

fourteen mills on the net taxable assessed valuation of property in the city, provided that in cities supporting bands and/or public libraries that an additional levy not to exceed two mills on the net taxable assessed valuation of property in such cities may be made for these purposes.

Approved March 13, 1935.

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## NORTH DAKOTA

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### CHAPTER 209

S. B. No. 220—(Handley and Lowe)

#### SUSPENSION 1935 STATE CENSUS

An Act to suspend the operating of Chapter 24 of the Political Code of the State of North Dakota for the year 1913, being Sections 1889 to 1902 both inclusive of said compiled laws, relating to the enumeration of inhabitants in the State of North Dakota, and declaring an emergency.

WHEREAS: Due to the financial condition of the state, it is deemed advisable to suspend the operation of the aforesaid Chapter and eliminate the taking of the state census for the year 1935.

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

§ 1. That the provisions of Chapter 24 of the Political Code of North Dakota being Sections 1889 to 1902 both inclusive of the Compiled Laws for the year 1913, relating to the census in so far as the same relates to the taking of said census in 1935 and the same is hereby suspended.

§ 2. No state census shall be taken during the year 1935 and the Secretary of State is hereby prohibited from furnishing and submitting the necessary blanks to the several county auditors and the assessors of the several townships, cities and villages are hereby prohibited from performing any duty or incurring any expense in connection with said matter until the year 1945, all acts or parts of acts to the contrary notwithstanding.

§ 3. EMERGENCY.] Whereas under the provisions of the laws it will be necessary, and it is made the duty of the Secretary of the State and various county auditors and assessors to perform duties and incur expenses in connection with the 1935 state census, therefore an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1935.

## CHAPTER 210

S. B. No. 324—(Committee on Delayed Bills)

**AUTHORIZING INDUSTRIAL COMMISSION TO CO-OPERATE  
WITH FEDERAL ECW PROJECTS ON STATE, COUNTY  
AND MUNICIPALLY OWNED LANDS**

An Act authorizing and empowering the Industrial Commission of the State of North Dakota to take such action as may be proper and necessary to co-operate with the emergency conservation work projects of the Federal Government on state, county and municipally owned lands, authorizing the Industrial Commission to enter into such contracts and agreements as are permissible under the state constitution with municipalities and private individuals for the carrying on of such emergency conservation work projects, making it the duty of such commission to make a report of its proceedings under this act to the next legislative assembly, and declaring an emergency.

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

WHEREAS, the Federal Government is now engaged in emergency conservation work projects in this state, and for such purposes has purchased and is about to purchase state, county and municipally owned lands, and that therefore it is necessary that some agency of the State of North Dakota be authorized and empowered to co-operate and act in conjunction with the Federal Government in such conservation work projects;

§ 1. That the Industrial Commission of the State of North Dakota be, and hereby is, empowered to co-operate and act in conjunction with the Federal Government in the matter of entering into contracts with the State of North Dakota or counties and municipalities within the state and/ or private individuals for the purposes of such emergency conservation work projects insofar as such acts or actions upon the part of the Industrial Commission are permitted by the Constitution of the State of North Dakota.

§ 2. It shall be the duty of the Industrial Commission to make a full and complete report of any and all proceedings had by it under and in pursuance of the provisions of this act, and to present the same to the next Legislative Assembly of the State of North Dakota.

§ 3. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1935.

## CHAPTER 211

S. B. No. 131—(Dubay and Gronvold)

CONVEYANCE INTERNATIONAL PEACE GARDEN LANDS TO  
STATE OF NORTH DAKOTA

An Act authorizing and empowering the Governor to accept a conveyance in trust of the lands comprising the International Peace Garden to the State of North Dakota; setting forth the terms and conditions of the trust; vesting the custody, control, possession, supervision, management and operation of such lands in the Board of Directors of the International Peace Garden, Inc.; vesting in the State Historical Society general supervision of such lands, and expressly empowering the State Historical Society to co-operate in the establishment, promotion and development of the International Peace Garden for the purpose of furthering International Peace among the Nations of the world; providing for the duration of such trust; and repealing all acts, or parts of acts, in conflict herewith, and declaring that an emergency exists for the immediate enactment of this act.

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

§ 1. That the Governor of the State of North Dakota is hereby authorized, empowered, and directed, for and in behalf of the State of North Dakota, to accept from International Peace Garden, Inc., a New York corporation, a deed of conveyance in trust upon the trust conditions hereinafter contained, of the following described real property situated in the County of Rolette, and State of North Dakota, to-wit:

The South Half of the Southeast Quarter, and the South Half of the Southwest Quarter, and Lots Numbered One, Two, Three, and Four, of Section Twenty-five in Township One Hundred Sixty-four North, of Range Seventy-three West, of the Fifth Principal Meridian, which land was purchased by the International Peace Garden, Inc., with funds appropriated to it by the 23rd Legislative Assembly of the State of North Dakota, by Chapter 56, Session Laws of North Dakota, 1933;

All of Section Thirty-six, in Township One Hundred Sixty-four North, of Range Seventy-three West, of the Fifth Principal Meridian, which land was authorized transferred by the Governor and the Board of University and School Lands of the State of North Dakota to the International Peace Garden, Inc., a New York corporation, by the 23rd Legislative Assembly of the State of North Dakota, by Chapter 224, Session Laws of North Dakota, 1933; all of which described land now comprises that part of the International Peace Garden, situated within the State of North Dakota, and the United States of America.

§ 2. That the title to the real property described in the preceding section, is hereby accepted by the State of North Dakota in trust and upon the following express conditions and trusts, to-wit:

a. That the title to said described real property shall be in the State of North Dakota, in trust for, and for the use and benefit of the International Peace Garden.

b. That said described real property shall be used and maintained as an International Peace Garden as a memorial to commemorate the long existing relationship of peace and good will between the people and the governments of the United States of America, and the Dominion of Canada.

c. That if the said described land shall at any time cease to be used and maintained as an International Peace Garden, that then such land shall unconditionally revert to the State of North Dakota, and upon such reversion shall become the absolute and unconditioned property of the State of North Dakota, and shall become subject to the laws of the state and of the United States to the same extent as if this act had never been passed, and as if Chapter 56 and Chapter 224, Session Laws of North Dakota, 1933, had never been passed.

d. That the control, custody, possession, supervision, management, and operation of said described land as an International Peace Garden, shall be and is hereby vested in the Board of Directors of the International Peace Garden, Inc., a New York corporation, provided, however, that such custody, control, possession, supervision, management and operation thereof as aforesaid shall at all times be for the maintenance and operation of an International Peace Garden in accordance with the original plans and purposes for the establishment of an International Peace Garden upon the International Boundary Line between the United States of America and the Dominion of Canada.

e. That the International Peace Garden is hereby recognized as an International Peace park located partly within the State of North Dakota, and partly within the Province of Manitoba, Dominion of Canada, and that the International Peace Garden, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York, and whose articles of incorporation have been filed in the State of North Dakota, is hereby recognized as the sponsoring organization responsible for its creation, designation and location, and said corporation is hereby vested with the authority to control, operate, supervise and maintain said International Peace Garden, in accordance with the terms of this act.

f. That the State of North Dakota shall in no manner be responsible for the maintenance or operation of said lands as an International Peace Garden.

g. That the State Historical Society of the State of North Dakota, as Trustee for the State of North Dakota, shall have general supervision of the lands herein described and comprising that part of the International Peace Garden located within the State of North Dakota, and the United States of America, for the purpose of seeing that the terms of this act, and the trust imposed by this act, are complied with by the International Peace Garden, Inc., and for the pur-



pose of co-operating with the International Peace Garden, Inc., in the promulgation, promotion and development of the International Peace Garden, in accordance with the original plans and purposes for the establishment of an International Peace Garden upon the International Boundary Line between the United States and Canada; and said State Historical Society is hereby expressly authorized and empowered to co-operate in the establishment, promotion, and development of said International Peace Garden, for the purpose of furthering International Peace among the Nations of the world.

h. That the terms and conditions of the trust imposed by this act can only be repealed, amended, or changed by the Legislature with the consent of the Board of Directors of the International Peace Garden, Inc., a New York corporation.

i. That the terms and condition of the trust created by this act shall exist so long as the International Peace Garden shall be in existence.

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

§ 4. EMERGENCY.] WHEREAS, the lands in the United States belonging to the International Peace Garden, have been provided by the State of North Dakota by Chapters 56 and 224, Session Laws of North Dakota, 1933; and whereas a Civilian Conservation Camp was located at the Peace Garden in 1934 and did some real constructive work; and whereas the directors of the International Peace Garden, Inc., have been notified that no further work can be performed by a Civilian Conservation Camp at the Peace Garden until the title to such lands is in the State; and whereas the Peace Garden is in fact a State as well as International park, with the provision in the title that if the project is ever abandoned the title reverts unconditionally to the State; and whereas it is desirable that further work be done on the Peace Garden by a Civilian Conservation Camp, and the Directors of International Peace Garden, Inc., have offered to transfer the said lands to the State in Trust, therefore an emergency exists, and this act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1935.

**CHAPTER 212****S. B. No. 58—(Committee on Employment)****COMPENSATION OFFICERS AND EMPLOYEES' LEGISLATIVE ASSEMBLY**

An Act to amend and re-enact Section 34, Compiled Laws of 1913, relating to officers and employees and compensation thereof, of the Legislative Assembly and declaring an emergency.

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

§ 1. That Section 34, Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 34. The Legislative Assembly of the State of North Dakota shall, at the beginning of each legislative session, by joint resolution, appoint such officers and employees as shall be deemed proper and necessary and fix their compensation, provided, however, that the compensation of the President pro tempore of the Senate and Speaker of the House shall not exceed the sum of two dollars per day; the compensation of the Secretary of the Senate, Chief Clerk of the House and Desk Reporter for the Senate and for the House shall not exceed the sum of eight dollars per day; the compensation of Assistants to the Secretary of the Senate and Assistant to the Chief Clerk of the House shall not exceed the sum of seven dollars per day; and the compensation of all other officers or employees shall not exceed the sum of five dollars per day.

§ 2. That all acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved January 25, 1935.

**CHAPTER 213****S. B. No. 263—(Erickson)****DEFINING MILITARY FORCES; POWERS BOARD OF ARMORY SUPERVISORS, ASSISTANT ADJUTANT GENERAL AND DISBURSING OFFICER; PAY AND ALLOWANCES ENLISTED MEN, ETC.**

An Act to amend and re-enact Sections 2350, 2412 and 2417 of the Compiled Laws of North Dakota of the year 1913 relating to the Military Code of the State of North Dakota; defining Military forces; providing a Board of Armory Supervisors and defining the powers thereof; fixing the pay and allowances of enlisted men on active duty and further providing for the appointment of an Assistant Adjutant General, his powers and duties; the appointment of a Disbursing Officer, his powers and duties; requiring officers to fur-

nish bonds; providing punishment for false certificates or returns and for the misuse of funds or property; providing that State and Municipal officers and employees shall not lose pay while on duty; giving troops power to act outside of occupied territory; providing for the service of process of Military Courts; providing that the invalidation of a portion of this act shall not invalidate the remainder thereof and repealing Sections 2392, 2421, 2432b and 2434 of the Compiled Laws of North Dakota of the year 1913 and Sections 2423a and 2442a of the 1925 Supplement to the Compiled Laws of North Dakota of the year 1913 and all acts or parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 2350 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

§ 2350. MILITARY FORCES — GENERAL DEFINITIONS.] The military forces of this state shall consist of those persons subject to military duty in the militia as defined in the Constitution of the state, and those persons subject to duty in the National Guard as defined in the National Defense Act of the United States, except that honorably discharged soldiers, sailors, and marines of the United States shall be exempt from military service in this state at their election.

When used in this act, the following words, terms, and phrases shall have the following meanings:

The word "militia" shall mean the forces provided for in the Constitution of North Dakota.

The term "National Guard" shall mean that part of the military force of the state that is organized, equipped and federally recognized under the provisions of the National Defense Act of the United States as the "National Guard of the United States and the State of North Dakota." It shall also include the term "National Guard of the State of North Dakota."

The word "company" as used in this act shall be understood and construed to include a company of infantry, engineers, signal corps, a flight of the air service, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment.

The word "battalion" applies in like manner to "squadron" of cavalry, and of the air service.

The term "active service" shall be understood and construed to be service on behalf of the state, in case of public disaster, riot, tumult, breach of the peace, resistance of process, or whenever the same is threatened, whenever called upon in aid of civil authorities, or under martial law, or at encampments whether ordered by state or federal authority, or upon any other duty requiring the entire

time of the organization or person, except when called or drafted into the Federal service by the President of the United States.

The term "on duty" shall include periods of drill and such other training and service as may be required under state or federal law, regulations, or orders.

The terms "in service of the United States" and "not in service of the United States," used herein, shall be understood to mean and be the same as such terms are used in the National Defense Act of Congress, approved June third, nineteen hundred sixteen (June 3, 1916), and amendments thereto.

§ 2. AMENDMENT.] That Section 2412 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

§ 2412. BOARD OF ARMORY SUPERVISORS.] The Governor shall appoint a Board of Armory Supervisors which shall consist of the Adjutant General, and four other officers from the active, inactive, or retired commissioned personnel of the National Guard. The board shall meet at such times and places as are ordered by the Governor. The four officers so appointed shall serve at the pleasure of the Governor. The board shall, for each unit of the National Guard, fix the rent allowance to be paid by the state for other than state owned armories, and shall acquire, contract, erect, purchase, sell, maintain, repair and alter state owned armories subject to the laws made and provided therefor. Said board may lease property to be used for armory purposes, said lease to extend for any period but not to exceed fifteen years.

Provided further that the said Board of Armory Supervisors shall have power to receive and authority to expend all moneys which may be donated to the State of North Dakota from any and all sources or at any time appropriated by the Legislature of the State of North Dakota for the purpose of building, altering, repairing and/or maintaining armories to be owned by the State of North Dakota together with the grounds upon which the same is situated and all necessary and proper appurtenances thereto including all necessary and proper equipment thereof.

Said board shall also have power to receive, operate and care for in behalf of the State of North Dakota any and all armories which may be deeded or transferred to the state by any other owner whatsoever.

§ 3. AMENDMENT.] That Section 2417 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

§ 2417. PAY AND ALLOWANCES OF OFFICERS AND ENLISTED MEN ON ACTIVE DUTY.] Every commissioned officer of the National Guard not salaried as such shall receive from the state, while engaged in any service ordered by the Governor, pay and allowances,

at the rate allowed by law to officers of similar rank and length of service in the United States Army.

Where the officers of the National Guard are convened by the Governor at an annual meeting of instructions, other than camp or active service, or where they are detailed under orders from Regimental Headquarters for the purpose of holding a quarterly inspection outside of their own station, they shall be allowed for traveling and incidental expenses, the sum of four dollars per day.

When called into active service by the Governor, each enlisted man of the National Guard shall receive pay at the rate now or hereafter provided for enlisted men of similar grades rating and term of enlistment in the Regular Army of the United States, and in addition thereto the sum of one dollar and fifty cents (\$1.50) per day besides transportation, shelter and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and legal fines or forfeitures may be deducted from the member's pay.

§ 4. ASSISTANT ADJUTANT GENERAL.] There shall be an Assistant Adjutant General of the state who shall be appointed by the Governor, upon the recommendation of the Adjutant General. He shall have such rank as is consistent with Federal law and regulations and at the time of his appointment shall be a commissioned officer of the National Guard with not less than five years military service in the armed forces of this state or of the United States, at least three of which shall have been commissioned service and he shall have reached the grade of captain. He shall hold office as provided for the Adjutant General. He shall serve in the office of the Adjutant General and aid him by performing such duties as the Adjutant General may assign him in the absence or disability of the Adjutant General. He shall perform the duties of that office as Acting Adjutant General.

§ 5. GOVERNOR TO APPOINT DISBURSING OFFICER.] The Governor, pursuant to Federal authority, shall appoint, designate, or detail, upon recommendation of the Adjutant General, an officer of the National Guard who shall be property and disbursing officer of the United States for the State of North Dakota. He shall receipt and account for all funds and property belonging to the United States in possession of the National Guard of this state, and shall make such returns and reports concerning the same as may be required by the Secretary of War. He shall render, through the War Department, such accounts of Federal funds intrusted to him for disbursement as may be required by the Treasury Department. Before entering upon the performance of his duties as property and disbursing officer shall be required to give good and sufficient bond to the United States, the amount thereof to be determined by the Secretary of War, for the faithful performance of his duties and for the safekeeping and proper disposition of the Federal prop-

erty funds intrusted to his care. The said Property and Disbursing Officer may also be the Quartermaster of the state.

§ 6. BONDS OF OFFICERS.] Each officer to whom there shall be issued, or who shall be accountable for arms, equipment, uniforms, and any other state or United States property for military uses, or who shall have the control, custody or disbursement of state or military funds shall, before the delivery to him of such arms, equipment, uniform, and other state or United States property, and the receipt of such funds, execute and deliver to the Adjutant General a bond therefor, with sureties to be approved by the Governor, and payable to the state, in such amount as may be fixed by the Governor, conditioned for the proper care, use and return in good order, wear, use and unavoidable loss and damage excepted, of all such state and United States property, and the proper care and faithful disbursement and accounting of all funds coming into the hands of such officer. Upon the violation of any of the conditions of such bond, action thereon shall be brought by the Adjutant General on behalf of the state, and any recovery thereon shall be credited to the Guard Funds of the state. It shall be the duty of the Attorney General of the state to prosecute all actions upon such bonds.

§ 7. FALSE CERTIFICATE OR RETURN.] Any officer or soldier of the National Guard who knowingly makes any false certificates of muster or false return of Federal or state property or funds in his possession shall be guilty of a misdemeanor.

§ 8. MISUSE OF FUNDS OR PROPERTY.] Any officer or soldier of the National Guard who wilfully neglects or refuses to apply all money, in his possession drawn from the paymaster general, to the purpose for which such money was appropriated or who fails or refuses to account for or return any state or federal property or funds in his possession shall be guilty of the crime of embezzlement by bailee and punished accordingly.

§ 9. STATE AND MUNICIPAL OFFICERS AND EMPLOYEES NOT TO LOSE PAY WHILE ON DUTY.] All officers and employees of the state, or a subdivision thereof, or a municipality therein, who are members of the National Guard, shall, when ordered by proper authority to active service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence.

§ 10. JURISDICTION OUTSIDE OF OCCUPIED TERRITORY.] Troops occupying a military district established under martial law, may, if necessary, pursue, arrest and subpoena persons wanted in said military district, anywhere within the State of North Dakota.

§ 11. SERVICE OF PROCESS.] All peace officers of the state

shall serve process and execute the orders of a military court in the same way and to the same extent as corresponding instruments of civil courts.

§ 12. CONSTITUTIONALITY.] Should the courts of this state or of the United States declare any of the provisions of this chapter unconstitutional, illegal or void, such decision shall not invalidate any other provision herein contained.

§ 13. REPEAL.] Sections 2392, 2421, 2432b and 2434 of the Compiled Laws of North Dakota of the year 1913 and Section 2423a and 2442a of the 1925 Supplement to the Compiled Laws of North Dakota of the year 1913 and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1935.

## CHAPTER 214

S. B. No. 218—(Committee on Irrigation and Drainage)

### ACQUISITION LANDS FOR PUBLIC PARKS, ETC., BY STATE AND COUNTIES

An Act providing that the state and the several counties of the state are authorized to acquire by purchase, exchange, gift, condemnation or otherwise the title to any land within the same political subdivision for the purpose of establishing any public park or recreational area, or for the purpose of constructing, maintaining and operating any water and/ or wildlife conservation project; providing that all lands to be purchased or exchanged under authority of this act shall be appraised by the existing appraisal agencies of the parties to the contract, providing that where no such appraisal agency exists the county board of commissioners shall determine the values thereof, and providing that no land shall be purchased for more than the appraised value, nor shall any lands owned by the state or the several counties be exchanged except for lands of an equal appraised value; providing that the State of North Dakota shall reserve all mineral rights to all state lands transferred under authority of this act, providing a saving clause, repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. The state or the several counties of the state, are hereby authorized to acquire by purchase, exchange, gift, condemnation or otherwise the title to any lands within the same political subdivision for the purpose of establishing a public park or recreational area, or for the purpose of constructing, maintaining and operating any water and/ or wildlife conservation project.

§ 2. All such lands to be purchased or exchanged under authority of this act shall be appraised by the existing appraisal agencies of the parties to the contract and in all cases where there are no such appraisal agencies the county board of commissioners shall

determine the value thereof, and in no case shall land be purchased for more than the appraised value, nor shall any lands owned by the state or the several counties be exchanged except for lands of an equal appraised value.

§ 3. The State of North Dakota shall reserve all mineral rights to any and all state lands exchanged under authority of this act.

§ 4. It is hereby declared that if any of the provisions of this act in any manner contravenes the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act, hence, if any provisions are found to be violative of the Constitution the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 5. All acts or parts of acts in conflict herewith are hereby repealed.

§ 6. This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 7, 1935.

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## CHAPTER 215

S. B. No. 328—(Delayed Bills Committee)

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### ACCEPTANCE, ETC., STATE FOREST AND PARK LANDS BY STATE FORESTER

An Act authorizing the State Forester to accept, acquire or lease land for state forests and state parks; providing for the management and development thereof and the disposition of income from such lands.

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

§ 1. That the State Forester is hereby authorized to accept gifts, donations or contributions of land suitable for forestry or park purposes and to enter into agreements with the Federal Government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the State Forester are desirable for state forests or state parks.

§ 2. When lands are acquired or leased under Section 1 of this act, the State Forester is hereby authorized to make expenditures from any funds not otherwise obligated, for the management, development and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules and regulations as may be necessary to carry out the purposes of this act.

§ 3. All revenues derived from lands now owned or later ac-



quired under the provisions of this act shall be segregated by the State Treasurer for the use of the State Forester in the acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Providing, however, that the State Forester shall not expend for such purposes more than ten thousand dollars (\$10,000.00) in any one fiscal year. Thereafter, fifty per cent of all net profits accruing from the administration of such lands shall be applicable for such purposes as the Legislative Assembly may prescribe, and fifty per cent shall be paid into the school fund of the county in which lands are located.

§ 4. Obligations for the acquisition of land incurred by the State Forester under the authority of this act shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the state.

§ 5. The State Forester shall have full power and authority to sell, exchange or lease lands under his jurisdiction when in his judgment it is advantageous to the state to do so in the highest orderly development and management of state forests and state parks. Provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into.

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

§ 7. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

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## CHAPTER 216

S. B. No. 150—(Bonzer and Brostuen)

### ACQUISITION LANDS FOR STATE PARKS, MONUMENTS, RECREATION RESERVES, ETC., BY STATE HISTORICAL SOCIETY

An Act empowering the State Historical Society to acquire lands for State Parks, State Monuments, and State Recreation Reserves, to supervise, control and maintain such State Parks, State Monuments, and State Recreation Reserves, providing for the appointment of a State Parks Committee, and making an appropriation therefor.

WHEREAS, the National Park Service of the United States has heretofore undertaken and is now carrying on certain State Park development projects within the State of North Dakota for the benefit of the people of North Dakota, on certain park sites heretofore acquired by the state for State Park purposes, and it appears that additional State Parks, State Monuments and State Recreation Reserves may be developed with Federal aid; and

WHEREAS, the State Historical Society is the trustee of the State of North Dakota of all state historical park sites, but that there is no adequate law providing for the administration, maintenance and future development of state parks other than the parks of historical significance, nor providing for the care and maintenance of State Monuments, or State Recreation Reserves; NOW, THEREFORE

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

§ 1. The State Historical Society is hereby authorized to acquire in behalf of the State of North Dakota, by purchase, gift, or by the exercise of the power of eminent domain, lands for State Park, State Monument and State Recreation Reserve purposes, including State Parks, State Monuments, and State Recreation Reserves now or hereafter developed by the National Park Service of the United States, to set aside for park, monument or recreation purposes, such lands as are now owned by the state and not held for some other purpose, to supervise, control, care for, maintain and develop any such State Parks, State Monuments, State Recreation Reserves, as trustees for the state, and to administer any such State Parks, State Monuments, and State Recreation Reserves, when so authorized, as an agent of the National Park Service.

§ 2. For the purposes herein provided, the board of directors of the State Historical Society, is hereby empowered to create a State Park Committee of five persons, with the advice and consent of the Governor, to consist of members of such board, or other qualified persons, who shall, when so authorized, by the board, exercise all of the powers and perform all of the duties herein vested in the State Historical Society.

§ 3. The State Historical Society or the State Parks Committee, when so authorized by the Board of Directors, shall have the power to make and enforce suitable rules and regulations relating to the protection, care and use of any State Park, State Monument, or State Recreation Reserve, and to provide that the violation of any such regulations shall constitute a misdemeanor.

§ 4. The State Historical Society, or the State Parks Committee, when so authorized by the Board of Directors, shall fix and collect such fees as it may deem reasonable for the use of the facilities of any such State Park, State Monument, and State Recreation Reserve, and to enter into concession agreements with private persons, firms or corporations for the operation of services within the areas of any such State Park, State Monument, and State Recreation Reserve, provided that no such concession agreement shall run for a duration of more than five (5) years.

§ 5. All monies collected as fees, compensation for concession agreements, or otherwise, pursuant to the terms of this act, shall

be deposited in the State Treasury and shall be placed in a special fund to be known as the "State Park Maintenance Fund," and shall be used and expended in carrying out the provisions of this act.

§ 6. There shall be appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of ten thousand (\$10,000.00) dollars for the purpose of carrying out the provisions of this act.

Approved March 14, 1935.

## CHAPTER 217

S. B. No. 149—(Bonzer and Brostuen)

### STATE PLANNING BOARD

An Act to create a State Planning Board, prescribing the powers and duties thereof, and making an appropriation therefor, and declaring an emergency.

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

§ 1. There is hereby created a State Planning Board to consist of ten (10) members, four (4) of whom shall consist of the State Geologist, Head of the State School of Forestry, Dean of the Division of Agriculture of the North Dakota Agricultural College and the Director of the College of Mining Engineering of the State University, and six (6) of whom shall be representative citizens appointed by the Governor. The term of office of the members first appointed shall be as follows: Two (2) shall be appointed for a term of two (2) years, two (2) for a term of four (4) years and two (2) for a term of six (6) years; and thereafter, the term of each member shall be six (6) years. In case of a vacancy occurring from any cause, the Governor shall fill the vacancy for the unexpired term. All members of the board shall serve without compensation, except as otherwise provided herein, but each member shall be reimbursed for his actual and necessary expense incurred in the performance of his duties. The board shall be furnished with necessary office space in the State Capitol, or other state office building. The board shall keep permanent and complete records of its proceedings, meetings, hearings, orders and recommendations.

§ 2. The board shall designate one of its members to act as chairman. It may employ an executive director, who may be a member of the board, or some other qualified person, and it may employ such other technical, professional and clerical assistance as may be required, and fix their compensation, and may incur any other necessary expense within the limits of the fund appropriated therefor. The board shall from time to time appoint technical advisory and research committees to consist of members of the board, or other persons qualified to render expert and scientific services. Heads

of state departments, or state institutions, on the recommendation of the Governor, may, from time to time, for the purpose of making special surveys under the direction of the board, assign or detail members of the staff or personnel of any state department, institution, bureau, commission, or other agency, to assist in the work of the board.

§ 3. In order that the people of North Dakota shall realize the greatest possible benefit from the land, water, mineral, recreational and economic resources of the state, the board shall have the power and (it) shall be its duty:

(1) To make inquiries, investigations and surveys, concerning the resources of all sections of the state.

(2) To make surveys of rural land utilization, with a view to the determination, among other things, of the areas suitable for cultivated crops, for grazing, for reforestation, for water-shed protection, for recreation, for other economic development.

(3) To assemble and analyze the data thus obtained, and to formulate plans for the conservation of such resources and the systematic utilization and development thereof.

(4) To make recommendations from time to time as to the best methods of the conservation, utilization and development of such resources.

(5) To co-operate with the United States and any of its agencies in the planning, conservation, utilization and development of such resources, and in the administration of its public works programs; to act, when so designated, as an agency of the United States, or of any agency thereof, in carrying out, or administering any Federal development project, within the State of North Dakota; and to accept and use any funds provided by the United States, or any agency thereof, for such purposes.

(6) To co-operate with the State Planning Boards of any other state, and with any municipal or regional planning board within the state in the planning, conservation, utilization and development of the natural resources of the state.

(7) To provide for and aid in the organization of such municipal, county, and regional planning boards as may seem advisable or expedient.

(8) To exercise such additional powers, not inconsistent with the purposes of this act, as may be necessary to promote state planning, or carry out the purposes of this act.

§ 4. The board shall have power to promote public interest in and understanding of the problem of state planning, and to that end it may publish and distribute copies of any report and may employ such other means of publicity and education as it may determine. The board shall, upon request, furnish advice or reports to any state officer or department on any problem falling within the field

of state planning, and may advise the Governor or the Legislature on programs for public employments, and the financing thereof.

§ 5. All public officials, both state and local, shall, upon request, furnish to the board such available information as it may require for its work.

§ 6. There is hereby appropriated out of the General Funds of the State, not otherwise appropriated, the sum of twenty-five thousand (\$25,000.00) dollars for the purpose of carrying out the provisions of this act.

§ 7. This act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 6, 1935.

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## CHAPTER 218

H. B. No. 360—(Twichell and Aljets)

### PREFERENCE NORTH DAKOTA BIDDERS AND SELLERS

An Act giving preference to North Dakota bidders and sellers; defining such North Dakota bidders and sellers, and prescribing the nature of preference to be given.

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

§ 1. PREFERENCE TO NORTH DAKOTA BIDDERS AND SELLERS.] The Board of Administration, and all boards and commissions, city councils and city commissioners, boards of education, park boards, school boards, boards of village trustees, and any and all governing bodies of any political subdivision of the state, or of any state institution; in purchasing any goods, merchandise, supplies or equipment of any kind or character, shall give preference to bidders or sellers resident in North Dakota; and in specifying or purchasing goods, merchandise, supplies or equipment to be purchased, shall not specify any trademarked or copyrighted brand or name, or the product of any one manufacturer or any patented product, apparatus, device or equipment, where the same will prevent proper competition, unless they shall also ask for, or specify for, bids or offers upon other similar articles of like nature, utility and merit. Utility, fitness and quality being equal, the bid or offer of a resident North Dakota bidder or seller shall be accepted, when such bid or offer is not materially higher than that of a low bidder or seller, a non-resident of the State of North Dakota.

A resident North Dakota bidder or seller is hereby defined and declared to be such bidder or seller who shall have maintained a bona fide place of business within the State of North Dakota for at least one year prior to the date such purchase is made.

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

Approved March 12, 1935.

## CHAPTER 219

S. B. No. 63—(Appropriations Committee)

### PROCUREMENT OFFICER STATE PARK E C W

An Act providing for the appointment and removal at pleasure of a Procurement Officer for State Park Emergency Conservation work as required under the rules and regulations of the Act of Congress known as the Emergency Conservation Work Act, and of assistant, fixing their salary and making appropriation therefor, and repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. APPOINTMENT OF PROCUREMENT OFFICER.] The Governor is hereby authorized and directed to appoint a Procurement Officer for State Park Emergency Conservation Work to perform such duties as may be required of him under the rules and regulations of the Act of Congress known as the Emergency Conservation Work Act for such term as the services of said officer may be required and needed under said Act of Congress. Said Procurement Officer shall be removable at the pleasure of the Governor. The said Procurement Officer may also appoint an assistant who shall under his direction and during his pleasure, perform such duties as may be required by said Procurement Officer and who shall be known as Assistant Procurement Officer. The salary herein provided shall be paid said Procurement Officer and his assistant in addition to any other salary or compensation which either of them may otherwise receive for his services as an employee of the State of North Dakota.

§ 2. SALARY. APPROPRIATION.] The said Procurement Officer shall receive a salary not exceeding fifty dollars (\$50.00) per month, and his said assistant a salary not exceeding twenty-five dollars (\$25.00) per month and there is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,800, or so much thereof as may be necessary therefor, out of which appropriation the salary of said Procurement Officer and Assistant Procurement Officer shall be paid in the same manner that salaries of state officers are paid, the said appropriation to remain in force for the period extending from the effective date of this act to the 30th day of June, 1937.

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

§ 4. EMERGENCY.] The establishment by the Federal Government of CCC camps through the state under the provisions of the Act of Congress known as the Emergency Conservation Work Act having proven to be most beneficial to this state, and their continuance being to a large extent dependent upon the immediate appointment of a Procurement Officer as herein provided, an emergency is hereby declared to exist and this act is hereby declared to be an emergency measure, and shall take effect and be in force immediately upon its passage and approval.

Approved February 19, 1935.

## CHAPTER 220

H. B. No. 45—(Odegard and Brunsdale)

### EXPENSE ACCOUNT PUBLIC OFFICERS

An Act specifying the amount to be allowed for personal sustenance of officers, agents, and employees, exempting the Governor, of the State of North Dakota, or of any of its sub-divisions, while upon public expense account; providing a penalty for violation thereof, and declaring an emergency.

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

§ 1. EXPENSE ACCOUNT. UNLAWFUL WHEN.] That it shall be unlawful for any elective officer other than the Governor, or for any appointive officer, employee, representative, or agent of the State of North Dakota, or any of its sub-divisions, agencies, bureaus, boards, or commissions to make claim upon any public fund whatsoever for any sum in excess of \$4.00 for any one day for personal sustenance while engaged in the discharge of a public duty and while upon a public expense account within the state, or in excess of \$6.00 for any one day for personal sustenance while so engaged without the State of North Dakota; provided, however, that in no event shall any such elective or appointive officer, employee, representative, or agent make claim for an amount in excess of that actually paid for expenses while engaged in the public service upon such public expense account.

§ 2. PENALTY.] Any person violating any of the provisions of this act shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not less than \$50.00 or more than \$1,000.00, or by imprisonment in a county jail for not less than ninety days or more than one year, or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment, in the discretion of the trial court.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1935.

## CHAPTER 221

H. B. No. 338—(Aljets, Twichell and Burgum)

## STATE BOARD OF PUBLIC WELFARE

An Act creating a State Board of Public Welfare, defining its powers and duties; permitting appointment of executive director; hold office at pleasure of board; establishing the State Welfare Fund; making an appropriation therefore; repealing all acts and parts of acts in conflict with the provisions of this act, and declaring an emergency.

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

§ 1. The Governor, Attorney General and Commissioner of Agriculture and Labor shall within thirty (30) days after the passage and approval of this act appoint a board to consist of seven (7) members, at least one (1) of whom shall be a World War Veteran, and such board shall be known as the Public Welfare Board of North Dakota, hereinafter referred to as the Board. Three (3) members of the Board shall be appointed for a term of two (2) years, two for a term of four years, and two for a term of six years. The term of office of each of the successors of the original Board shall be six years. Any member appointed to fill a vacancy on the Board shall serve only during the unexpired term wherein the vacancy occurred; but members of the Board shall serve until their successors have been appointed and have qualified. All members of the public welfare board of North Dakota shall be appointed by the Governor, the Attorney General and the Commissioner of Agriculture and Labor, acting jointly. A member of the Public Welfare Board of North Dakota may be removed by the Governor for cause.

§ 2. ORGANIZATION MEETING.] Within sixty days after this act takes effect the Governor shall call the members thus appointed to meet at the state capitol at Bismarck, North Dakota, and the Board shall organize by the election of a president, a vice president, a secretary and such other officers and employees as the Board shall determine. The Board shall hold meetings at least quarterly and whenever called in session by the president or by a majority of the members of the Board.

## § 3. COMPENSATION. APPOINTMENT OF EXECUTIVE DIRECTOR.]

(a) All members of the Board shall receive no compensation for their services but shall be paid their actual expenses incurred in attending meetings of the Board and while engaged in the performance of the duties prescribed in this act; such expense shall be audited and paid in the same manner as the expenses of state officers are audited and paid.

(b) The Board shall appoint an executive director who shall devote his entire time to the duties of office. The executive director shall be a person who has professional qualifications, wide exper-



ience, education and training, in the administration of public and/or private welfare institutions, agencies or activities, and shall be a resident of the State of North Dakota for at least five years preceding his appointment, and shall hold office at the pleasure of the Board. Before entering upon the duties of office the executive director shall take the official oath prescribed by law for the state officials and shall file with the Secretary of State such oath of office and a surety bond to be approved by the Attorney General in the penal sum of \$10,000.00 conditioned for the faithful performance of official duties and the delivery to successor of all public property in the possession or under the control of the executive director. The compensation of clerks, stenographers and other necessary employees shall be determined by the Board.

§ 4. OFFICE AND OFFICE EQUIPMENT.] The Board shall be provided with suitable offices in the state capitol, and is authorized to purchase out of the funds herein appropriated such necessary furniture, office and filing equipment, office supplies, stationery and postage as may be needed for the efficient conduct of its business.

§ 5. FUNDS TO BE PAID INTO THE STATE TREASURY.] All moneys received under the provisions of this act from appropriations by the State Legislature shall be paid into the State Treasury to be kept by the State Treasurer in a fund known as the State Public Welfare Fund, and all expenditures made under the provisions of this act shall be paid by the State Treasurer upon warrants drawn by the State Auditor, such expenditure to be supported by itemized vouchers to be signed by the executive director of the Board or by such other officers and/or assistants as the Board may designate and certified to the State Auditor. Any funds received from Federal agencies shall be deposited and disbursed in the manner provided by act of congress or by the regulations of the Federal agencies from whom the funds were received.

§ 6. DUTIES OF THE BOARD.] The Board shall have the following powers and duties, to-wit:

1. To act as the official agency of the State of North Dakota in any social welfare activity initiated by the Federal Government and to administer, allocate and distribute any State and Federal funds that may be made available for the following purposes, to-wit:

- (a) The relief of destitute or necessitous persons;
- (b) Mother's aid;
- (c) Old age assistance;
- (d) Aid to dependent children;
- (e) Maternal and child health;
- (f) Care of crippled children;
- (g) Aid to child welfare service; and
- (h) Public health service.

2. To study the subjects of non-employment, poverty, vagrancy,

housing conditions, crime, juvenile delinquency, public amusements, care and treatment of prisoners, divorce and wife desertion, child welfare, the social and kindred subjects and their causes, treatment and prevention of any hurtful conditions.

3. To make available to the several counties, municipalities and eligible public or private institutions in the state, at such times and in such amounts as are needed, funds supplied to the Board by the State and Federal Governments for the relief of destitution and for the purposes enumerated in the Subdivision one(1) of Section six (6) of this act; and for the purchase of supplies and materials to be used for work-relief projects.

4. To provide for the study and promote the welfare of the dependent, delinquent, and neglected child, and to provide for the placing and supervision of dependent, delinquent and defective children, subject to the control of any court having jurisdiction and control of any such child.

5. To recommend to the Legislature social legislation and the creation of necessary institutions.

6. To co-operate with and advise and assist the various county welfare boards in every way possible.

7. To issue bulletins and have the same printed and in other ways to inform the public as to social conditions and the proper remedy of social life.

8. To secure, hold and administer for the purpose for which it is organized any property and any funds donated to it, either by will or deed, or otherwise and to administer said funds or property in accordance with the instructions in the instrument creating them.

9. To provide for surveys and make reports on child caring institutions, homes for the aged, maternity homes, and persons or organizations receiving and placing children, and to require such institutions, persons and organizations to submit such annual reports and information as the Board may determine.

10. No general survey shall be undertaken or conducted except on the specific order of the State Board of Public Welfare.

11. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever the board deems it necessary in making the investigations provided for herein or in the discharge of its other duties, and to give such publicity to its investigations and findings as it may deem best for the public welfare, provided, however, that no subpoena shall be issued to compel the production of documents or papers relating to any private child caring and/or child placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of such institutions except upon the order of a Judge of the District Court of the Judicial District in which the institution is located.

§ 7. BIENNIAL REPORT TO GOVERNOR AND LEGISLATURE.] The Board shall biennially prepare and submit to the Governor and Legislative Assembly a complete and full report of its activities during the

preceding two years with such suggestions as it may deem necessary and shall report such other matters as it may think are for the benefit of the people of the state.

§ 8. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of twenty-five thousand dollars (\$25,000.00) or so much thereof as may be necessary to carry out the purposes of this act.

§ 9. It is not the intention of this act to abolish any state agencies, bureaus or departments now in operation, nor is it the intention that the State Board of Public Welfare shall exercise control or supervision over appropriations or grants specifically made by the Legislative Assembly and/or by any department or agency of the Federal Government for or to any specific state agency, bureau, office, department or institution; nor is it the intention of this act to repeal or set aside any appropriations heretofore made or which this legislative assembly may make hereafter to any such agency, bureau, office, institution or department, or for child caring or child placing agencies or maternity hospitals.

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

§ 11. EMERGENCY.] Whereas, the creation of a state board of public welfare is necessary in order to qualify the state to receive grants of funds from the Federal Government for the promotion of public welfare, now, therefore, an emergency is hereby declared to exist and this act shall be in full force and effect immediately upon its passage and approval.

Approved March 7, 1935.

## CHAPTER 222

S. B. No. 212—(Committee on State Affairs)

### VALIDATING, ETC., BONDS, WARRANTS, ETC., OF PUBLIC BODIES FOR PUBLIC WORKS PROJECTS ALSO VALIDATION PROCEEDINGS FOR INCORPORATION, OF ANY PUBLIC BODY

An Act validating, ratifying, approving and confirming bonds, warrants and other instruments or obligations heretofore issued by public bodies of this state for the purpose of financing in whole or in part public works projects, and validating all proceedings heretofore taken for the incorporation of any public body as defined in the act, and declaring an emergency.

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

§ 1. This act may be cited as the "Validating Act of 1935."

§ 2. In this act, unless the context or subject matter otherwise requires;

(a) The term "public body" shall mean the State of North Dakota, any county, city, village, township or school district of any class.

(b) The phrase "public works project" shall mean and include any work, undertaking, enterprise, erection or construction which has been financed in whole or in part by a loan or grant or both made by the United States of America acting through the Federal Emergency Administrator of Public Works.

§ 3. All bonds, warrants and other instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, whether such bonds, warrants and other instruments or obligations are payable from taxes or revenues or special assessments or a sinking fund or a special fund, heretofore issued by a public body for any public works project, including all proceedings had or taken in connection with the issuance of such bonds, warrants, instruments and obligations and the authorization, issuance, sale, execution and delivery thereof, are hereby ratified, approved and confirmed, and in all things declared valid, notwithstanding any lack of power to issue such bonds, warrants, instruments or obligations and/or the failure of any of the public officials or the governing bodies of any such public bodies to do the acts or pass or adopt the proceedings required by the laws of North Dakota, and notwithstanding any defects or irregularities in such proceedings, or in proceedings heretofore taken by the governing board of any such public body for the incorporation of such public body as a city or village as the case may be, and all such bonds, warrants, instruments and obligations shall be binding, legal, valid and enforceable obligations of the public body issuing the same.

§ 4. Nothing in this act shall be construed as purporting to validate any issue of bonds or any part thereof issued in contravention of any provision of the Constitution of the State of North Dakota.

§ 5. EMERGENCY.] This act is hereby declared an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 13, 1935.

## CHAPTER 223

H. B. No. 80—(Page and Caddell)

## DUTIES STATE REGULATORY DEPARTMENT

An Act to amend and re-enact Section 10 of Chapter 199, Session Laws of 1933 relating to additional duties of the North Dakota Regulatory Department with reference to investigations and inspections for the State Auditor, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 10 of Chapter 199 Session Laws of 1933 is hereby amended and re-enacted to read as follows:

§ 10. It shall be the duty of the Regulatory Department, at the request made therefor by the State Auditor to the Director of the Regulatory Department, and in the manner prescribed by the Director to make such investigations and inspections as fall within the purview of the duties of the State Auditor.

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

§ 3 EMERGENCY.] An emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1935.

## CHAPTER 224

H. B. No. 347—(Aljets and Treffry)

## POWERS N. D. RURAL REHABILITATION CORPORATION; TAX EXEMPTION FUNDS, ETC.; AUTHORIZATION STATE TREASURER'S ACCEPTANCE OF FUNDS

An Act relating to relief and rehabilitation work carried on in North Dakota by the Federal Emergency Relief Administration through the North Dakota Rural Rehabilitation Corporation; exempting from taxation moneys and/or credits coming into the possession of or belonging to the North Dakota Rural Rehabilitation Corporation as a result of any Federal grant or gift for relief or rehabilitation purposes, and authorizing the State Treasurer, in event of dissolution of the North Dakota Rural Rehabilitation Corporation, to accept funds and property on hand or belonging to the Corporation at the time of dissolution.

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

WHEREAS, in order to carry out the program of relief and rehabilitation in the State of North Dakota inaugurated, organized and carried on by the Federal Emergency Relief Administration it became necessary, in accordance with the directions of the Federal Emergency Relief Administrator, to organize under the laws of

North Dakota a non-profit and charitable corporation known as the North Dakota Rural Rehabilitation Corporation;

AND, WHEREAS, the purposes for which said corporation was formed are exclusively public in their nature and directly for the benefit of the State of North Dakota and for the people thereof; such purposes, among others, involving re-settlement of and aid to persons living in areas now being or hereafter acquired under the land purchase program of the United States governmental agencies and further involving the loaning and/or giving of funds and the purchasing, holding and/or distribution among the people of the state of funds, and of seeds, feeds and other property for said purpose;

AND, WHEREAS, the carrying on of these activities requires the expenditure of funds appropriated by Congress for relief purposes and under the disposition of the Federal Emergency Relief Administrator and requires that such Federal funds be made available for ultimate expenditure through the North Dakota Rural Rehabilitation Corporation.

Now, therefore, be it enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That in order to facilitate the relief and rehabilitation work carried on or to be carried on in North Dakota by the Federal Emergency Relief Administration and/or any other relief or welfare agency that may properly be carried on through the North Dakota Rural Rehabilitation Corporation, the several counties and other municipal corporations and/or state officers and agencies are authorized to co-operate with and utilize the facilities of the North Dakota Rural Rehabilitation Corporation to the end that the relief and rehabilitation activities sought to be carried on by the Federal Emergency Relief Administration and/or any other agency organized for similar purposes, may be furthered and expedited.

§ 2. That all funds which may have been or may hereinafter be made available to the North Dakota Rural Rehabilitation Corporation by the Federal Emergency Relief Administration or any other agency or instrumentality of the Federal Government and any and all personal property purchased with such funds or held by said corporation and any payments received by the corporation on loans made and as proceeds of property sold, be and the same is hereby exempted from all taxation by the State of North Dakota or any of the political subdivisions thereof; provided, however, that this shall not apply to lands purchased or held by the North Dakota Rural

Rehabilitation Corporation but all lands shall be subject to taxation.

§ 3. That the State of North Dakota hereby accepts the offer contained in the Articles of Incorporation of the North Dakota Rural Rehabilitation Corporation that any funds or property on hand upon the dissolution of the corporation shall be turned over to the State

Treasurer for appropriation by the Legislative Assembly for such public purposes as may be designated, or placed in the general fund, as may be directed; and the Treasurer of the State of North Dakota is hereby authorized to accept and receive all such funds and/or property if or when the same may be tendered upon a dissolution of the North Dakota Rural Rehabilitation Corporation.

§ 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1935.

## CHAPTER 225

S. B. No. 239—(Bonzer)

### AGREEMENTS FOR SHELTERBELT LANDS BY STATE, ETC., GOVERNING BOARDS

An Act authorizing any Board or Officer having the control or management of any real estate belonging to or controlled by the State of North Dakota or any of its political subdivisions to enter into agreements with the United States of America for the improvement of said real estate by the establishment and maintenance of shelterbelts of trees and other plants and necessary protective structures and works thereon, and repealing all acts or parts of acts in conflict herewith.

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

§ 1. Any board or officer having the control or management of any real estate belonging to or controlled by the State of North Dakota or any of its political subdivisions may and is hereby authorized to enter into agreements with the officers and agents of the United States of America for the improvement by the United States of any of said lands by the establishment and maintenance thereon of shelterbelts composed of trees, other plants and necessary protective structures and works.

§ 2. Every such agreement shall describe particularly the land to be covered by the shelterbelt; shall be recorded at the expense of the United States in the county where such land is situate; and thereafter all leases, sales and other disposition of such land shall be subject to such agreement.

§ 3. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1935.

## CHAPTER 226

S. B. No. 192—(Stucke and Thatcher)

## PROPOSALS CLASS 5 STATE PRINTING

An Act amending and re-enacting Section 47 of the 1913 Compiled Laws relating to the proposals for state printing; providing for the printing of all matters coming under Class 5 of state printing; providing for each state department or office to designate newspaper or job printing shop where Class 5 printing shall be performed; providing for State Printing Commission and State Printer to determine and fix price and cost thereof and repeal all acts and parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 47 of the 1913 Compiled Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 47. PROPOSALS FOR PRINTING.] The State Printing Commission shall, at least six months immediately preceding each legal session of the Legislative Assembly, advertise for four weeks successively in two daily papers in the State, one of which shall be at the Seat of Government, inviting sealed proposals for doing all printing and binding required under Classifications 1, 2, 3, and 4, required by the Legislative Assembly and by the several State Departments for the two succeeding years commencing with the first day of January next following the date of the contract, and such bids shall specify at what price and cost for which the said work will be performed and furnish the stock.

§ 2. Each department and office of the State Government may let the printing of all matters coming within Class 5 of Section 46 of the 1925 Supplement to the 1913 Compiled Laws, to such newspaper or job printing shop in this State as are equipped to handle, perform and take proper care of the work required and to furnish the stock necessary. No newspaper or job printing shop awarded printing under this class shall be permitted to sublet the same. Before letting or submitting such order for printing or miscellaneous job work to such newspaper or job printing shop, the department or state office shall submit such order or requisition for printing to the State Printing Commission and the State Printer, who shall determine and fix the reasonable cost or price for such printing or work and the stock required and such price so fixed and determined by the State Printing Commission and the State Printer, shall be the cost of and the price paid by such department or office for the work and printing so ordered and the material furnished. Such cost and price so fixed shall not exceed the price and cost as provided for in the Franklin Printing Catalogue less 10 per cent. Such cost or price shall be determined and fixed by the State Printing Commission and the State Printer according to the kind and quality of material re-



quired and the kind of work necessary. Upon the determining and fixing of such cost and price to be charged for the work required, the State Department or office may have such work and printing done and the material furnished by such newspaper or job printing shop in this State as the said State Department or state office shall select.

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

Approved March 13, 1935.

## CHAPTER 227

S. B. No. 306—(Senator Eastgate, by request)

### AUTHORIZING GOVERNOR TO ENTER INTO AGREEMENTS WITH THE UNITED STATES AND PRIVATE LAND OWNERS FOR UNEMPLOYMENT RELIEF PURPOSES

An Act authorizing the Governor to enter into agreements with the President of the United States under an Act of Congress entitled "An Act for the Relief of Unemployed Through the Performance of Useful Public Work, and for Other Purposes," approved March 31, 1933, and other acts supplemental thereto; authorizing the Governor to enter into agreements with private land owners, declaring the rights and duties of the Conservation Commission and of such land owner thereunder and providing procedure for giving notice to mortgagees and lien holders against land affected, and declaring an emergency.

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

§ 1. GOVERNOR AUTHORIZED TO ENTER INTO AGREEMENTS WITH PRESIDENT OF UNITED STATES: SCOPE OF AGREEMENTS.] (1) The Governor in the name and on behalf of the State of North Dakota is authorized to enter into such contracts or agreements with the President of the United States as the President may deem necessary or advisable in carrying out the provisions of an act of congress entitled "An Act for the relief of unemployment through the performance of useful public work, and for other purposes," approved March 31, 1933, and any other act of congress amendatory thereof or supplementary thereto.

(2) Such contracts or agreements may include the following conditions and provisions which the State of North Dakota hereby accepts, agrees to and promises to perform:

(a) If, as a result of any conservation work projects on state, county or municipally owned land, the State derives a direct profit from the sale of any such land or the products thereof, the proceeds shall be divided equally between this state and the Federal Government until the Federal Government has been repaid the amount of its investment in such work, computed at the rate of one dollar per man per day, with a maximum limitation of three dollars per acre of land purchased.

(b) No work is to be done on privately owned land except as may be necessary in the public interest for regional or state-wide forest protection against fire, insects and disease or simple flood control measures to arrest gully erosion and flash runoffs at the headwaters of streams.

(c) When the public interest requires work to be done on privately owned land as provided in paragraph (b) hereof, the State of North Dakota assumes responsibility for the reasonable protection of work done either by the landowners or otherwise and agrees that if a contract with the landowner is obtained, such contract shall provide that this state reserves the right to remove at its option and without recompense to the landowner, any structure or other thing of removable value resulting from the work done, including products of trees planted to arrest erosion.

(d) The landowner may be required under the contract provided for in paragraph (c) to protect the soil saving dams and other works and to practice specified cultural methods for the prevention of soil erosion, and if he fails to meet these requirements, the conservation commission may cause to be constructed such terraces and other works as will repair the damage done through the landowner's noncompliance with the contract. The cost of such construction shall be collected, paid and accounted for as a special state charge against the land specified as the basis of the original contract and shall be paid into the conservation fund and used as a revolving appropriation to carry out the provisions of this paragraph.

(3) In addition to the conditions and provisions assented to in subsection (2), such contracts or agreements may contain such other conditions or provisions, which this state solemnly pledges itself to carry out, as the Governor may deem necessary or advisable to enable this state to secure the benefits to which it may be entitled under any of said acts of congress.

(4) Whenever any contract is entered into by the State of North Dakota or the United States or any agency thereof, with a private landowner as provided for in subsection (2) recording of such contract in the office of the register of deeds of the county in which the land involved is situate and the posting of a copy thereof in the office of (the) county auditor of the said county and the mailing of a copy thereof by registered mail to any mortgage or lien holder of record at his address as shown by the record or if not so shown, to his last known post office address, which mailing shall be performed by the register of deeds of said county within five days after the recording of said instrument, shall be deemed constructive notice of such agreement to any mortgagee of or lien holder upon the lands covered thereby. Upon the failure of such mortgagee or lien holder to object thereto by written notice served upon the director of conservation within four weeks after the mailing of the said copy by registered mail, such mortgagee or lien holder shall be conclusively deemed to have assented to such agreement. At the time of the mail-

ing of said notice the register of deeds shall make a marginal notation, giving the name and address of each addressee to whom the same was sent and the date of the mailing, and such notation shall be prima facie evidence in all courts that the copies were sent by registered mail in accordance with such notation.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

## CHAPTER 228

S. B. No. 296.—(Brostuen, Lind and Wog, by request)

### WATER CONSERVATION DISTRICTS

An Act to provide for the creation of water conservation districts; to provide for water conservation commissioners and fix their powers and duties; to provide for a state water conservation commissioner and fix his powers and duties; to provide for the acquisition of property rights and the assessment of benefits against the property affected, and to provide for the levy of special assessments and prescribing the duties of county commissioners relating to water conservation projects, providing for the exemption of Federal Projects and Agencies, and declaring an emergency.

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

§ 1. WATER CONSERVATION DISTRICTS: BOUNDARIES: HOW ESTABLISHED.] Whenever there shall be presented to the State Water Conservation Commissioner, hereinafter provided for, a petition signed by any county, city, village, township or by any cooperative grazing association fifty per cent or more of the freeholders within the limits of a proposed water conservation district asking for the establishment of a water conservation district, the State Water Conservation Commissioner shall forthwith make such investigation and examination of the proposal as in his judgment may be necessary and proper. If he finds that there is not a sufficient water supply to make the proposed water conservation district desirable or feasible or that for any other cause or reason it is impracticable or undesirable to establish the proposed water conservation district, he shall make an order disallowing the petition giving his reasons for such disallowal. If after such investigation and examination he finds that the proposed water conservation district is desirable and proper and that the drainage area is such and the probable available water supply of such quantity as to render the proposed district necessary and desirable, he shall make his order establishing such district and fix the boundaries thereof.

When a petition for the establishment of a water conservation district is presented by fifty per cent or more of the freeholders,

the State Water Conservation Commissioner shall require a bond from such petitioners in a sum sufficient to pay all expenses of the investigation and examination required to determine whether the petition should be granted. When a petition is signed by a county, city, village or township, no bond shall be required but the county, city, village or township as the case may be, shall be required to pay the expenses necessarily incurred by the State Water Conservation Commissioner in investigating and examining the proposal for the establishment of the water conservation district in the event that the petition is disallowed. In determining the area to be included within the district, the said Commissioner shall disregard township and county boundaries and shall consider only the drainage area to be affected by the water development proposed and the probable future development thereof. Whenever practicable, such boundaries shall follow section lines. A certified copy of such order shall be filed with the county auditor of each county within which any portion of the district shall lie, and upon said order being so filed a water conservation district shall thereby be created. The order of the State Water Conservation Commissioner shall specify the name or number by which such districts shall be known. When a petition is filed by any municipal corporation as above provided, a certified copy of a resolution of the governing board thereof authorizing the signing of said petition shall be filed with the State Water Conservation Commissioner at the time of filing the petition. The determination by the State Water Conservation Commissioner as to the boundaries of a district may be changed or modified from time to time as circumstances may warrant upon like petition, or, when the circumstances clearly require it, upon his own motion. No two such districts shall overlap. When a district has been once established and another district is proposed in the vicinity thereof, or when two or more districts have been established in the vicinity of each other, the State Water Conservation Commissioner may, by order filed as above provided, combine the areas affected by two or more districts whether already existing or proposed into one district; but no district lying wholly within one county shall be combined with any district lying in whole or in part in another county unless the development of the water resources of both districts is, in effect, one inseparable project.

§ 2. APPEAL.] From all orders and decisions of the State Water Conservation Commissioner and/or the Board of Water Conservation Commissioners an appeal may be taken to the district court by any person aggrieved, upon filing an undertaking in the sum of two hundred dollars (\$200.00) and with such sureties as may be approved by the clerk of the district court to which the appeal is taken, conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against him in the district court. Such undertaking shall be executed to the State Water Conservation Commissioner and/or the Board of Water Conservation Commis-

sioners, as the case may be, and may be sued on in the name of the obligee. Where the water conservation district is confined to the limits of one county the appeal shall be taken to the district court of that county. When such district includes lands in two or more counties the appeal shall be taken to the district court of the county in which the land lies which is claimed to be adversely affected by the order or decision appealed from.

Such appeal when taken from a decision of the State Water Conservation Commissioner must be taken within thirty days after the order of the State Water Conservation Commissioner has been filed with the Secretary of the Water Conservation District and when taken from a decision of the Board of Water Conservation Commissioners, it must be taken within thirty days after such decision has been entered by the Secretary of the Board of Water Conservation Commissioners.

Such appeal when taken from the decision of the State Water Conservation Commissioner is taken by serving a written notice of appeal upon him, and when taken from a decision of the Board of Water Conservation Commissioners, the notice of appeal must be served upon one of the members of the Board and upon the Secretary of the Board.

Such appeal shall be filed on or before the next term of the district court after such appeal is taken and the case shall stand for trial at such term.

All appeals thus taken shall be docketed as other causes pending in the district court and the same shall be heard and determined de nove.

The district court may enter a final judgment or in a proper case may send the same back with an order how to proceed.

§ 3. LOCAL BOARDS OF WATER CONSERVATION COMMISSIONERS.] At the first regular or special meeting of the board of county commissioners after the filing of an order of the State Water Conservation Commissioner with the county auditor of any county as hereinbefore provided, it shall be the duty of the board of county commissioners to appoint a Board of Water Conservation Commissioners for such district. When any such district is confined to the limits of one county, the Board shall consist of three members and shall be selected, so far as practical, from persons residing in or near the area affected by the project. When any such district shall include land in two counties, the Board shall consist of five members of which three shall be appointed by the county commissioners of the county containing the greater acreage within the conservation district, and two shall be selected by the county commissioners of the county containing the lesser acreage within the district. When any such district shall include land in more than two counties, the Board shall consist of two members appointed by the board of county commissioners of each county within which such district may lie, except that only one member shall be appointed from the

county containing the least acreage within the district. Any resident free holder and citizen of the county, including all county and municipal officers and members of the board of county commissioners and other municipal governing boards shall be eligible for appointment on said Board. Such commissioners shall hold their respective offices for a term of five years from the date of appointment and until their successors are appointed and qualified. Vacancies in said Board shall be filled by appointment by the board of county commissioners of the county which made the original appointments. Members of Boards of Water Conservation Commissioners shall serve without fee and without compensation of any description, save and except only that they shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

When such district is confined to the limits of one county, the county auditor shall serve as secretary of the board; when such district includes land in two or more counties, the county auditor of the county having the greatest acreage within the district shall serve as Secretary of the Board of Water Conservation Commissioners. In either case the county auditor shall serve without additional compensation.

§ 4. CHANGE OF BOUNDARIES: WHEN NEW COMMISSIONERS APPOINTED.] In case of the modification of the boundaries of any water conservation district, the same Board of Water Conservation Commissioners shall continue to serve without any change in their duties or terms of office, except that in case two or more existing districts are combined, the filing of the order of the State Water Conservation Commissioner for such combination shall operate automatically to terminate the term of office of all Water Conservation Commissioners of all districts affected by the combination, and it shall be the duty of the county commissioners to appoint Water Conservation Commissioners for said combined district in the same manner as upon the organization of a new district.

§ 5. ORGANIZATION OF BOARD OF WATER CONSERVATION COMMISSIONERS: QUORUM.] Immediately after the appointment of any Board of Water Conservation Commissioners and immediately after any change in the personnel of any Board of Water Conservation Commissioners, the Board shall meet and organize and shall select one of the commissioners as chairman of the board. Two-thirds of the members of the Board, but not less than two members, shall constitute a quorum at any and all meetings thereof.

§ 6. POWERS AND DUTIES OF BOARD OF WATER CONSERVATION COMMISSIONERS.] Each Board of Water Conservation Commissioners shall have the power:

- (1) To sue and be sued in the name of the district.
- (2) To exercise the power of eminent domain in the manner provided by the Code of Civil Procedure for the purpose of acquiring

ing and securing any and all rights, titles, interests, estates or easements necessary or proper to enable it to carry out the duties imposed by this act, and particularly to acquire the necessary rights in land for the construction of dams and other water conservation devices of any nature and to flood lands, and to secure the right of access to said dams and other devices and the right of the public to access to the waters impounded thereby.

(3) To accept funds and/or property or other assistance, financial or otherwise from federal, state and/or other public or private sources for the purposes of aiding the construction or maintenance of water conservation projects.

(4) To procure the services of engineers and/or other technical experts.

(5) To plan, locate, re-locate, construct, reconstruct, modify, maintain and repair and to control all dams and water conservation devices of every nature and water channels and to control and regulate the same and all reservoirs, artificial lakes and other water storage devices within the district.

(6) To maintain and control the water levels and the flow of water in the bodies of water and streams involved in water conservation projects within their districts.

(7) To make rules and regulations concerning the use to which such waters may be put and to prevent the pollution or contamination, or other misuse, of the water resources, streams or bodies of water included within the district.

(8) To certify to the county auditor of the county in which the district is located, the amount of money necessary to meet the estimated expenses of properly conducting its activities during the ensuing year, such certificate to be filed with the county auditor on or before the first day of July in each year. In the case of districts in more than one county, the board shall make an order determining the proportionate share of the costs chargeable to each county and certify the same to the county auditor of each county. Such certificates shall in all cases be accompanied by an itemized budget statement showing the full and exact expenditures program of the district for the ensuing year. If any county feels aggrieved by the determination made by the board, an appeal may be taken by such county to the district court in the manner provided in Section 2 of this act.

(9) To do all things reasonably necessary and proper to preserve for the people of the State of North Dakota the benefits to be derived from the conservation of the water resources of the state.

§ 7. LEVY OF TAX BY COUNTY COMMISSIONERS.] At the time of levying taxes for other county purposes, it shall be the duty of the board of county commissioners to consider the certificate of the Board of Water Conservation Commissioners of each district within the county, and it shall have the power to levy each year upon all taxable property within the county a tax sufficient in amount to pay

the actual necessary expense of said water conservation district, not exceeding, however, a total of one-half mill on each dollar of assessed valuation of the county for all districts included therein, and in case the total estimated expense of all districts would exceed the levy of one-half mill the county board shall allocate any levy which it may make among the several districts of the county in proportion to the actual needs of such districts as determined by the county commissioners from the budget statements presented, and such other evidence as may be available to it. Such tax levy for water conservation purposes (not exceeding one-half mill) may be levied in excess of the mill limit fixed by law for taxes for general county purposes. The county auditor shall credit the proceeds of such tax to each district in accordance with the division thereof fixed by the county board. If, in the judgment of the county board, it appears that the expense of acquisition of right of way or other interests in property, or the construction or maintenance of any project should not be spread over the entire county, but should be borne by the property specially benefitted thereby, the board may refuse to levy a tax for such purposes and may require that such work be financed, if at all, by special assessments as hereinafter provided.

8. PAYMENT OF EXPENSES OF DISTRICTS.] All bills incurred by a water conservation district shall be audited and recommended for payment by the Board of Water Conservation Commissioners and certified to the county auditor who shall present them for audit and allowance by the board of county commissioners in the same manner as other bills of the county are audited and allowed, and upon the allowance thereof the same shall be paid out of the funds standing to the credit of the district in the same manner as other county obligations are paid. In the case of districts in two or more counties, the Board of Water Conservation Commissioners shall pro-rate such bills and certify the same for payment to the counties involved.

§ 9. ORGANIZATION: CONSTRUCTION AND REPAIR OF DAMS, ETC.] No dams or other devices for the conservation, regulation or storage of water shall be hereafter constructed within any water conservation district except in accordance with the terms of this act. Any proposal for the construction of any dam or other such device shall be first presented to the Board of Water Conservation Commissioners of the district within which the contemplated project is located who shall consider the same, and if the same meets with its approval, shall forward the proposal to the State Water Conservation Commissioner as soon as possible. After the receipt thereof, the State Water Conservation Commissioner shall consider the same in such detail as to him may seem necessary and proper, and make his recommendations and suggestions as to the propriety, efficiency and feasibility of the proposal, and forward the same to the Board of Water Conservation Commissioners who shall thereupon require,



or if the project is to be constructed at the expense of the district furnish, complete plans and specifications therefor, which shall be forwarded to the State Water Conservation Commissioner who shall examine the same in detail and who may refuse to allow the construction of any unsafe, improper or dangerous dam or other device which would interfere with the orderly control of the water resources of the district, and may order such changes or modifications thereof as in his judgment may be necessary for the safety thereof. Any person aggrieved by any such ruling of the State Water Conservation Commissioner shall have the right to a full hearing before the commissioner and a full consideration of all evidence available before a final order of the Commissioner shall be entered, subject to appeal to the district court as hereinbefore provided.

§ 10. ASSESSMENT OF DAMAGES AND BENEFITS: SPECIAL ASSESSMENT TAXES.] In lieu of the purchase of right of way and other interests in property and the payment of the expenses thereof and the expense of the construction, repair, or alteration of any water conservation project through a general tax levy, the Board of Water Conservation Commissioners may proceed to acquire the necessary interests in property and construct, repair, alter and maintain water conservation projects through the use of special assessment warrants, and in case of the financing of any such project by this method, the Board of Water Conservation Commissioners shall give at least ten days notice of a hearing to be held at some place convenient to the owners of property to be affected by the project, which notice shall be given by causing five notices to be posted in the districts at such points as would, in the judgment of the board, be most likely to secure the greatest publicity, and in addition thereto, a notice shall be sent by registered mail to the last known address of each and every owner of land which may be affected by the proposed project, at least ten days prior to the date of such hearing. The notices of hearing shall briefly set forth the nature of the project proposed, and shall state that the board will, at the time and place stated in the notice, consider the advisability and feasibility of the project, and if approved, will proceed to assess and determine the damages, if any, to be suffered by the property owners affected. All persons whose land may be affected by such project may appear and express their opinion and offer evidence upon matters pertaining thereto. Should two-thirds of the land owners whose land is subject to assessment for such project and who own at least one-half of such land believe that the benefits to be derived are not equal to the expense of the construction, they may petition the Board to have further proceedings discontinued, whereupon the board shall, by resolution, order all further proceedings in connection therewith discontinued. Should no such petition be filed and the board determine to proceed, it shall conduct all proceedings with reference to determining the damages and assessing the benefits to result from such project all in accordance with the laws governing the assessment of damages, the

payment of damages, the assessment of accruing benefits, the review and return thereof, the computation, apportionment and taxation of costs and all other proceedings in connection with the issuance of special assessment warrants and the retirement thereof by payment and/or the issuance of bonds, in the same manner and under all restrictions provided by Chapter 116, Laws of 1919, with reference to the construction of flood irrigation projects by the board of flood irrigation.

§ 11. PRIVATELY OWNED DAMS, ETC.] The State Water Conservation Commissioner and the Boards of Water Conservation Commissioners shall encourage the construction of dams and other water control devices within the districts by federal agencies and private individuals and public and private corporations and shall lend their aid, counsel and assistance to all such projects within any water conservation district and all dams and other devices whether constructed by public authorities or private persons, shall be subject to all of the terms of this act.

§ 12. TO WHAT DAMS APPLICABLE.] All dams and water control devices heretofore or hereafter constructed within any water conservation district shall automatically come under the jurisdiction of the Board of Water Conservation Commissioners. No changes or modifications of any existing dams or other devices shall be made without fully complying with the provisions of this act.

§ 13. All dams and water control devices heretofore or hereafter constructed by or with the assistance of the Civil Works Administration, the Emergency Conservation Work, Federal Emergency Relief Administration, or other Federal Agencies, and having no one responsible for their maintenance and operation, and outside of a water conservation district, shall come under the jurisdiction of the board of county commissioners of the county in which such dams and water control devices are located and the board of county commissioners are authorized to exercise control and supervision over the same and may make such provisions as they deem necessary or desirable for the proper maintenance thereof. In all such cases, the board of county commissioners may petition for the establishment of a water conservation district as provided for in this act.

§ 14. STATE ENGINEER EX OFFICIO STATE WATER CONSERVATION COMMISSIONER.] The State Engineer of the State of North Dakota, shall, by virtue of his office, be the State Water Conservation Commissioner. He shall perform all duties herein set forth without additional compensation, but shall be paid the expenses necessarily incurred in performing the duties assigned to him under this act.

§ 15. STATES ATTORNEYS TO ASSIST BOARDS.] The states attorney of any county within which a water conservation district is located in whole or in part shall act as legal advisor and shall upon

request render opinions in writing to the Board of Water Conservation Commissioners and shall without additional fee or charge prosecute any actions in eminent domain found necessary by the Board of Water Conservation Commissioners and also appear as attorney for such Board or for the State Water Conservation Commissioner in any appeals that may be taken from their decision as provided for in this act, as well as in any other litigation brought against them in their official capacity. It shall also be the duty of the Attorney General to render such legal opinions or such other assistance as he is required to render to other county and state officers.

§ 16. PENALTY.] Violation of this act or of any rule or regulation of the Board of Water Conservation Commissioners shall be a misdemeanor, punishable by a fine of not to exceed \$50.00 or by imprisonment in the county jail for not to exceed thirty days, or both such fine and imprisonment.

§ 17. PROVIDING FOR THE EXEMPTION OF FEDERAL AGENCIES AND PROJECTS.] It is hereby provided that this act shall not apply to the Government of the United States or any department, bureau or agency thereof, except to such extent as the Government of the United States or any department, bureau or agency thereof may desire to take advantage of its provisions, it being the express purpose and intent of this act to aid but not to interfere with the Government of the United States and/or its departments, bureaus or agencies. It is hereby provided that this act shall not apply to any project or projects of the Government of the United States or any department, bureau or agency thereof over which such federal authority desires to exercise full supervision and/or control, nor to the impounding, utilization or distribution of any water for any purpose whatever on or in connection with such project or projects. It is hereby provided that this act shall not be construed to impair, limit or repeal any water right or other right whatever which the Government of the United States or any department, bureau or agency thereof may have under statutes existing prior to the enactment of this act. It is hereby provided that the creation of water conservation districts under the provisions of this act shall not limit nor impair the right of the Government of the United States or any department, bureau or agency thereof to full and complete jurisdiction, management or control over any waters or projects over which such Federal authority desires to exercise such rights, it being the purpose hereof to expressly subrogate any power or jurisdiction granted in this act to the extent where the exercise of such power or jurisdiction shall never interfere directly or indirectly with such Federal authority.

§ 18. UNCONSTITUTIONALITY.] The object of this act is to provide for the conservation of the water resources of the state, and the provisions relating to the manner in which this object is to be accomplished do not form an inducement for its enactment. It is hereby declared that if any of the provisions of this act in any man-

ner contravene the provisions of the federal or state constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

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

§ 20. EMERGENCY.] Whereas, various federal and state agencies and private individuals within the State of North Dakota have embarked upon an extensive water conservation program for the State of North Dakota resulting in the construction of many dams and water control devices and in the proposed construction of many more; and,

Whereas, there are no adequate laws providing for the regulation and control thereof,

Now, therefore, this act is declared to be an emergency measure and shall be in full force and effect immediately upon its passage and approval.

Approved March 12, 1935.

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## CHAPTER 229

S. B. No. 126—(Committee on Irrigation and Drainage)

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### WATER AND/OR WILDLIFE CONSERVATION PROJECTS

An Act declaring all water and/or wildlife conservation projects, including wildlife reservations, to be a public purpose, providing that all lands within the ordinary high-water mark of navigable lakes shall be under the control of the state, under its police power, for the purpose of constructing, maintaining and operating water and/or wildlife conservation projects, providing that authority and control over such lands shall be vested in the State Engineer, defining the term "ordinary high-water mark," providing that all meandered lakes shall be declared to be navigable within the meaning of this act, providing a saving clause, repealing all acts or parts thereof in conflict herewith, and declaring an emergency.

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

§ 1. All water and/or wildlife conservation projects, including wildlife reservations, within the State of North Dakota are hereby declared to be a public purpose, and to be for the benefit and welfare of the people of the State and for the improvement of their living conditions.

§ 2. That whereas, there are within the State of North Dakota a considerable number of navigable lakes which have been mean-

dered and their metes and bounds established by the Government of the United States in the survey of public lands,

Now, therefore, it is hereby declared that, under the police power vested in the state by the constitution, the control of such lands within the ordinary highwater mark of navigable lakes for the purpose of constructing, maintaining and operating such dams, dikes, ditches, fills, spillways or other structures for the purpose of conservation, development, storage, distribution and utilization of such water and the propagation and preservation of wildlife shall be vested in the State of North Dakota.

§ 3. It is hereby provided that the authority, control and supervision of the lands included in this act shall be vested in the State Engineer, and he is hereby authorized and empowered to accept co-operation, aid and assistance from the United States of America, its instrumentalities or agencies, in the construction, maintenance and operation of any structure for the purposes set forth in this act, and he is further authorized and empowered to do any and all acts necessary to make such aid, assistance and co-operation from the Federal Government available, this power or authority shall expressly include the right to grant such easements to the United States of America, its instrumentalities or agencies, as may be required.

§ 4. As used in this act the term "ordinary high-water mark" is that line reached by water when the lake or stream is ordinary full and the water ordinarily high.

§ 5. It is hereby provided that any lake which shall have been meandered and its metes and bounds established by the government of the United States in the survey of public lands shall be declared to be a navigable lake within the meaning of this act.

§ 6. It is hereby declared that if any of the provisions of this act in any manner contravenes the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act, hence, if any provisions are found to be violative of the Constitution the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 7. EMERGENCY.] An emergency is hereby declared and this act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1935.

**CHAPTER 230****H. B. No. 221—(Fjeld)****EASEMENTS TO U. S. A. FOR WATER AND/OR WILDLIFE  
CONSERVATION**

An Act granting easements to the United States for rights of way over lands owned by the State of North Dakota for ditches, dams, dikes, fills, spillways, or other structures now constructed or to be constructed by the United States of America, its instrumentalities or agencies, for the purpose of water and/or wildlife conservation.

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

§ 1. There is hereby granted to the United States, its instrumentalities or agencies, over all lands now owned or hereafter acquired by the State of North Dakota, an easement for right of way for ditches, dams, dikes, fills, spillways, or other structures now constructed or to be constructed for the purpose of water and/or wildlife conservation.

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

Approved March 5, 1935.

**CHAPTER 231****S. B. No. 219—(Committee on Irrigation and Drainage)****RECORDING OR FILING FEES FOR DOCUMENTS REQUIRED  
BY U. S. OR STATE FOR WATER AND/OR WILD  
LIFE CONSERVATION PROJECT**

An Act providing that no fee shall be charged or collected for the recording or filing of any document required by the United States or the State of North Dakota for any water and/or wildlife conservation project; repealing all acts or parts of acts in conflict herewith, declaring an emergency.

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

§ 1. No fee shall be charged or collected by the county auditor, register of deeds, or the clerk of court for any services rendered for the recording or filing of any document required by the United States or the State of North Dakota for any water and/or wildlife conservation project.

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

§ 3. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1935.