effect to the state board of pharmacy, and shall upon making application for registration, pass a satisfactory examination before the said state board of pharmacy, and shall pay to the secretary of said board a fee of three dollars, be entitled to receive a certificate as registered assistant, which said certificate shall entitle him to continue in such duties as clerk or assistant, but such certificate shall not entitle him to engage in business on his own account as a pharmacist. Annually thereafter during the time he shall continue in such duties, he shall pay to the secretary of the state board of pharmacy the sum of fifty cents, for which he shall receive a renewal of such certificate.

§ 2. EMERGENCY.] Whereas, the existing laws do not provide an adequate standard qualification for the admission of assistant pharmacists, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1903.

POISONS.

CHAPTER 137.

[S. B. No. 195—Taylor.]

REGULATING SALES OF POISONS.

AN ACT to Amend Section 7282 of Chapter 39 of the Penal Code of 1899, Relating to Other Injuries to Persons, Requiring Persons Selling Poisons to Properly Label and Record the Same, and Providing a Penalty for Violation of this Act.

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

§ 1. AMENDMENT.] Section 7282 of chapter 39 of the penal code of 1899 be amended and re-enacted so as to read as follows:

§ 7282. SELLING CERTAIN ENUMERATED POISONS.] Every person who, at retail, sells, furnishes or delivers to another, either:

1. Arsenic or its preparations, corrosive sublimate, white precipitate, red precipitate, biniiodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisons, vegetable alkaloids and their salts, essential oil or bitter almonds, opium or its preparations, except paregoric and other preparations of opium with less than two grains to the ounce; or,

2. Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, without affixing to the bottle, box, vessel or package containing the same, the name of the contents, the word "poison," and his name and place of business, is guilty of a misdemeanor and is punishable by a fine of not less than ten dollars, nor exceeding five hundred dollars, or by imprisonment in the county jail for not less than thirty days, nor more than six months.

Approved March 5, 1903.

POLL TAX.

CHAPTER 138.

[H. B. No. 45—Simpson.]

FIREMEN EXEMPT FROM POLL TAX.

AN ACT to Exempt Volunteer Firemen from the Payment of Poll Tax.
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. FIREMEN EXEMPT.] Every volunteer fireman in any city, town or village having an organized fire department, the same being a member in good standing in the North Dakota Firemen's Association, shall be exempt from the payment of poll tax.

§ 2. QUALIFICATIONS.] It shall be the duty of the secretary of each fire company or department on or before the first Monday in April to file with the city auditor a report of all members in good standing and doing active fire service, during the past year, and who has attended not less than seventy-five per cent of all fire alarms, to entitle him to such exemption.

§ 3. EMERGENCY.] Whereas, there is no law by which volunteer firemen are exempt from the payment of poll tax, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

PROHIBITION.

CHAPTER 139.

[S. B. No. 168—McArthur.]

REWARD FOR ARREST AND CONVICTION OF VIOLATORS OF PROHIBITION LAW.

AN ACT to Establish a Reward for the Arrest and Conviction of Persons Violating the Provisions of Chapter 63 of the Penal Code of North Dakota, Commonly Called the Prohibition Law.

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

§ 1. REWARD.] The sum of fifty dollars shall be paid to any per-

son or persons for the arrest and conviction of each and every person who violates any of the provisions of chapter 63 of the penal code of the state of North Dakota, which amount shall be paid to the person or persons entitled thereto, on the presentation of a certificate issued as hereinafter provided from the state's attorney or the county where such conviction was had setting forth the object for which the same was issued to the treasurer of the proper county; and said treasurer shall take a receipt for the same, setting forth the object for which it was paid, which certificate and receipt shall be forwarded to the state auditor, who shall, at the next settlement, place a warrant for such amount in the hands of the state treasurer to be credited on the settlement with said county treasurer.

§ 2. HOW OBTAINED.] Any person or persons claiming such reward shall, within twenty days after the conviction of the criminal, apply to the state's attorney of the county wherein such conviction was had, who shall thereupon issue to such claimant the certificate provided for in section 1 hereof.

Approved March 19, 1903.

PUBLIC ADMINISTRATOR.

CHAPTER 140.

[H. B. No. 255—Harvey.]

CREATING OFFICE OF PUBLIC ADMINISTRATOR.

AN ACT to Create the Office of Public Administrator, Provide for the Election of an Officer Thereto, His Compensation and Qualifications, to Define His Powers, Duties and Liabilities in the Administration of Estates of Decedents and as Guardian of the Person or Persons and Estates of Minors and Insane Persons and to Define His Relations to Other Civil Officers and Their Relation to Him.

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

§ 1. CREATION.] There is hereby established and created in every organized county in this state the office of public administrator.

§ 2. OFFICER. ELECTION. TERM AND QUALIFICATIONS.] Every organized county in this state shall elect a public administrator at the general election in 1904, and every four years thereafter, who shall be ex-officio public guardian in and for his county, and shall hold his office four years and until his successor is elected, or appointed and qualified. The term of office of such officer shall commence on the first day of January following his election. He shall be an elector in the county where elected or appointed.

§ 3. OATH. BOND AND CERTIFICATE OF ELECTION.] Before enter-

ing upon the duties of his office he shall file his oath, certificate of election and bond with the judge of the county court, which bond, oath and certificate shall be recorded at length in the record book of said court. Said bond shall run to the state of North Dakota for the benefit of parties damaged by breach of the conditions thereof, and shall be in a sum of not less than ten thousand dollars, with sufficient sureties justifying and conditioned that he will:

1. Faithfully discharge all the duties of his office.
2. Account annually to the judge of the county court for all estates and property under his official control and care, or whenever required so to do by the said judge.
3. Turn over to his successor in office all property and estates in his official care and control, and truly account for the same.
4. Turn over all property and estates in his official care and control to any other administrator, executor or guardian designated by the judge of the county court, and truly account for the same.
5. Perform such other acts and duties properly relating to the office, as may be ordered by the county judge.

Which bond shall be approved and endorsed as provided for administrators and executors; and it shall be the duty of the judge of the county court to require the public administrator to make a statement annually, under oath, of the amount of property in his hands or under his control as such administrator, for the purpose of ascertaining the amount of bond necessary to secure such property, and the court may from time to time, as occasion shall require, demand additional security of such administrator, and in default of giving the same within twenty days of such demand, may remove the public administrator and appoint another.

§ 4. COMPENSATION. HOW REMOVED FROM OFFICE. WHY. He shall receive the same compensation for his services as may be allowed by law to executors, administrators and guardians, unless the court, for special reasons, allows a higher compensation. Such public administrator may be removed from office in the same manner and for the same reasons as other public officers, except as provided in sections 3 and 7 of this act, in which case the removal may be summary and upon motion of the judge of the county court.

§ 5. DUTIES AND POWERS OF PUBLIC ADMINISTRATOR.] It shall be the duty of the public administrator to take into his charge, without application to the county court, or special appointment, the estates of all deceased persons, and the person and estates of all minors, and the estate or person and estates of all insane persons in his county, in the following cases:

First. When a person dies intestate in the county without relations, or dies leaving a will, and the executor named is absent or fails to

Second. When persons die intestate without any known heirs.

Third. When persons unknown die or are found dead in the county.

Fourth. When money, property, papers or other estate are left in a situation exposed to loss or damage, and no other person administers on the same.

Fifth. When any estate of any person who dies intestate therein or elsewhere, is left in the county liable to be injured, wasted or lost, when such intestate does not leave a known husband, widow or heirs in this state.

Sixth. The person of all minors under the age of fourteen years, whose parents are dead, and who have no legal guardian.

Seventh. The estate of all minors whose parents are dead, or if living, refuse or neglect to qualify as guardian, or having qualified, have been removed, or are, from any cause, incompetent to act as such guardian, and who have no one authorized by law to take care of and manage their estates.

Eighth. The estates of person and estates of all insane persons in his county who have no legal guardian and no one competent to take charge of such estate, or to act as such guardian can be found, or is known to the court having jurisdiction, who will qualify.

Ninth. Where from any other good cause, said court shall order him to take possession of any estate to prevent its being injured, wasted, purloined or lost.

§ 6. ADDITIONAL POWERS. DUTIES AND REMEDIES.] In addition to the provisions of the foregoing sections he shall have the same powers as are conferred upon, and be subject to the same duties, penalties, provisions and proceedings as are enjoined upon or authorized against special administrators and guardians by the probate code, so far as the same may be applicable. And he may be appointed in proper cases as general administrator without giving additional bond, except as provided in section 2 of this act, and shall then continue the administration until finally settled, unless he resigns, dies, is discharged in the ordinary course of law as the administrator, or is removed for cause as public administrator or as administrator, and may exercise the powers conferred upon, and shall be subject to the duties and liabilities imposed upon such administrators.

§ 7. GIVING NOTICE ON TAKING CHARGE OF ESTATE. PENALTY FOR FAILURE.] It shall be the duty of every public administrator immediately upon taking charge of any estate, except those which he shall have taken charge under the order of the county court for the purpose of administering the same, to file a notice of the fact in the office of the county court. If any public administrator shall fail to file the notice provided for in this section, he shall forfeit and pay to the persons entitled to the estate a sum not exceeding two hundred dollars to be recovered before said court, on motion, and after reasonable notice thereof to said public administrator; and said court may in its discretion remove such public administrator from office.

§ 8. CIVIL OFFICERS TO INFORM HIM AS TO PROPERTY. WHEN.] It shall be the duty of all civil officers to inform the public administrator of all property and estate known to them which is liable to

loss, waste or injury and which by law ought to be in the hands of the public administrator.

§ 9. SHALL PROSECUTE NECESSARY SUITS.] The public administrator shall institute all manner of suits and prosecutions that may be necessary to recover the property, debts, papers or other estates of the person deceased, or of any minor, or insane person, in his charge or custody.

§ 10. COURT MAY ORDER HIM TO ACCOUNT TO SUCCESSOR. WHEN.] The probate court may at any time, for good cause shown, order the public administrator to account for and deliver all money, property or papers belonging to any estate in his hands to his successor in office or to the heirs of said estate, or to any executor or administrator regularly appointed as provided by law.

Approved March 12, 1903.

PUBLIC HIGHWAYS.

CHAPTER 141.

[S. B. No. 198—Hale.]

HIGHWAY ACROSS DEVILS LAKE.

AN ACT Granting the Consent and Permission of the State of North Dakota to the Construction and Maintenance of a Highway Across, Within, Under and Through the Waters of Devils Lake, Extending From Pelican Point to the Southerly Bank of Said Lake, and Ratifying all Acts Heretofore Performed in the Construction or Maintenance Thereof.

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

§ 1. CONSENT OF STATE GRANTED.] There is hereby granted to the public, and to each and every county, township, municipal corporation and political subdivision interested in, or affected or benefited by the provisions hereof, the consent and permission of the state of North Dakota to construct and at all times maintain a public highway, consisting either in whole or in part of grades, fills, embankments or bridges, or any combination thereof, or otherwise, across, within, under and through the waters of Devils Lake, extending from the point known as Pelican Point on the northerly bank of said lake, in a southerly direction by the most feasible and practicable route to the southerly bank of said lake.

§ 2. FORMER ACTS RATIFIED.] All acts heretofore performed in the construction or partial construction or maintenance of a highway

between the points designated in section 1 hereof by grades, fills, embankments or otherwise, are hereby ratified, approved and confirmed.

§ 3. EMERGENCY.] And whereas, an emergency exists in that a portion of said highway has already been constructed, and it is necessary to resume and complete the construction thereof as soon as possible, and there is no existing law on the subject, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1903.

PUBLIC WAREHOUSES.

CHAPTER 142.

[S. B. No. 51—Kirkeide.]

WAREHOUSES ON RAILROAD RIGHTS OF WAY.

AN ACT to Provide for the Erection of Public Grain Warehouses and Grain Elevators, on or Near the Right of Way of Railways, and Providing for Condemnation Proceedings in Connection Therewith, and to Repeal Sections 1796, 1797 and 1799, of the Revised Codes, North Dakota, 1899.

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

§ 1. WAREHOUSE ON RAILROAD RIGHT OF WAY. APPLICATION.] Any person, firm or corporation desirous of erecting and operating at or contiguous to any railway station or siding a warehouse or elevator for the purchase, sale, shipment or storage of grain for the public for hire may make application in writing, containing a description of that portion of the right of way of said railroad on which said person, firm or corporation desires to erect a warehouse or elevator, and the size and capacity of the warehouse or elevator proposed to be erected, and the time for which it is desired to maintain said warehouse or elevator to the person, firm or corporation owning, leasing or operating the railway at such station or siding for the right, privilege and easement of erecting and maintaining for the time stated in said application, and for reasonable compensation such warehouse or elevator as aforesaid, upon the right of way appertaining to such railway at such siding or station, and within and between the outside switches of the yard of such railway station or siding, and upon paying or securing in the manner hereinafter prescribed reasonable compensation for the right, privilege and easement aforesaid, shall absolutely and unconditionally be entitled to the same.

§ 2. SAME. COMPENSATION. NOTICE TO APPLICANT OF ACCEPTANCE OR REJECTION.] The application provided in the first section of this act shall also state the amount the applicant deems a reasonable compensation for the right, privilege and easement he desires to acquire, and said applicant shall tender and pay to such person, firm or corporation, from whom such easement is sought, the sum stated in such application, and in case the amount so named and tendered is not accepted, and the parties cannot agree on the amount to be paid for such right, privilege and easement, the same shall be ascertained, assessed and determined by proceedings in the district court of the county in which the station or siding at which the right, privilege and easement sought is situated, which court is hereby given full jurisdiction in the premises, and shall at all times be deemed open and in session for the purposes of this act. It shall be the duty of any person, firm or corporation to whom application is made for the right to erect and maintain an elevator or warehouse under the provisions of this act, to within ten days after the receipt of said application notify said applicant in writing of the acceptance or rejection of the amount stated in said application to be reasonable compensation for the right, privilege and easement sought to be acquired, and in case said person, firm or corporation fails to notify the applicant within said ten days, said person, firm or corporation shall be deemed to have accepted said amount, and upon payment or tender thereof said applicant shall be deemed to have acquired the right, privilege and easement applied for.

§ 3. SAME. PROCEDURE IN DISTRICT COURT.] Proceedings in the district court shall be instituted and carried on as follows: The party seeking the right, privilege and easement aforesaid shall present to and file with the district court a petition in writing and under oath specifying and describing the right, privilege and easement sought and the time for which the same is sought and the fact that the parties to the proceedings are unable to agree upon the amount of compensation therefor. A copy of the application for such privilege shall be attached to said petition and thereupon it shall at once be the duty of the court, by its order in writing, to fix upon a place and a time not more than thirty days thereafter where and when the court will try, ascertain, assess and determine the amount of such compensation; a certified copy of which order at least twenty days before the time so fixed upon, shall be served upon the party from whom the right, privilege and easement is sought as summons are served in civil actions of said court, and such service when made shall be ample notice to and summons for the party so served to appear and join in the proceedings and shall be ample to give the court full jurisdiction over the party against whom the proceedings are instituted and the property involved in the proceedings.

§ 4. SAME. TRIAL. ELECTION OF GROSS SUM OR ANNUAL RENTAL. WRIT.] At the time and place so fixed for ascertaining, assessing and determining the compensation aforesaid, the court shall im-

mediately proceed to try said matter, without a jury, if the parties consent, and if they do not consent and if the time and place fixed for said hearing is at a general or special term of said court where a petit jury has been summoned, the court shall proceed to a hearing of such matter with a jury selected and sworn from the panel present at such term, in the same manner as jurors are selected and sworn from the panel present at such term, in the same manner as jurors are selected in civil actions, and if the regular panel is exhausted before a jury is secured, talesmen may be summoned. In case said proceedings are made returnable at any other time than at a term where a petit jury shall have been summoned, the court shall make an order requiring the selection of twenty-four jurors from those returned by the county commissioners, which jury shall be drawn and selected in the same manner as provided by law for the drawing of jurors for general terms of the district court, and from the jurors so returned, a jury shall be selected the same as in civil actions and the trial shall proceed after the manner of trials in civil actions, and the court or jury, as the case may be, shall find and assess compensation both in the form of an annual rental and in the form of a gross sum for the right, privilege and easement sought, and immediately after the finding or verdict has been made the party against whom the proceedings have been taken shall elect whether to receive the annual rental or the gross sum found, and in case such election is not made by this party, then the other party to the proceedings may make such election, and after election is made as aforesaid, judgment shall be rendered adjudging, among other things, that upon payment of the gross sum found or the annual rental found, yearly in advance, as the case may be, the party instituting the proceedings shall be entitled to the right, privilege and easement of erecting and maintaining the elevator or warehouse asked for in the application and petition aforesaid, and for the time therein specified; and thereupon the party in whose favor said judgment is rendered shall be entitled to a writ of execution in proper form to immediately invest such party with the right, privilege and easement aforesaid.

§ 5. FORFEITURE. APPEAL. COSTS.] In case the annual rental is elected the same shall be paid yearly in advance, and if not so paid after thirty days' default the right, privilege and easement aforesaid shall be absolutely forfeited. Within thirty days after the entry of said judgment as hereinbefore provided, but not later, an appeal may be taken by either party to the supreme court, but such appeal shall not stay or hinder the use or enjoyment to the fullest extent of the right, privilege and easement asked for by the petition and conferred by the judgment, if the party instituting the proceedings shall make and file a bond with sureties, to be approved by the court, in an amount double the gross sum or annual rental, conditioned to pay such sum or rental and to abide and satisfy any judgment the supreme court may render in the premises. Costs and disbursements as in civil actions shall, in each court, be paid by the unsuccessful

party. If the findings of the court or jury is for a less or the same amount as tendered by the petitioner before instituting the proceedings, then the petitioner shall be deemed the successful party; but if the amount found is larger than the sum tendered, then the petitioner shall be deemed the unsuccessful party. In the supreme court, if the judgment or order appealed from is reversed or modified, the appellant shall be deemed the successful party; but if the judgment or order appealed from is affirmed, the respondent shall be deemed the successful party.

§ 6. SAME. WAREHOUSES TO BE DEEMED PUBLIC. TO BE OPEN FROM SEPTEMBER 15TH TO JANUARY 15TH.] All elevators and warehouses erected and maintained under the provisions of this act, shall be deemed public elevators and public warehouses and shall be subject to legislative control and shall be kept open for business for the public for reasonable business hours from the fifteenth day of September in each calendar year to the fifteenth day of January in each succeeding calendar year. Any person, firm or corporation who fails to comply with the provisions of this [section] shall forfeit the rights, privileges and easements acquired under this act.

§ 7. SAME. ERECTION OF WAREHOUSES.] Any persons, firms or corporations availing themselves of the provisions of this act shall within sixty days after the amount to be paid for the easement acquired thereunder is finally determined, by agreement or by proceedings in court, commence the erection of the warehouse or elevator stated in the application referred to in section one and complete the same within ninety days thereafter, and in case of failure to comply with the provisions of this section they shall be deemed to have abandoned the right, privilege and easement acquired, and the part or portion of the railroad right of way described in their application shall be subject to selection by other applicants who may desire to avail themselves of the provisions of this act.

§ 8. REPEAL.] That all acts and parts of acts in conflict herewith are hereby repealed, and sections 1796, 1797 and 1799 of the revised codes of North Dakota, 1899, are expressly repealed.

Approved March 2, 1903.

RAILROADS.

CHAPTER 143.

[H. B. No. 145—Leech.]

LONG AND SHORT HAULS.

AN ACT to Amend Section 3023 of the Revised Codes, Relating to Long and Short Hauls Upon Railroads and Common Carriers.

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

§ 1. AMENDMENT.] Section 3023 of the revised codes is hereby amended to read as follows :

§ 3023. LONG AND SHORT HAULS.] It shall be unlawful for any railroads, railroad corporations or common carriers, subject to the provisions of this article, to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of a like kind of freight or property, for a shorter than for a longer distance over its railroads, all or any portion of the shorter haul being included within the longer ; and said railroads, railroad corporations or common carriers shall charge no more for transporting passengers or freight to or from any point on its railroads than a fair and just rate as compared with the price it charges for the same kind of transportation to or from any other point ; provided, that all the provisions of this section shall apply to the transportation of passengers and all kinds of freight and property shipped and transported over one or more connecting lines ; provided, further, that such connecting lines shall transfer car lots without extra compensation, and shall transfer less than car lots at actual cost for such transfer ; and provided, further, that rates shall be made and published by such connecting lines for such continuous shipment upon demand of any shipper or shippers and that such rates so made by two or more connecting lines shall be no greater in the aggregate than the rate would be if shipped continuously upon one line of road.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that railroad corporations and common carriers are discriminating against shippers within this state on shipments made on two or more connecting lines, and as it is therefore necessary to provide against the same by law, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 144.

[S. B. No. 201—McDonald.]

REGULATING TRANSPORTATION OF LIVE STOCK.

AN ACT Defining the Duty of Railroads, Railroad Corporations, Railroad Companies, Express Companies, Car Companies and Every Common Carrier Other Than by Water, and All the Person or Persons Operating Such Common Carriers, as Receivers, Lessee or Trustee, in the Transportation of Any Kind of Live Stock, and Providing an Average Minimum Rate of Speed of all Trains Carrying any Such Live Stock, and Providing Penalties for all Failures to Comply With the Provisions of This Act.

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

§ 1. MINIMUM SPEED TO BE MAINTAINED.] It shall be the duty of every railroad, railroad corporation, railway company, express company, car company and of every common carrier other than by water, by whatever name it may be called or by whomsoever operated and which is wholly or in part engaged in the transportation of any kind of live stock by railroad within or to or from any point in this state, to transport any and all such live stock so by it being transported, with the utmost diligence, and to maintain within this state in all trains so transporting any such live stock an average minimum rate of speed of not less than twenty miles per hour from the time any such live stock is loaded upon or into its cars until such train reaches its destination, deducting only in the computation of such average minimum rate of speed such reasonable time as any such live stock may be necessarily delayed in unloading to feed, water and rest and in feeding, watering and resting and in reloading.

§ 2. PENALTY FOR VIOLATION.] Every railroad, railroad corporation, railway company, express company, car company or common carrier other than by water, and the person or persons operating such common carrier as receiver, lessee or trustee violating any of the provisions of section 1 of this act, shall be liable to the owner or owners of any live stock so being transported, in the sum of five dollars per car for each and every hour any car, wholly or in part loaded with any live stock, is detained beyond the time provided in said section 1 of this act, and, in addition thereto, every such railroad, railroad corporation, railroad company, express company, car company or common carrier, or the person or persons operating any such common carrier as receiver, lessee or trustee, shall be liable to such owner or owners of said live stock for all damages sustained on account of any such delay, to be collected in an action by such owner or owners in any court of competent jurisdiction in this state.

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

Approved March 19, 1903.

CHAPTER 145.

[S. B. No. 72—Hagen.]

PROHIBITING DISCRIMINATION IN GRAIN SHIPMENT.

AN ACT to Amend Section 3068 of the Revised Codes of the State of North Dakota for 1899.

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

§ 1. AMENDMENT.] Section 3068 of the revised codes of 1899, is hereby amended to read as follows:

§ 3068. GRAIN TO BE SHIPPED WITHOUT DISCRIMINATION.] Any railroad company doing business in this state, when requested by any person wishing to ship grain on its road, shall receive and transport such grain in bulk, and permit the same to be loaded either on its track adjacent to its depot, or at any warehouse or sidetrack at any station or siding without discrimination or distinction as to the manner or condition in which such grain is offered for transportation, or as to person, corporation, warehouse, elevator or place where, or to which it may be consigned and shall receive the same in carload lots from wagons, sleighs or other vehicles on its sidetrack at any station the same as when offered from warehouses or elevators, allowing forty-eight hours' time for loading all cars, which time shall be held to embrace such time as car to be loaded is placed and kept by such railroad company in a convenient and proper place for loading; and it shall not be held a proper place for loading unless such car can be reached by teams or other suitable means of conveying property, after the same have been loaded, whether at sidetrack, elevator, warehouse or depot, without unnecessary delay proceed to ship the same to the place where the same is consigned.

Approved March 2, 1903.

CHAPTER 146.

[S. B. No. 155—Swenson.]

MAXIMUM COAL RATES.

AN ACT to Amend Section 30711 of the Revised Codes of the State of North Dakota for 1899, Relating to Maximum Coal Rates.

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

§ 1. AMENDMENT.] That section 30711 of the revised codes of 1899 be, and the same is hereby amended to read as follows:

§ 30711. MAXIMUM COAL RATE.] All railroad companies doing business as common carriers within the state of North Dakota shall not charge for the transportation of coal within said state a greater rate per ton than the following:

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

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

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

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

For any distance over forty miles and not to exceed sixty miles, seventy cents per ton.

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

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

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

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

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

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

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

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

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

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

Approved March 10, 1903.

S. L.—13

CHAPTER 147.

[S. B. No. 114—Regan.]

MAINTENANCE OF STATION HOUSES.

AN ACT to Amend Chapter 179 of the Session Laws of 1901, Relating to the Maintenance of Station Houses.

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

§ 1. AMENDMENT.] That section 2985 of the revised codes of 1899 be amended so as to read as follows:

§ 2985. WHEN STATION HOUSE TO BE MAINTAINED.] Every railroad corporation in the state shall build a station house and keep a station agent twelve months each year at all its sidings where there is grain and merchandise of any description to be shipped, the freight on which amounts to fifteen thousand dollars or more in any one year, and the receipts of incoming freight shall amount to four thousand dollars per annum, or more.

§ 2. EMERGENCY.] Whereas, an emergency exists in that many railroad stations have been closed, to the great detriment of business and inconvenience of a large number of citizens, therefore, this act shall take effect and be in full force upon its passage and approval.

Approved March 5, 1903.

CHAPTER 148.

[S. B. No. 144—Lavayea.]

RAILWAY TRAINS TO STOP AT CROSSINGS.

AN ACT to Amend Section 2977 of the Revised Codes of 1899, Relating to Stopping of Trains Before Crossing Other Railroads or Drawbridges.

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

§ 1. AMENDMENT.] Section 2977 of the revised codes of 1899, relating to stopping of trains before crossing other railroads or drawbridges, is hereby amended so as to read as follows:

§ 2977. TRAINS MUST STOP BEFORE CROSSING OTHER RAILROADS OR DRAW BRIDGES. EXCEPTION. WHEN.] Every train of cars, and every locomotive about to cross the track of another railroad, shall come to a full stop before arriving at, or crossing the track of such other, and within four hundred feet thereof; and the train or locomotive arriving near such crossing first, shall cross and move on first; and every such train or locomotive shall also come to a full stop be-

fore crossing or running upon any draw bridge over a stream which is regularly navigated by vessels during the season when such stream is so used for navigation, and the use of such draw is necessary for the passage of boats, vessels and other crafts, navigating the waters of such stream, at a distance from such bridge of not more than six hundred feet; provided, that no such stop need be made before crossing such draw bridge or railroad crossing of railroads operated by the same company, if at the time an employe of the company shall be standing on such bridge or crossing with a proper light by night, or flag by day, and signal such train to proceed; provided, however, that in case any two railroads which cross each other, or in any way connect at a common grade, shall by any works or fixtures to be erected and maintained by them, or either of them, render it safe to pass over said crossings without stopping, and such work or fixtures shall first be approved by the commissioners of railroads of this state, and the plan of such works or fixtures for such crossing, designating the place of such crossing, shall be filed with the said commissioners of railroads; then in that case the foregoing provisions of this section requiring the stoppage of trains at such railroad crossings shall not apply; but if said commissioners of railroads shall disapprove such plan, or fail to approve the same within twenty days after the filing thereof with them, such railroad companies, or either of them, may apply in the county where such crossing is situated, to the judge of the district court in and for said county, either in term or vacation, by a petition in writing, setting forth the object of said application, and said court or judge shall thereupon appoint a time and place for the hearing of said petition, and a copy of the order appointing such time and place, together with a copy of said petition, shall be served upon the commissioners of railroads at least ten days before the day appointed for such hearing; and the said district court or any judge thereof, either in term time or vacation, shall have full power upon the hearing of said petition, to grant the prayer thereof, or to make such other order thereon as may be proper in the premises.

Approved March 10, 1903.

RAPE.

CHAPTER 149.

[H. B. No. 84—Bostrom.]

DEFINING RAPE.

AN ACT to Amend Sections 7156, 7159, 7160 and 7166, of Chapter 27, Revised Codes of 1899, Defining Rape, Abduction, Carnal Abuse of Children and Seduction.

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

§ 7156. RAPE DEFINED.] Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. When the female is under the age of eighteen years.
2. When she is incapable, through lunacy or any other unsoundness of mind, whether temporary or permanent, of giving legal consent.
3. When she resists, but her resistance is overcome by force or violence.
4. When she is prevented from resisting, by threats of immediate and great bodily harm, accompanied by apparent power of execution.
5. When she is prevented from resisting by an intoxicating, narcotic or anesthetic agent, administered by or with the privity of the accused.
6. When she is at the time unconscious of the nature of the act, and this is known to the accused.
7. When she submits under the belief that the person committing the act is her husband, and this belief is induced by artifice, pretence or concealment practiced by the accused, with intent to induce such belief.

§ 7159. RAPE IN FIRST DEGREE DEFINED.] Rape committed upon a female under the age of eighteen years, or incapable through lunacy or any other unsoundness of mind, of giving legal consent, or accompanied by means of force overcoming her resistance, is rape in the first degree.

§ 7160. RAPE IN SECOND DEGREE DEFINED.] In all other cases rape is of the second degree; but no conviction can be had in case the female is over the age of eighteen years and the male under the age of twenty years at the time of the act of intercourse, and it appears to the satisfaction of the jury that the female was sufficiently matured

and informed to understand the nature of the act and consented thereto.

§ 7166. ABDUCTION FOR PROSTITUTION.] Every person who takes away any female under the age of eighteen years, from her father, mother, guardian or other person having legal charge of her person, without the consent of such father, mother, guardian or other person having legal charge of her person, or any friendless female under the age of eighteen years, either for the purpose of concubinage or prostitution, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both.

Approved March 10, 1903.

REAL ESTATE.

CHAPTER 150.

[H. B. No. 275—Ryan.]

EXECUTION, ACKNOWLEDGMENT AND LEGALIZATION OF INSTRUMENTS.

AN ACT Prescribing Who May Execute Assignments, Discharges, Satisfaction, Etc., of Liens on Real Estate on Behalf of Corporations, and Legalizing Prior Like Instruments.

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

§ 1. WHO MAY EXECUTE.] Any officer of any foreign or domestic corporation may execute and acknowledge in its behalf assignments of, releases of, satisfactions of, or other instruments affecting liens upon real estate.

§ 2. PRIOR INSTRUMENTS LEGALIZED.] All assignments of, releases of, satisfactions of, or other instruments affecting liens upon real estate heretofore executed and acknowledged in good faith by any officer of any foreign or domestic corporation in its behalf, are declared valid and effectual to the same extent as they would have been had section 1 hereof been in force at the time of their execution.

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

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no adequate law relating to this subject, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 151.

[H. B. No. 16—Rose.]

LEASES OF REAL ESTATE.

AN ACT to Amend Section 3310 of Article 4 of Chapter 24 of the Civil Code, Relating to Leases of Real Estate.

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

§ 1. AMENDMENT.] That section 3310 of article 4, chapter 24, of the civil code be amended so as to read as follows:

§ 3310. LEASES LIMITED.] No lease or grant of agricultural land for a longer period than ten years, in which shall be reserved any rent or service of any kind, shall be valid. No lease or grant of any town or city lot for a longer period than ninety-nine years, in which shall be reserved any rent or service of any kind, shall be valid.

§ 2. EMERGENCY.] An emergency exists in this, that there is now no law providing for the leasing of any city property for a longer period than twenty years, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 13, 1903.

CHAPTER 152.

[S. B. No. 205—Lewis.]

DEFINING THE TERM "CONVEYANCE."

AN ACT Amending Sections 3594 and 3595 of the Revised Codes, Relating to the Recording of Conveyance, and the Effect Thereof and Defining the Term "Conveyance."

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

§ 1. AMENDMENT.] That section 3594 of the revised codes be, and the same is hereby amended so as to read as follows:

§ 3594. RECORDING EFFECT.] Every conveyance by deed, mortgage or otherwise, of real estate within this state, shall be recorded in the office of the register of deeds of the county where such real estate is situated, and every such conveyance not so recorded shall be void as against any subsequent purchaser in good faith, and for a valuable consideration, of the same real estate, or any part or portion thereof, whose conveyance, whether in the form of a warranty deed, or deed of bargain and sale, deed of quit claim and release, of the form in common use, or otherwise, is first duly recorded; or as against any attachment levied thereon, or any judgment lawfully obtained, at the suit of

any party, against the person in whose name the title to such land appears of record, prior to the recording of such conveyance. Every conveyance aforesaid heretofore executed, and not so recorded, and which shall not be so recorded within three months from the passage of this act, shall be void as against any subsequent purchaser in good faith, and for a valuable consideration, of the same real estate, or any portion thereof, claiming under or through a deed of quit-claim and release, of the form in common use, heretofore so recorded, or which may be recorded before such prior conveyance. The fact that such first recorded conveyance of such subsequent purchaser for a valuable consideration is in the form, or contains the terms of a deed of quit claim and release aforesaid, shall not affect the question of good faith of subsequent purchaser, or be of itself notice to him of any unrecorded conveyance of the same real estate or any part thereof; provided, however, that all deeds, mortgages, and other instruments affecting real estate, situated in any unorganized county, may be recorded in the county to which such unorganized county is attached for judicial purposes; and records of such instruments which have been or shall be so made, shall have the same effect as if recorded in a county where the premises are situated.

§ 2. AMENDMENT.] That section 3595 of the revised codes be, and the same is hereby amended so as to read as follows:

§ 3595. CONVEYANCE DEFINED.] The term "conveyance," as used in the last section, embraces every instrument in writing by which any estate or interest in real property is created, aliened, mortgaged or encumbered, or by which the title to any real property may be affected, except wills, and powers of attorney.

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

Approved March 13, 1903.

CHAPTER 153.

[H. B. No. 52—Cassell.]

POWER OF ATTORNEY TO FORECLOSE MORTGAGES TO BE FILED BY ATTORNEYS.

AN ACT Requiring Agents and Attorneys to Have a Power of Attorney Authorizing the Foreclosure of Real Estate Mortgages, and Requiring it to be Filed for Record in the Office of the Register of Deeds.

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

§ 1. MORTGAGES. AGENTS AND ATTORNEYS MUST HAVE POWER OF ATTORNEY TO FORECLOSE.] It shall be unlawful for any agent or attorney of any mortgagee, assignee, person or persons, firm, corpora-

tion, executor, administrator, trustee or guardian, owning or controlling any real estate mortgage to foreclose the same until he shall receive a power of attorney from such mortgagee, assignee, person or persons, firm, corporation, executor, administrator, trustee or guardian, authorizing such foreclosure and in foreclosure proceedings by action the possession of such power of attorney shall be alleged in the complaint.

§ 2. FORECLOSURE OF REAL ESTATE MORTGAGE BY AGENT OR ATTORNEY NOT VALID. WHEN.] No sale of real estate upon foreclosure made by an agent or attorney shall be valid for any purpose, unless such power of attorney shall be procured as herein provided, and filed for record in the office of the register of deeds of the county wherein said real estate is located, before the day fixed or appointed to make the same; provided, that any person, firm or corporation not owning such mortgage, but controlling the same, shall, in addition to furnishing such power of attorney, furnish such agent or attorney making such foreclosure a copy of the instrument authorizing such control, and a failure to do so shall invalidate such foreclosure.

§ 3. REPEAL.] Chapter 132 of the session laws of 1899, and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1903.

REGISTERS OF DEEDS.

CHAPTER 154.

[H. B. No. 54—Van Arnam.]

SALARIES OF REGISTERS OF DEEDS AND APPOINTMENT OF DEPUTIES.

AN ACT to Amend Section 2078 of the Revised Codes of 1899, Providing for the Payment of Salaries to Registers of Deeds and their Deputies and for Fixing the Number and Compensation of Such Deputies.

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

§ 1. AMENDMENT.] That section 2078 of the revised codes of the state of North Dakota, as revised and compiled in 1899, be and the same is hereby amended so as to read as follows:

§ 2078. COUNTY COMMISSIONERS MAY EMPLOY DEPUTIES OR CLERKS. WHEN. COMPENSATION.] If, in the judgment of the board of county commissioners, it shall be deemed necessary for the prompt and accurate dispatch of the business in the office of the

register of deeds that deputies or clerks be employed therein, it shall by resolution fix the number of clerks to be employed and the compensation which they shall receive, which compensation shall be paid monthly from the special salary fund by warrant; provided, that the officers in whose office such deputies or clerks are to be employed shall have the sole power of appointing and removing them at pleasure; provided, further, that the total amount paid to the register of deeds for salary and clerk hire shall in no case exceed the amount of fees by such officer collected; and in counties having a population of less than fifteen thousand, to be ascertained as hereinafter provided, such amount so paid such register of deeds and clerk hire shall not exceed the sum of five thousand dollars; and in counties having a population of more than fifteen thousand, to be ascertained as hereinafter provided, such amount so paid to such register of deeds and clerk hire shall not exceed the sum of seven thousand five hundred dollars; provided, however, that all moneys received for compiling or the continuation of abstracts of title, shall be turned over to the county treasurer, who shall credit the same to the county general fund; such population shall be ascertained by taking the total number of votes cast at the last presidential election in said county and multiplying the same by five. Any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed to any such clerk or deputy, shall be guilty of a misdemeanor.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that in certain counties of this state the amount now allowed by law for clerk hire in the office of the register of deeds is insufficient to pay a sufficient number of competent clerks or deputies for the prompt and accurate dispatch of the business of such office, and such business is being therefore delayed, therefore, this act shall take effect from and after its approval.

Approved March 10, 1903.

ROAD SUPERVISORS.

CHAPTER 155.

[S. B. No. 124—McArthur.]

REPORT AND COMPENSATION OF ROAD SUPERVISORS.

AN ACT to Amend Section 1112 of the Revised Codes of North Dakota for the Year 1899, Relating to the Report and Compensation of Road Commissioners.

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

§ 1. AMENDMENT.] That section 1112 of the revised codes of 1899 be amended to read as follows:

§ 1112. REPORT OF ROAD SUPERVISORS.] On or before the first Monday in January in each year, the road supervisors appointed by the board of county commissioners, shall each make a report to the board of his doings as such during the preceding year, the amount of labor [performed,] the number of days' labor necessarily performed by him in the discharge of his duties, and the county commissioners shall thereupon cause a warrant to be drawn on the county treasurer in favor of such supervisor for such services at two dollars per day, payable from the road fund belonging to such district.

Approved March 9, 1903.

REVENUE AND TAXATION.

CHAPTER 156.

[H. B. No. 75—Sheils.]

PROPERTY OMITTED FROM ASSESSMENT.

AN ACT to Provide for the Assessment of Property Omitted from Assessment, to Provide for the Adding of Taxes Not Collected to the Next Year's Tax and to Amend Section 1283 of the Revised Codes of North Dakota, 1899.

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

§ 1. AMENDMENT.] That section 1283 of the revised codes,

North Dakota, 1899, be, and the same is hereby amended to read as follows:

§ 1283. PROPERTY OMITTED FROM ASSESSMENT. TAX NOT COLLECTED TO BE ADDED TO NEXT YEAR'S TAX.] If any real or personal property shall be omitted in the assessment of any year or years, and the property shall thereby escape taxation, when such omission shall be discovered the county auditor shall enter such property on the assessment and tax books for the year or years omitted, and he shall assess the same, and extend all arrearage of taxes properly accruing against said property, with seven per cent interest thereon from the time said taxes would have become delinquent, and the same shall be extended against such property on the tax list for the current year. If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceedings or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.

Approved March 10, 1903.

CHAPTER 157.

[S. B. No. 206--Lewis.]

VALIDATING FORMER ASSESSMENTS AND LEVIES OF TAXES.

AN ACT Providing for Future Valid Assessments and Levies of Taxes and Delinquencies and Penalties Thereon..

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

§ 1. ASSESSMENTS VALID. WHEN.] Every assessment of real or personal property for the purposes of taxation, and every assessment roll, hereafter made by any officer authorized by law to assess the property described in such assessment roll for the purpose of taxation, and returned to the county auditor of any county in this state, and acted upon and adopted by the board of equalization of such county as an assessment, or assessment roll, shall be held valid; provided, such assessment or assessment roll, if it purport to be an assessment of real property, contains sufficient data from which can be definitely ascertained the description of the property intended to be assessed, and the valuation fixed thereon by the assessor; and if it is an assessment of personal property, contains the name of the owner of the property assessed, and the valuation of such property.

§ 2. TAXES VALID. WHEN.] All taxes, levied for any purpose, hereafter made in this state, by any board or officer authorized by law to make the same, shall be held valid, provided it can be definitely ascertained from the official records of the proceedings of such officer

or board, what amount of taxes, or what rate per cent of taxation was intended to be levied; and provided, further, that this act shall not be construed to validate any tax levy made for any purpose unauthorized by law or which is in excess of the amount allowed by law to be levied.

§ 3. TAX SHALL NOT BE HELD INVALID UNLESS. WHEN.] In all actions in which the validity of any tax hereafter levied comes in question, no tax shall be held invalid unless it shall be made to appear, by the party objecting thereto, that one or more of the following defects exist, to-wit:

1. That the property assessed was not subject to taxation; or in the case of an assessment of personal property, that the person assessed was not liable to taxation at the time such assessment was made, for the property or some part thereof assessed to him.

2. If the tax is upon real property, that the description of the property intended to be assessed, or the valuation thereof, cannot be definitely ascertained from the assessment roll which is the basis of such tax; and if the tax is upon personal property, that the assessment roll containing the assessment of the property upon which the tax is levied, does not contain either the name of the owner of such property, or the valuation thereof.

3. That it cannot be definitely ascertained from the official record of the proceedings of the board or officers levying the tax, what amount of taxes, or what rate per cent of taxation was intended to be levied.

4. That such taxes have been paid.

5. That the valuation of the property assessed upon which such taxes were levied, was unfair and unequal; provided, however, that no claim of any unfairness or inequality of any valuation of property in the assessment roll shall be heard, unless it appears, either that there was no meeting of the board of equalization authorized by law to equalize such assessment at the time fixed by law to hear and determine such complaint, or if there was such a meeting of such board of equalization, that such board acted in excess of its powers in relation to the valuation objected to; or that the valuation as fixed by the proper board of equalization has been unlawfully increased; but in all such cases the court shall hear the evidence and determine therefrom the amount that is justly due for such taxes, and the tax list containing the record of such taxes shall be prima facie evidence of the amount thereof justly due.

6. That the tax, or some part thereof, is in excess of the amount limited by law, or for a purpose unauthorized by law, but in such case the court shall not cancel the taxes, except as to such excess or as to such unlawful purpose.

§ 4. PARTIAL TAX HELD VALID. BECOMES DELINQUENT WHEN.] In all cases where part of any tax hereafter levied is declared void by the court, the remainder of such tax shall be valid, and shall be enforced against any property liable therefor in the same manner that

taxes of like nature are now or hereafter may be enforced, and in all such cases such part of a tax so held valid shall become and be delinquent on the first day on which penalties attach to delinquent taxes of like nature under the laws then in force, next succeeding the entry of a judgment declaring such part of tax valid, and thereupon and thereafter such penalties and interest, or either, shall attach thereto as attach to other delinquent taxes of the character under the laws then in force.

Approved March 13, 1903.

CHAPTER 158.

[S. B. No. 126—Lewis.]

VALIDATING ASSESSMENTS AND TAXES.

AN ACT Validating Assessments and Taxes, and Providing for the Collection of Such Taxes.

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

§ 1. VALIDATING ASSESSMENTS SINCE 1899.] Every assessment of real or personal property for the purpose of taxation, and every assessment roll, heretofore and since the year 1889 made by any officer authorized by law to assess the property described in such assessment roll for the purpose of taxation, and returned to the county auditor of any county in this state, and acted upon and adopted by the board of equalization of such county as an assessment, or assessment roll, is hereby made valid; provided, such assessment or assessment roll, if it purport to be an assessment of real property, contains sufficient data from which can be definitely ascertained the description of the property intended to be assessed, and the valuation fixed thereon by the assessor; and if it is an assessment of personal property, contains the name of the owner of the property assessed, and the valuation of such property.

§ 2. VALIDATING TAX LEVIES SINCE 1889. EXCEPT WHEN.] All taxes levied for any purpose, heretofore and since the year 1889 made in this state, by any board or officer authorized by law to make the same, and all tax levies heretofore and since the year 1889 made by the state board of equalization, or by any county board of equalization, are hereby made valid; provided, it can be definitely ascertained from the official records of the proceedings of such officer or board, what amount of taxes, or what rate per cent of taxation was intended to be levied; and provided, further, that this act shall not be construed to validate any tax levy made for any purpose unauthorized by law, or which is in excess of the amount allowed by law to be levied.

§ 3. ACT SHALL NOT BE HELD INVALID. EXCEPTIONS.] In all actions hereafter tried, in which the validity of any tax heretofore levied

comes in question, no tax shall be held invalid unless it shall be made to appear, by the party objecting thereto, that one or more of the following defects exist, to-wit:

1. That the property assessed was not subject to taxation; or in the case of an assessment of personal property that the person assessed was not liable to taxation at the time such assessment was made, for the property or some part thereof assessed to him.

2. If the tax is upon real property, that the description of the property intended to be assessed, or the valuation thereof, cannot be definitely ascertained from the assessment roll which is the basis of such tax; and if the tax is upon personal property, that the assessment roll containing the assessment of the property upon which the tax is levied, does not contain either the name of the owner of such property or the valuation thereof.

3. That it cannot be definitely ascertained from the official record of the proceedings of the board or officer levying the tax, what amount of taxes, or what rate per cent of taxation was intended to be levied.

4. That such taxes have been paid.

5. That the valuation of the property assessed upon which such taxes were levied, was unfair and unequal; provided, however, that no claim of any unfairness or inequality of any valuation of property in the assessment roll shall be heard, unless it appears, either that there was no meeting of the board of equalization authorized by law to equalize such assessment at the time fixed by law to hear and determine such complaint, or if there was such a meeting of such board of equalization, that such board acted in excess of its powers in relation to the valuation objected to; or that the valuation as fixed by the proper board of equalization has been unlawfully increased; but in all such cases the court shall hear the evidence and determine therefrom the amount that is justly due for such taxes, and the tax list containing the record of such taxes shall be prima facie evidence of the amount thereof justly due.

6. That the tax, or some part thereof, is in excess of the amount limited by law, or for a purpose unauthorized by law, but in such case the court shall not cancel the taxes, except as to such excess or as to such unlawful purpose.

§ 4. TAX NOT DECLARED VOID SHALL BE VALID.] In all cases where part of any tax heretofore levied is declared void by the court, the remainder of such tax shall be valid, and shall be enforced against any property liable therefor in the same manner that taxes of like nature are now or hereafter may be enforced.

§ 5. TAXES. WHEN DELINQUENT.] All taxes which are validated by this act shall become and be delinquent on the first day of July, 1903, and if then unpaid there shall attach thereto a penalty of five per cent, and thereafter such taxes shall be subject to the same penalties and interest as taxes of like nature under the laws which may then be in force; provided, however, that the provision of this

section shall not apply to cases where part of a tax, only, is held valid, as provided in section 4 of this act, but in all such cases such part of a tax so held valid shall become and be delinquent on the first day on which penalties attach to delinquent taxes of like nature under the laws then in force, next succeeding the entry of a judgment declaring such part of tax valid, and thereupon and thereafter such penalties and interest, or either, shall attach thereto as attach to other delinquent taxes of like character under the laws then in force.

§ 6. TAXES SHALL BE HELD VALID. EXCEPTION.] In all cases where real property has been sold for delinquent taxes which shall have been validated by this act, and such sale shall be adjudged void, and such taxes shall be adjudged valid under the provisions of this act, in any action, such taxes so held valid shall remain and be a lien upon the land so sold, and be subject to the penalties and interest (if any,) as in section 5 of this act provided, unless the party to such action claiming such sale to be invalid, shall have tendered to and deposited in the office of the county treasurer, before commencing such action, the full face amount of such taxes, and unless the action in which the validity of such sale, or of such taxes comes in question shall have been commenced before Jan. 1, 1904; provided, that the provisions of this act shall not apply to any action or proceeding now pending between the fee owner of land, and any person or corporation holding a tax certificate or tax deed therefor, involving the validity of such tax certificate or tax deed.

§ 7. EMERGENCY.] Whereas, there is no adequate law whereby taxes which have heretofore been irregularly levied can be enforced, therefore, that act shall take effect and be in force immediately upon its passage and approval.

Approved March 21, 1903.

CHAPTER 159.

[H. B. No. 242—Peterson.]

LISTING OF BANK STOCKS.

AN ACT to Amend Section 1203 of the Revised Codes, 1899, Relating to Bank Stock, "Where and at What Valuation to be Listed."

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

§ 1. AMENDMENT.] That section 1203 of the revised codes, 1899, be amended to read as follows:

§ 1203. 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, 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 in excess of an amount equal to five per cent of the loans and discounts of such bank; the amount of its net 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 article. To determine the real value of such real estate investments the assessor shall strike from his lists all real estate which said bank has sold to any party or parties under any contract whereby the party or parties making and signing such contract agrees to pay all taxes levied against said property. The assessor shall deduct the net amount of said investment in real estate from the aggregate amount of such capital and surplus, 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 in national banks not located in this state, held in this state, shall not be required to be listed under this article.

§ 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 1903, 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 12, 1903.

CHAPTER 160.

[H. B. No. 41—Wall.]

TAX LEVY IN CITIES.

AN ACT to Amend Section 2494, Article 15 of the Revised Codes of 1899, Relating to the Tax Levy and Rate of Taxation in Cities.

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

§ 1. AMENDMENT.] That section 2494, of article 15, of the revised codes of 1899, be amended and re-enacted to read as follows:

§ 2494. MADE WHEN.] The common council of such cities shall,

on or before the first Monday in September of each year, or within ten days thereafter, make the tax levy for the current fiscal year, and fix the rate of taxation upon the property in such city, and the auditor of such city shall forthwith transmit the same to the county auditor.

§ 2. REPEAL.] All acts or parts of acts not in conformity herewith are hereby expressly repealed.

§ 3. EMERGENCY.] Whereas, there is no provision of law providing for a uniform date for the certification of taxes for municipalities, and there is a conflict between various statutes as to the time when such tax levy shall be made and certified to, therefore, an emergency exists, and this act shall take effect immediately after its passage and approval.

Approved February 24, 1903.

CHAPTER 161.

[H. B. No. 168—Leech.]

COLLECTION OF TAXES ON PROPERTY BID IN BY STATE OR COUNTY.

AN ACT to Enable Boards of County Commissioners to Institute Proceedings to Enforce Payment of Taxes on Real Property Sold to the State or County for Taxes, and Remaining Unredeemed for More Than Three Years.

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

§ 1. BOARD OF COUNTY COMMISSIONERS AUTHORIZED TO INSTITUTE AND CONDUCT PROCEEDINGS.] The board of county commissioners in any county in this state is hereby authorized to cause the proceedings hereinafter provided to be instituted and conducted, whenever in the judgment of the said board it is advisable to do so. Whenever the board of county commissioners desire such proceedings to be instituted, it shall, at some regular meeting, pass a resolution to that effect, and the proceedings hereinafter provided shall be thereupon instituted forthwith.

§ 2. COUNTY AUDITOR TO MAKE LIST OF LANDS. CONTENTS.] The county auditor shall make a list of every tract of land which appears upon the records of said county to have been sold to the state or county more than three years prior to the date of such resolution, and upon which land the taxes for which it was sold have not been paid to the county by redemption or assignment to an actual purchaser, subsequent to the sale. Such list shall include all such pieces or parcels which may at such tax sale or sales have been struck off or declared to have been forfeited to the state or county, whether such sale or forfeiture was valid or invalid. The list shall contain a description

of each piece or parcel of land upon which said taxes shall not have been paid as aforesaid, the name of the person in whose name the piece or parcel was last assessed at the time of filing the list; or if assessed to unknown owner, so state, and the amount of the tax for each year up to but excluding the taxes for the year in which the list is filed, with accrued penalty and interest. The county auditor shall attach to said list his affidavit to the effect that the same is correct. He shall immediately file such list in the office of the clerk of the district court in his county, or in the county to which his county is attached for judicial purposes. The filing of such list shall have the force and effect of the filing of a complaint in an action by the county against each piece or parcel of land in such list described, to enforce against it the taxes therein appearing against it, and the penalties and interest for the several years for which such taxes remain unpaid; and also the effect of notice of pendency of such action to all parties interested in such lands or who may become interested therein subsequent to the filing of such list.

§ 3. DUTY OF COUNTY CLERK.] When the list required by section 2 of this act shall have been filed the clerk shall forthwith make a copy thereof, and attach thereto a notice which may be in substantially the following form:

State of North Dakota, County of, District Court,
 Judicial District.

The state of North Dakota, to all persons, companies or corporations who have or claim any estate, right, title or interest in, or claim to, or lien upon any of the several pieces or parcels of land in the list hereto attached described. Pursuant to a resolution of the board of county commissioners of county, adopted on the day of, 19...., the county auditor of said county has filed in my office a list of all real property heretofore sold to the state or county for taxes, and remaining unredeemed for more than three years, a copy of which list is hereto attached. Therefore you, and each of you, are hereby required to file in the office of the clerk of said court within thirty days after the last publication of this notice, your answer in writing, setting forth any objections or defense you may have to the taxes or any part thereof, or the penalties or interest thereon, upon any piece or parcel of land described in such list, in, to or on which you have or claim any estate, right, title, interest, claim or lien, and in default thereof, judgment will be entered against each piece or parcel of land for taxes in such list appearing against it, and for penalties, interest and costs.

(Signed)

Clerk of the District Court in the County of

§ 4. COUNTY AUDITOR SHALL PUBLISH LIST. PUBLISHER SHALL MAKE AFFIDAVIT OF PUBLICATION.] The county auditor shall cause the said notice and list to be forthwith published, once in each of three consecutive weeks, in some newspaper of general circulation, printed in the English language, published in the county in which the pro-

ceedings are instituted, or if there be no such newspaper published in either county, then in some newspaper published within the judicial district. The newspaper in which such publication shall be made shall be designated by a resolution of the board of county commissioners of the county in which the taxes are laid, at least ten days before the publication of such list; a copy of which resolution, certified by the county auditor, shall be filed in the office of the clerk of the district court. The owner, publisher, manager or foreman in the printing office of the newspaper in which such notice and list shall be published, shall make and file with the clerk of the district court an affidavit of such publication, stating the day in which each publication was made, and shall also file with the clerk three copies of each number of the paper in which the notice and list shall have appeared.

§ 5. ANSWER OF DEFENSE.] Any person, company or corporation having any estate, right, title, or interest in, or lien upon any piece or parcel of land embraced in such list as published, may within thirty days after the last publication of such notice, file in the office of the clerk of the district court an answer verified as pleadings in civil actions setting forth the defense or objections to the tax or penalty against such piece or parcel of land, which answer need not be in any particular form, but shall clearly refer to the piece or parcel of land intended and shall set forth in ordinary and concise language the facts constituting the defense or objections to such taxes or penalties; and if the list shall embrace the taxes for two or more years, the defense or objections may be to the taxes or penalties for one or more of such years.

§ 6. COUNTY CLERK SHALL ENTER JUDGMENT. WHEN. FORM OF.] Upon the expiration of thirty days from the last publication of such notice and list, the said clerk shall, the affidavit of publication being filed, enter judgment against each and every one of such pieces or parcels as to which no answer shall have been filed for the amount of taxes, interest and penalty appearing from the list to be due thereon and the costs of the proceedings, which judgment shall include all of such pieces or parcels and shall be substantially in the following form:

State of North Dakota, County of, District Court,
 Judicial District.

In the matter of proceedings to enforce payment of taxes on real property sold to the state or county and remaining unredeemed for more than three years.

A list of real property sold to the state or county for taxes and remaining unredeemed more than three years, in the county of
, having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published as required by law, and no answer having been filed by any person, company or corporation as to the taxes upon any pieces or parcels of land hereinafter described, and more than thirty days having elapsed since the publication of such notice and list, it is hereby

adjudged and decreed that each piece or parcel of land hereinafter described is liable to taxes, interest, penalties and costs to the amounts set opposite the same, as follows: (Here insert correct description of each piece or parcel and the aggregate amount due thereon.)

And the amount of taxes, interest, penalties and costs to which as hereinbefore stated each of such pieces or parcels of land is liable, is hereby declared a lien upon such piece or parcel of land as against the estate, right, title, interest, claim or lien of whatever nature in law or in equity of every person, company or corporation whatsoever. And it is adjudged that unless the amount to which each of such pieces or parcels is liable, be paid, each of such piece or parcel be sold as provided by law, to satisfy such amount to which it is liable.

.....
Clerk of District Court, County of

Such judgment shall be entered by the clerk in a book to be kept by him to be called the "Real Estate Tax Judgment Book," and shall be dated and signed by the clerk. The judgment shall be written out on the left hand pages of said book, leaving the right hand pages blank for the entries hereinafter provided; provided, however, that if any person shall desire to pay the taxes charged against any piece of parcel in said list before judgment is entered, he shall procure from the clerk a statement, showing the amount so charged, for the several years against such tract in said list, including accrued costs, and upon payment of the original taxes so charged, with interest thereon from the time each of the same became delinquent and accrued costs, to the county treasurer, the treasurer shall issue his receipt to such person showing said taxes to be paid in full and shall file a duplicate of such receipt in the clerk's office, the filing of which duplicate shall be equivalent to a dismissal of the proceedings as to the tract on which the taxes have been paid, and such tax shall be omitted from the judgment entered by the clerk.

§ 7. IF ANSWER FILED COMMISSIONERS MAY EMPLOY ATTORNEY. COURT SHALL TRY AND DISPOSE OF CASE.] If an answer shall be filed within the time hereinafter provided, as to the taxes and penalties upon any piece or parcel of land embraced in said list as published, the issue raised by the answer shall stand for trial at any general or special term appointed to be held in said county. The county commissioners of the county in which such taxes are laid may employ any other attorney to assist the state's attorney therein. At the term at which such proceedings come on for trial, they shall take precedence of all other business before the court. The court shall proceed without delay, without a jury, and summarily hear and determine the objections or defenses made by the several answers, and shall dispose of all of said answers, and direct judgment accordingly at said term, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits, and any person making answer as herein provided shall be entitled to a separate trial upon the issues raised by his answer.

§ 8. JUDGMENT SHALL BE RENDERED AGAINST LAND. WHEN.] If after a hearing the court shall sustain the taxes and penalties in whole or in part against any piece or parcel of land, judgment shall be rendered against each of such pieces or parcels for the amount which the court decides is chargeable against the same, which judgment may be substantially in the form prescribed in section 6 of this act, except that it shall, in addition, state that the same was rendered after answer and trial; and, after the description of each piece or parcel shall be stated the name of the person, company or corporation answering as to said piece or parcel. If the court sustains the defense or objection to the taxes and penalties as to any piece or parcel of land, the judgment shall after the statement of the lands against which judgment is given, state that all other pieces or parcels not embraced in that or the prior judgments of the court, and which are described in the list as published, are discharged from the taxes in said list set down against such other pieces or parcels, and from all penalties, and the court may in its discretion award disbursements against the county laying such taxes, and in favor of the party answering as to the pieces or parcels so discharged.

§ 9. LIST FILED WITH CLERK OF COURT PRIMA FACIE EVIDENCE OF VALIDITY. TAX HELD INVALID. WHEN.] In all proceedings under this act the list filed with the clerk of the district court shall be prima facie evidence of the validity of all taxes charged therein. No tax involved in such proceedings shall be held invalid by reason of any irregularity in the assessment or assessment roll, or levy; provided, the assessment roll contains sufficient data from which can be definitely ascertained the description of the property intended to be assessed and the valuation fixed thereon by the assessor; and provided, the levy of such tax was made by any board or officer authorized by law to make the same, and it can be definitely ascertained from the official records of the proceedings of such officer or board what amount of taxes or what rate per cent of taxation was intended to be levied; and, provided, such levy was for a lawful purpose and within the limit authorized by law. No tax involved in proceedings under this act shall be held invalid unless it be made to appear by the party objecting thereto that one or more of the following defects exist, to-wit:

1. That the property was not subject to taxation.
2. That the description or valuation of the property cannot be definitely ascertained from the assessment roll.
3. That it cannot be definitely ascertained from the official record of the proceedings of the board or officer levying the tax what amount of taxes or what rate per cent of taxation was intended to be levied.
4. That such taxes have been paid.
5. That the valuation of the property for taxation was unfair or unequal; provided, however, that no claim of any unfairness or inequality of any valuation of property shall be heard unless it appears either, that there was no meeting of the board of equalization author-

ized by law, to hear and determine such complaint, or if there was such meeting of such board, that it acted in excess of its powers in relation to the valuation objected to; or, that the valuation fixed by the proper board has been unlawfully increased; but in all such cases the court shall hear the evidence and determine therefrom the amount that is justly due for such taxes.

6. That the tax or some part thereof is in excess of the amount limited by law, or for a purpose unauthorized by law; but in such cases the court shall not cancel the taxes except as to such excess or as to such unlawful purpose.

§ 10. JUDGMENT MAY BE FINAL, EXCEPT MAY BE SUBMITTED TO SUPREME COURT. WHEN.] The judgment which the court shall render shall be final, except that upon application of the county, or other party against whom the court shall have decided the point raised by any defense or objection, the court may, if in its opinion the point is of great public importance, or likely to arise frequently, make a brief statement of the facts established, bearing on the point and of its decision, and forthwith transmit the same to the clerk of the supreme court, who shall enter the same as a cause pending in such court, and place the same on the term calendar of such court for the term then in session, or for the first term thereafter. And the same shall be entitled to preference over any other business before such court, and shall be decided by such court at the term for which it shall be entered on the calendar. As soon as it shall be decided, the clerk of the supreme court shall enter the proper order and forthwith transmit a certified copy of such order to the clerk of the proper district court; provided, that such proceedings if applied for by a party objecting to the taxes shall not stay the entry of judgment nor stay the sale thereunder unless the party applying therefor shall execute and file with the clerk of the district court an undertaking with at least two sufficient sureties to be approved by the judge of the district court, conditioned, that such party will pay all taxes, penalties, interest and costs awarded against him in such proceedings if the decision of the district court is affirmed in whole or in part. The same costs and disbursements shall be allowed to either party on such proceedings as are allowed by law in appeals to the supreme court.

§ 11. TAX JUDGMENTS. DUTY OF CLERK OF COURT.] When the tax judgment pursuant to this act shall be entered against those tracts as to which no answer has been filed, the clerk of the district court shall forthwith deliver to the sheriff of the county a certified transcript of such judgment, written on the left hand pages of a book to be provided by the county, and the sheriff upon receipt of such transcript shall proceed as hereinafter provided.

§ 12. ANY PERSON MAY PAY TAXES BEFORE SALE.] If before sale, any person wishes to pay the amount adjudged against any piece or parcel of land, such person may pay the same to the sheriff, with interest and accrued cost, if any; and the sheriff shall thereupon give a

receipt for such payment and pay the amount collected, after deducting his fees, to the county treasurer.

§ 13. SHERIFF SHALL SELL LAND. WHEN. FORM OF NOTICE.] After thirty days from the date of any tax judgment, if the amount therein charged shall not have been paid, the sheriff shall sell the piece or parcel of land upon which the taxes stand charged in such judgment; before making such sale he shall give notice thereof by posting such notice, one copy in the office of the clerk where the judgment shall have been entered; one copy in the office of the treasurer; and one copy at the county seat of the county, in some conspicuous place, at least ten days before the day of sale; and by publishing such notice, once in each of three consecutive weeks, the last publication to be not less than ten days before the day of sale, in some newspaper printed in the English language and of general circulation, published in the county where such lands are situated, to be designated by resolution of the board of county commissioners; if there be no such newspaper published in the county where the proceedings are instituted, then in some newspaper published within the judicial district, which notice may be substantially in the following form:

TAX JUDGMENT SALE.

Pursuant to a real estate tax judgment of the district court in the county of entered on the day of
....., 19....., in proceedings for enforcing payment of taxes upon real estate sold for taxes to the state or county and remaining unredeemed, I shall on the day of, at ten o'clock in the forenoon, at, in the town of, and county of, sell the lands which are charged with taxes in said judgment and on which such taxes shall not have been previously paid.

.....
Sheriff of County.

At the time and place appointed in such notice, the sheriff shall commence the sale of such land, and proceed to the sale thereof from day to day (Sundays and legal holidays excepted,) until the whole shall be sold.

§ 14. SHERIFF SHALL SELL AT PUBLIC VENDUE. HOW.] The sheriff shall sell by public vendue each piece or parcel of land separately in the order in which they are described in the judgment and by the description therein, but if the sum bid for any piece or parcel shall not be paid before the sale closes, he shall again offer such piece or parcel for sale. In offering the lands for sale, he shall state the amount for which each piece or parcel is to be sold; he shall then offer the same in fee to the highest bidder, who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then the county treasurer shall bid in the same for the county at such an amount. The treasurer shall attend at the sale and receive all money paid thereon.

§ 15. SHERIFF SHALL EXECUTE CERTIFICATE TO PURCHASER. FORM OF.] The sheriff shall execute to the purchaser of any piece or parcel a certificate, which may be substantially in the following form: I, sheriff of the county of North Dakota, do hereby certify that at a sale of lands pursuant to the real estate tax judgment entered in the district court in the county of, North Dakota, on the day of 19...., in proceedings to enforce payment of taxes on lands forfeited to the state or county for taxes, which sale was held at in said county of, North Dakota, the following described piece or parcel of land in said county, to-wit: (Insert description) was struck off and sold to, for the sum ofdollars; and in consideration thereof, and pursuant to the statute in such case made and provided, I do hereby convey the above described piece or parcel of land to said his heirs and assigns, to have and to hold the same unto the said his heirs and assigns forever, subject, however, to redemption as provided by law.

Witness my hand this day of 19....

Sheriff ofCounty, North Dakota.

Such certificate in case the land shall not be redeemed, shall pass to the purchaser or county the absolute title to the land therein described without any other act or deed whatever, subject, however, to any taxes levied thereon for the year in which the list is filed and subsequent years. Such certificate shall be acknowledged and may be recorded as other deeds of real estate. If any purchaser shall at such sale purchase more than one piece or parcel, or if more than one shall be bid in for the county, all of the pieces or parcels so purchased or bid in for the county may be included in the same certificate; but in all cases the certificate must state the amount at which each piece or parcel was sold or was bid in for the county.

§ 16. OWNER OF CERTIFICATE TO GIVE NOTICE OF TIME OF REDEMPTION.] Not more than ninety days preceding the expiration of one year from the day of sale, the owner of such certificate of sale, except the county, shall give notice of the expiration of the time for redemption as follows: He shall deliver to the sheriff of the county for service a notice in writing containing a description of the land sold, the date of sale, the amount sold for, the amount of any subsequent taxes paid by the purchaser or assigns, with date of payment, and further stating that the time for redemption will expire one year from the date of sale; or if the notice is served less than sixty days before the expiration of the year, then sixty days after the service of said notice; said notice to be signed by the holder of the certificate or his agent or attorney. The said notice shall be served by the sheriff on the occupant of the land therein described in the same manner as a summons in a civil action is served; but if the land is unoccupied the sheriff shall post a copy of the notice in a conspicuous place on the

premises. Immediately after completing service of the notice the sheriff shall return the notice to and file the same with the county auditor, together with his return of service thereon, which return shall show when and how the notice was served, and shall be prima facie evidence of the facts therein recited. The time for redemption from any such sale shall not expire until the expiration of sixty days from the date of the service of such notice. After the period of redemption shall have expired, and no redemption made, the county auditor shall issue to the holder of the certificate of sale a certificate to the effect that the right to redeem has expired, which auditor's certificate of no redemption may be recorded in the office of the register of deeds as an instrument affecting real property. Such certificate or the record thereof shall be prima facie evidence that the right to redeem has expired, and after the expiration of two years from its date shall be conclusive evidence of the service of the notice and failure to redeem.

§ 17. CERTIFICATE EVIDENCE OF COMPLIANCE.] The certificate of sale shall in all cases be prima facie evidence that all the requirements of law with respect to the sale have been duly complied with. And no sale shall be set aside or held invalid unless the party objecting to the same shall prove, either that the court rendering the judgment pursuant to which the sale was made had no jurisdiction to render the judgment, or that after the judgment, and before the sale such judgment had been satisfied; and such certificate shall be conclusive evidence that due notice of sale, as required by this act, was given and that the piece or parcel of land was duly offered for sale and sold, and the validity of any sale shall not be called in question unless the action in which the validity of the sale shall be called in question shall be brought, or the defense alleging its invalidity be interposed within three years from the date of sale.

§ 18. DUTY OF SHERIFF.] The sheriff shall immediately after such sale set out in his transcript of judgment book opposite the description of each piece or parcel of land, to whom and for what amount the same was sold, and shall deliver the book to the county auditor, who shall keep the same as one of the records of his office; and the sheriff shall also, as soon as possible after the sale, file with the clerk of the district court a report of his proceedings on such sale showing the completion of the same and accompanied by a copy of the notice of sale as published, and an affidavit of the owner, publisher, manager or foreman in the printing office of the newspaper in which such notice was published, showing the date on which the same was published; the clerk shall then mark said judgment satisfied on his records.

§ 19. LANDS BOUGHT BY COUNTY CANNOT AGAIN BE SOLD FOR SUBSEQUENT TAXES. EXCEPTION.] Taxes for subsequent years shall be levied on lands bid in for the county the same as on other lands subject to taxation, but such lands shall not again be sold for subsequent taxes unless the lands are redeemed or the right of the county

as a purchaser assigned. After the expiration of the time for redemption all lands bid in for the county remaining unredeemed or unassigned after sale shall cease to be taxed, unless the board of county commissioners otherwise direct.

§ 20. COUNTY AUDITOR SHALL ASSIGN RIGHT OF COUNTY TO UNREDEEMED LAND. TO WHOM. FORM OF ASSIGNMENT.] After any piece or parcel of land shall have been bid in for the county, at any time before the time to redeem expires, and while the same shall remain unredeemed, the county auditor shall assign the right of the county in such piece or parcel of land to any person who shall at any time before the time for redemption expires pay the amount for which the same shall have been bid in, with interest and the amount of any subsequent taxes, penalties and interest upon the same, and shall execute to such person an assignment which may be substantially in the following form:

Whereas, at the sale of land pursuant to the tax judgment entered in the district court in the county of on the..... day of..... in proceedings to enforce the payment of taxes for the county of, which sale was had on the day of, the following described piece or parcel of land situated in the county of, state of North Dakota, to-wit: (Here insert description) was bid in for the county, and on this day having paid into the treasury of said county the amount for which the same was bid in, and all subsequent taxes, penalties and interest, amounting in all to dollars.

Therefore, pursuant to the law in such cases made and provided, the whole right, title and interest of said county of in or to said piece or parcel of land, acquired at said sale, is hereby assigned to said, his heirs and assigns forever.

Witness my hand and seal this day of.....
(Signed)
Auditor of the County of

Which assignment shall be acknowledged and may be recorded as deeds of real estate. Such assignee of the county shall succeed to all the rights acquired by the county at such sale, but as a condition precedent to acquiring any absolute title to the lands sold, he must give the same notice of the expiration of the time of redemption as is herein required to be given by the purchaser at the sale.

§ 21. WHO MAY REDEEM. How.] Any person having any estate or interest in the property wishing to redeem from such sale, may make such redemption at any time within one year by paying into the treasury of the county, to the use of the person entitled thereto:

First. If such piece or parcel shall have been bid in for the county, and the right of the county shall not have been assigned, the amount for which the same was bid in, with interest, and the amount of subsequent taxes, penalties and interest.

Second. If the right of the county shall have been assigned, the amount paid by the assignee with interest from the day when so paid, and, if he shall have paid any taxes, penalties or interest, accruing subsequent to the assignment, the amount so paid by him, with interest from the day of such payment, and all unpaid taxes, interest and penalty that may have accrued on such piece or parcel after such assignment, including the fees, if any, for serving notice of expiration of redemption.

Third. If the same shall have been sold to a purchaser, the amount paid by such purchaser, with interest, and if he shall have paid any taxes, penalties or interest, accruing subsequent to sale, the amount so paid by him, with interest from the day of paying the same and all unpaid taxes, interest and penalties accruing subsequent to such sale, including the fees, if any, for serving notice of expiration of redemption.

Upon receipt of such payment from a redemptioner, the treasurer shall deliver to him a receipt therefor and upon the production of such receipt to the county auditor, he shall execute to the person redeeming a certificate which may be substantially in the following form:

I,, auditor of the county of, state of North Dakota, do hereby certify that on the day of 19...., paid into the treasury of the county the sum of dollars, for redemption of the following described piece or parcel of land situated in the county of, state of North Dakota, to-wit: (Insert description of land,) from the sale thereof made on the day of, pursuant to a tax judgment entered in the district court in the county of..... on the day of, in proceedings to enforce payment of taxes for the county of and that said piece or parcel of land is redeemed from such sale pursuant to law.

Witness my hand and seal this day of

.....
Auditor of the County of

And such certificate may be recorded. If the amount so paid for the purpose of redemption is less than that required by law, it shall not invalidate such redemption, but the auditor shall be liable for the deficiency to the person entitled thereto. Such redemption shall have the effect to annul the sale.

§ 22. MINORS, INSANE PERSONS, ETC., HAVING ESTATE IN LAND MAY REDEEM. WHEN.] Minors, insane persons, idiots, or persons in captivity or in any country with which the United States is at war, having any estate in, or lien on lands sold for taxes, may redeem the same within one year after such disability shall cease, but in such cases the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale.

§ 23. ANY PERSON INTERESTED MAY REDEEM. HOW.] Any person who has an interest in or lien on an undivided estate in any piece

or parcel of land sold or an estate or interest in any part thereof, may redeem such part of the undivided estate by paying into the treasury a proportionate part of the amount required to redeem the whole estate, and in such case the certificate shall express the estate, portion of, or interest redeemed.

§ 24. PROCEDURE IN CASE OF REDEMPTION.] Upon application of the party entitled thereto, the treasurer upon the order of the auditor shall pay to such applicant any money paid into the treasury on the sale of any piece or parcel of land in excess of the amount due thereon. The procedure upon redemption except as herein otherwise provided shall be the same as that prescribed by law in respect to sales for delinquent taxes.

§ 25. PERSON IN POSSESSION MAY REDEEM. WHEN.] Any person in possession under a lease of any piece or parcel of land, or any part thereof, against which a judgment pursuant to this act shall have been rendered, may before the time to redeem shall expire, redeem the same. And the amount paid by him shall, unless by the terms of the lease he is bound to pay such taxes, operate as a payment of the same amount of rent to the party from whom he leases.

§ 26. FEES OF CLERK OF COURT.] The fees charged by the clerk of the district court in said proceedings shall be as follows: For making a copy of list for publication, the sum of five cents for each piece or parcel of land described in said list. For entry of judgment against tracts as to which no answer was filed, five cents for each piece or parcel as to which judgment is entered. For making transcript of judgment for sheriff, the sum of five cents for each piece or parcel described in said transcript. For filing an answer, ten cents; for entering judgment against any tract as to which an answer is filed, fifty cents; and said fees shall be included in the amount charged to each tract in the judgment. The auditor shall charge for preparing and filing the list aforesaid, the sum of ten cents for each tract therein described, and said fees shall be included in the amount charged to each tract in the judgment. All such fees shall be retained by the county wherein such proceedings are instituted.

§ 27. COUNTY COMMISSIONERS SHALL AWARD ADVERTISING. How.] The county commissioners shall award the advertising, provided in sections 5 and 13 of this act, to the publisher or publishers of some newspaper, daily if there be one published in the county, if not, then in some weekly newspaper, which shall have been published for at least six months prior to the time of such publication, the sum of twenty cents per folio of nonpareil type for each of the three publications, as provided in sections 5 and 13, and who shall give a bond to the county, with at least two sureties, freeholders of the county, to be approved, and in an amount to be fixed by said county commissioners, conditioned for the correct and faithful performance of such advertising. And in any suit by the county on such bond, for breach of the conditions thereof, the county shall recover as damages, one-half of the taxes, penalty and interest upon each piece or parcel

of land in the copy list made by the clerk which may be affected by an error in the publication of the notice and list, or either, mentioned in section 3 of this act, wherein the printer departed from the copy furnished him.

§ 28. CLERK TO DELIVER TRANSCRIPT TO SHERIFF. WHEN.] When judgment shall have been entered on the issue raised by answer to any tract under the provisions of this act, the clerk shall deliver to the sheriff a transcript thereof in the same manner as is provided by section 12 of this act, and the same proceedings shall thereupon be taken as to such additional tract as is herein provided as to the tracts as to which no answer was made; provided, however, that the clerk may withhold the transcript of any judgment entered in contested cases until all or a convenient number of pending cases are determined and may include all such judgments in one transcript. And the notice of sale in such cases to be posted and published by the sheriff shall specifically describe each tract to be sold.

§ 29. FEES OF SHERIFF.] The sheriff for all acts required of him under the provisions of this act shall receive the following compensation:

First, for receiving and collecting of money under the provisions of section 12 of this act, the same fees as are allowed by law upon an execution in a civil action.

Second, for making the sale and issuing the certificate, the sum of seventy-five cents for each piece or parcel of land sold, which sum shall be included in the amount for which the tract is offered for sale, and shall be paid to the sheriff out of the general fund of the county.

Third, for serving notice of expiration of redemption, or posting same, the same fees as are allowed by law for service of summons in a civil action.

§ 30. PURCHASER ENTITLED TO POSSESSION. WHEN.] When any piece or parcel of land shall be sold, the purchaser, after the time for redemption shall have expired, shall be entitled to immediate possession of the piece or parcel purchased by him, and if on demand and presentation of the certificate of sale, the person in possession of the piece or parcel refuses or neglects to deliver such possession, such person may be proceeded against as a person holding over after the termination of his estate, which proceeding may be instituted and prosecuted as prescribed in the code of civil procedure of this state.

§ 31. PURCHASE PRICE TO BE REFUNDED WHEN SALE DECLARED VOID.] When a sale of lands as provided in this act is for any cause declared void by judgment of court, the money paid by the purchaser at the sale, or by the assignee of the state or county, upon taking the assignment, shall, with interest at the rate of seven per cent per annum from the date of such payment be refunded to the purchaser or assignee or the party holding his right out of the county treasury on the order of the county auditor, and so much of such money as has been paid to the state, city, village, township and school district shall be charged to the same respectively, and deducted from the next

money due the state, city, village, township and school district respectively on account of taxes, provided, that if such purchaser or assignee or party holding his right, shall after such purchase or assignment from the county have paid the taxes, penalties and interest upon such piece or parcel of land, he shall have a lien upon such piece or parcel for the amount of taxes, penalties and interest so paid, with interest at the rate by this act allowed, and may enforce such lien by action, or if he be in possession of such piece or parcel shall not be ejected therefrom until such amount and interest shall be paid.

§ 32. ANY PERSON MAY PAY TAXES. WHEN.] Whenever the proceeding herein provided for shall have been directed to be instituted by the board of county commissioners, any person may pay the taxes mentioned in section 2 of this act, on or before the day when the list is filed with the clerk of the district court as provided in section 2 of this act, by paying the amount of the tax for the several years, with interest at the rate of seven per cent per annum from the time when the taxes of each year became delinquent, and without any other interest, penalty or costs; and such payment shall relieve the piece or parcel of land on which the taxes shall be so paid from any forfeiture to the county whether valid or invalid. Judgment rendered pursuant to this act shall bear interest at the rate of two per cent per month; the amount for which any piece or parcel shall have been sold or bid in shall bear interest at the same rate from the date of the sale. All subsequent taxes paid by the purchaser or an assignee shall bear interest at the same rate from the date of such payment; the amount paid by any person taking an assignment of the right of the county shall bear interest at the same rate, from the time of such payment.

§ 33. PROCEEDINGS IN CASE OF ASSIGNMENT.] Whenever an assignment of any right derived from a sale provided in this act, shall be made before the time for redemption expires, the assignee shall present the assignment to the auditor, who shall note on the copy judgment book provided by section 11, the name of the assignee, and the date of the assignment, and endorse on such assignment the word "countersigned," and sign his name to the same; and no such assignment shall be recorded by the register of deeds until such endorsement is made.

§ 34. RECORDS OF CERTIFICATES. FORCE AND EFFECT OF.] The record of certificates provided for in this act shall have the same force and effect as evidence or otherwise as the records of deeds of real estate.

§ 35. LOCAL ASSESSMENTS DEEMED TAXES.] Local assessments shall be deemed taxes for all the purposes of this act.

§ 36. DUTY OF CLERK.] The clerk shall attach together and keep in his office the list, notices, affidavit of publication, one copy of the newspaper in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course of the proceedings.

§ 37. PROCEEDING RESORTED TO. HOW OFTEN.] The proceedings provided in this act shall not be resorted to in any county oftener than once in six years.

§ 38. ACT NOT TO REPEAL LAW RESPECTING POWERS OF COUNTY COMMISSIONERS.] This act shall not be construed so as to repeal any existing laws with respect to the power of boards of county commissioners to dispose of lands forfeited to the state or county for taxes.

§ 39. DOES NOT WAIVE EFFECT OF VALID JUDGMENT.] Nothing herein contained shall be construed to waive the conclusive effect of any valid judgment heretofore entered against any of the lands affected by this act in proceedings under chapter 67 of the general laws of 1897, and in entering judgment in proceedings under this act against such lands for taxes included in a judgment entered against such land under said former act, the amount of such taxes included in said former judgment with the interest accrued thereon under said act shall be included in the judgment under this act.

§ 40. EMERGENCY.] Whereas, there are no proceedings provided by law whereby the several counties in this state can institute general proceedings to test the validity of the taxes and tax sales of lands which have been sold to the state or county for taxes and remaining unredeemed for more than three years, and whereas, it is essential to the welfare of many of the counties that such proceedings be instituted immediately, therefore, this act shall take effect and be in force immediately after its passage and approval.

Approved March 13, 1903.

CHAPTER 162.

[S. B. No. 212—Main.]

IMPROVEMENT OF COUNTY ROADS.

AN ACT to Amend and Re-enact Section 1081 of the Political Code of 1899, as Amended by Chapter 151 of the Session Laws of 1901, and to Amend and Re-enact Sections 1082 and 1084 of the Political Code of 1899, Relating to the Expenditure of Money by Contract for Road Improvements in Counties not Organized Into Civil Townships and Prescribing the Duties of County Commissioners With Reference Thereto.

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

§ 1. AMENDMENT.] That section 1081 of the political code of 1899 be amended and re-enacted to read as follows:

§ 1081. COUNTY ROAD FUND.] In each county in this state having a population of two thousand or more, according to the latest United States or state census, there may be levied and collected annually, as other county taxes are levied and collected, a property tax

of not less than one mill on each dollar of the assessed valuation of all taxable property in the county, except in incorporated cities and villages, which, when collected, shall be kept in a distinct fund, to be known as the county road fund, and expended in the improvement of highways, under the direction of the board of county commissioners, as herein provided. Such tax shall be in addition to all other taxes for highway purposes otherwise prescribed by law; provided, that in counties not organized into civil townships the board of county commissioners of any such county may contract to expend and expend all money levied and collected under the provisions of section 1229 of the political code of 1899 as amended by section 1 of chapter 151 of the session laws of 1901.

§ 2. AMENDMENT.] That section 1082 of the political code of 1899 be amended and re-enacted to read as follows:

§ 1082. FUND. HOW EXPENDED.] Such fund shall be expended only in grading, ditching and surfacing, in proper form and condition for public travel, such highways or parts of highways, howsoever established, as constitute the principal thoroughfares of the county, communicating with shipping points and market places resorted to by inhabitants of the county, for which the means otherwise provided are not, in the opinion of the county commissioners, sufficient.

§ 3. AMENDMENT.] That section 1084 of the political code of 1899 be amended and re-enacted to read as follows:

§ 1084. BOARD TO ADVERTISE FOR BIDS FOR WORK.] At its regular April session in each year the board of county commissioners shall determine what amount of such funds is or will be available for expenditure during the ensuing season, in improvements, and shall apportion such available funds, as nearly as may be, to the several highways upon which such improvements have been ordered, but no part thereof shall be set apart for the benefit of any highway upon which the work of improvement has not been commenced, until sufficient provision shall have been made for the completion of the work upon highways whenever it has been in part performed. It shall thereupon advertise in an issue of each week of some newspaper of the county until the last Saturday in such month for proposals to do all work contemplated during the ensuing season for which such appropriation has been made, and at its special meeting on the last Saturday of such month, it shall let the same by contract to the lowest responsible bidder, whom it shall deem competent, requiring him to give such bond as it shall deem sufficient, to secure the fulfillment of his part of such contract.

§ 4. REPEAL.] All acts or parts of acts in conflict herewith are hereby expressly repealed.

§ 5. EMERGENCY.] An emergency exists in this, that the provisions of this act require certain contracts to be advertised for by the county commissioners in the month of April of this year, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 163.

[H. B. No. 244—Davis.]

WHEN TAXES DELINQUENT.

AN ACT to Amend Section 1256 of the Revised Codes of the State of North Dakota, Relating to When Real Estate Taxes Become Due and Delinquent, Penalty and Interest.

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

§ 1. AMENDMENT.] That section 1256 of the revised codes of the state of North Dakota, 1899, be, and the same is amended and re-enacted so as to read as follows :

§ 1256. WHEN REAL ESTATE TAXES BECOME DUE AND DELINQUENT. PENALTY AND INTEREST.] All real estate taxes shall become due on the first day of December in each and every year for which the tax is levied, and become delinquent on the first day of March 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 April following an additional penalty of three per cent, and 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 13, 1903.

CHAPTER 164.

[H. B. No. 243—Davis.]

DELIVERY OF TAX LISTS TO COUNTY TREASURER.

AN ACT to Amend Section 1232 of the Revised Codes of the State of North Dakota, 1899, Relating to Tax Lists, When Delivered to Treasurer.

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

§ 1. AMENDMENT.] That section 1232 of the revised codes of the state of North Dakota, 1899, be and the same is hereby amended so as to read as follows :

§ 1232. TAX LISTS. WHEN DELIVERED TO TREASURER.] The county auditor shall deliver the tax lists of the several districts of

the county to the county treasurer on or before the first day of December in each year, taking his receipt therefor; and such list shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied.

Approved March 13, 1903.

CHAPTER 165.

[S. B. No. 12—Garnett.]

TAXING HAWKERS AND PEDDLERS.

AN ACT Taxing the Occupation of Hawkers and Peddlers, Regulating the Licensing of Persons Engaged in Such Occupation, Increasing the Ordinary County Revenue by Such Taxation, and Prescribing Penalties for Violation of its Provisions.

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

§ 1. MUST PROCURE LICENSE.] It shall be unlawful for any person to travel from place to place in any county of this state, for the purpose of carrying to sell, or exposing or offering to sell, barter or exchange, any goods, wares, merchandise or any other property whatever, without first obtaining a license therefor from the auditor of said county.

§ 2. HOW OBTAINED.] Each person desiring to obtain a license as peddler, shall make application 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. FEE.] Each applicant, before he shall be entitled to such license, shall pay into the treasury of such county where his 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 five dollars; 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 twenty-five dollars; if for a license to travel and carry with a vehicle or carriage, drawn by two horses or animals, the sum of fifty dollars; if for a license to travel and carry his goods with a vehicle or carriage drawn by more than two horses or animals, or propelled in any other manner, the sum of seventy-five dollars. Such 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 TO GRANT LICENSE.] The county auditor, upon the filing of such application, together with the treasurer's re-

ceipt 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. CONTENTS.] It shall be the duty of the county auditor issuing such 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. REVENUE. HOW DISPOSED OF.] All money paid into the county treasury under the provisions of this act shall be placed to the credit of the ordinary county revenue, including the support of the poor, to be disbursed in the same manner as the funds derived from the usual course of taxation for such account.

§ 7. PENALTY.] Any person found traveling or trading in any county in this state contrary to the provisions of this act, or shall refuse to produce a 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 a conviction thereof shall be punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail where the offense was committed, not exceeding thirty days, or both such fine and imprisonment.

§ 8. EXCEPTION.] Nothing herein contained 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.

§ 9. REPEAL.] All acts or parts of acts inconsistent herewith are hereby repealed.

§ 10. EMERGENCY.] Whereas, an emergency exists requiring that this act shall take effect immediately, in that there is no valid enactment now in force upon the subject herein contained, this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1903.

CHAPTER 166.

[S. B. No. 108—Lavayea.]

LEGALIZING IRREGULARITIES IN TAXES.

AN ACT Providing That No Tax Shall be Set Aside for any Irregularity or Defect in Form, or Illegality in Assessing, Laying or Levying Such Tax, if the Person Against Whom, or the Property Upon Which Such Tax is Levied, Assessed or Laid is in Fact Liable to Taxation, and Giving the Courts Power to Amend and Correct all Irregularities and Defects in the Form or Manner of Assessment.

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

§ 1. TAX SHALL NOT BE SET ASIDE FOR IRREGULARITY.] In any action or proceeding for the collection or annulment of taxes levied or assessed against any person or property in this state and in any action or proceedings to determine adverse claims to real estate, no tax shall be set aside for any irregularity or defect in form, or illegality in assessing, laying or levying such tax if the person against whom or the property upon which such tax is levied, assessed or laid is in fact liable to taxation, unless it be made to appear to the court that such irregularity resulted to the prejudice of the party objecting, or that the taxes against such person or property have been partially, unfairly or unequally assessed, and in such cases the court may reduce the amount of such taxes and give judgment accordingly; the court shall also have power to amend and correct all irregularities or defects in the form or manner of assessment.

§ 2. EMERGENCY.] Whereas, there now exists no adequate provision of law giving courts power to amend or correct any irregularity or defect in the levy or assessment of taxes, an emergency exists, therefore, this act shall be in force and take effect upon its passage and approval.

Approved March 21, 1903.

CHAPTER 167.

[H. B. No. 38—Wall.]

PAYMENT OF ASSESSMENTS BEFORE TRANSFER OF
PROPERTY.

AN ACT to Amend Section 1278 of the Revised Codes of 1899, as Amended by Chapter 144 of the Session Laws of 1901, and to Provide that all Taxes and Assessments Shall be Paid Before Transfer of Property.

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

§ 1. AMENDMENT.] That section 1278 of the revised codes of 1899, as amended by chapter 144 of the session laws of 1901, be further amended and re-enacted to read as follows:

§ 1278. DUTY OF COUNTY AUDITOR.] When any deed is presented to the county auditor for transfer he shall ascertain from the books and records in his office if there be delinquent taxes due on the lands described therein, or special assessments due thereon, or if it has been sold for taxes; and if there are delinquent taxes or special assessments due or installments or special assessments due, he shall certify to the same, and when the receipt of the county treasurer shall be produced for the said delinquent taxes, or special assessments or installments of special assessments, and for any other delinquent taxes or special assessments, or installments of special assessments, that may be in the hands of the county treasurer for collection, the county auditor shall enter on every deed of real property so transferred over his official signature, "delinquent taxes and special assessments or installments of special assessments paid and transfer entered," or if the land described has been sold for taxes, "paid by sale of the land described within," or if it is an instrument entitled to record without regard to taxes, "transfer entered," and unless such entry is made upon any deed the register of deeds shall refuse to receive or record the same. A violation of the provisions of this section by the register of deeds shall be deemed a misdemeanor, and upon conviction thereof he shall be punished by a fine of not less than one hundred dollars, and not exceeding one thousand dollars, and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained; provided, that sheriff's or referee's certificates of sale on execution, decrees, or foreclosures of mortgages and United States patents and certified copies thereof, and deeds which it may be desirable to have recorded solely for the purpose of correcting errors in and perfecting titles, and deeds which make no changes in the record title, and final decree of distribution entered in county courts shall have endorsed thereon "auditor's certificate, transfer entered," and may be recorded by the register of deeds without any such cer-

tificates from the county auditor. The county auditor shall keep a record of such transfers in a book kept for that purpose, showing the names of the grantor and grantee, a description of the property and the date of transfer, and shall receive twenty-five cents for each certificate from the person or persons presenting the same for certification, and said auditor may retain such fee as compensation for making such certificate.

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

§ 3. EMERGENCY.] Whereas, it is necessary for municipalities throughout this state to collect special assessments and require persons to pay the same, and there being no law sufficient for that purpose, therefore, an emergency exists requiring this act to take effect immediately after its passage and approval.

Approved March 10, 1903.

CHAPTER 168.

[S. B. No. 170—Johnson.]

SALE OF PROPERTY BID IN BY COUNTY.

AN ACT to Amend and Re-enact Section 1271 of the Revised Codes of 1899, Relating to the Mode of Procedure in Obtaining Title to Property Bid in for the County at Tax Sale and Prescribing Manner of Sale and Conveyance of Such Property and the Disposition of the Proceeds of Such Sale.

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

§ 1. AMENDMENT.] That section 1271 of the revised codes of 1899 be, and the same is hereby amended to read as follows:

§ 1271. SALE OF PROPERTY BID IN FOR THE COUNTY.] All pieces or parcels of real property bid in for the county under the provisions of this chapter, and not redeemed or assigned within three years from the date of the certificate of sale, shall, upon the giving of the required notice of expiration of redemption, become the absolute property of the county and 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. The county auditor shall execute deeds for all property so sold to the purchasers thereof, in the same manner and with like effect as upon other certificates of purchase of tax sale, and the proceeds of such sale shall be paid into the county treasury, and the amounts due the state, or any city, township, incorporated village, or school district from the taxes for which the same were sold, or their just proportion thereof, shall be apportioned and placed to the credit of the state, city, township, incorporated village or school corporation entitled thereto, and the remainder

shall go into the general fund of the county. Any person having an interest in or lien upon any piece or parcel of forfeited land may redeem the same any time after forfeiture, and before the sale thereof, by paying the amount due thereon.

Approved March 10, 1903.

CHAPTER 169.

[S. B. No. 15—Robinson.]

REDEMPTION OF REAL PROPERTY SOLD UPON
EXECUTION.

AN ACT to Amend Section 5540 of the Revised Codes of the Revision of 1899, Relating to the Redemption of Real Property Sold Upon Execution.

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

§ 1. AMENDMENT.] That section 5540 of the revised codes of North Dakota, of the revision of 1899, be amended so as to read as follows:

§ 5540. WHO MAY REDEEM. REDEMPTIONER.] Property sold subject to redemption, or any part sold separately, may be redeemed in the manner hereinafter provided by the following persons, or their successors in interest:

1. The judgment debtor, or his successors in interest.
2. A creditor having a lien by judgment, mortgage or otherwise on the property sold or on some share or part thereof, subsequent to that on which the property was sold. The persons mentioned in the second subdivision of this section are in this chapter termed redemptioners.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for the redemption of real property sold upon execution by other than lien holders by judgment or mortgage, this act shall take effect upon approval.

Approved March 9, 1903.

CHAPTER 170.

[S. B. No. 177—Little.]

SHERIFF'S FEES FOR MAKING DISTRESS AND SALE.

AN ACT to Amend Section 1249 of the Revised Codes, Relating to Sheriff's Fees for Making Distress and Sale.

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

§ 1. AMENDMENT.] That section 1249 of the revised codes is hereby amended so as to read as follows:

§ 1249. FEES OF SHERIFF.] The sheriff or his deputy shall be allowed the same fees for making distress and sale of goods and chattels, for the payment of taxes, as are allowed by law for making levy and sale of property on execution; provided, however, that the traveling fees shall be five cents a mile for each mile actually and necessarily traveled, and that in no case shall the mileage herein provided for be charged more than once under any pretext whatever, which fees shall be added to any tax and collected by the sheriff, and it shall be the duty of the sheriff or his deputy to furnish the county commissioners, together with his bill for such services, a full and complete description of his route traveled, and in no case shall mileage be charged more than once from the county seat of the county in which the services required by this article are performed; provided, further, however, that when the sheriff collects delinquent personal tax without distress and sale he shall receive a fee of one dollar on such collection, to be paid by the delinquent.

Approved March 10, 1903.

CHAPTER 171.

[H. B. No. 239—Young.]

SUCCESSION OR INHERITANCE TAX.

AN ACT Providing for the Assessment and Collection of Collateral Succession or Inheritance Tax.

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

§ 1. RATE.] All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the statutes of succession or inheritance of this or any other state, or by deed, grant, sale or gift or intended to take effect in

possession or in enjoyment after the death of the grantor or donor, to any person in trust or otherwise, other than to or for the use of the father, mother, husband, wife, lineal descendant, adopted child, the lineal descendant of an adopted child of a descendant (decedent) or to or for charitable, educational or religious societies or institutions within this state, shall be subject to a tax of two per centum of its valuation, above the sum of twenty-five thousand dollars, after the payment of all debts for the use of the state; and all administrators, executors and trustees, and any such grantee under a conveyance, and any such donee under a gift, made during the grantor's or donor's life, shall be respectively liable for all such taxes to be paid by them, respectively, except as herein otherwise provided, with lawful interest as hereinafter set forth, until the same shall have been paid. The tax aforesaid shall be and remain a lien on such estate from the death of the decedent until paid.

§ 2. DEBTS DEDUCTED. The term "debts" shall include, in addition to debts owing by decedent at the time of his death, the local or state taxes due from the estate prior to his death, and a reasonable sum for funeral expenses, court costs, including the costs of appraisal made for the purpose of assessing the collateral succession or inheritance tax, the statutory fees of executors, administrators or trustees, and no other sum; but said debts shall not be deducted unless the same are approved and allowed, within fifteen months from the death of decedent, as established claims against the estate, unless otherwise ordered by the judge or court of the proper county.

§ 3. PROPERTY SUBJECT TO TAX.] Except as to property passing to persons, corporations or societies exempted by section 1 of this act from the collateral succession or inheritance tax, and real property located outside of the state passing in fee from the decedent owner, the tax imposed under the provisions of this act shall be assessed against and be collected from, property of every kind, which, at the death of the decedent owner is subject to or thereafter, for the purpose of distribution, is brought into this state for distribution purposes, or which was owned by any decedent domiciled within the state at the time of the death of such decedent even though the property of said decedent so domiciled was situated outside of the state.

§ 4. CONSTRUCTION.] In the construction of this act, the words "collateral heirs" shall be held to mean all persons who are not excepted from the provisions of the collateral succession or inheritance tax under the provisions of this act, except section 3 hereof, shall apply to all pending estates which are not closed, and the property subjected by this act to the said tax is liable to the provisions herein contained, as to the amount and lien hereof, and the manner of enforcement and collection thereof, except as herein specifically provided otherwise.

§ 5. FOREIGN ESTATES AND DEDUCTION OF DEBTS.] Whenever any property belonging to a foreign estate, which estate, in whole or in part, is liable to pay a collateral succession or inheritance tax in this

state, and said tax shall be assessed upon the market value of said property remaining after the payment of such debts and expenses as are chargeable to the property under the laws of this state; in the event that the executor, administrator or trustee of such foreign estate files with the clerk of the court having ancillary jurisdiction, and with the treasurer of state, duly certified statements exhibiting the true market value of the entire estate of the decedent owner, and the indebtedness for which the said estate has been adjudged liable, which statement shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of said estate shall then be entitled to have deducted such proportion of the said indebtedness of the decedent from the value of the property as the value of the property within this state bears to the value of the entire estate.

§ 6. FOREIGN ESTATES AND DIRECT AND COLLATERAL BENEFICIARIES.] Whenever any property, real or personal, within this state belongs to a foreign estate, and said foreign estate is in part exempt from the collateral succession or inheritance tax, and in part subject to said collateral succession or inheritance tax, and it is within the authority or discretion of the foreign executor, administrator or trustee administering the estate to dispose of the property, not specifically devised to direct heirs or devisees in the payment of the debts owing by decedent at the time of his death, or in the satisfaction of legacies, devisees or trusts given to direct and collateral legatees or devisees, or in payment of the distributive shares of any direct and collateral heirs, then the property within the jurisdiction of this state belonging to such foreign estate, shall be subject to the collateral succession or inheritance tax imposed under the provisions hereof, and the tax due thereon shall be assessed as provided in the next preceding section of this act, and with the same proviso respecting the deduction of the proportionate share of the indebtedness, as herein provided.

§ 7. LIEN.] It shall be the duty of the executor, administrator or trustee, immediately upon his appointment, to make and file a separate inventory, and [any] will to the contrary notwithstanding, of all the real estate of the decedent liable to such tax, and to cause the lien of the same to be entered upon the lien book in the office of the clerk of the court in each county where each particular part of said real estate is situated, and no conveyance of said estate or interest therein, which is subject to such tax before or after the entering of said lien, shall discharge the estate so conveyed from the operation thereof.

§ 8. APPRAISAL.] All the real estate of the decedent subject to such tax shall, except as hereinafter provided, be appraised within thirty days next after the appointment of an executor, administrator or trustee, and the tax thereon, calculated upon the appraised value after deducting debts for which the estate is liable shall be paid by the person entitled to said estate within fifteen months from the approval by the court of such appraisal, unless a longer period is

fixed by the court, and in default thereof, the court shall order the same, or so much thereof as may be necessary to pay such tax, to be sold.

§ 9. REMAINDERS.] When any person whose estate, over and above the amount of his just debts, exceeds the sum of one thousand dollars shall bequeath or devise any real property to or for the use of the father, mother, husband, wife, lineal descendant, adopted child, or lineal descendant of such child, during life or for a term of years, and the remainder to a collateral heir or to a stranger to the blood, the court, upon the determination of such estate for life or years, shall upon its own motion or upon the application of the treasurer of state, cause such estate to be appraised at its then actual market value, from which shall be deducted the value of any improvements thereon, or betterments thereto, if any, made by the remainder man during the time of the prior estate, to be ascertained and determined by the appraisers, and the tax on the remainder shall be paid by such remainder man within sixty days from the approval by the court of the report of the appraisers. If such tax is not paid within said time, the court shall then order said real estate, or so much thereof as shall be necessary to pay such tax, to be sold.

§ 10. LIFE ESTATE.] Whenever any real estate of a decedent shall be subject to such tax, and there be a life estate or interest for a term of years given to a party other than named in the preceding section, and the remainder to a collateral heir or stranger to the blood, the court shall direct the interest of the life estate or term of years to be appraised at the actual market value thereof, and upon the approval of such appraisement by the court, the party entitled to such life estate, or term of years, shall within sixty days thereafter pay such tax, and in default thereof the court shall order such interest in said estate, or so much thereof as shall be necessary to pay such tax, to be sold. Upon the determination of such life estate or term of years, the same provision shall apply as to the ascertainment of the amount of the tax and the collection of the same on the real estate in remainder as in like cases is provided in the preceding section. Whenever any personal estate of a decedent shall be subject to such tax, and there be a life estate or interest for a term of years given to a party other than named in the preceding section, and the remainder to a collateral heir or stranger to the blood, the court shall inquire into and determine the value of the life estate or interest for a term of years, and order and direct the amount of the tax thereon to be paid by the prior estate and that to be paid by the remainder man, each of whom shall pay their proportion of such tax within sixty days from such determination, unless a longer period is fixed by the court, and in default thereof the executor, administrator or trustee shall pay the same out of said property, and hold the same from distribution, and invest it at interest under the order of the court until said tax is paid, or until the interest on the same equals the amount of such tax, which shall thereupon be paid.

§ 11. EXECUTORS OR TRUSTEES. Whenever a decedent appoints one or more executors or trustees, and in lieu of their allowance or commission, makes a bequest or devise of property to them which would otherwise be liable to said tax, or appoints them his residuary legatees, and said bequests, devises or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to such tax, and the court having jurisdiction of their accounts, upon its own motion or on the application of the treasurer of state, shall fix such compensation.

§ 12. LEGACIES CHARGED UPON LAND.] Whenever any legacies subject to said tax are charged upon or payable out of any real estate, the heir or devisee, before paying the same, shall deduct said tax therefrom and pay it to the executor, administrator, trustee or treasurer of state, and the same shall remain a charge and be a lien upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator, trustee or treasurer of state in his name of office, in the same manner as the payment of the legacy itself could be enforced.

§ 13. PAYMENT BY EXECUTOR OR TRUSTEE. Every executor, administrator or trustee having in charge or trust any property subject to said tax, and which is made payable to him, shall deduct the tax therefrom, or shall collect the tax thereon from the legatee, or person entitled to said property, and he shall not deliver a specific legacy or property subject to said tax to any person until he has collected the tax thereon.

§ 14. PAYMENT TO STATE.] All taxes imposed by the provisions of this act shall be payable to the treasurer of state, and those which are made payable by executors, administrators or trustees shall be paid within fifteen months from the death of the testator or intestate, or within fifteen months from assuming of the trust by such trustee, unless a longer period is fixed by the court. All taxes not paid within the time prescribed in this act shall draw interest at the rate of eight per centum per annum until paid.

§ 15. METHOD OF APPRAISEMENT.] All appraisements of real estate subject to such tax shall be made and filed in the manner provided for appraisement of personal property. When such real estate is situated in another county the same appraisers may serve, or others may be appointed.

§ 16. COLLECTIONS.] It is hereby made the duty of all executors, administrators or trustees charged with the management or settlement of any estate subject to the tax provided for in this act, to collect and pay to the treasurer of state the amount of the tax due from any devisee, grantee or donee of the decedent, except in cases falling under the provisions of sections 10 and 11 hereof, in which cases the treasurer of state shall collect the same. Applications may be made to the district court by such executor, administrator, trustee or state treasurer to sell the real estate subject to said tax in an equitable action, or, if made to the court having charge of the set-

tlement of said estate, the proceedings shall conform as nearly as may be to those for the sale of real estate of a decedent for the settlement of his debts.

§ 17. PROPERTY CERTIFIED TO TREASURER.] Whenever any real estate of a decedent shall so pass, either in possession and enjoyment or in remainder as to the subject of such tax, the executor, administrator or trustee, within six months after he has assumed the duties of his trust, shall file with the treasurer of state a description of such real estate, giving the name of the county, where the same is situated, the name of the decedent, the name of the person or persons to whom it so passes, whether the same passes in possession and enjoyment in fee, for life or for a term of years, naming the term of years, and if a prior estate is created, he shall give the name of the remainder man.

§ 18. COPY OF APPRAISEMENT.] As soon as any such real estate is appraised, it shall be the duty of the executor, administrator or trustee, if he has not been discharged, and if he has finally been discharged, then it shall be the duty of the clerk, to file with the treasurer of state a copy of such appraisement, stating also the amount of tax to be paid and within what time ordered to be paid.

§ 19. SETTLEMENTS WITH EXECUTORS OR TRUSTEES.] No final settlement of the account of any executor, administrator or trustee shall be accepted or allowed unless it shall show, and the court shall find, that taxes imposed by the provisions of this act upon any property or interest therein belonging to the estate to be paid by such executors, administrators or trustees, and to be settled by said account, shall have been paid, and the receipt of the treasurer of state for such tax shall be the proper voucher for such payment.

§ 20. JURISDICTION OF THE COURT.] The district court having either principal or ancillary jurisdiction of the settlement of the estate of the decedent shall have jurisdiction to hear and determine all questions in relation to said tax that may arise affecting any devise, legacy or inheritance, or any grant or gift, under this act, subject to appeal as in other cases, and the treasurer of state shall in his name of office represent the interests of the state in any such proceeding.

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

Approved March 10, 1903.

CHAPTER 172.
[H. B. No. 1—Heath.]

TOWNSHIP ROAD AND BRIDGE TAX.

AN ACT to Amend Section 2 of Chapter 151 of the Session Laws of 1901, Prescribing the Manner in Which Township Taxes May Be Levied, Fixing the Rate of Township Road and Bridge Tax and Directing the Expenditure of Road and Poll Taxes in Certain Cases.

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

§ 1. AMENDMENT.] That section 2 of chapter 151 of the session laws of 1901 be amended to read as follows:

§ 2. ELECTORS MAY VOTE SUMS OF MONEY. ROAD TAX.] The electors of each township have power at the annual township meeting to vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor, and for all township charges and necessary expenses, as they deem expedient; provided, that they may, at their annual meeting, direct such an amount of the poll or road tax of the township to be expended on the highways in an adjoining township, as they deem conducive to the interest of the township, which labor and tax shall be expended under the direction of the supervisors of the township furnishing the same; provided, further, that where more than one entire congressional township is included within an organized township, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional townships, unless raised to be expended outside of such organized townships in an adjoining township; provided, that the amount of tax for road purposes shall not exceed eight mills, and for bridge purposes shall not exceed two mills, and that the levy of all township taxes shall be in the manner prescribed in section 1228 of the revised codes, and that the township clerk shall notify the county auditor of all such levies as provided in section 2641 of said code; provided, further, that none of the provisions of this section shall be construed as conflicting with the provisions of article 7, chapter 17, of the political code; provided, also, that the board of county commissioners shall have the same jurisdiction in relation to roads and bridges, and the same power to levy road taxes in the unorganized parts of counties, as the township supervisors now have in organized townships.

§ 3. EMERGENCY.] Whereas, an emergency exists, in that there is no adequate provision for the levy of sufficient township road tax, therefore this act shall take effect immediately upon its passage and approval.

Approved Feb. 13, 1903.

SCHOOL DISTRICTS.

CHAPTER 173.

[H. B. No. 182—Davis.]

REGULATING PAYMENT OF TUITION FUNDS.

AN ACT to Amend and Re-enact Section 714 of the Revised Codes of the State of North Dakota, 1899, Relating to When School District Not Entitled to Tuition Fund and Enumeration of Children in Newly Organized Districts.

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

§ 1. AMENDMENT.] That section 714 of the revised codes of the state of North Dakota, 1899, be and the same is hereby amended and re-enacted so as to read as follows:

§ 714. NOT ENTITLED TO TUITION FUND, WHEN. ENUMERATION.] No school district shall be entitled to receive any portion of the state tuition fund that fails to make a report of the enumeration of the children of school age in the manner provided by law, nor until such enumeration has been taken and reported as required by law. The county superintendent of schools shall not authorize the payment of money apportioned to any district unless the bond and oath of such treasurer has been duly approved and filed, as provided for by section 689. New districts organized after the annual enumeration has been taken shall proceed immediately to take the enumeration as provided by law, and after the receipt of such enumeration by the superintendent of public instruction through the county superintendent, the newly organized district shall receive its proportionate share of the funds to be apportioned; provided, further, that it shall be the duty of the county superintendent to withhold the apportionment of the county and state tuition fund from any school district other than the new district herein provided for, which has not maintained school therein for a period of not less than four school months in each school of said district in the school year preceding such apportionment, or has not otherwise provided school facilities for the pupils of that district.

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

Approved March 5, 1903.

CHAPTER 174.

[H. B. No. 127—Chaffee.]

BOUNDARIES OF SCHOOL DISTRICTS.

AN ACT to Amend and Re-enact Section 667 of the Revised Codes of 1899, Relating to the Change or Re-arrangement of Boundaries of School Districts in the Counties of the State.

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

§ 1. AMENDMENT.] That section 667 of the revised codes of 1899, be and the same is hereby amended and re-enacted to read as follows:

§ 667. BOUNDARIES, HOW CHANGED IN FUTURE.] After the boundary lines of the several school districts of any of the counties of this state are re-arranged and established, as provided for in the last preceding section of this article, such boundary may be changed or re-arranged by the county commissioners and the superintendent of schools, at any regular session, and if a town or village, not organized into a special district and containing twelve or more persons of school age is divided by the line of a civil or congressional township, or is partly in two or more districts, such town or village, with adjacent territory in both or all of the districts in which it is situated, not exceeding ten square miles in extent, and not at any point more than three miles distant from said town or village, may be formed into a new and separate district; if, in the judgment of the commissioners and superintendent, such a change or the formation of such new district is for the best interests of the schools. Any change or re-arrangement of boundaries may be made or new district formed as hereinbefore provided for upon petition signed by one-third of the voters residing in each district whose boundaries will be affected by such change or re-arrangement, and by three-fourths of the voters resident in the parts of districts to be included in any new district formed under the provisions of this section; provided, that each congressional township, not wholly or in part included in a civil township, and no part of which is organized for school purposes, shall be formed into a school district as soon as it shall have residing therein twelve or more children of school age.

Approved March 10, 1903.

CHAPTER 175.

[S. B. No. 213—Devlin.]

SPECIAL SCHOOL DISTRICTS.

AN ACT to Amend Section 785 of the Revised Codes of 1899, Relating to Special School Districts.

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

§ 1. AMENDMENT.] That section 785 of the revised codes of North Dakota for 1899 be amended and re-enacted to read as follows:

§ 785. WHAT MAY BE CONSTITUTED SPECIAL DISTRICT.] All cities and incorporated towns and villages, which have heretofore been organized under the general school laws, and which are provided with a board of education, shall be governed by the provisions of this article. Any city or incorporated town or village, having a population of over one hundred and fifty inhabitants, may be constituted a special school district in the manner hereinafter prescribed, and shall then be governed by the provisions of this article; provided, that any city heretofore organized for school purposes under a special act, may adopt the provisions of this article by a majority vote of the voters therein, in the same manner as is provided for the organization of a new corporation under the provisions of this article.

§ 2. EMERGENCY.] Whereas, there is no provision of law permitting the organization of special school districts in cities of a limited population, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

SCHOOL LANDS.

CHAPTER 176.

[S. B. No. 211—Taylor.]

LEASING SCHOOL LANDS FOR COAL MINING.

AN ACT to Provide for the Leasing of Common School and Other Public Lands for Coal Mining Purposes, Providing the Manner and Terms of Such Lease, and Prescribing Penalties for Unlawfully Removing Coal from Such Lands.

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

§ 1. BOARD EMPOWERED TO LEASE.] The board of university and school lands is hereby authorized and empowered to lease, for coal mining purposes, any lands under its control designated as common school lands, and all other public lands of the state owned or held in trust by the state, or granted to any public institution of the state, which contain coal, including therein lignite coal. Any lease so made shall be for such period of time as such board may determine.

§ 2. HOW ADVERTISED.] The manner of advertising and of leasing such lands for coal mining purposes, and approval and execution thereof, shall be the same as provided in sections 220, 221 and 224 of the revised codes of 1899.

§ 3. MINIMUM PRICE.] Such lands shall not be leased for coal mining purposes for a less sum than ten cents per ton of 2240 pounds, for each and every ton of coal mined thereon; provided, that no lease of any such land for such purpose shall be made for less than ten dollars per annum for each and every forty acre tract or fraction thereof, it being expressly provided that at the time of the making and execution of such lease, and annually thereafter, there shall be paid by the lessee an amount equal to ten dollars for every forty-acre tract of land so leased, or any fraction thereof, to the person, and in the manner prescribed herein, or by the rules and regulation of the board of university and school lands; it being further provided that upon such lessee mining any coal or lignite coal thereon during a period of one year from and after the date of such payment, such lessee shall have credit upon the amount due under the terms of such lease on tonnage, for the amount paid at the execution of such lease or at the time of the annual payments thereafter made as hereinbefore provided; the amount received for the lease of any such land for coal mining purposes to be used in the

same manner, and for the same purpose, as is provided for other money received for the lease of common school and other public lands.

§ 4. BOARD AUTHORIZED TO MAKE RULES.] The board of university and school lands is hereby authorized to make such rules and regulations, as shall be by it deemed necessary, for the manner of determining the amount of rent due under any such lease, the manner and time of payment, and for such other conduct of the business of such leasing not in conflict with the provisions of the law now in force.

§ 5. LEASE NOT TO INTERFERE WITH RIGHT TO LEASE FOR PASTURE OR MEADOW.] The leasing of any such land for coal mining purposes shall not interfere with the right and authority of such board to lease the same land for pasture or meadow purposes, and each and every lease so made for coal mining purposes shall contain therein a provision plainly and explicitly reserving to such board the right to so rent such lands for pasture and meadow purposes, without such renting in any manner affecting the conditions or terms of such lease for coal mining purposes, and reserving to the said board the right to use, occupy and lease the surface of all such lands; provided, that any such lessee for coal mining purposes shall have the right to the use and occupancy of so much of the surface of such lands as may be necessary for entry, dumps, buildings, tramways or other railways, roadways or uses in the mining, storing and shipping of coal mined thereon.

§ 6. LEASING RESTRICTED.] No leases shall be made of any such lands having coal or lignite coal thereon for pasture or meadow purposes, except there shall be contained in such lease a provision authorizing the leasing of the same land for coal mining purposes and reserving to the said board the right to use and occupy, or lease for use and occupancy, and authorizing the use and occupancy of so much of the surface of said land as shall be required by any lessee of the same for coal mining purposes, for the uses and purposes set forth in section 5 of this act.

§ 7. BOARD TO MAKE SCHEDULE OF LANDS.] The board of university and school lands shall, as soon as possible, and by the best means at its command, and with the assistance of the state geologist, proceed to ascertain and determine the quantity and description of all common school, or other public lands under its control, on which coal or lignite coal exists, and make and compile a statement and schedule of all such lands.

§ 8. PENALTY FOR VIOLATION.] Any person, firm or corporation who shall mine, remove or cause to be mined or removed, from any common school land, or other public lands of the state, any coal or lignite coal, except the same shall be so mined or removed under and by virtue of the terms of this act, shall be liable to the state of North Dakota in damages in the sum of one dollar for each and every ton of coal or lignite coal so mined or removed, and shall be deemed

guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred and fifty dollars, nor more than one thousand dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment; each and every day or fraction of a day so occupied in mining or removing such coal or lignite coal from any such land, is hereby declared to be a separate offense against the provisions of this act.

§ 9. EMERGENCY.] There being no adequate provision of the law now in force for the leasing of public lands for coal mining purposes or providing penalties for unlawfully mining or removing coal from public lands, an emergency exists and this law shall be in force and effect from and after its passage and approval.

Approved March 10, 1903.

SCHOOL TOWNSHIPS.

CHAPTER 177.

[H. B. No. 251—Cassell.]

REPEAL OF SPECIAL JOINT SCHOOL TOWNSHIP ACT.

AN ACT to Repeal a Special Act of the Legislative Assembly of the Territory of Dakota of 1885, Approved by the Governor March 13, 1885, Entitled "An Act to Create a Joint School Township in the Counties of Griggs and Steele."

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

§ 1. REPEAL.] That the special act of the legislative assembly of the territory of Dakota of 1885, approved by the governor March 13, 1885, entitled "An Act to create a joint school township in the counties of Griggs and Steele," be, and the same is, hereby repealed.

Approved March 10, 1903.

SHERIFFS.

CHAPTER 178.

[H. B. No. 232—McClure.]

FEES OF SHERIFFS.

AN ACT to Amend Section 2082 of the Revised Codes of 1899, Relating to Fees to Be Charged by Sheriffs.

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

§ 1. AMENDMENT.] That section 2082 of the revised codes of the state of North Dakota for the year 1899 be amended so as to read as follows:

§ 2082. FEES TO BE CHARGED.] The sheriff shall be entitled to charge and receive the following fees:

1. Serving *capias* with commitment of bail bond and return, two dollars.
2. For each search or search warrant, one dollar.
3. Arresting under search warrant, each defendant, one dollar.
4. Serving summons, warrant of attachment, order of replevin, injunctional order, citation or other mesne process and return thereon, sixty cents; each defendant besides the first, fifty cents.
5. Copy of summons, or order of attachment, twenty-five cents.
6. Copy of injunctional order, twenty-five cents.
7. Serving subpoena for witness, each person, twenty-five cents.
8. Taking and filing bond in claim and delivery, or other undertaking to be furnished to and approved by the sheriff, one dollar.
9. Traveling expenses for each mile actually and necessarily traveled, ten cents; provided, that when it is necessary to travel by team, the actual cost of the same may be charged in addition to such mileage, not exceeding three dollars per day.
10. Making copy of any process bond or paper, other than herein provided, for each ten words, one cent.
11. Levying writ of execution and return thereof, one dollar.
12. Levying writ of possession with the aid of the county, three dollars and fifty cents.
13. Levying writ of possession without the aid of the county, two dollars.
14. Summoning grand jury, including mileage to be paid by the county, eight dollars.
15. Summoning petit jury, including mileage to be paid by the county, sixteen dollars.

16. Summoning special jury, for each person empaneled, twenty-five cents.
17. Serving notice of motion or other notice or order of the court, fifty cents.
18. Executing writ of habeas corpus and return, one dollar and twenty-five cents.
19. Serving writ of restitution and return, one dollar and twenty-five cents.
20. Calling inquest to appraise any goods and chattels which [he] may be required to have appraised, sixty cents, and to each appraiser, to be taxed as costs, one dollar.
21. Advertising sale in newspaper, in addition to the publisher's fees, sixty cents.
22. Advertising in writing for sale of personal property, one dollar.
23. Executing writ or order of partition, two dollars.
24. Making deed for land sold on execution or order of sale, two dollars.
25. Committing prisoner to prison, or discharging therefrom, fifty cents.
26. Opening court and attending thereon, four dollars per day, to be paid by the county; and the sum of two dollars per day shall be allowed for attendance in justice's courts, in criminal actions, but this per diem shall not be construed to apply to deputies.
27. Commissions on all moneys received and disbursed by him on execution, order of sale, order of attachment, decree, or on sale of real or personal property, shall be:
 - (a) For each dollar not exceeding four hundred dollars, three cents.
 - (b) For each dollar above four hundred dollars, and not exceeding one thousand dollars, two cents.
 - (c) For each dollar in excess of one thousand dollars, one cent.
28. In all cases in the district court where persons in whose favor the execution order of sale is issued, shall bid in the property sold on execution or judgment, the sheriff or person making such sale shall receive the following compensation:
 - (a) When the amount for which the property is bid in does not exceed one thousand dollars, the sum of five dollars, and no more.
 - (b) When the amount for which the property is bid in exceeds one thousand dollars, the sum of ten dollars, and no more.
29. For services in case of redemption of property from sale under execution or mortgage foreclosure, for issuing certificate of redemption, one dollar.
30. For selling real property under foreclosure of mortgages by advertisement, the same fees as are allowed by law for the sale of real property under a judgment of foreclosure and sale of such property, and no more.
31. For boarding prisoners, not exceeding seventy-five cents per

day each, to be determined by the board of county commissioners.

32. For distributing ballot boxes to the various precincts, two dollars per day and mileage.

33. For executing death warrant, such fee as the board of county commissioners shall deem reasonable and just, to be paid by the county.

34. In all cases where personal property shall be taken by the sheriff on execution or under a warrant of attachment, and applied in satisfaction of the debt without sale, he shall be allowed the same percentage on the appraised value thereof as in case of sale.

35. For the expense of taking and keeping possession of and preserving property under attachment, execution or other process, such sum as the court or judge may order, not to exceed the actual expense incurred, and no keeper must receive to exceed three dollars per day, nor must he be so employed, unless the property is of such character as to require the personal attention and supervision of a keeper. No property must be placed in charge of a keeper if it can be safely and securely stored, or when there is no reasonable danger of loss.

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

§ 3. EMERGENCY.] Whereas there are no adequate and clear provisions for sheriffs' fees, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1903.

STATE'S ATTORNEYS.

CHAPTER 179.

[S. B. No. 202—Little.]

APPOINTMENT OF STATE'S ATTORNEYS.

AN ACT to Amend and Re-enact Section 1986, Revised Codes of North Dakota, Revision of 1899, Relating to the Appointment of State's Attorneys by the Court.

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

§ 1. AMENDMENT.] That section 1986 of the revised codes of 1899, be amended and re-enacted so as to read as follows.

§ 1986. AMENDMENT. COURT MAY APPOINT STATE'S ATTORNEY. WHEN AND HOW.] In judicial districts in this state, containing unorganized counties or territory, the district court shall have the power to appoint a state's attorney for such unorganized counties or territory, said attorney, when so appointed, to be the prosecuting officer

for offenses arising within said unorganized counties or territory. The said court, whenever there shall be no state's attorney for an organized county, or when the state's attorney is absent or unable to attend to his duties, may, when necessary, appoint, by an order to be entered in the minutes of the court, some suitable person, an attorney at law, to perform for the time being the duties required by law to be performed by the state's attorney, and the person so appointed shall thereupon be vested with all the powers of such state's attorney for that purpose; and the district court shall, by order, to be entered in the minutes of the court, fix his fee therefor, which amount shall be allowed by the board of county commissioners, and which amount shall be deducted from the salary of the state's attorney. Nothing in this section shall be so construed as to give the court the power permanently to fill vacancies in such office in organized counties, but such power is vested in the board of county commissioners, as elsewhere provided in this code.

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

§ 3. EMERGENCY.] Whereas, there is now no law regulating the appointment of a state's attorney in unorganized counties, therefore an emergency exists, and this act shall be in force immediately after its passage and approval.

Approved March 13, 1903.

CHAPTER 180.

[H. B. No. 160—Leech.]

DUTIES OF ASSISTANT STATE'S ATTORNEYS.

AN ACT to Amend Section 1987 of the Revised Codes of North Dakota, Prescribing Duties of Assistant State's Attorney.

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

§ 1. AMENDMENT.] That section 1987 of the revised codes of North Dakota be amended to read as follows:

§ 1987. STATE'S ATTORNEY MAY APPOINT, AND DUTIES PRESCRIBED FOR ASSISTANT. The state's attorney is authorized and empowered to appoint an assistant state's attorney within his county, who, when qualified, by filing his oath of office, shall have the same power, and perform any and all duties, now required of the state's attorney; provided, however, that the state's attorney shall be responsible, under his official bond, for any and all acts of such assistant.

§ 2. EMERGENCY.] Whereas, there is not sufficient law governing the duties of an assistant state's attorney, this act shall take effect from and after its passage and approval.

Approved March 10, 1903.

STATE BOARD OF HEALTH.

CHAPTER 181.

[S. B. No. 78—Taylor.]

RELATING TO STATE BOARD OF HEALTH.

AN ACT to Amend Section 244 of Article 5, Chapter 4, Revised Codes of 1899, Relating to State Board of Health.

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

§ 1. AMENDMENT.] That section 244, of article 5, chapter 4, of the revised codes of 1899, be amended so as to read as follows:

§ 244. COMPENSATION OF OFFICERS.] The president and vice president of the board shall receive no compensation, but they shall be paid five cents for every mile actually and necessarily traveled by them in the performance of their official duties, and other necessary expenses incurred by them. The superintendent of public health shall be paid an annual salary of twelve hundred dollars in equal installments at the end of every three months. He shall also be paid five cents per mile actually and necessarily traveled in the performance of his official duties, and such other sum or sums as he may necessarily pay, or become liable to pay (hotel or other incidental expenses), for the official books, clerk hire, records and papers kept by him, and for the printing of his reports and such circulars and blanks as may be required for the proper conduct of the business of his office, not to exceed in the aggregate the sum of fifteen hundred dollars per annum. The accounts of the superintendent for his mileage and said other expenses of his office shall be audited by said board of health, and the same, together with his salary, shall be paid out of the state treasury.

§ 2. EMERGENCY.] Whereas, an emergency exists in that an epidemic of smallpox has existed within this state for the past two years, together with the rapid increase of population, the funds available for the proper conduct of this office are wholly insufficient, therefore this act shall take effect and be in force immediately upon its passage and approval.

Approved March 19, 1903.

STATE BOARD OF EQUALIZATION.

CHAPTER 182.

[H. B. No. 25—Kraabel.]

STATE BOARD OF EQUALIZATION.

AN ACT to Amend Section 1225 of the Revised Codes of North Dakota, Prescribing How the State Board of Equalization Shall Be Constituted, Its Meetings and Rules for Equalizing.

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

§ 1. AMENDMENT.] Section 1225, revised codes, is hereby amended to read as follows:

§ 1225. BOARD, HOW CONSTITUTED. DUTIES.] The governor, state auditor, state treasurer, attorney general and commissioner of agriculture and labor, shall constitute the state board of equalization, a majority of which shall constitute a quorum for the transaction of business. The governor shall be ex-officio president of said board, and the state auditor shall act as secretary. The said board shall meet annually on the first Tuesday in August, at the office of the state auditor, and shall then examine and compare the returns of the assessment of the property in the several counties of the state, and proceed to equalize the same, so that all taxable property in the state shall be assessed uniformly, and at its true value in money. In the performance of their duties they shall be governed by the following rules:

1. They shall raise the valuation of each class of personal property of every county, which in their opinion is returned below its true and full value, to such price and sum as they believe to be the true and full value thereof.

2. They shall reduce the valuation of each class of personal property enumerated in section 1191 of every county, which in their opinion is returned above its true and full value, to such price and sum as they believe to be the true and full value thereof.

3. They shall add to the aggregate valuation of the property of every county which they believe to be valued below its true and full value in money, such per centum in each case as will bring the same to its true and full value in money.

4. They shall deduct from the aggregate valuation of the property of every county, which they believe to be valued above its true and full value, such per centum in each case as will reduce the same to its true and full value in money.

5. They shall not reduce the aggregate valuation of all the property in the state, as returned by the several county auditors, more than one per centum on the whole valuation thereof.

6. Upon the completion of such equalization and determination of the aggregate valuation of all the property of the state, the said board shall then decide upon the rate of the state tax to be levied for the current year, together with any other general or special state taxes required by law to be levied.

§ 2. REPEAL.] All sections or parts of sections of the codes of North Dakota of 1899, and all acts and parts of acts, inconsistent with the provisions of this act are hereby repealed.

Approved Feb. 13, 1903.

STATE EXAMINER.

CHAPTER 183.

[S. B. No. 176—Little.]

DUTIES OF STATE EXAMINER.

AN ACT to Amend Section 137 of the Revised Codes, Relating to the Duties of State Examiner to Examine Accounts of Public Officers.
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That section 137 of the revised codes be amended so as to read as follows:

§ 137. DUTIES.] The duties of the state examiner are to examine at least once every year the books and accounts of the secretary of state, state auditor, state treasurer, clerk of the supreme court, commissioner of insurance, commissioner of agriculture and labor, county treasurer, county auditor, and other county officers of any county, upon request by the board of county commissioners or the governor.

Approved March 9, 1903.

STATE INSTITUTIONS.

CHAPTER 184.

[S. B. No. 140—Committee on State Affairs.]

PROVIDING FOR SINKING FUND TO PAY BONDS OF STATE INSTITUTIONS.

AN ACT Authorizing and Directing the Board of University and School Lands to Create and Invest a Sinking Fund for the Payment of Bonds Issued by State Educational, Charitable or Other State Institutions, Defining the Manner of Creating Such Sinking Fund, and Prescribing the Duties of the Board of University and School Lands in Relation Thereto.

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

§ 1. SINKING FUND CREATED. DUTIES OF BOARD.] For the purpose of providing for the payment of bonds issued by state institutions, and the interest thereon, it shall be the duty of the board of university and school lands, and such board is hereby directed, to create a sinking fund from the interest and income arising from the sale, rental or lease of the public lands selected for and granted to any such state institution, as follows: Such board of university and school lands shall set apart and convert into a sinking fund to the credit of each of such state institutions, an equal sum of money each year during the first half of the period for which such bonds are issued; the aggregate amount of such sums so set apart shall equal one third of the sum of money for which such bonds may be, or have been, issued. Such board shall in like manner as in this section provided set apart an equal sum of money each year during the second half of the period for which such bonds are issued, the aggregate sum of which shall equal the remaining two-thirds of the sum of money for which such bonds may be, or have been, issued.

§ 2. INVESTED, HOW.] Such sinking fund shall be invested by the board of university and school lands from time to time under the same conditions and on the same terms as is provided by section 172 of the revised codes of North Dakota in relation to the permanent funds of such state educational, charitable and other state institutions; provided, that all interest received from the investment of such sinking fund shall accrue to the credit of the institution issuing the bond for which such fund is created, and such interest and sinking fund shall be first applied annually toward discharging the interest arising on such bonds; provided, further, that all interest and in-

come arising from the sale, rental or lease of such lands in excess of such sums as may be required to comply with the provisions of this act shall be remitted to the treasurers of such state educational, charitable or other state institutions as provided by chapter 138, session laws of 1901.

§ 3. BONDS TO BE RETIRED. EXCEPTION. It shall be the duty of the board of university and school lands, and they are hereby directed, whenever there are sufficient funds accumulated in the sinking funds of any of the institutions named in this act, to retire one or more of the bonds of such institution, and to purchase and retire from time to time such bond or bonds as can be paid from the sinking fund created for the purpose of retiring such bonds; provided, however, that such bonds are in the possession or under the control of such board of university and school lands. The provisions of this section shall not apply to the payment and retirement of the bonds of any state institution, where by law payment of bonds issued have been or may hereafter be otherwise provided for.

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

§ 5. EMERGENCY.] There being no law for the creation and investment of a sinking fund by the board of university and school lands or the retirement of such bonds by such board, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

STATE OFFICERS.

CHAPTER 185.

[S. B. No. 158—Lewis.]

REPORTS OF STATE OFFICERS.

AN ACT to Amend Section 59 of the Revised Codes of North Dakota for the Year 1899, Relating to the Printing of Biennial, Annual and Special Reports; How Printed.

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

§ 1. AMENDMENT.] That section 59 of the revised codes of 1899 be amended to read as follows:

§ 59. REPORTS OF. HOW PRINTED.] There shall be printed one thousand copies of the annual reports of the state treasurer, one thousand copies of the biennial reports of the state auditor, two thousand copies of the report of the superintendent of public instruction, and five hundred copies of the biennial reports of other

state officers, and public boards required to make reports; and six hundred copies of the annual reports of the commissioner of insurance; also one thousand copies of the biennial reports of the commissioner of agriculture and labor; provided, that on request of the commissioner of agriculture and labor, such request to be approved by the governor, there shall be printed, separately in pamphlet form, such parts of the biennial report of said commissioner of agriculture and labor, or such special papers or articles in connection therewith, and such crop reports or other papers or pamphlets, from time to time as such commissioner and the governor may jointly recommend for such separate publication; and the number of copies to be printed of each of said separate publications, crop reports or other papers or pamphlets shall be determined by the commissioner of agriculture and labor and the governor jointly.

Approved March 10, 1903.

CHAPTER 186.

[S. B. No. 135—Senate Committee on Appropriations.]

CLERK HIRE FOR STATE OFFICERS.

AN ACT to Amend Section 334 of the Revised Codes of 1899, Relating to Clerk Hire for State Officers.

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

§ 1. AMENDMENT.] Section 334 of the revised codes of 1899, relating to clerk hire for the state officers, is amended so as to read as follows:

§ 334. CLERK HIRE ALLOWED AND FIXED.] The following amounts are hereby fixed and allowed for clerk hire of the several state officers hereinafter mentioned, which sums shall be paid in monthly payments on the warrant of the state auditor:

Governor's office, for private secretary, stenographer, messenger, and such other employes and expenses as may at any time be necessary, \$3,000 per annum.

Secretary of state's office, \$2,800 per annum.

Treasurer's office, \$3,000 per annum.

Auditor's office, \$3,000 per annum.

Attorney general's office, \$2,100 per annum.

Superintendent of public instruction's office, \$3,800 per annum.

Commissioner of insurance's office, \$3,000 per annum.

Commissioner of agriculture and labor's office, \$2,100 per annum.

Secretary of the board of railroad commissioners, \$1,000 per annum.

Clerk of the supreme court's office, \$1,000 per annum.

Secretary of state's office, for care and custody of the state libraries, \$1,000 per annum.

Provided, that all clerical appointments shall first be referred to the governor for his approval.

There is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, a sum sufficient to carry out the provisions of this act.

§ 2. EMERGENCY.] Whereas, the sum now fixed for clerk hire for the different state officers is insufficient, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

STATE TREASURER.

CHAPTER 187.

[S. B. No. 153—Little.]

DUTIES OF STATE TREASURER.

AN ACT to Amend Section 108 of the Revised Codes of North Dakota, for the Year 1899, Relating to the Duties of the State Treasurer.

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

§ 1. AMENDMENT.] That section 108 of the revised codes of 1899 be amended to read as follows:

§ 108. DUTIES OF.] It is the duty of the state treasurer:

1. To receive and keep all the moneys belonging to the state, and not required to be received and kept by some other person.
2. To register the orders or certificates of the state auditor delivered to him when moneys are paid, or to be paid, into the treasury.
3. To deliver to each person paying money into the treasury and to the state auditor, a duplicate receipt showing the amount, the source from which the money accrued, and the funds into which it is paid, which receipts must be numbered in order beginning with number 1 at the commencement of each fiscal year.
4. To pay warrants drawn by the state auditor out of the funds upon which they are drawn, and in the order in which they are presented.
5. Upon the payment of any warrant, to take upon the back thereof the receipt of the person to whom it is paid, and file and preserve the same.
6. To keep an account of all moneys received and disbursed.
7. To keep separate accounts of the different funds. He shall receive in payment for public dues the warrants drawn by the state auditor in conformity with law, or redeem the same if there is money in the treasury appropriated for that purpose, and on redeeming such

warrant or receiving the same in payment he shall cause the person presenting such warrant to endorse the same, and the treasurer shall write on the face thereof "redeemed," and shall enter in his book in separate columns the number of such warrant, its date, amount and the name of the person to whom payable, the date of payment and the amount of interest, if any, paid thereon.

8. To report to the state auditor on the last day of each month the amount disbursed for the redemption of bonds and the payment of warrants during the month, which reports must show the date and number of such bonds and warrants, the funds out of which they were paid and the balance in cash on hand in the treasury to the credit of each fund.

9. At the request of either house of the legislative assembly, or of any committee thereof, to give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.

10. To report to the governor, on or before the 20th day of November each year, the exact balance in the treasury to the credit of the state; said report shall show in detail the receipts and disbursements, together with a summary thereof, the balances in the various funds at the beginning and ending of the fiscal year, which year shall end on October 31st; said report shall also show where the funds of the state are deposited and shall be certified by the state treasurer and approved by the governor.

11. To authenticate with his official seal all writings and papers issued from his office.

12. To discharge the duties of a member of the board of state canvassers and of the board of commissioners of public printing, and to perform such other duties as are or may be prescribed by law.

13. To keep a book in which he must enter all warrants paid, giving the names of the owners and the number and amounts of warrants.

14. To keep all moneys belonging to the state in his own possession, until disbursed according to law. But nothing in this subdivision prohibits him from making special deposits for the safe keeping of public moneys.

15. To post at the door on the outside of his office a list of all warrants that he may have funds in the treasury to redeem or pay, the payment of which has not been demanded during the preceding six months.

16. To keep his books open at all times for the inspection of the governor, the state auditor, the public examiner, and any committee appointed to examine them by either house of the legislative assembly.

17. To report annually to the governor in writing and under oath the amount of all moneys in his hands to the credit of each fund and the place where the same is deposited, and the number and amount of every warrant paid or redeemed by him during the preceding

twelve months. The governor shall verify said report and cause the same to be immediately published in at least one daily paper printed at the seat of government.

Approved March 10, 1903.

STATE UNIVERSITY.

CHAPTER 188.

[S. B. No. 44—Taylor.]

ADMISSION OF LAW STUDENTS OF STATE UNIVERSITY TO PRACTICE.

AN ACT Amending Section 423 of the Revised Codes of 1899, Relating to Oath of Office to Be Taken by Persons Who Have Been Admitted to Practice in the Courts of North Dakota.

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

§ 1. AMENDMENT.] That section 423 of the revised codes of the state of North Dakota, relating to oath of office to be taken by persons who have been admitted to practice in the courts of North Dakota, is hereby amended so as to read as follows:

§ 423. MUST TAKE OATH.] Upon being admitted to practice as an attorney and counsellor at law as above provided, he shall, in open court, take the oath prescribed in section 211 of the constitution. In the case of graduates of the law department of the University of North Dakota, however, who shall have been admitted to practice by said court, it shall be sufficient if the said oath be administered by the clerk of the supreme court in or out of term time, and it shall not be necessary for the same to be administered in open court.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that the commencement exercises of the University of North Dakota are held in the month of June of each and every year, and the diplomas of the law graduates are then conferred, and the examination papers of such graduates submitted to the said supreme court, while the next session of said court is not held until the month of September, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1903.

CHAPTER 189.

[S. B. No. 1—LaMoure.]

LIFE MEMBER BOARD OF TRUSTEES STATE UNIVERSITY.

AN ACT to Amend Section 876 of the Revised Codes of the State of North Dakota for 1899, Relating to the Board of Trustees of the University of North Dakota.

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

§ 1. AMENDMENT.] That section 876 of the revised codes of the state of North Dakota for 1899, be and the same is hereby amended to read as follows:

§ 876. BOARD OF TRUSTEES TO GOVERN. The government of such university shall be vested in a board of trustees consisting of five members, of which the Hon. William Budge, for and during his good pleasure, as an honorary member, with all rights and powers of a member of said board, shall be one of said board; the remaining members thereof to be appointed by the governor, by and with the advice and consent of the senate, and shall hold their offices for the term of four years commencing on the first Tuesday in April next succeeding their appointment.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in this, that the terms of office of two trustees of the university of North Dakota will expire during the present session of the legislature, and for the purpose of adjusting the terms of office to comply with the changed conditions hereby created, therefore this act shall take effect and be in force from and after its passage and approval.

Approved Feb. 11, 1903.

STOLEN PROPERTY.

CHAPTER 190.

[H. B. No. 58—Burtness.]

BUYING OR RECEIVING STOLEN PROPERTY.

AN ACT to Amend Section 7458 of the Revised Codes of North Dakota for 1899, Relating to the Buying or Receiving of Stolen Property.

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

§ 1. AMENDMENT.] That section 7458 of the revised codes of the state of North Dakota for the year 1899 be amended to read as follows:

§ 7458. BUYING OR RECEIVING STOLEN PROPERTY.] Every person who buys or receives, in any manner, upon any consideration, any personal property of any value whatsoever, that has been stolen from any other, knowing the same to have been stolen, and with the intent to deprive the owner thereof, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, if the value of the goods so bought or received equals or exceeds twenty dollars; if the value of said goods is less than twenty dollars, by imprisonment in the county jail not exceeding thirty days, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

Approved March 2, 1903.

SUPERIOR GRAIN AND WAREHOUSE COMMISSION.

CHAPTER 191.

[H. B. No. 253--Young.]

NORTH DAKOTA MEMBER OF SUPERIOR GRAIN AND WARE- HOUSE COMMISSION.

AN ACT Providing for the Recommendation by the Governor of North Dakota of a Member of the Grain and Warehouse Commission for the City of Superior, Wisconsin.

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

§ 1. GOVERNOR SHALL APPOINT MEMBER WHEN.] That the governor of this state shall, within thirty days after receipt by him of a request by the governor of the state of Wisconsin so to do, recommend one or more persons who shall have had at least five years' experience in the handling or grading of grain, residents of this state, for appointment upon the grain and warehouse commission for the city of Superior, Wisconsin, and shall, within said period, forward to the governor of said state of Wisconsin, the name or names of the person or persons so recommended.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that the grain raised in the state of North Dakota is largely inspected in the state of Minnesota, and the inspection made under the laws of said state of Minnesota is not just, and the grain raisers of the state of North Dakota are now suffering great damage therefrom; now, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

CHAPTER 192.

[S. B. No. 136—Senate Committee on Appropriations.]

SALARY AND EXPENSES SUPERINTENDENT PUBLIC INSTRUCTION.

AN ACT to Amend Section 637 of the Revised Codes of 1899, Relating to the Salary and Traveling Expenses to be Paid the Superintendent of Public Instruction.

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

· § 1. AMENDMENT.] Section 637 of the revised codes of the state of North Dakota, relating to the salary and traveling expenses to be paid the superintendent of public instruction, is hereby amended so as to read as follows:

§ 637. SALARY, TRAVELING EXPENSES.] He shall receive an annual salary of two thousand dollars, and in addition thereto his actual and necessary traveling expenses incurred in the discharge of his official duties, not exceeding one thousand dollars in any one year, such expenses to be paid monthly on the warrant of the state auditor upon his filing with such auditor an itemized statement of such expenses, properly verified, and approved by the state auditing board.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the amount now allowed the superintendent of public instruction for traveling expenses is insufficient to meet the necessary outlay of the said superintendent, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

SUPREME COURT.

CHAPTER 193.

[S. B. No. 127—Little.]

REGULATING TERMS OF THE SUPREME COURT.

AN ACT to Amend Section 377 of the Revised Codes of 1899, Relating to General Terms of the Supreme Court, and Section 378 of the Revised Codes of 1899, Relating to Procedure Therein.

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

§ 1. AMENDMENT.] That section 377 of the revised codes of 1899, relating to general terms of the supreme court, be and the same is hereby amended so as to read as follows:

§ 377. 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 in March of each year. The second session shall be held in the city of Bismarck, county of Burleigh, commencing on the fourth 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. The second session shall be held in the city of Bismarck, county of Burleigh, commencing on the third Tuesday of 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. That section 378 of the revised codes of 1899, relating to appeals, motions and hearings in the supreme court, be and the same is hereby amended so as to read as follows:

§ 378. 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 motions in cases upon the calendar for the Bismarck session of either term shall be noticed for, and heard at Bismarck unless, by consent of parties, they are taken up elsewhere.

The court may, by order, for the convenience of parties, set any matter down for hearing at either Bismarck, Fargo or Grand Forks.

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

§ 4. EMERGENCY.] Whereas, it is necessary that the sessions of the supreme court to be held at Bismarck, Grand Forks and Fargo, and the procedure on appeals, motions and hearings therein be changed, an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1903.

CHAPTER 194.

[S. B. No. 120—Little.]

SALARIES AND EXPENSES OF JUDGES OF SUPREME COURT.

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

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

§ 1. PERSONAL EXPENSES.] Each judge of the supreme court shall, during his present term of office, receive the sum of one hundred dollars per month for the purpose of defraying the personal expenses of such judge when away from home in the discharge of the duties pertaining to his office, and for other necessary expenses. Such amount to be payable monthly without the filing of any itemized statement; provided, that the provisions of this section shall not apply to judges hereafter elected.

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

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

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law providing for the payment of the necessary

expenses of judges of the supreme court, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1903.

SURETY AND TRUST COMPANIES.

CHAPTER 195, [H. B. No. 33—Buttz.]

REGULATING SURETY AND TRUST COMPANIES.

AN ACT to Amend Section 3258f, 3258m and 3258p of the Revised Codes, Relating to the Control, Management and Powers of Surety and Trust Companies.

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

§ 1. AMENDMENT.] That section 3258f of the revised codes, be and the same is hereby amended to read as follows:

§ 3258f. CORPORATE POWERS.] Every corporation organized under the provisions of this chapter, and qualified as provided by section 3258c, shall have all the general powers and privileges of corporations generally as heretofore or hereafter provided by the general laws of the state of North Dakota, and in addition thereto, and without being required to further qualify under the laws relating to banking and insurance corporations, except as in this chapter provided, shall have special power and authority:

1. To acquire, lease, purchase, own, hold, use and improve, mortgage, lease, sell and convey such real estate and personal property as may be necessary for the convenient transaction of its business, and for the use and occupation of its officers, agents and employes, and the safe keeping and investment of its assets, deposits and property held in trust. Any estate or interest in real estate which such corporation shall acquire under and by virtue of the foreclosure of any deed of trust, mortgage, or other security, or by the compromise, compounding or settlement of any obligation or security, or otherwise, in the course of its legitimate business, whether as owner or trustee, it may continue to own, hold, use, occupy, lease, bargain, sell and convey the same, as the directors may deem best for the interests of such company, or of the particular estate or trust to which the same belongs; and to that end, it may become a purchaser at any foreclosure sale, or sale under decree or judgment, to which it as a party, as trustee or otherwise. But no part of its capital, accumulations, deposits, trust funds, property or security owned or held by such company, in trust or otherwise, shall be invested in real estate,

except as herein authorized, unless same is done under and by virtue of a particular contract, agreement or instrument, or order, judgment or decree of court, which shall confer a special power or authority so to do, and then only with or to the extent of the moneys or funds thereby provided, and belonging to such particular trust; and for the general transaction of its business, to make and deliver, and in like manner accept and receive all necessary and proper deeds, conveyances, mortgages, leases and other contracts and writings obligatory, and to have and exercise all necessary rights, franchises, muniments, estates, powers and privileges necessary to that end; and such corporation is authorized to loan money and funds and secure such loans by mortgage; and shall have the power to purchase notes, bonds, mortgages and other evidences of indebtedness, and other securities, and to convert the same into cash and into other securities.

2. To take, accept and hold by the order, judgment and decree of any court of record in this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise, legacy or request [bequest] from or with any public or private corporation, or persons whomsoever, any real estate or personal property upon trusts created in accordance with, or which shall not conflict with the laws of this state, or of the United States, and to execute and perform any and all such legal and lawful trusts in regard to the same, upon the terms, conditions, limitations and restrictions, which may be declared, imposed, established by or agreed upon, in or by such order, judgment, decree, gift, grant, assignment, transfer, contract, devise, legacy or bequest. To accept from and execute for, or in behalf of, trusts or [for] minors, and married women, in respect to their separate property, real or personal, and ante-nuptial settlements, or otherwise, to act as an agent for them in the management of such property. To act as agent for the purpose of transferring, issuing, registering, or countersigning the certificates of stocks, bonds, coupons, or other evidences of debt of any corporation, association, person, city, town, township, school district, state or other authority, or to receive or to pay out moneys in redemption of the bonds, coupons or other evidences of indebtedness of such public or private corporations or persons.

3. To take, accept and hold on deposit, for savings account or for safe keeping, or in escrow, any and all moneys, bonds, stocks, and other securities, or personal property whatsoever, which any state, county, city, town, township or school district officer, or any corporation, public or private, person or persons, shall be authorized, permitted or required by law or otherwise to deposit in a bank or other safe deposit, or to pay into or deposit in any court of record in this state. And when any officer, corporation, public or private, or any executor, administrator, guardian, assignee, receiver, trustee, or any person acting in a trust capacity of whatsoever nature, or any individual, shall be authorized, required or permitted by law or otherwise, to pay into or deposit in any court of record in this state any

moneys, bonds, instruments in writing, stock, or other securities, or personal property whatsoever, the same instead thereof may be paid into or deposited with any corporation organized and acting under this chapter, which shall be designated for that purpose by the court having jurisdiction of the subject matter, or by the person, corporation, tribunal or body owning or controlling the same. Whenever any executor, administrator, guardian, assignee, receiver, trustee, or any person acting in any trust capacity whatsoever, shall deposit any moneys, bonds, instruments in writing, stocks, or other securities, or any personal property whatsoever, belonging to his trust, with any corporation qualified and acting under this chapter, and shall take a receipt of such corporation therefor, he and his sureties shall thereafter be relieved from all liability therefor until the same shall again be delivered to him by such corporation; provided that any corporation organized under chapter 20½, revised codes, 1899, having a savings department, shall make the same reports and be subject to the same examinations and be under the same restrictions as to their savings departments as now provided by law for banks.

4. To act as trustee, assignee or receiver, in all cases where it shall be lawful for any court, officer, corporation or person to appoint a trustee, assignee or receiver, and to be appointed, commissioned and act as administrator of any estate, executor of any last will or testament of any deceased person, or estate of any minor, or of the estate of any lunatic, imbecile, spendthrift, habitual drunkard, or other person disqualified to manage an estate. And it shall be lawful for any court in this state, having jurisdiction of the estates or wills of such persons, either within or without this state, to appoint or commission any such corporation organized and acting under, and having qualified with all the provisions of this chapter, as such administrator, executor, guardian, trustee, assignee or receiver in all cases where, under the laws of this state, such court could lawfully so appoint and commission any natural person; and in such cases no bond or other security or oath or other qualification shall be necessary to enable such corporation to accept such appointments and trusts.

5. To accept and receive deposits of money for general savings account, for safe keeping, or for investment, and to provide by its by-laws and regulations for the payment of interest or dividends thereon, for the investment thereof, and conditions for repaying or withdrawing the same, and when any such deposit may have been received from a minor the repayment of same to such minor or his order shall be a complete discharge of such corporation from any further liability therefor. To loan money upon such securities as may be deemed advisable by its board of directors, and to borrow money in like manner upon the security of its own property or credit.

6. To act as attorney in fact for any public or private corporation, or person, in the management or control of real estate or personal property, its sale or conveyance, in the negotiation of and sale

of mortgages or other securities, the satisfaction of and discharge of record of mortgages or other securities, the collection of rents, payment of taxes, and generally to act for and represent corporations and persons under powers and letters of attorney, in all respects as a natural person could do.

7. To make, compile and certify to abstracts of title of real estate, upon such conditions and subject to such liability as may now exist or be hereafter created, by or under the laws of this state relating to abstractors, and under such conditions and restrictions as may be prescribed by its by-laws or by resolutions of its board of directors, to insure the validity and genuineness of titles to real property.

8. To insure and guarantee the fidelity and faithful performance of the duties of state, county, township, city, town and school district officers and employes; of the depositories of public or other funds, and all persons, firms, companies or corporations who may require or are permitted to make, execute or give bonds or undertakings with security, for the faithful performance of any duty, and any court, board of auditors, board of commissioners, or trustees, or any person or persons who are now or shall hereafter be required to approve the sufficiency of any such bond or undertaking may accept such bond or undertaking and approve the same, when the conditions of such bond or undertaking are guaranteed by a corporation duly organized, qualified and acting under the provisions of this chapter, and all such corporations are vested with full power and authority to guarantee such bonds and undertakings, and the certificate provided for in section 3258c shall, until revoked, be conclusive evidence of the qualification of such corporation, and of its authority to become and be accepted as such surety; provided, that nothing herein contained shall apply to bonds given in criminal actions.

9. Whenever any sum or sums of money, or any real or personal property shall have been received by, deposited with or conveyed to be held by such corporation, for savings or investment account, or in trust under any of the provisions of subdivisions 1, 2, 3, 4 or 5 of this section, such moneys or property and all evidences of the investment of the same, and their accretions, must be kept by such corporation, separate and apart and readily identified from similar property of its own or of other persons, and the same shall not be liable for any debt or claim against said corporation, except for debts or claims accruing to and in favor of the person or persons making such deposits or creating such trusts, or the beneficiaries thereunder.

§ 2. AMENDMENT.] That section 3258m be and the same is hereby amended to read as follows:

§ 3258m. PROHIBITED DEALINGS. INDEBTEDNESS OF AGENTS.] Such corporation shall not loan its funds, moneys, capital, trust funds or other property whatsoever to any director, officer, agent or other employe thereof, nor shall any such director, officer, agent or other employe become in any manner indebted to said company by

means of any overdraft, promissory note or account, indorsement, guaranty or other contract whatsoever unless such indebtedness shall have been first approved or authorized by the board of directors, or an investment committee created by it, and such approval entered in the minutes of the proceedings of such board or committee, and any such director, agent or employe who shall become so indebted to said company; contrary to the provisions hereof, shall be deemed guilty of the crime of embezzlement to the amount of such indebtedness, from the time such indebtedness shall be created, and upon conviction thereof shall be punished in the manner prescribed by the laws of this state for embezzlement of like amount. The execution and delivery of the official bond of such officer, agent or employe, or his endorsement of commercial paper, however, shall not be considered as an indebtedness for the purpose of this section.

§ 3. AMENDMENT.] That section 3258p be and the same is hereby amended so as to read as follows:

§ 3258p. DUTY OF PUBLIC EXAMINER.] It shall be the duty of the public examiner, once in every six months, or oftener if required by the written, verified information filed with him by any person interested in any trust with which such corporation may be charged, and without notice to the officers of such company, to make a full, true, complete and accurate examination and investigation of the affairs of such corporation and to assume and exercise over such corporation, its business, officers, directors and employes, all the power and authority conferred upon him over banking and other financial or monied corporations. If it shall appear to the state examiner from any examination made by him that said corporation has committed a violation of the law or that it is conducting business in an unsafe or unauthorized manner, or that the deposit made by it with the state auditor as hereinbefore provided, is insufficient to protect the interests of all concerned, then the state examiner shall, by an order under his hand and the seal of his office, and addressed to such corporation, direct the discontinuance of such illegal or unsafe practice, and to conform with the requirements of the law, or to make a further deposit with the state auditor in an amount sufficient to insure the safety of its trusts, deposits and liabilities. And whenever such corporation shall refuse to comply with any such order as aforesaid, or whenever it shall appear to the said state examiner that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the facts to the attorney general, and thereupon he shall be authorized to institute such proceedings against any such corporation, as is now, or may hereafter be provided by law, in case of insolvent corporations or such other proceedings as the case may require.

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

§ 5. EMERGENCY.] Whereas, there exists a conflict of opinion as to whether corporations organized under this act as it now

exists are under the supervision of the insurance department, the auditor's department, or the state examiner's department, therefore, this act is to take effect upon its passage and approval.

Approved March 5, 1903.

CHAPTER 196.

[S. B. No. 85—Lavayea.]

RIGHT OF WAY FOR TELEPHONES.

AN ACT to Amend Section 3225a of Chapter 19½ of the Revised Codes (Civil Code) of 1899, Being Section 1 of Chapter 156 of the Session Laws of 1899, Being 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. That section 3225a of chapter 19½ of the civil code of the revised codes of North Dakota for the year 1899, being section 1, of chapter 156 of the session laws for North Dakota for the year 1899, be amended and re-enacted to read as follows:

§ 3225a. RIGHT OF WAY.] 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, organized under the laws of this state, or to any company or corporation duly licensed to do business 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 lines shall run upon, over or across, and as to the places where the poles to support the wires shall be located, and all grants of right of way for the construction of telephone lines heretofore made, in accordance herewith, by any board above mentioned, are hereby made valid.

§ 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 business interests of the state demand the rapid extension of telephone lines connecting the business centers and franchises should be let and work commenced on the construction of such lines long be-

fore the first day of July, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

CHAPTER 197.

[S. B. No. 93—Lavayea.]

PENALTY FOR INJURING TELEPHONE LINES.

AN ACT to Amend and Re-enact Section 7553 of Chapter 61 of the Penal Code of the Revised Codes of 1899, Relating to Injuries to or Obstruction of Any Telegraph Lines or Appurtenances or Apparatus Therewith Connected by Adding Thereto and Bringing Within the Provisions Therewith Telephone Lines.

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

§ 1. AMENDMENT.] That section 7553 of chapter 61, of the penal code of the revised codes of 1899, be amended and re-enacted to read as follows:

§ 7553. INJURING TELEGRAPH OR TELEPHONE LINES.] Every person who willfully or maliciously takes down, removes, injures or obstructs any line of telegraph or telephone or any part thereof, or appurtenance or apparatus therewith connected, or severs any wire thereof, is guilty of a misdemeanor.

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

Approved March 9, 1903.

CHAPTER 198.

[H. B. No. 19—McGahan.]

DISPOSITION OF TOWN LOTS HELD IN TRUST.

AN ACT Providing How the Lots of Townsites Heretofore Entered Under Section 2387 of the Revised Statutes of the United States and Now Held in Trust by Any City as Provided in Section 2387, May Be Sold or Leased.

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

§ 1. HOW SOLD OR LEASED.] That the lots in any city which have been acquired under the provisions of section 2387 of the revised statutes of the United States, and title to which are held in trust for the several use and benefit of the occupants of such city, as provided in said section 2387 of the revised statutes of the United States, may be sold or leased by the council of such city at any regular or special

meeting of the council of such city, a majority of all the members elected voting therefor; provided, that no lease shall be for a longer period than ninety-nine years, and it shall be the duty of the mayor of the city, on the presentation to him of a certificate from the city treasurer, showing that the purchaser of any lot or lots from the city council has deposited the purchase price with him, to execute to the purchaser a deed in the name of the city for said lot or lots so sold.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that there is now no law providing for the sale or leasing of lots held in trust by cities, acquired under the provisions of section 2387 of the revised statutes of the United States, by the city council at any regular or special meeting, nor for the leasing of such lots for more than twenty years; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved Feb. 10, 1903.

TOWNSHIPS.

CHAPTER 199.

[S. B. No. 133—Clarke.]

DISSOLUTION OF TOWNSHIPS.

AN ACT to Amend Sections 2680b and 2680d of the Revised Codes of the State of North Dakota, 1899, Relating to Dissolution of Townships.

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

§ 1. AMENDMENT.] That section 2680b of the revised codes of the state of North Dakota, 1899, be amended and re-enacted to read as follows:

§ 2680b. AMENDMENT. SHALL VOTE BY BALLOT.] The board of supervisors of such civil township shall preside at such meetings, and the polls shall be opened and closed as at other township meetings, and the voters shall vote by ballot, "yes" or "no," and the result of the vote shall be publicly announced after the polls close and as soon as ascertained by the officers of such meeting, and if a majority of all the votes [shall be "yes" and shall] have been given by a majority of all the legal voters in such civil township, a statement of the vote signed by the chairman of the board of supervisors of such civil township, and attested by the clerk thereof, shall be filed in the office of the county auditor of the county within which such civil township lies, and such civil township shall on the first day of January next succeeding the time of holding such meeting cease to be a corporation; provided, the property belonging to such civil township,

after the payment of its debts and liabilities, shall be disposed of in such manner as a majority of the voters of such civil township at any special meeting may have directed. And all of the records of such civil township shall be turned over by the officers of said civil township to the county auditor of the county wherein said district lies, for preservation and safe keeping.

§ 2. That section 2680d of the revised codes of the state of North Dakota, 1899, be amended and re-enacted to read as follows:

§ 2680d. AMENDMENT. ASSESSMENT AND LEVY.] Upon the dissolution of any civil township, it shall be the duty of the board of county commissioners of the county within which such civil township lies, to attach the territory embraced within such township for the purpose of assessment and taxation to such assessment district of such county as such board may deem advisable or practicable, and to levy on the taxable property in such township, in addition to the other levies provided by law, a sum sufficient to discharge all debts and liabilities existing against said township at the time of its dissolution, and the county auditor shall enter the same on the county tax list, to be collected by the county treasurer as other county taxes are collected, and it shall be the duty of said treasurer to credit the money derived from such levy to a special fund to be used in the payment of said debts and liabilities, and any balance remaining in said fund after the payment of said debts and liabilities, shall be transferred to the credit of such district, to be used in the construction of roads and bridges therein.

Approved March 19, 1903.

CHAPTER 200.

[S. B. No. 58—Williams.]

MEETINGS OF TOWNSHIP SUPERVISORS.

AN ACT to Amend Chapter 205 of the Session Laws of 1901, Relating to the Meetings of Township Board of Supervisors.

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

§ 1. AMENDMENT.] That chapter 205 of the session laws of 1901 be amended so as to read as follows:

§ 205. REGULAR MEETINGS.] The township board of supervisors shall hold regular meetings on the Tuesday next preceding the annual town meeting (being the second Tuesday of March), and on the Tuesday next succeeding the annual town meeting (being the fourth Tuesday of March), on the second Monday in June and the last Tuesday in October of each year.

§ 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 an

election for township officers will be held before July 1st, this act shall take effect and be in force on and after its passage and approval.
Approved March 9, 1903.

TRIALS.

CHAPTER 201.

[H. B. No. 254—Young.]

TRIALS WITHOUT JURY AND APPEALS.

AN ACT to Amend Section 5630, Relating to Trials in District Court Without a Jury, and Appeals Therefrom.

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

§ 1. AMENDMENT.] That section 5630 of the revised codes of North Dakota be, and the same is hereby amended and re-enacted so as to read as follows:

§ 5630. ALL EVIDENCE RECEIVED. EXCEPTION. APPEAL.] In all actions tried by the district court without a jury, in which an issue of fact has been joined, excepting as hereinafter provided, all the evidence offered on the trial shall be received. Either party may have his objections to evidence noted as it is offered; but no new trial shall be granted by the district court on the ground that incompetent or irrelevant evidence has been received, or on the ground of the insufficiency of the evidence. A party desiring to appeal from a judgment in any such action, shall cause a statement of the case to be settled within the time and in the manner prescribed by article 8, of chapter 10, of this code, and shall specify therein the questions of fact that he desires the supreme court to review, and all questions of fact not so specified shall be deemed on appeal to have been properly decided by the trial court. Only such evidence as relates to the questions of fact to be reviewed shall be embodied in this statement. But if the appellant shall specify in the statement that he desires to review the entire case, all the evidence and proceedings shall be embodied in the statement. All incompetent and irrelevant evidence, properly objected to in the trial court, shall be disregarded by the supreme court, but no objection to evidence can be made for the first time in the supreme court. The supreme court shall try anew the questions of fact specified in the statement or in the entire case, if the appellant demands a retrial of the entire case, and shall finally dispose of the same whenever justice can be done without a new trial, and either affirm or modify the judgment or direct a new judg-

ment to be entered in the district court; the supreme court may, however, if it deem such course necessary to the accomplishment of justice, order a new trial of the action. In actions tried under the provisions of this section, failure of the court to make findings upon all the issues in the case shall not constitute a ground for granting a new trial or reversing the judgment; provided, that the provisions of this section shall not apply to actions or proceedings properly triable with a jury.

Approved March 13, 1903.

TRUST COMPANIES.

CHAPTER 202.

[S. B. No. 233—Regan.]

SECURITY DEPOSITS OF TRUST COMPANIES.

AN ACT to Amend Section 3258c of Chapter 20½ of the Revised Codes of 1899, Relating to Certificates of Deposit. State Treasurer's Duties.
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That section 3258c of chapter 20½ of the revised codes of 1899 be, and the same is hereby amended to read as follows:

§ 3258c. CERTIFICATE OF DEPOSIT. STATE TREASURER'S DUTIES.] Whenever any such corporation shall have so invested fifty thousand dollars of its paid in capital, and shall assign, transfer and deliver to the state treasurer the said securities and all evidences of such investment so made, he shall execute and deliver a certificate of such deposit; and thereupon the said corporation may commence and carry on business under the provisions of this chapter. The state treasurer and his successors in office shall hold the said securities so deposited with him as collateral security for the depositors and creditors of said corporation, and for the faithful execution of any trusts which may lawfully be imposed upon and accepted by such corporation; such corporation may from time to time withdraw the said securities from said state treasurer, or any part thereof, upon depositing with him other securities of equal amount and value and of the kinds specified in section 3258, and until otherwise ordered by a court of competent jurisdiction, the said state treasurer shall pay over to such corporation, the interest dividends which he shall collect upon such securities, and any such corporation having a larger deposit with the state treasurer than fifty thousand dollars shall be

allowed at any time to withdraw its deposits in excess of said sum; provided its whole deposit shall at no time be less than one-sixth of its capital stock.

Approved March 10, 1903.

VALUATION.

CHAPTER 203.

[S. B. No. 178—Little.]

DEFINING "VALUATION."

AN ACT Defining the Word "Valuation" When Used as a Basis on Which Salaries Are Paid, and Fixing the Time Salaries Shall Begin When Based on Valuation.

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

§ 1. DEFINED.] Whenever the word "valuation" is used in any law, as a basis on which the salary of a county officer is fixed, it shall mean the valuation of the county as fixed by the state board of equalization for the preceding year, and all salaries based on such valuation shall begin January 1.

§ 2. EMERGENCY.] An emergency exists in this, that there is much confusion and uncertainty respecting the various laws fixing salaries of county officers, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

VENDEE AND VENDOR.

CHAPTER 204.

[S. B. No. 105—Johnson.]

DETERMINING RIGHTS OF VENDEE AND VENDOR.

AN ACT Requiring Notice to the Vendee or Purchaser, or His Assigns, Under Any Contract for the Future Conveyance of Land Hereinafter Made to be Given Before the Rights of Any Vendee or Purchaser, or His Assigns, Can Terminate.

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

§ 1. OWNER MUST GIVE WRITTEN NOTICE TO VENDEE OR PURCHASER.] No owner of real estate, or owner of any equity therein, shall hereafter make or execute a contract for deed, bond for deed, or other instrument for the future conveyance of any such real estate or equity therein, shall have the right to declare a cancellation, termination or forfeiture thereof of thereunder, except upon written notice to the vendee or purchaser, or his assigns, as hereinafter provided; and such notice shall be given to such vendee or purchaser or his assigns, notwithstanding any provision or condition in any such instrument to the contrary.

§ 2. IN CASE OF DEFAULT. CONTENTS OF NOTICE.] Whenever any default shall have been made in the terms or conditions of any such instrument hereinafter made, and the owner or vendor shall desire to cancel or terminate the same shall, within a reasonable time after such default, cause a written notice to be served upon the vendee or purchaser, or his assigns, stating that such default occurred, and that said contract will be cancelled or terminated, and shall recite in said notice the time when said cancellation or termination shall take effect, which shall not be less than thirty (30) days after the service of such notice.

§ 3. NOTICE, HOW SERVED.] Such notice shall be served upon the vendee or purchaser, or his assigns, in the manner now provided for the service of summons in the district court of this state, if such person to be served resides within the state. If such vendee or purchaser, or his assigns, as the case may be, resides without the state or cannot be found therein, of which fact, the return of the sheriff of the county in which said real estate is situated, that such person cannot be found in his county, shall be prima facie evidence, then such notice shall be served by the publication thereof in a weekly newspaper within said county; or, if there is no weekly newspaper

within said county, then in a newspaper published at the capital of this state for a period of three successive weeks.

§ 4. TIME ALLOWED.] Such vendee or purchaser, or his assigns, shall have thirty (30) days after the service of such notice upon him in which to perform the conditions or comply with the provisions upon which the default shall have occurred; and upon such performance, and upon making such payment, together with the costs of service of such notice, such contract or other instrument shall be reinstated, and shall remain in force and effect, the same as if no default had occurred therein. No provision in any contract for the purchase of land, or an interest in land, shall be construed to obviate the necessity of giving the aforesaid notice, and no contract shall terminate until such notice is given, any provision in such contract to the contrary notwithstanding.

§ 5. EMERGENCY.] Whereas, an emergency exists, inasmuch as there is no adequate law regulating the proceedings to be had before the rights of vendee or purchaser shall terminate, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1903.

VITAL STATISTICS.

CHAPTER 205.

[S. B. No. 145—Taylor.]

COLLECTION OF VITAL STATISTICS.

AN ACT to Amend and Re-enact Sections 274a, 274b, 274c, 274d, 274e, 274f, 274g, of Chapter 4 of the Political Code of 1899, Relating to the Collection and Reporting of Vital Statistics, Prescribing the Duties of Officers Who Collect and Report Such Statistics, Defining the Duties of County Auditors in Relation Thereto, and Fixing Compensation and Method of Paying the Same, and Providing Penalties for the Violation of this Act.

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

§ 1. AMENDMENT.] That sections 274a, 274b, 274c, 274d, 274e, 274f, and 274g, of chapter 4 of the political code of 1899, be amended and re-enacted so as to read as follows:

§ 274a. VITAL STATISTICS, COLLECTION OF.] The health officer of each city, the clerk of each civil township, and in counties not organized into civil townships, the county commissioner of such county for the district for which he was elected, and the superintendent of the county board of health of each county in the state, shall obtain and register the following facts concerning the births, deaths,

and contagious and infectious diseases 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, names and places of birth of parents and numbering and recording the same in the order in which he obtains date of death, the name of deceased, the sex and color, and the condition, whether single, widowed or married, the age and place of birth, the names and places of birth of parents, the disease or cause of death, and the date of the record; in the registry of infectious and contagious diseases, the name of the person affected, the sex, color and age of the person, the nature of the disease, and the date of record.

The county auditor of each county shall furnish each officer within his county, charged with the duties herein provided, at the expense of the county, a book in which to register the facts concerning the births, deaths and infectious and contagious diseases as herein provided.

The superintendent of each county board of health shall keep his records in the office of the county judge of said county.

§ 274b. NOTICE TO PROPER OFFICERS.] Where no physician is employed, it shall be the duty of the parents to give notice to the proper officer within whose jurisdiction they reside, of the births and deaths of their children, or of the presence of any infectious or contagious disease occurring within their household, within twenty-four hours, or three days if outside of incorporated limits of cities, towns and villages as to births and deaths only, of such occurrence and the oldest person next of kin, 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, death, infectious or contagious disease occurring among the persons under his charge. Whoever neglects or refuses to give such notice within the period of twenty-four hours, or three days if outside of incorporated limits of cities, towns and villages as to births and deaths only, after the occurrence of such birth, death or infectious or contagious disease, shall upon conviction forfeit a sum not to exceed twenty dollars, to be collected as other fines are collected by law.

§ 274c. PHYSICIAN'S CERTIFICATE.] Any physician having last attended a deceased person during his illness, shall within twenty-four hours after decease of such person, furnish for registration to the proper officer within whose jurisdiction such death occurs, a certificate of the duration of the last illness, the name of the deceased, sex, color and age, place of birth, names of parents, the disease of which the person died and the date of decease. Any physician having attended a case of confinement shall within twenty-four hours, or three days if outside of incorporated limits of cities, towns and villages, as to births and deaths only, thereafter furnish for registration

to the proper officer within whose jurisdiction such event occurred, a certificate of the date of birth, name of child, (if it have any), sex and color, with the names, dates and places of birth of the parents. Any physician attending a case of infectious or contagious disease shall immediately notify the health officer within whose jurisdiction such disease exists, giving the name of the patient, place of residence, and the character of the disease, and shall in addition thereto, for the purpose of keeping the record of vital statistics complete, certify the facts to the clerk of the civil township within whose district such disease occurred, or in counties not organized into civil townships, then to the county commissioner having the proper jurisdiction, giving name of patient, place of residence and character of disease. Except as to infectious or contagious diseases, it shall be sufficient within the meaning of this section, to send the certificates of births and deaths to the proper officers, by mail; and it is hereby made the duty of the county auditor to furnish, after each election, the name of the clerk of each organized civil township, with his postoffice address, and in counties or districts having no organized civil townships, the name of the county commissioner having jurisdiction, with his postoffice address, to every physician duly registered within his county. Any physician neglecting to perform the duties herein prescribed, shall forfeit a sum not exceeding fifty dollars for each offense, to be collected as other fines are collected.

§ 274d. OFFICERS SHALL TRANSMIT CERTIFIED COPY. COMPENSATION.] It shall be the duty of the health officer of each city and the clerk of each organized civil township of each county in this state, and in counties not organized into civil townships, the county commissioner of such county for the district for which he was elected, to make and send a copy of the registry of births, deaths and infectious and contagious diseases to the superintendent of the county board of health of each county in the state, not later than the tenth of each month, a certified copy of the registry of births, deaths and infectious or contagious diseases occurring within preceding month; and the superintendent of the county board of health of each county in this state, shall make and send to the state superintendent of health on or before the fifteenth day of each month, a copy of the records showing all births, deaths and infectious or contagious diseases reported to him for the preceding month within his county. The county auditor shall furnish the proper blank for this purpose at the expense of the county. The health officer of each city shall receive for the making of such record and reporting the same, the sum of ten cents for each separate record of births, deaths and diseases so made and reported as herein provided, to be paid out of the general fund of such city in the same manner as other bills and accounts against such city are allowed and paid. The clerk of each organized civil township of any county in this state shall receive for the making of such record and reporting the same the sum of ten cents for each

separate record of births, deaths and diseases so made and reported as herein provided, to be paid out of the general fund of such township in the same manner as other bills and accounts against such township are allowed and paid. In counties not organized into civil townships the county commissioner of such county for the district for which he was elected shall receive for the making of such record and reporting the same, the sum of ten cents for each separate record of births, deaths and diseases so made and reported as herein provided, to be paid out of the general fund of said county in the same manner as other bills and accounts against said city [county] are allowed and paid. Any officer charged with making and keeping the record of vital statistics, may upon application of any interested party, prepare a certified copy of any individual and separate record as required, for which he shall be entitled to collect a fee of twenty-five cents, to be paid by the person receiving the same. For neglecting to perform such duties as are herein prescribed, the officer shall forfeit the sum of ten dollars for each offense, to be collected as other fines are collected by law.

§ 274e. REGISTRY OF BIRTHS, DEATHS, INFECTIOUS AND CONTAGIOUS DISEASES BY COUNTY SUPERINTENDENT OF HEALTH.] The superintendent of each county board of health shall, on or before the fifteenth 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, deaths and infectious and contagious diseases which have occurred in said county within the calendar month immediately preceding, as reported to him by the officers charged with the collection of vital statistics for the districts within his county. For obtaining, registering and returning the facts herein required, the county superintendent of health shall receive the sum of ten cents for each separate record of births, deaths, infectious and contagious diseases so made and reported as herein provided, to be paid out of the general fund of such county in the same manner as other bills and accounts against said county are allowed and paid. For neglect to perform such duties as are herein required, the county superintendent of health shall forfeit a sum not exceeding fifty dollars for each offense, to be collected as other fines are collected by law.

§ 274f. COUNTY AUDITOR SHALL PUBLISH.] It shall be the duty of the county auditor to have published once a week for four consecutive weeks during the month of January of each year, in at least one official paper within his county, under the heading of "Vital Statistics," a copy of section 274b of this act.

§ 274g. REPEAL.] That section 274g be, and the same is hereby repealed.

Approved March 10, 1903.

VAGRANCY.

CHAPTER 206.

[H. B. No. 195—Chaffee.]

DEFINING VAGRANCY.

AN ACT to Define Vagrancy, and Prescribing Punishment for Vagrancy.
Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. VAGRANCY DEFINED.] All persons who are idle and dissolute, and who go about begging; all persons who use any juggling or other unlawful games or plays; runaways; pilferers; confidence men; common drunkards; common night walkers; lewd, wanton and lascivious persons, in speech or behavior; common railers and brawlers; persons who are habitually neglectful of their employment or their calling, and do not lawfully provide for themselves, or for the support of their families; and all persons who are idle or dissolute, and who neglect all lawful business, and who habitually misspend their time by frequenting houses of ill-fame, gambling houses or tippling shops; all persons lodging in, or found in the night-time in out-houses, sheds, barns, or unoccupied buildings, or lodging in the open air, and not giving a good account of themselves, and all persons who are known to be thieves, burglars, or pickpockets, either by their own confession or otherwise, or by having been convicted of larceny, burglary, or other crime against the laws of the state, punishable by imprisonment in the state prison, or in a house of correction of any city, and having no lawful means of support, are habitually found prowling around any steamboat landing, railroad depot, banking institution, broker's office, place of public amusement, auction room, store, shop or crowded thoroughfare, car or omnibus, or at any public gathering or assembly, or lounging about any court-room, private dwelling houses or outhouses, or are found in any house of ill-fame, gambling house, or tippling shop, shall be deemed to be and they are declared to be vagrants.

§ 2. PENALTIES.] Every person convicted of vagrancy under section 1 of this act shall be punished by a fine not to exceed fifty dollars, or by imprisonment in the county jail not exceeding thirty days, or by being compelled to work upon the streets or public highways not to exceed twenty days.

Approved March 13, 1903.

WOLF BOUNTY.

CHAPTER 207.

[S. B. No. 3—Simpson.]

WOLF BOUNTY.

AN ACT Providing for a Bounty on Wolves and Coyotes, Creating a Fund for the Payment of the Same, and Regulating the Manner of Procuring said Bounty.

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

§ 1. BOUNTY ALLOWED.] For the purpose of encouraging the destruction of wolves and coyotes, the following bounties shall be paid by the state of North Dakota, viz: For each wolf or coyote killed, the sum of two dollars and fifty cents.

§ 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 skins and skulls of said animal or animals, including the tail and the skin from the forehead, including both ears, to the county auditor in the 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 hereinafter provided for, require statements 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. HOW TO PREVENT FRAUD.] The county auditor shall thereupon call to his assistance either the county treasurer, or, in his absence, the clerk of the district court, who being present, both shall, in order to prevent fraud, minutely examine each skin presented; and should examination disclose that the scalps and ears belonging to such skins have not been severed, patched or punched, the county auditor shall there, in the presence of the other officer above named, mark each ear by punching a hole one inch in diameter in the same, and then redeliver the skin or skins to the person presenting the same, and shall at the same time make out and deliver to the said person a certificate showing the number and kind of the skins so

punched and the name of the person presenting, the fact of the filing of the affidavits herein provided for, and the examination made as required, said certificate to be duly signed by him in his official capacity, and attested by the officer acting with him; said county auditor shall keep a record in a bound book of all skins so punched, showing the date, number and kinds, the names of the persons presenting them and the names of the witnesses, which book shall be an official record. The holders of the certificates issued under the provisions of this act to be deposited with the county auditor of the county wherein issued, who shall on the first business day of each month forward all such certificates in his possession to the state auditor for registration and payment as hereinafter provided. All services rendered by officials under this act to be without fee.

§ 4. DUTY OF COUNTY AUDITOR.] Should any county auditor or officer acting with him have reason to believe that any person presenting a skin or skins as above provided, has evaded the provisions of this act to obtain the bounty unlawfully, such officer shall require satisfactory evidence of the time, place and manner of the killing of said animal or animals.

§ 5. DUTY OF STATE AUDITOR.] It shall be the duty of the state auditor, upon the written order of the county auditor, to give the person presenting said order a warrant upon the state wolf bounty fund, hereinafter provided for, in the amount required to compensate at the bounty prices by this act provided, for the number of animals mentioned in the order, taking the receipt on the back of the order of the person presenting, for the full amount received; and the state auditor and the state treasurer shall keep an account of all warrants so issued and paid, and list them in their annual report to the governor.

§ 6. WOLF BOUNTY FUND CREATED.] For the purpose of providing for the payment of said bounty and the warrants thereon drawn, there is hereby created a fund to be known as the state wolf bounty fund.

§ 7. DUTY OF STATE BOARD OF EQUALIZATION.] It shall be the duty of the state board of equalization, at the time of the levy of the annual tax, to levy a special tax of two-tenths mills on the dollar upon the assessed valuation of all property, and when collected paid into the hands of the state treasurer, who shall at once enter the same into the state wolf bounty fund. Said fund shall be preserved inviolate for the payment of the bounties provided for herein.

§ 8. ANIMALS KILLED IN UNORGANIZED COUNTIES.] Any person claiming the bounties provided for in this act for any of the animals specified herein, killed or caused to be killed in any unorganized county of this state, shall make application to the county auditor of the organized county to which such unorganized county is attached for judicial purposes.

§ 9. SECRETARY OF STATE TO SUPPLY BLANKS.] The secretary of state shall provide each county auditor with the necessary blanks for the purpose of carrying into effect the provisions of this act.

§ 10. PENALTY FOR FORGERY.] Any person who shall falsely make, alter, forge or counterfeit any of said certificates or orders shall be deemed guilty of forgery, and any person who shall swear falsely to any affidavit provided herein, or procure the same to be done by another, with the intent of obtaining any one of the said certificates or orders, shall be guilty of perjury; and any person convicted of any of the offenses declared in this section shall be punished by imprisonment in the state penitentiary for a term of not less than one year nor more than five years. Any person or persons who shall patch up any skin or scalp, or who shall present any punched skin or scalp with intent to defraud the state, or any officer who shall sign any certificate herein provided for without first counting the skins, or shall intentionally evade any of the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not exceeding three months, or by both such fine and imprisonment.

Approved March 19, 1903.

WILLS.

CHAPTER 208.

[S. B. No. 14—Robinson.]

TIME FOR PROBATING WILLS.

AN ACT to Amend Section 6289 of the Revised Codes of North Dakota,
Relating to the Time for Probating Wills.

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

§ 1. AMENDMENT.] That section number 6289 of the revised codes of North Dakota, of the revision of 1899, be amended to read as follows, viz:

§ 6289. WILLS, ORIGINAL AND NUNCUPATIVE WHEN PROBATED.] A special proceeding for the probate of a will may be commenced within any time in six years after the testator's death, or if the will is not made known within that time, then within one year after its discovery. A proceeding for the probate of a nuncupative will must be commenced within six months after the testamentary words are spoken; provided, however, that a will duly proved and allowed in any of the territories or dependencies, or in any other of the United States, or the District of Columbia, or in any foreign country or state, may be

admitted to probate in the county court of any county in which any testator shall have left any estate, or any estate for which any claim is made, at any time.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there are lands in this state the titles to which depend upon the probate of wills admitted and allowed in other jurisdictions outside of North Dakota, and not in this state, and the probating of such wills therein is essential to good titles, this act shall take effect upon its approval.

Approved Feb. 10, 1903.

WEIGHTS AND MEASURES.

CHAPTER 209.

[H. B. No. 46—Sheils.]

WEIGHTS AND MEASURES.

AN ACT to Amend Section 1 of Chapter 213 of the Session Laws of 1901, Amending Section 1722 of the Political Code of 1899, Relating to Weights and Measures.

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

§ 1. AMENDMENT.] That section 1 of chapter 213 of the session laws of 1901, amending section 1722 of the political code of 1899, be amended so that section 1722 of the political code shall read as follows:

§ 1722. WHAT CONSTITUTES A BUSHEL.] A bushel of each of the articles enumerated in this section shall consist of the number of pounds avordupois respectively affixed to each:

- Barley, forty-eight pounds.
- Beans, sixty pounds.
- Bran, twenty pounds.
- Buckwheat, forty-two pounds.
- Beets, sixty pounds.
- Broom corn seed, thirty pounds.
- Corn, shelled, fifty-six pounds.
- Corn, in the ear, seventy pounds.
- Clover seed, sixty pounds.
- Coal, stone, eighty pounds.
- Flax-seed, fifty-six pounds.
- Lime, eighty pounds.
- Oats, thirty-two pounds.
- Onions, fifty-two pounds.

Potatoes, Irish, sixty pounds.
 Potatoes, sweet, forty-six pounds.
 Peas, sixty pounds.
 Rye, fifty-six pounds.
 Salt, eighty pounds.
 Turnips, sixty pounds.
 Timothy seed, forty-five pounds.
 Wheat, sixty pounds.
 Speltz, forty pounds.
 Millet, fifty pounds.
 Apples, fifty pounds.
 Bromus Inermus, fourteen pounds.
 Approved March 4, 1903.

WATER SYSTEMS.

CHAPTER 210.

[S. B. No. 227—Lewis.]

RELATING TO WATER SYSTEMS OWNED BY CITIES.

AN ACT to Provide for the Extension, Enlargement and Improvement of
 Water Systems in Incorporated Cities.

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

§ 1. COUNCIL SHALL HAVE POWER TO EXTEND.] The council of any incorporated city owning a system of waterworks shall have power to extend, improve, enlarge, relay or replace the water mains and hydrants in any portion of said city, and to lay new or additional water mains therein, and to defray the expense thereof by special assessment on the property benefitted thereby.

§ 2. NOTICE, HOW GIVEN.] Whenever such council shall deem it necessary to improve the water system of such city, as hereinbefore provided, it shall pass a resolution stating generally the improvements it deems it necessary to make, which resolution shall prescribe the route of such proposed improvements, which resolution shall be published in the official newspaper of the city once in each of two consecutive weeks, with not less than five days intervening between each publication, and such resolution shall be notice to the owners of all property within 600 feet on either side of said proposed improvements.

§ 3. PROTEST AGAINST, HOW FILED.] Within fifteen days after the last publication of such resolution, any owner of real property, within six hundred feet of either side of the proposed improvements,

may file with the city auditor a protest in writing, objecting to the making of such improvements; and if within such time a majority of the owners of property liable to be assessed for such improvement shall not have filed such protest, the city council shall have power to make such improvement, and to contract therefor, and the contract for the making of such improvement shall be let to the lowest bidder, and shall be based on plans and specifications of the work contracted for, to be made by the city engineer, and filed in the office of the city auditor prior to advertising for bids for such work.

§ 4. COMMITTEE APPOINTED.] The city council shall forthwith, upon the letting of any contract, under the provisions hereof, create by appointment of three persons from among the citizens of such city a "Special Water Works Improvement 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. In case of a vacancy on such committee from any cause, the city council shall at its next meeting make an appointment to fill said vacancy.

§ 5. COMMITTEE TO INSPECT ADJACENT LOTS AND MAKE ASSESSMENTS. ASSESSMENTS PUBLISHED.] It shall be the duty of such committee, as early as possible after the letting of a contract under the provisions of this act, personally to inspect any and all lots and parcels of land, within 600 feet of either side of the proposed improvements, which will, in the opinion of such committee, be specially benefitted by the construction of such improvements, and thereupon assess against such lots and parcels of land 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 date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council.

§ 6. APPEALS FROM ASSESSMENT, HOW HEARD, COUNCIL MAY ALTER OR AFFIRM.] 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 agents 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 so assessed, 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.

§ 7. COUNCIL MAY MAKE SUPPLEMENTARY ASSESSMENT, WHEN.] In case of omissions, errors, or mistakes in making such assessment 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.

§ 8. ASSESSMENTS PAYABLE IN TEN YEARS.] The special assessment hereinbefore provided for shall be payable in equal annual amounts extending over a period of ten years, and interest, at the rate of not to exceed 7 per cent per annum, on the total unpaid assessments shall be payable annually; provided, however, that any person may pay his or her assessment in full to the city treasurer at any time within thirty days after said assessment has been approved by the city council.

§ 9. CITY 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 improvements under the provisions of this act, with the proportions 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 such improvement fund.

§ 10. DUTY OF COUNTY TREASURER.] The county treasurer shall require the payment of all such special assessments at the time of the payment of the general taxes upon the property upon which such assessments are a lien, and shall not receive such general taxes without the payment of such special assessments.

§ 11. CITY NOT LIABLE, WHEN.] No city shall be liable upon any contract made pursuant to this act for any sum to be raised by general taxation, or paid out of the general fund of said city.

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

Approved March 13, 1903.

PROPOSED AMENDMENTS TO CONSTITUTION.

CONCURRENT RESOLUTION.

[H. B. No. 63—Chaffee.]

TAXING GRAIN IN ELEVATORS.

AN ACT Taxing Grain in Elevators, Warehouses and Granaries at a
Fixed Rate.

*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, adopted by the seventh legislative assembly of the state of North Dakota, and by it referred to the eighth legislative assembly of said state for approval, or rejection, is hereby agreed to, and such amendment shall be submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota.

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

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within the state and held therein in elevators, warehouses and granaries may be taxed at a fixed rate.

Approved March 2, 1903.

CONCURRENT RESOLUTION.

[S. B. No. 66—Williams.]

INVESTMENT OF SCHOOL FUNDS.

Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

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 rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

That section 162 of the constitution of the state of North Dakota be amended so as 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.

Approved February 24, 1903.

CONCURRENT RESOLUTION.

[S. B. No. 68—Cashel.]

LOCATION OF INSTITUTION FOR FEEBLE MINDED.

AN ACT Changing the Location of the Institution for Feeble Minded from Jamestown to Grafton.

Be it Resolved by the Senate, the House of Representatives Concurring:

That the following amendment to the constitution of the state of North Dakota, adopted by the seventh legislative assembly of the

state of North Dakota, and by it referred to the eighth legislative assembly for approval or rejection is hereby agreed to. Such amendment shall be submitted to the qualified electors at the next general election of the state for approval or rejection in accordance with the provisions of section 202 of the constitution of the state of North Dakota.

That subdivision 8, of section 215 of the constitution of the state of North Dakota, be amended so as to read as follows:

Eighth. 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.

Approved March 5, 1903.

CONCURRENT RESOLUTION.

[H. B. No. 73—Davis.]

Be it Resolved by the House of Representatives and the Senate Concurring:

AN ACT Relating to Name of School for Deaf and Dumb.

That the following amendment to the constitution of the state of North Dakota, adopted by the seventh legislative assembly of the state of North Dakota, and by it referred to the eighth legislative assembly for approval or rejection, is hereby agreed to; and such amendment shall be submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota.

Subdivision 5, section 215, of article 19, of the constitution of the state of North Dakota, is amended so as to read as follows:

Fifth. The school for the deaf and dumb of North Dakota, at the city of Devils Lake, in the county of Ramsey.

Approved March 4, 1903.

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