

## MEASURES VETOED

AID TO G. A. R.

[S. B. No. 108—Kennedy]

AN ACT Making Appropriation in Aid of the Department of the "Grand Army of the Republic" of the State of North Dakota, for the Purpose of Enabling it to Prepare, Issue and Distribute Its General and Special Orders and the Proceedings of the Department, and Providing for Keeping Copies of the Same on File in the State Library, at Bismarck, North Dakota, and for Expenses Incurred at State and National Encampments.

VETO.

Bismarck, March 4, 1909.

*To the Honorable, the Senate of the Eleventh Legislative Assembly:*

It is with great reluctance that I return without my approval senate bill number one hundred and eight, being an act making an appropriation in aid of the department of the Grand Army of the Republic of the state of North Dakota, for the purpose of enabling it to prepare, issue and distribute its general and special orders, and the proceedings of the department, and providing for keeping copies of the same on file in the state library at Bismarck, N. D., and for the expenses incurred at state and national encampments.

The patriotic motives inspiring the passage of this law are most worthy and meet with my heartiest approval, for the Grand Army is, indeed, a grand army of veterans, who, nearly half a century ago, risked their lives in defence of their country; who have since contributed so much to what that country is today, and who in a few years will live only in the memory of a grateful people.

We owe them a debt of gratitude that we can never fully pay. They are entitled to every consideration at our hands, and because of the respect and reverence, and the debt of gratitude that we owe them, I have labored to reconcile this measure with section 185 of the constitution, and I have failed.

Section 185 of the constitution provides that the state shall not make donations to or in aid of any individual, association or corporation, except for the necessary support of the poor. The Grand Army is an association such as is mentioned in section 185, and this appropriation is not for the support of the poor, but is to aid this organization to prepare, issue and distribute its general and special orders and the proceedings of the department, and providing for keeping copies of the same on file in the state library at Bismarck, N. D.,

and for expense incurred at state and national encampments. These purposes are not for the support of the poor, but are in aid of such an organization as is mentioned in the constitution, and come clearly within its inhibition. This section 185 should be amended so that such organizations as the Grand Army might receive assistance from the state.

Respectfully submitted,  
JOHN BURKE,  
Governor.

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#### PURCHASE OF FORT CLARK.

[S. B. No. 254—Crane]

AN ACT Making an Appropriation Which Will Permit the State Historical Society of North Dakota to Acquire Title to Certain School Lands Within This State, Having a Historical Value.

VETO.

Bismarck, March 4, 1909.

*To the Senate:*

GENTLEMEN: I return you herewith senate bill number two hundred and fifty-four, being an act making an appropriation for the purchase of a Mandan Indian village on the upper Missouri river in this state, without my approval, for the reason that it is now apparent that the appropriation bills passed, and those that will in all probability pass this legislative assembly, will exceed the revenue of the state, and in my judgment there is no necessity for the purchase of this Indian village at this time.

Very respectfully,  
JOHN BURKE,  
Governor.

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#### STATE BOARD OF CONTROL.

[H. B. No. 327—Atwood]

AN ACT to Create a State Board of Control, and to Provide for the Management and Control of the Soldiers' Home; the Charitable, Reformatory and Penal Institutions of the State, and to Provide for Supervisory Powers Over the State Educational Institutions, and to Make an Appropriation Therefor, and For the Defining of Certain Offenses and Providing Penalties Therefor.

VETO.

Bismarck, March 17, 1909.

*To the Secretary of State:*

I file herewith house bill No. 327, an act to create a state board of control to provide for the management and control of the soldiers' home and other institutions in this state, without my approval, for the reason that the conflicting provisions in this act leave the time of its taking effect indefinite and uncertain.

Section one of the act says that the governor shall, before the adjournment of the twelfth legislative assembly, nominate and ap-

point, with the consent of the senate, three electors as members of a board to be known as a board of control of state institutions. It further provides that the governor shall fill all vacancies on the board when the legislative assembly is not in session. Section eight provides that the board of control shall, within ten days after appointment and qualification, organize and assume the duties vested in said board, but shall not exercise full control of the institutions until July 1, 1911. Section nine provides that the board of trustees now charged with the government of such institutions shall, on and after July 1, 1911, have no further legal existence, and that all trustees now in office shall continue in office until July 1, 1911, at which time the management and control of such institutions shall cease to exist in such boards and shall become vested in the board of control, which board is authorized at said time, viz., July 1, 1911, to assume and exercise all the powers heretofore vested in or exercised by the several boards of trustees. Section eleven provides that the board, by a committee, or its secretary, or a woman duly appointed, shall visit the hospital for the insane once each month, and in such visits shall be vested with the powers now granted any visiting committee or board, and further provides that all visiting committees to the hospital for the insane are abolished and the members relieved from further duty upon the passage of this act. Section twelve requires the board to make a biennial report to the governor and a regular biennial report to the legislature, covering the biennial period ending June thirtieth, preceding the regular session of the legislative assembly and made not later than November fifteenth in the year preceding the meeting of the legislative assembly.

Section fourteen requires a uniform system of records and accounts, and for the purpose of establishing such system of accounts the board is authorized to employ experts to inaugurate in the institutions on the first day of July, 1909, the most modern and complete method of accounts, and further provides that the board shall within six months after the passage of this act, determine the kinds and quantities of provisions and supplies for the several institutions subject to its charge. Section fifteen, following, and apparently in the present tense, provides for biennial estimates of special appropriations to be appropriated for the use of the institutions.

Section sixteen, relating to suggestions in the report to be made to the legislative assembly, and sections seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two are all apparently in the present tense and in perfect harmony with the specific instructions in section fourteen to the board to establish a system of accounts in said institutions on July 1, 1909, and to determine the kinds and quantities of provisions and supplies for such institutions within six months after the passage of this act.

The next conflict appears in section twenty-three, which provides that the chief executive officer of each institution now in charge of

the several institutions holding for a definite term shall continue in office until the expiration of such term. All other superintendents, wardens or other chief executive officers shall hold office until July 1, 1911, and further provides that the superintendents, wardens or other chief executive officers of the institutions named may be removed by the board for misconduct, neglect of duty, incompetency, or other proper cause, thus apparently giving to the board of control authority over those who are now executive officers in these different institutions. Sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three and thirty-four are in harmony with section fourteen, while section thirty-five expressly provides that the board shall, prior to July 1, 1909, and annually thereafter, fix, with the written approval of the governor, the annual monthly salaries of all the officers and employes in the several institutions, except such as are fixed by the legislative assembly, the board shall classify the officers and employes, and the schedule of wages so fixed shall become operative on July first of each year.

Section thirty-six provides that the local treasurers shall be relieved of their duties on July 1, 1911, and such local treasurers shall account to the proper authorities for all moneys, and failing to account to the state treasurer on July 1, 1909, such failure shall be reported by the state treasurer to the attorney general for action. The remaining sections of the bill are apparently in the present tense and in harmony with the provision requiring the present treasurers to account to the state treasurer before July 1, 1909, and to the other express directions to the board on or before July 1, 1909.

If I were to sign this bill we would have a law requiring the governor to send the names of the members of this board to the twelfth legislative assembly; giving the governor power to appoint members of the board of control during vacation; giving the governor the power to remove members with the advice and consent of the senate while in session and to suspend members of the board in vacation, and to fill all vacancies by appointment during vacation; requiring the board to meet, organize and assume the duties vested in said board within ten days after appointment, and not allowing them to exercise full control until July 1, 1911; maintaining the present trustees of all of said institutions, viz.: the soldiers' home, and charitable, reformatory and penal institutions of the state, in office until July 1, 1911; abolishing visiting committees appointed to visit the insane asylum upon its passage, and providing that said board, by a committee, its secretary, or a woman appointed by the board of control, shall visit said institution in place of the regular visiting committee; providing that the board of control shall install in such institutions a uniform system of records of accounts on July 1, 1909, and within six months after the passage of this act determine the kinds and quantities of provisions and supplies for the several insti-

tutions; and providing that certain executive officers of said institutions shall serve out their terms and that others shall hold until July 1, 1911, and giving the board of control power to remove them; requiring the board of control to fix salaries of all officers and employes in the several institutions prior to July 1, 1909, and annually thereafter; abolishing the office of local treasurer on July 1, 1911, and requiring such local treasurer to make report to the state treasurer on July 1, 1909.

This law passed without the original emergency clause, and there is no express provision as to when it shall take effect. Neither is there any express provision requiring the present governor to appoint, or preventing him from appointing, a board of control during vacation and before the first of July, 1909. Section one contains a general provision giving the governor the power to fill vacancies when the legislature is not in session.

Conflicting provisions in the law are always construed so as to harmonize and give effect to every part of the law. Under this rule, there is only one construction that will harmonize the conflicting provisions of this law, viz., that the law goes into effect on the first day of July, 1909, the usual time provided in the constitution for laws without the emergency clause; that the governor has the power to appoint when the legislature is not in session and before the first of July, 1909, so as to give the board an opportunity to comply with section eight by organizing within ten days after their appointment and to comply with the provisions of section fourteen, requiring them to install in each of said institutions a system of bookkeeping on July 1, 1909, as well as an opportunity to comply with all of the other duties charged under the law. In other words, that the board of control should be in existence from and after July 1, 1909, to perform the several duties required by them under the law, but should not have full control until July 1, 1911,—the present boards of trustees remaining in office in the meantime and performing all of the duties relative to the management of said institutions not especially made the duty of the board of control.

While this construction would harmonize the conflicting provisions of the law, it is an unreasonable construction, for it is hardly possible that the legislative assembly intended that these different institutions should be managed by two boards until July 1, 1911. This would be a very expensive and extravagant experiment and might involve a conflict in the authority of the board of trustees and the board of control.

The change contemplated in this law is a most important one to the people of this state. It involves the care of the unfortunate and the expenditure annually of hundreds of thousands of dollars, and when it is made, as it should be, it should be under a law more definite and certain.

JOHN BURKE,  
Governor.

## LEGISLATIVE DRAFTING BUREAU.

[S. B. No. 276—Koffel]

AN ACT to Establish a Legislative Drafting Bureau in Connection With the Legislative Reference Department of the State Library Commission.

VETO.

Bismarck, March 18, 1909.

*To the Honorable, the Secretary of State :*

I file herewith senate bill No. 276, an act to establish a legislative drafting bureau in connection with the legislative reference department of the state library commission, without my approval.

This bill would create a drafting bureau, operating under the direction and control of the legislative reference department of the state library commission. It would give to the library commission the power to employ three persons learned in the law, who would constitute said legislative drafting bureau, and the power to employ, without limit, stenographers and clerks. The library commission is required to appoint the members of this legislative drafting bureau on or about the fifteenth day of December of each year, immediately preceding the session of the legislature, and the said drafting bureau would be required to be in continuous session from and after their appointment until the last day of the regular session. The drafting bureau is to be provided with office rooms in the capitol building, furnished in the same manner as other offices in the capitol are furnished.

The act makes it the duty of the drafting bureau to draft and formulate all bills and resolutions, the subject matter, object and the general outlines of which may be submitted by any member of the legislative assembly, and it is further made the duty of the drafting bureau to draft and formulate such matter into bills and resolutions, and it further provides that the bills shall be "couched in clear, concise and terse English and in legal form," and when so drawn shall have endorsed thereon "Approved by the legislative drafting bureau," and turned over to the member at whose request such bill or resolution was drawn.

It further provides that no bill or resolution not drawn, drafted or formulated by said legislative drafting bureau, or by it approved as to form, shall be printed until after the same has been reported on favorably.

My objections to this bill are:

First: There are no rooms in the capitol building that could be fitted up for such drafting bureau and its stenographers and clerk, as provided for in section four of this act. In fact, we have not room at the present time for the legislative reference library.

Second: There will be in the next legislative assembly forty-nine senators and one hundred and three representatives, or one hun-

dred and fifty-two members of the legislative assembly, among whom there ought to be no difficulty in finding a sufficient number to pass upon the form and matter of all bills. This drafting bureau has no discretion, except as to the form in which the bill is drawn. It is made its duty to receive all matter that may be presented and draft it into legal form.

Third: There is no limit to the number of stenographers and clerks that may be employed by the library commission, and there is no provision that the clerks and stenographers so employed should in any way dispense with the army of clerks and stenographers always appointed by the house and senate.

JOHN BURKE,  
Governor.

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#### HAWKERS AND PEDDLERS.

[H. B. No. 159—Wolbert]

AN ACT Entitled an Act to Amend Section 2206 of the Revised Codes of the State of North Dakota for the Year 1905, Relating to the Fees to be Paid by Hawkers and Peddlers.

VETO.

Bismarck, 19, 1909.

*To the Honorable, the Secretary of State:*

I file herewith house bill No. 159, an act entitled "an act to amend section 2206 of the revised codes of the state of North Dakota for the year 1905, relating to the fees to be paid by hawkers and peddlers," without my approval for the reason that the same is in conflict with section 61 of the constitution, which provides that no bill shall embrace more than one subject, which shall be expressed in its title.

This act purports to amend section 2206 of the revised codes of the state of North Dakota for 1905. Said section 2206 is section 3 of chapter 165 of the laws of 1903, being an act taxing the occupation of hawkers and peddlers, regulating the license of persons engaged in such occupation, increasing the ordinary county revenue by such taxation, and prescribing penalties for violation of its provisions. Section one of this act provides that "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 or merchandise, or any other property whatever, without first obtaining a license therefor from the auditor of said county." There is no definition of hawkers or peddlers in the laws of this state, other than this definition in the first section of chapter 165 of the laws of 1903; viz: persons travelling 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, goods, wares, merchandise or any other property; and

hence no person is a hawker or peddler under the laws of this state, unless his occupation brings him within the provisions of section one of said act. Section two of the act requires each person desiring to obtain a license as a peddler to make application to the county auditor of the county in which he desires to peddle, which application shall state whether the applicant desires to travel as a peddler on foot, or with one or more horses or other beasts of burden. The very language of the application shows that the law is to apply only to those who travel and sell their wares while travelling, either on foot or with one or more horses or beasts of burden.

Section three, that part of chapter 165 of the session laws of 1903 which this act purports to amend, simply regulates the fee that the applicant for the license shall pay, and is restricted to the persons mentioned in sections two and one, and in the title of the act, viz.: hawkers and peddlers.

In this act, however, which purports to amend chapter 165 of the laws of 1903, a new occupation is introduced and taxed, viz.: that of the transient merchant, trader or dealer, and not only does this act impose a tax upon the transient merchant; but also grants the power to cities and towns to tax such transient merchants.

The amendment is as follows: "§ 1. Section 2206 of the revised codes of 1905, is amended to read as follows: Fees for Licensing.] Each applicant, before he shall be entitled to such license, shall pay into the treasury of such county, when 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 twenty dollars; if for a license to travel and carry his goods with a single horse or other beast carrying and drawing the burden, the sum of fifty dollars; if for a license to travel and carry with a vehicle drawn by two horses or animals the sum of one hundred 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 one hundred and twenty five dollars; and if he intends to travel as a transient merchant, trader or dealer, two hundred dollars; provided, that no such applicant taking license as such transient merchant, trader or dealer, shall in addition to the amount paid for such license also pay to the authorities of the city, town or village where he may sell or offer for sale any goods, wares or merchandise a sum not exceeding twenty-five dollars per day for each day that such person may be engaged in the selling of any such goods, wares or merchandise, to be determined by ordinance or resolution of the town, city or village where he may engage in the business aforesaid, which ordinance or resolution shall provide when and in what manner such per diem shall be paid; provided, further, that each license issued under the provisions of this act shall be numbered and that such number shall be displayed in figures



on the vehicle in which the peddler travels. Such license shall authorize the holder thereof to pursue within said county the business of hawking or peddling in the manner set forth in said license for a period of one year from the date of its issue and no longer."

This very amendment makes a distinction between the hawker and peddler and the transient merchant, in this, viz.: it requires the transient merchant to pay a license of two hundred dollars and in addition requires him to pay any such license as any city or town may provide by ordinance not exceeding the sum of twenty-five dollars per day. It is very plain that this provision is intended to apply to the merchant who sells his goods and wares in a store building the same as other merchants, but who moves his stock from one town or city to another town or city; and the title of the act is not broad enough to include the provisions of this act relating to transient merchants, unless the transient merchant is a hawker and peddler, or comes within the provisions of section one of chapter 165 of the laws of 1903.

In the case of *Carrollton vs. Bazette*, 31 Lawyers Reports Annotated, on page 527, the court clearly makes a distinction between hawkers and peddlers and transient merchants, as follows:

"Appellee contends that he was not an itinerant merchant within the meaning of the statutes and the ordinance. He insists that an itinerant merchant and a peddler mean the same thing. We do not think so. Neither the statute nor the ordinance has furnished any definition. The word 'merchant' has a well known meaning, but whether a particular trader is a merchant or not, might under the facts of the particular case be somewhat difficult to determine. But it cannot be doubted that appellee was a merchant. He opened a store, stocked it with various articles of merchandise and sold as other merchants do, and the only difference, aside from selling sometimes at auction, was that his business was not permanent, in the particular city or village in which, for the time, it was carried on. It was not intended to be permanent. It was intended to be and was transitory. He took his stock of goods from city to city, sold his goods and transacted business as a merchant for a few weeks only in each place, and we cannot conceive of a more appropriate designation as applied to his case than that of itinerant merchant."

Case of *Newcastle vs. Cutler*, 15 Penn. It is held that a hawker or peddler is an itinerant or travelling trader who carries goods about in order to sell them, in contradistinction to a trader who sells at a fixed place.

"A peddler or hawker within the general accepted meaning of the word is simply a retail dealer who carries his merchandise with him, travelling from place to place or from house to house." 21 *Cyclopedia of Law*, page 367.

It is clear from the title to the original act and the first section thereof, that it intended to apply only to such persons, viz., hawkers and peddlers. In the language of section one, "it shall be unlawful

for any person to travel from place to place in any county in this state for the purpose of carrying to sell, exposing, or offering to sell, barter or exchange any goods, wares or merchandise or any other property whatever, without first obtaining a license therefor from the auditor of said county." This language is intended to define hawkers and peddlers. It does not include transient merchants. The title does not include transient merchants. It applies only to hawkers and peddlers, terms which are synonymous under the decisions and under our statutory definition; while the statute clearly makes a distinction between the hawker and peddler and the transient merchant. The hawker and peddler is defined and regulated by chapter 165 of the session laws of 1903, and the transient merchant defined by chapter 237 of the laws of 1907. Under this later act, the transient merchant is defined as one who engages in the vending or sale of merchandise at any place in this state temporarily and who does not intend to become and who does not become a permanent merchant of such place. This definition is in harmony with the decisions of the courts defining transient and itinerant merchants.

Then, it follows, that as a transient merchant is not a hawker or peddler, the amendment provided for in this act cannot be made a part of chapter 165 of the laws of 1903, without redrawing the entire law and amending the title so as to make the occupation of hawkers and peddlers and transient merchants the same under the law.

My attention has been called to chapter 201, page 426 of the session laws of South Dakota for the year 1907, which act is practically the same as this act; but the law it purports to amend is not the same as the North Dakota law that this act purports to amend. The South Dakota law amended, is chapter 190 of the session laws of 1903, an act defining peddlers, requiring them to take out a license and fixing the fee therefor. Section one defines peddlers and includes transient merchants. That is, a transient merchant is declared to be a peddler. In other words, the laws of South Dakota make no distinction between peddlers, hawkers and transient merchants, so that the amendment to the South Dakota law is not vulnerable to these objections. The note of the secretary of state of South Dakota, at the bottom of the page, showed, however, that the governor of South Dakota allowed the amendment to become a law without his signature.

That portion of this act granting to cities and towns the power to tax transient merchants by ordinance or resolution is not expressed in nor germane to any part of the title; and it follows that all the matter in this act relating to transient merchants and the power granted to cities and towns to tax transient merchants by ordinance or resolution, not being expressed in the title nor germane to any part of it, is therefore unconstitutional and void.

JOHN BURKE,  
Governor.

## GEOLOGICAL SURVEY.

[H. B. No. 292—Duncan]

AN ACT to Amend Section 1129 of the Revised Codes of North Dakota for the Year 1905, Relating to the Agricultural and Geological Survey and Appropriation Therefor.

VETO.

Bismarck, March 20, 1909.

*To the Honorable, the Secretary of State:*

I file herewith house bill No. 292, a bill to amend section 1129 of the revised codes of North Dakota, without my approval, for the reason that this act makes a standing appropriation of fifteen hundred dollars annually, and the revenues of the state will not justify the increase. The appropriations have exceeded the revenues.

JOHN BURKE,  
Governor.

## ASSESSMENTS FOR DRAINAGE.

[H. B. No. 245—Grant]

AN ACT to Appropriate Money for the Use of the Board of University and School Lands in the Payment of Assessments for Benefits Made for Drainage Purposes Against Unsold Common School and Institution Lands Within the State.

VETO.

Bismarck, March 20, 1909.

*To the Honorable, the Secretary of State:*

I file herewith house bill No. 245, without my approval, for the reason that it appropriates without limit moneys in the state treasury for the payment of assessments for benefits made for drainage purposes against unsold common school and institution lands, for the reason that every cent of the revenues that will go into the treasury for the next two years is already appropriated—even in excess of the revenues—and there will be no money to expend under the provisions of this bill.

JOHN BURKE,  
Governor.

## AID TO HIGH SCHOOLS.

[S. B. No. 120—Cashel]

AN ACT to Amend and Re-enact Sections 1034, 1035 and 1036 of the Revised Codes of 1905, Relating to Education, as Amended by Chapter 99 of the Session Laws of 1907.

VETO.

Bismarck, March 20, 1909.

*To the Honorable, the Secretary of State:*

I file herewith senate bill No. 120, without my approval, same being an act to amend sections 1034, 1035 and 1036 of the revised

codes of 1905, relating to education, for the reason that this bill increases the state aid in the sum of \$5,000 per year. The disapproval of this bill leaves the appropriation for the high schools of the state at \$45,000 per year under the old law, and the revenues of the state do not warrant any increase.

JOHN BURKE,  
Governor.

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FARMERS' INSTITUTE ANNUAL.

[S. B. No. 221—Plain]

AN ACT to Provide for the Printing and Distribution of Farmers' Institute Annuals and Making an Appropriation Therefor.

VETO.

Bismarck, March 20, 1909.

*To the Honorable, the Secretary of State:*

I file herewith senate bill No. 221, being an act to provide for the printing and distributing of farmers' institute annuals, and making an appropriation therefor, without my approval, for the reason that the revenues of the state will not justify the appropriation made therein.

JOHN BURKE,  
Governor.

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PUBLIC PRINTING.

[S. B. No. 261—Albright]

AN ACT to Amend and Re-enact Section 76 of the Revised Codes of 1905, as Amended by Chapter 186 of the Laws of 1907, Prescribing the Duties and Authority of the Commissioners of Public Printing, and Making an Appropriation for Public Printing and Binding.

VETO.

Bismarck, March 20, 1909.

*To the Honorable, the Secretary of State:*

I file herewith senate bill No. 261, without my approval, for the reason that this bill increases the appropriation for public printing ten thousand dollars per annum, and the appropriations exceed the revenues of the state.

JOHN BURKE,  
Governor.

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TREASURER OF PENITENTIARY.

[S. B. No. 339—Pierce]

AN ACT to Provide for Making the State Treasurer, and His Successors, the Treasurer of the State Penitentiary and Twine Plant, and Defining His Duties in Relation Thereto and Relating to the Duties and Powers of the State Emergency Board in Connection Therewith.

## VETO.

Bismarck, March 20, 1909.

*To the Honorable, the Secretary of State:*

I file herewith senate bill No. 339, without my approval, for the reason that this act authorizes the emergency board to make temporary withdrawals of money from the state treasury to replenish the twine plant operating fund, and in the sum of fifty thousand dollars, without making an appropriation therefor.

The constitution especially provides that no money shall be paid out of the state treasury except upon an appropriation, and while this money is withdrawn only temporarily, it is to be used in the business of making twine in the penitentiary, and while there is a provision for its return, in case of loss it could not be returned.

Every cent of money that comes into the treasury for the next two years is already appropriated for specific and definite purposes, and the legislative assembly has not the power, under the constitution, to authorize the emergency commission to take money out of the treasury that is appropriated for other purposes, to be used in the twine plant, and cannot authorize the temporary withdrawal of money to be used in business without making an appropriation therefor.

JOHN BURKE,  
Governor.

## SCHOOL LANDS FOR TOWNSITE PURPOSES.

[H. B. No. 131—Traynor]

AN ACT Making It the Duty of the Board of University and School Lands to Accept Payment In Full and Issue Patent for Any School or Institution Lands Required by Any Person, Firm or Corporation Holding Contract Therefor, for Townsite Purposes.

## VETO.

Bismarck, March 16, 1909.

*To the Secretary of State:*

I file herewith without my approval house bill No. 131, being an act "making it the duty of the board of university and school lands to accept payment in full and issue patent for any school or institution lands required by any person, firm or corporation holding a contract therefor, for townsite purposes."

This bill provides that any person holding a contract for the sale of any school or institution lands, regularly issued by the authority of the board, can have the said lands platted as a townsite or addition, and on satisfactory evidence that such land is actually required for townsite purposes and that the plat thereof has been duly filed, may apply to the board for a patent to said land, and it is made the duty of the board to accept payment in full of the balance due the state for such land and interest to date of payment and to issue a

patent therefor ; which provisions are clearly in conflict with section 158 of the constitution.

Section 158 provides that no lands shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: one-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per cent payable annually in advance.

The terms of sale, and of payment for school and institution lands sold, are expressly and definitely provided for in the constitution and cannot be changed by legislative enactment without an amendment to the constitution.

JOHN BURKE,  
Governor.