

CHAPTER 58.

[H. B. No. 347—Hornes]

ADMISSION TO THE BAR.

AN ACT To Amend and Re-enact Section 498 of the Revised Codes of North Dakota for the year 1905, Relating To Admission to the Bar.

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

§ 1. AMENDMENT.] Section 498 of the Revised Codes of 1905, relating to admission to the bar, is amended and re-enacted so as to read as follows:

§ 498. 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. Provided, however, that time spent while acting as official stenographer in any of the district courts of this state may be substituted in lieu of the period of regular practice of law in the state from which he comes, referred to in this section, after having been admitted to the bar according to the laws of such state.

Approved March 3, 1911.

BAWDY HOUSES

CHAPTER 59.

[H. B. No. 136—Hill]

COMMON NUISANCES.

AN ACT Declaring to be Common Nuisances Bawdy Houses, House of Ill Fame, of Assignment, of Prostitution, or any other House, Room or Place for Persons to Visit for Unlawful Sexual Intercourse, or for any other Lewd, Obscene, Indecent, or Disorderly Purpose, and Prescribing Remedies and Penalties for the Prevention of the Same.

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

§ 1. BAWDY HOUSES DECLARED TO BE PUBLIC NUISANCES. PENALTY FOR MAINTAINING.] All bawdy houses, houses of ill fame,

of assignation or of prostitution, or any other house, room or place for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, or any disorderly house or place of public resort by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed, are hereby declared to be common nuisances; and if the existence of such nuisance is established, either in a criminal or equitable action, upon the judgment of a jury, court, or judge having jurisdiction, finding such place to be a nuisance, the sheriff, his deputy, or any constable of the proper county, or marshall of any city where the same is located, shall be directed to shut up and abate such place by taking possession thereof, and close the same against its use by anyone, and keep the same closed for the period of one (1) year from the date of the judgment decreeing such place to be a common nuisance; and the owner or keeper thereof, or anyone aiding, abetting, or assisting such owner or keeper, shall, if in a criminal action, upon conviction, be adjudged guilty of maintaining a common nuisance and be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than one thousand (\$1000.00) dollars, and by imprisonment in the county jail not to exceed one (1) year.

§ 2. INJUNCTION. PENALTY FOR VIOLATION.] The attorney general, his assistant, the State's attorney, or any citizen of the county where such nuisance exists or is maintained, may maintain an action in the name of the state to abate and to perpetually enjoin the same. The injunction shall be granted at the commencement of the action in the usual manner of granting injunctions, except that the affidavit, or complaint, or both, may be made by the state's attorney, the attorney general, or his assistant upon information and belief; provided that the complainant shall give a bond in sufficient amount to cover the costs, or such amount as a court or a judge thereof may direct. Any person violating the terms of any injunction, either temporary or permanent, granted in such proceedings, shall be punished for contempt by a fine of not less than twenty-five, (\$25.00) dollars, nor more than one thousand (\$1000.00) dollars, and by imprisonment in the county jail not to exceed one (1) year. In case judgment is rendered in favor of the plaintiff in any action brought under the provisions of this section, either civil or criminal, the court or judge rendering the same shall also render judgment for a reasonable attorney's fee in such action in favor of the plaintiff and against the defendants therein, which attorney's fee shall be taxed and collected as other costs therein, and when collected paid to the attorney or attorneys for the plaintiff therein. Provided, if such attorney is the attorney general, or state's attorney, such attorney's fee shall be paid into the county treasury and credited to the general fund of said county.

§ 3. OFFICERS TO TAKE POSSESSION. WHEN.] If, at the time

of granting the temporary injunction described in Section 2 above, an affidavit shall be presented to the court or judge stating or showing that any of the offenses mentioned in Section 1 of this act are transpiring or being carried on upon the premises mentioned in the affidavit, particularly describing the said premises where said nuisances are located contrary to law, the court or judge must, at the time of granting the injunction issue his warrant commanding the officer serving said writ of injunction at the time of such service to take possession of said room, building or place and take the same into his custody and securely lock and hold the same to abide the final judgment in the action. The expenses for such holding to be taxed as a part of the costs in the action; and such officer shall also take and hold possession of all personal property found on such premises, and shall take and hold the possession of such premises and keep the same closed until final judgment is entered, or until the possession of the same shall be disposed of by an order of the court or judge upon a hearing had before it for such purpose.

§ 4. INNOCENT PERSONS MAY RECOVER PROPERTY. How.] Where personal property is found in any house or room mentioned in Section 3 of this act, and it shall appear to the court or judge before whom said action is tried that the owner of such personal property or the person entitled to possession thereof is innocent and has not aided or abetted in carrying on the nuisance, the court shall, by order, direct the sheriff in possession of said property to deliver the same to such owner or person entitled to the possession thereof.

§ 5. CONTEMPT PROCEEDINGS.] In contempt proceedings arising out of the violation of any injunction granted under the provisions of this act, the court, or in vacation the judge thereof, shall have power to try summarily and punish the party or parties guilty, as required by law. Process shall run in the name of the State of North Dakota. The affidavits upon which the attachment for contempt issue shall make a prima facie case for the state. The accused may plead in the same manner as to an information or indictment, in so far as the same is applicable. Evidence may be oral, or in the form of affidavits, or both; the defendant may be required to make answer to interrogatories, either written or oral, as in the discretion of the court or judge may seem proper; the defendant shall not necessarily be discharged upon his or her denial of the facts stated in the moving papers; the clerk of the court shall, upon the application of either party, issue subpoenas for witnesses.

§ 6. INJUNCTION. VIOLATION. HOW PUNISHED.] When an injunction, either temporary or permanent, has been granted under the provisions of this act, the same shall be binding on the defendant or defendants, and for the violation of such injunction

the offending party shall be punished as for contempt in the amount according to the rules in this act prescribed.

§ 7. When an injunction either temporary or permanent, has been granted, under the provisions of this act, the same shall be binding on the defendant or defendants throughout the entire state, and for violation of such injunction any place in the state of North Dakota, the offending party shall be punished as for contempt in the amount and according to the rules in this act prescribed.

§ 8. WHAT EVIDENCE ADMISSIBLE. IMMUNITY FROM PROSECUTION.] In prosecutions under this act, either by civil, or criminal proceedings, evidence of the general reputation of the place designated in the complaint shall be admissible for the purpose of proving the existence of such nuisance. And proof of the fact that anyone has pleaded guilty to having violated the provisions of any city ordinance, or any other law of the land, enacted to prevent the evils mentioned in this chapter, if it can further be shown that such person, when so pleading guilty, was or had been, at the time and place mentioned in the information, indictment or complaint in the action then pending before the court, an inmate of such place, shall be deemed prima facie evidence of the guilt of such defendant. No person shall be excused from testifying touching any offense committed by another against any of the provisions of this act by reason of his testimony tending to incriminate himself, (the witness), but the persons giving such testimony shall be forever exempt from prosecution for any offense under the provisions of this act, of which such evidence shall directly or indirectly tend to incriminate him.

§ 9. EMERGENCY.] An emergency exists in that the penalties now known to the law are inadequate to speedily enforce the provisions of the statute; therefore this law shall take effect and be in force from and after the date of its passage and approval.

Approved March 3, 1911.