

Reform School persons sentenced and committed to these institutions, and to transport to the Asylum for the Insane persons who have been adjudged insane by the insanity board of any county. Such Transportation Officer shall at all times be under the direction of the State Board of Administration and may be removed from his office by said Board at any time for incompetency or for failure to properly perform the duties of his office. He shall receive as compensation for his services a sum not to exceed twenty-four hundred dollars (\$2,400.00) per annum together with actual and necessary expenses incurred in the discharge of his duties.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall become effective immediately upon its passage and approval.

Approved March 11, 1931.

## TAXATION

### CHAPTER 276

(H. B. No. 35—Johnson.)

#### ABATEMENT UNJUST OR INVALID ASSESSMENTS

An Act providing for the abatement of unjust or invalid assessments and refund of unjust or invalid taxes; prescribing the form of application for abatements and refunds; prescribing the duties of the county auditor and of the board of county commissioners in connection therewith; providing for appeal to the district court; providing for the compromise of delinquent taxes on real estate sold to the county; making the provisions of this act retroactive; repealing Section 2165 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913 and all acts and parts of acts in conflict herewith.

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

§ 1. Unless otherwise expressly provided, if any person (including any firm or corporation) against whom an assessment has been made or a tax levied, claims such assessment, or tax or any part thereof to be invalid for any reason herein stated, the same may be abated, or the tax refunded if paid, and the board of county commissioners is authorized and empowered, subject to the approval of the State Tax Commissioner, to abate or refund, in whole or in part, such invalid assessments or taxes in the manner hereinafter prescribed and in the following cases only

1. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof or in the extension of the tax, to the injury of the complainant.

2. When improvements on any real property were considered or included in the valuation thereof, which did not exist thereon at the time fixed by law for making the assessment.

- 3. When the complainant or the property is exempt from the tax.
- 4. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment.
- 5. When taxes have been erroneously paid or error made in noting payment or issuing receipt therefor.
- 6. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid; provided, that no tax shall be abated on any real property which has been sold for taxes, while a tax certificate is outstanding except when a contract for the sale of state lands has been cancelled as provided in Chapter 245 of the Session Laws of 1927.
- 7. When the board of county commissioners is satisfied beyond a doubt that the assessment of the real or personal property described in the application for abatement is invalid, inequitable or unjustly excessive, the board may, if such application is filed on or before the first day of November in the year in which such taxes become delinquent, abate any part thereof in excess of a just, fair and equitable assessment.

§ 2. FORM OF APPLICATION.] Applications for abatements or refunds under the preceding section shall be filed in duplicate with the county auditor and shall be made substantially in the following form and subscribed and sworn to by the applicant:

*To the Honorable Board of County Commissioners,*  
 .....County, North Dakota.

STATE OF NORTH DAKOTA, }  
 County of.....} ss.

....., being duly sworn, deposes and says:  
 (Here set out fully any of the seven reasons enumerated in the preceding section permitting abatements or refund.) Wherefore, affiant asks the board to grant the relief required by law, in such cases made and provided.

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

§ 3. FILING OF APPLICATION, ACTION THEREON, RECORD THEREOF.] Upon receipt of any such application the county auditor shall note the date thereon and file the same, and he shall present the application to the board of county commissioners at its next regular meeting. The board shall, by a majority vote, either approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application. Before the board takes final action it may permit or require the production of addi-

tional evidence and the amendment of the application. Provided, however, that no reduction, abatement, or refundment of any special assessment made or levied by any municipality for local improvements shall be made unless the application is also approved by the governing body of the municipality in which the property assessed for such special assessment is situated; and provided further that in all other cases the recommendation of the governing body of the municipality in which such assessed property is located shall be endorsed upon, or attached to every application for abatement, reduction, or refundment of taxes and such recommendation shall be given due and fair consideration by the board of county commissioners. Any application for abatement or refund of taxes approved by the board of county commissioners shall be effective when approved by the State Tax Commissioner.

§ 4. When any such application for abatement is granted by the board of county commissioners and approved by the State Tax Commissioner, the County Auditor shall correct both the original and duplicate tax lists in accordance with the abatement order and the applicant shall be relieved of further liability for the tax abated.

§ 5. Whenever taxes on any real estate remain unpaid and such property has not been sold to any purchaser other than the county, the board of county commissioners may, subject to the approval of the State Tax Commissioner, by reason of depreciation in the value of such property or for other valid cause, compromise with the owner of such property by abating a portion of such delinquent taxes on payment of the remainder.

§ 6. When any such application for refund is granted, the County Auditor shall issue and deliver to the applicant a warrant drawn on the County Treasurer for the amount ordered refunded, and the County Treasurer shall refund the same, and write opposite such tax in his duplicate, the word "Refund", and the date and number of the warrant. The amount so refunded shall be charged to the state, county, city, incorporated village, township or school corporation which may have received any part of such money, in proportion to the levies for the year for which the tax was extended.

§ 7. RIGHT OF APPEAL.] The same right of appeal to the district court from the decision of the board of county commissioners abating, refunding or compromising any tax shall exist as in cases under Section 3298 of the Compiled Laws of North Dakota for the year 1913 and acts amendatory thereof. The right to proceed, under provisions of law in such case made and provided, to recover taxes paid under protest shall not be qualified or limited by this act.

§ 8. LAW RETROACTIVE.] The provisions of this article shall apply to assessments and taxes heretofore or hereafter made or levied.

§ 9. REPEAL.] Section 2165 of the 1925 Supplement to the Compiled Laws for the year 1913 and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1931.

### CHAPTER 277

(S. B. No. 179—Committee on Tax and Tax Laws.)

#### ACCEPTANCE NEGOTIABLE PAPER FOR TAXES

An Act amending and re-enacting Section 2 of Chapter 244 of the Laws of North Dakota for the year 1929, relating to the payment of taxes, assessments, fees and licenses.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 244 of the Laws of North Dakota for the year 1929 be amended and re-enacted to read as follows:

§ 2. ACCEPTANCE SUBJECT TO PAYMENT.] The acceptance, however, of any check, draft or money order shall be subject to collection, and shall constitute a payment of the tax, assessment, fee or license for the payment of which it was tendered only when it shall have been duly honored and paid.

If, on due presentment, any check, draft, or money order so accepted shall for any reason not be honored or paid, any record of payment or redemption that may have been made on any official record because of the acceptance of such check, draft or money order, shall be cancelled, and the tax, assessment, fee or license shall stand as a charge and lien just as though no credit had been given or payment attempted. For the purpose of making certain such cancellation the officer accepting any check, draft or money order shall make whatever memoranda may be necessary to enable him to make the proper cancellation upon the return, of any check, draft or money order, that has not been paid.

Upon payment of taxes to the County Treasurer by check, draft or money order, the Treasurer shall note on the tax receipt the method or manner of payment whether in cash or by check, draft, or money order and a like notation shall be made on the tax list, provided that in case of redemption the notation as to method or manner of payment shall be made on the Auditor's tax sale record.

Approved March 11, 1931.

CHAPTER 278  
(H. B. No. 241—Mau.)

TAX LEVY CAPITOL BUILDING

An Act amending and re-enacting Chapter 236 of the Session Laws of North Dakota for 1929 providing for the levying of a tax to create a fund for the purpose of erecting a new Capitol Building and equipping the same at the City of Bismarck, North Dakota.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 236 of the Session Laws of North Dakota for 1929 be amended and re-enacted to read as follows:

§ 1. There shall be levied upon each dollar of assessed valuation of all taxable property within this State for the years 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939 and 1940, and to be paid during each of said years, one-tenth of one mill on every dollar of taxable property, and all such revenues as may be collected under such levy, including all interest collected, shall be paid into a special fund known as the "State Capitol Building Fund." Such fund shall be used only for the purpose of erecting a new capitol building and equipping same in the City of Bismarck, North Dakota.

Approved March 9, 1931.

CHAPTER 279

(S. B. No. 81—Brostuen, Poupore and Thorson.)

COLLECTION DELINQUENT PERSONAL PROPERTY TAXES

An Act to amend and re-enact Section 2166, Supplement to the Compiled Laws of 1913, and Section 2186 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 241 of the Session Laws of 1929, relating to the collection of personal property taxes, relating to real and personal property tax liens and prescribing the duties of the sheriff and county auditor in connection with the collection of such taxes, repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. That Section 2166 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Section 3 of Chapter 241 of the Session Laws of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 2166. DELINQUENT PERSONAL PROPERTY TAXES: WHEN DUE: PENALTY: DISTRESS.]

(a) All personal property taxes shall become due on the 31st day of December in each and every year for which the tax was levied, and become delinquent on the first day of March next after they become due, and thereupon a penalty of five per cent shall attach and

be charged upon all delinquent taxes; and thenceforth interest shall be charged at the rate of three-fourths of one per cent per month of the original amount of the tax until the same is paid.

(b) The County Treasurer shall, during the month of January preceding the time when such tax shall become delinquent, give notice of the fact by mailing to each person, firm or corporation, a written notice stating the amount of tax due from each person, firm or corporation, and the date when the same shall become delinquent.

(c) On or before the first day of August in each year the County Treasurer shall make out a list of the unpaid delinquent personal property taxes, in the same order as they appear on the tax list, and shall, on or before the fifteenth day of August thereafter, notify by mail each of the delinquents that unless such taxes are paid on or before the fifteenth day of September, such taxes will be placed in the hands of the Sheriff for collection and the County Treasurer shall on said fifteenth day of September deliver such list of delinquent taxes to the Sheriff of his county, who shall immediately proceed to collect all such delinquent personal property taxes, and if such taxes are not paid upon demand, he shall distrain sufficient goods and chattels belonging to the person, firm or corporation charged with such taxes, to pay the same, with the said penalty of five per cent and all accruing interest and costs.

In all cases of collection of personal property taxes by distraint the Sheriff shall immediately proceed to advertise the same by posting notices in three public places in the town or district where such property is taken, stating the time when, and the place where, such property will be sold, and the amount of said delinquent tax, together with the penalty and accruing interest, and no personal property shall be exempt from distraint and sale, except personal property consisting of household furniture, wearing apparel and necessary provisions belonging to the head of a family to the value of one hundred dollars, and if the tax for which said property is distrained, together with penalty and accrued interest and costs is not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such sheriff or his deputy shall proceed to sell such property at public vendue, or so much thereof as shall be sufficient to pay such taxes, penalty and costs of such distress and sale, and any surplus arising from said sale shall be disposed of as in case of sale of mortgaged personal property.

(d) If a person charged with a personal tax has not sufficient property which the sheriff can find to distrain to pay such tax, but has moneys or credits due him or coming due him from any person, corporation, governmental agency, municipality or from the State, known to the Sheriff, or if such taxpayer has removed from the State or County and has property or moneys or credits due him or coming due him in the State known to the Sheriff, in every such case the Sheriff shall collect such personal tax and penalty by distress, attachment or other process of law. The remedy provided by this

paragraph is in addition to any other remedy provided by law for the collection of personal taxes.

(e) After receiving such list from the County Treasurer, the Sheriff shall on the first day of each month thereafter make out and file with the County Treasurer a statement of the personal property taxes collected, giving the name, township, or district and postoffice address of each person, firm or corporation from whom collected, and the amount of the tax including penalty and interest collected from each, and at the same time he shall turn over to the County Treasurer the moneys collected as shown by such statement. The Treasurer shall issue receipts for taxes thus collected as provided in Section 2157 of the Compiled Laws of North Dakota for the year 1913 or Acts amendatory thereof by mailing such receipt to the person, firm or corporation entitled thereto. The Sheriff shall, at the time of filing such receipt with the County Treasurer, also file a duplicate thereof with the County Auditor, and shall on or before the first day of January in each year file a statement of taxes collected, as herein provided, together with the list of uncollected taxes as required by Section 2169 of the Compiled Laws of North Dakota for the year 1913 or Acts amendatory thereof. Failure by any Sheriff to file any of the reports herein required shall subject him to a penalty of five dollars (\$5.00) for each day that the filing of such report is delayed and such penalty shall be deducted from salary due him or which may thereafter become due him.

The sheriff shall retain in his office the original delinquent tax list furnished him by the County Treasurer, and it shall be his duty to collect at any time any taxes remaining uncanceled, unabated or unpaid, and upon sending his notices for each succeeding year he shall include any unpaid balances together with interest, penalty and costs, with the new delinquent amount, which shall be collected in the same manner as the current delinquent tax.

§ 2. Personal property taxes shall for the purpose of distraint be a lien upon all the personal property in possession of the person assessed from and after the date when the assessment is made, and when the Sheriff shall discover that any person, after his property is assessed, and before the tax thereon is paid, is about to sell, barter or remove his property from the County, without leaving sufficient therein to pay such taxes, he shall at once proceed to collect such taxes by distraint and sale of such property if, upon demand, the taxes are not paid.

And if any person (including firm or corporation), after his personal property is assessed and before the taxes thereon are paid, shall sell or transfer all of his personal property to any one person and not retain sufficient to pay the taxes thereon, such taxes shall be a lien upon the property so sold or transferred, and shall at once become due and payable, and the Sheriff shall forthwith collect such taxes by distraint and sale of the property if, upon demand, the taxes are not paid. The person owing such tax shall be civilly liable to the

purchaser of such property for any taxes which he owes thereon, but the property so purchased or transferred shall be liable in the hands of the purchaser or vendee for such tax.

The amount of the tax due, under the provisions of this section, if the levy for the year has not been made, shall be determined by the County Auditor by applying the aggregate mill levy of the previous year, applicable to the taxing district in which such property is assessed. If such levy shall thereafter be found to be in excess of the taxes actually due, the excess shall be refunded upon order of the Board of County Commissioners.

§ 3. That Section 2186 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Section 5 of Chapter 241 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2186. Taxes upon real property are hereby made a perpetual paramount lien thereupon against all persons, firms or corporations, except the United States and the State. All taxes shall, as between vendor and purchaser, become a lien upon real estate on and after the 31st day of December in each year. Taxes on personal property charged upon and spread against real property shall be, and they are hereby declared to be a lien upon such real property from and after the date when such personal property taxes are charged and spread against such real estate. The liens enumerated in this Section shall include all costs, penalties, interest, charges and expenses of and concerning such taxes which by the provisions of law shall accrue, attach or be incurred. The lien of personal property taxes charged against real estate shall have priority over any and every judgment, mortgage or other lien or claim whatsoever placed of record subsequent to the date when such personal property taxes are entered against such real property, except the lien for a tax for a subsequent year which shall have priority over such personal property tax liens formerly charged and spread.

§ 4. Taxes assessed upon personal property such as buildings, assessed as personalty, tractors, combines, threshing machines, or other personal property, or items or personal property, having been individually and specifically assessed shall be a paramount lien upon such property from and after the date when such assessment is made and no sale or transfer or such individually and specifically assessed personal property shall in any way effect the lien for taxes thereon.

§ 5. Before any judgment or final order or final decree shall be entered in any court in this State in any of the following cases, it shall first be shown to the satisfaction of the court that all taxes due and owing from the executor, administrator, trustee, agent or guardian, or which may be collected from him by virtue of the assessment and taxation laws of this State, have been paid to-wit: The estate of a deceased person or other proceeding in probate involving the distribution of personal property.

§ 6. No mortgage or lien, of any nature or description, upon personal property shall be foreclosed by the sale of such property unless the owner thereof, his agent, or attorney, or the editor or publisher of the printing concern or company which prints such foreclosure notice, at least five (5) days prior to the date of such sale, shall have mailed or delivered to the County Treasurer of the County in which said sale is to be held, a copy of such notice of mortgage sale. Such notice shall be mailed to the County Treasurer by registered mail, and shall contain a list of the personal property to be sold together with the name and address of the owners of such property. An affidavit stating the mailing or delivery of such notice to the County Treasurer shall be filed with the report of sale required to be filed in the office of the Register of Deeds, and no such foreclosure sale shall be valid unless such notice of sale shall have been mailed or delivered to the County Treasurer as herein provided. Upon receipt of such notice the County Treasurer shall ascertain whether the owner of such personal property has paid the taxes levied against him and if he finds that such taxes are due and owing he shall immediately notify the sheriff who shall, unless upon demand such tax is paid, distrain such property, or so much thereof as may be necessary, to pay such taxes thereon. No transfer of personal property, by bill of sale or otherwise, by the owner of such property to the holder of a lien thereon shall in any way affect the lien of personal property taxes assessed against such property.

§ 7. No personal property sold or transferred under a conditional sales contract shall be attached, repossessed, or acquired, by bill of sale, by the owner, holder or assignee of such conditional sales contract on account of cancellation or foreclosure of such contract until the taxes levied upon such personal property have been fully paid.

§ 8. Taxes upon stocks of goods of merchandise of any nature or description, fixtures and furniture in hotels, restaurants, rooming houses, billiard halls, moving picture shows, newspapers or printing establishments, and theatres shall be a lien thereon, and shall continue a lien thereon, when sold in bulk, and may be collected from the owner, purchaser, or vendee, and such owner, purchaser or vendee of any such goods, merchandise, furniture or fixtures shall be personally liable for all taxes thereon.

§ 9. REPEAL.] All Acts and parts of Acts in conflict with the provisions hereof are hereby repealed.

§ 10. EMERGENCY.] An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1931.

CHAPTER 280  
(S. B. No. 74—Putnam.)

CORRECTION PROPERTY ASSESSMENT

An Act to amend and re-enact Section 2304a1, Supplement to the Compiled Laws of 1913, relating to the correction of errors in the assessments of property, relating to the placing of omitted property, or property which has escaped taxation, upon the tax lists and declaring an emergency.

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

§ 1. That Section 2304a1 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 2304a1. OMISSION FROM ASSESSMENT; FALSE STATEMENT.] Whenever the County Auditor shall discover that taxable real or personal property has been omitted in whole or in part in the assessment of any year or years or that any building or other structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building, or that any person has given the assessor a false statement of his personal property or that the assessor has not returned the full amount of all property required to be listed in his district, or has omitted property subject to taxation, he shall proceed to correct the assessment books in accordance with the facts in the case and shall correct such error or omission in assessment and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate is in the assessment thereof, described as though situated upon a lot or tract of land other than that upon which it is in fact situated, the Auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it is actually located; provided, however, that the rights or a purchaser for value without actual or constructive notice of such error or omission shall not be prejudiced by such correction, addition or assessment.

§ 2. EMERGENCY.] Whereas the Supreme Court of North Dakota has held that a building assessed against an erroneous description does not constitute property omitted from taxation;

Therefore, an emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1931.

CHAPTER 281  
(H. B. No. 167—Traynor.)

ENFORCEMENT COLLECTION PERSONAL PROPERTY TAXES  
LIEN ON REAL ESTATE-TAX SALE LIST

An Act to amend and re-enact Subdivision G, Section 1 of Chapter 242 of the Session Laws of 1929, relating to the sale of real estate for personal property taxes entered and extended thereon and amending Section 2188 of the Compiled Laws of 1913 as amended and re-enacted by Section 2 of Chapter 242, Session Laws of 1929, relating to collection of delinquent real estate taxes and personal property taxes extended and entered thereon.

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

§ 1. AMENDMENT.] That subdivision G of Section 1 of Chapter 242 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

Subdivision G. Collection of personal property taxes entered as a lien on real estate may be enforced by the sale of lands against which they are entered at any annual tax sale of such real property for taxes and in the same manner as if originally charged against such lands. The lands to be sold for personal property taxes entered and extended thereon shall be designated by resolution of the Board of County Commissioners.

§ 2. AMENDMENT.] That Section 2188 of the Compiled Laws of North Dakota for the year 1913 as amended and re-enacted by Section 2 of Chapter 242 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2188. Whenever any taxes are paid, the Treasurer shall immediately write upon the tax list opposite the name or description in suitable column or columns for remarks, the word "Paid", with the number of the receipt given and the date when the tax was paid and the name of the person by whom the tax was paid.

On or before the tenth day of November in each year the County Treasurer shall make and deliver to the County Auditor a certified list of delinquent real estate taxes of the preceding year and the name of the party to whom assessed. The County Auditor shall compare the same with the statements receipted for by the Treasurer on file in the Auditor's office, and each tract or lot of real property against which the taxes or any part thereof remain unpaid shall be offered for sale at the annual tax sale in December unless paid prior to such sale. Each tract or lot against which personal property taxes have been entered and extended and designated for sale by resolution of the Board of County Commissioners, as provided for by Subdivision G of Section 1 of this Act, shall be sold for the full amount of unpaid real estate taxes and personal property taxes extended against the same.

Approved March 9, 1931.

CHAPTER 282  
(H. B. No. 230—Kneeland.)

ESTATE TAX

An Act to amend and re-enact Sections 2, 3, 8 and 11 of Chapter 267 of the Session Laws of 1927 pertaining to the estate tax.

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

§ 1. AMENDMENT.] Section 2 of Chapter 267 of the Laws of 1927 is amended and re-enacted to read as follows:

§ 2. (1) TAX ON TRANSFER OF ESTATES.] A tax shall be and is hereby imposed upon the transfer of the net estate of every decedent, whether in trust or otherwise, under the conditions and subject to the exemptions and limitations hereinafter prescribed.

(2) GROSS ESTATE.] The value of the gross estate of the decedent shall be determined by including the following property:

(A) When a resident of the State,

1. All real property within the State.

2. All tangible personal property except that which has an actual situs without the State.

(B) When a nonresident of this State.

1. All real property located within this State.

2. All tangible personal property having an actual situs within the State.

3. Sheriff's certificates of sale of real estate.

4. The full value of shares of stock in domestic corporations; provided, that transfers of such shares of stock shall not be taxed if, by the law of the State of decedent's residence at the date of his death, either (a) no inheritance tax or other death tax is imposed upon any form of intangible personalty of nonresident decedents, or (b) a like exemption is made in favor of residents of this State.

(C) All property transferred prior to and in contemplation of death. Any transfer of any part of the estate made by the decedent within two years prior to death without an equivalent monetary consideration shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this Section.

(D) All property transferred by the decedent prior to death by grant or gift without an equivalent monetary consideration, either intended to take effect at or after the death of the decedent.

(3) CONTRACTS IN CONTEMPLATION OF DEATH.] The gross value of the estate shall not be diminished by reason of any transfers due to the claim of any creditor against the estate arising from a contract made after the passage of this Act is payable by the term of such

contract at or after death of the decedent, except insofar as it may be affirmatively shown by competent evidence that such claim was legally due and payable in the life time of the decedent or was supported by a consideration of equivalent monetary value. This shall not, however, bring within the meaning of the statute any antenuptial agreements which shall for the purpose of this Act be considered as contracts creating a debt against the estate.

(4) **JOINT INTEREST.]** The gross estate of the decedent shall include the value of interests in property held as joint tenant or deposited in banks or other institutions in the joint names of the decedent and any other person and payable to either or the survivor. In all such cases the value of the decedent's interest shall be determined by dividing the value of the entire property by the number of joint tenants, joint depositors, or persons interested therein.

(5) **POWER OF APPOINTMENT.]** Transfers of property subject to the power of appointment, whether the power be exercised or not exercised, shall be taxable under this Act to the estate of the donor and shall not be taxable to the estate of the donee.

(6) **REVOCABLE AND IRREVOCABLE TRUSTS.]** Whenever a decedent has reserved unrestricted power of revocation of any trust created during his life time, such trusts shall be considered as a part of his estate and taxed accordingly. Where, however, the trust provided that only a portion of such property could be revested, only that portion shall be taxable as a part of the estate and the irrevocable portion of such trusts shall only be taxable when the transfer was made in contemplation of death or the possession or enjoyment thereof was intended to take effect at or after death. Whenever a donor of such a trust reserved a life income therefrom it shall be considered as a part of the estate and taxed accordingly.

(7) **PROPERTY PREVIOUSLY TAXED.]** A transfer of property which has paid a transfer tax to this State within five years shall be subject to a tax as though it had not been transferred, but wherever the property can be identified as having been received by the decedent by gift, bequest, devise, or inheritance within five years or can be identified as having been acquired in exchange for property so received a credit for the transfer taxes paid within five years upon his property shall be allowed upon the transfer tax; provided, however, that this credit shall not exceed the tax due under the present appraisal of such property for transfer tax purposes.

(8) **PROCEEDS FROM LIFE INSURANCE POLICIES.]** All proceeds from life insurance policies shall be exempt from taxation.

§ 2. **AMENDMENT.]** Section 3 of Chapter 267 of the Session Laws of 1927 is amended and re-enacted to read as follows:

§ 3. **RATE OF TAX.]** The tax upon the net estate shall be at the following rates:

1 per centum of the amount of the net estate not in excess of \$25,000;

1½ per centum of the amount by which the net estate exceeds \$25,000 and does not exceed \$50,000;

2 per centum of the amount by which the net estate exceeds \$50,000 and does not exceed \$100,000;

2½ per centum of the amount by which the net estate exceeds \$100,000 and does not exceed \$200,000;

3 per centum of the amount by which the net estate exceeds \$200,000 and does not exceed \$400,000;

3½ per centum of the amount by which the net estate exceeds \$400,000 and does not exceed \$600,000;

4 per centum of the amount by which the net estate exceeds \$600,000 and does not exceed \$800,000;

5 per centum of the amount by which the net estate exceeds \$800,000 and does not exceed \$1,000,000;

6 per centum of the amount by which the net estate exceeds \$1,000,000 and does not exceed \$1,500,000;

7 per centum of the amount by which the net estate exceeds \$1,500,000.

(2) DETERMINATION OF NET ESTATE.] For the purpose of this Act the value of the net estate shall be determined by deducting from the value of the gross estate:

(A) An exemption, not exceeding the amount specified in each case, of the value of property passing to each of the following beneficiaries:

1. Wife, not exceeding \$20,000.
2. Husband, not exceeding \$20,000.
3. Lineal ancestor or descendant, adopted child, step child, or lineal descendant of an adopted child or step child, not exceeding \$3,000, and if a minor, not exceeding \$5,000.

(B) The amount of all bequests, legacies, devises, or transfers, except bonafide sales for an equivalent monetary consideration in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death, to or for the use of the United States, Territory, or any political sub-division thereof, or the District of Columbia, or any public institution, for exclusively public purposes, or for any charitable, educational or religious purposes, or to or for the use of any corporation, institution, society, or association, whose sole object and purpose is to carry on charitable, education or religious

work, but no deduction shall be made if any officer, member, shareholder or employee of such corporation, institution, society or association shall receive or may be lawfully entitled to receive, any pecuniary profit from the operations thereof, except reasonable compensation, for services in effecting one or more of such purposes or as proper beneficiaries of a strictly charitable purpose; or if the organization thereof, for any such avowed purpose, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation, institution, society or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

(C) All debts of the decedent.

(D) Taxes,

1. On real property within this State which were a lien at the date of decedent's death.

2. On the decedent's personal property, which was the personal obligation of the decedent during his lifetime, or a lien upon such personal property at the date of death.

3. State and Federal income taxes on the income of the decedent to the date of his death.

(E) Death duties paid to foreign countries on intangible personal property.

(F) Inheritance taxes paid or payable to other States on intangible personal property.

(G) Federal estate taxes paid and not refunded.

(H) Special assessments which are due and which are a lien on taxable property located within the State.

(I) Funeral expenses, and all amounts actually expended not exceeding the sum of five hundred (\$500.00) dollars for monuments.

(J) Commissions of executors and administrators actually allowed and paid.

(K) Cost of administration including reasonable attorney's fees.

The family allowance shall not be deductible in an amount exceeding two thousand dollars for the widow plus three hundred dollars for each minor child and shall not be deductible except to the extent that it exceeds the income of the estate.

In case decedent was a non resident and the situs of part of the property of the estate is outside this State, no part of the debts of decedent, nor of taxes other than real estate taxes, nor funeral and monument expense shall be deductible from the gross estate; provided, that if the aggregate amount of debts, taxes other than real estate

taxes and funeral and monument expense shall exceed the value of the personalty not taxable in this State there shall be deducted from the gross estate in this State such percentage thereof as the value of the property in this State above liens is of the value of all the property of the estate above liens.

If decedent was a resident of this State and the situs of part of the property of the estate is outside this State, debts, taxes other than real estate taxes and funeral and monument expense shall be deductible from the gross estate in this State unless the aggregate thereof exceeds the value of the personalty taxable in this State, in which case only such percentage thereof may be deducted as the value of the property in this State above liens is of the value of all the property of the estate above the liens.

If only a part of the property of an estate is taxable in this State only such commissions, attorneys fees and costs of administration may be deducted as are occasioned by administration within this State.

If only a part of the property of the estate is taxable within this State, deduction as exemptions shall be allowed of only such percentage of the amounts of exemptions herein specified as the property taxable within this State, above liens is of all the property of the estate, above liens.

Only such past due real estate taxes and past due special assessments may be deducted, in any circumstances, as are liens upon real estate within this State.

§ 5. AMENDMENT.] Section 8 of Chapter 267 of the Session Laws of 1927 is amended and re-enacted to read as follows:

§ 8. LIEN FOR TAXES.] All taxes imposed by this Act shall be and remain a lien upon the property transferred, and upon all property acquired by the executor, administrator, or trustee in substitution therefor until the taxes are paid or a bond given, but said lien shall not affect any tangible or intangible personal property after it has passed to a bona fide purchaser for value; provided, however, that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company or trust issuing the same, until a permit required by this Act shall have been filed as herein provided. The lien charged as aforesaid upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due on said real estate or separate parcel, or by the filing and acceptance of a bond as provided in this Act, or by an order of the County Court transferring such lien to other real estate owned by the person to whom said real estate or separate parcel thereof passes. The beneficiary shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustees; and if the executor, administrator, or trustee pays such tax, he shall, unless the same is

made an expense of administration by the will or other instrument, have the right to recover such tax or any other tax from the beneficiary acquiring such real estate. In case of a resident decedent, beneficiaries shall share the burden of the tax in proportion to benefits received unless otherwise provided by will. If a resident decedent leaves property outside of the State, beneficiaries shall share the aggregate burden of the estate tax payable in this State and transfer taxes payable in other states in proportion to aggregate benefits received here and elsewhere unless otherwise provided by will. If a nonresident decedent leaves property in this State, the entire tax imposed by this State shall be enforceable against any property of the estate but the court may, in its discretion, make such order or orders as may be best calculated to distribute the aggregate burden equitably in proportion to benefits received.

§ 4. AMENDMENT.] Section 11 of Chapter 267 of the Session Laws of 1927 is amended and re-enacted to read as follows:

§ 11. FORMS AND RECORDS.] The State Tax Commissioner shall have power to prescribe such forms, application blanks and printed matter as may be necessary for the carrying out and enforcement of this Act. He shall also keep such records as are indicated by good accounting practice in such manner as to furnish to the State Legislature intelligent information upon which to base further legislation in regard to these taxes. The approval by the Tax Commissioner of the determination of the amount of estate tax shall be required except in case of insolvent estates or estates of which nothing remains after payment of debts except what is disposed of under the provisions of Sections 8723 and 8725 of the Compiled Laws of 1918.

Approved March 11, 1931.

---

CHAPTER 283  
(S. B. No. 165—Jones.)

---

INCOME TAX

An Act to amend and re-enact Subdivision 10 of Section 2346a1 of the Supplement to the Compiled Laws of 1913, Section 2346a3 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 239, Session Laws of 1929, and Sections 2346a7, 2346a18, 2346a21 and 2346a46 of the Supplement to the Compiled Laws of 1913, relating to the taxation of income of individuals, fiduciaries and corporations, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision 10 of Section 2346a1 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2346a1. Subdivision 10. The word "Resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this Act upon or with reference to the income of any income year, any person domiciled in the State of North Dakota and any other person who maintains a permanent place of abode within the State, and spends in the aggregate more than seven (7) months of the income year within the State.

§ 2. AMENDMENT.] That Section 2346a3 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 239 of the laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2346a3. IMPOSITION OF TAX AGAINST NON-RESIDENTS.] The tax imposed by this Act shall be levied, collected and paid annually upon and with respect to income derived from all property owned and from every business, trade, profession or occupation carried on in this State by natural persons not residents of the State. Such tax shall be levied, collected and paid annually at the rates specified in Section 2346a11 with respect to net income of residents of North Dakota. Nonresidents engaged in business within and without the State shall be taxed upon such income as is derived from business transacted and property located within the State which may be determined by a separate accounting of such income where such accounting would reflect correctly the income fairly attributable to North Dakota and when made in the form and manner prescribed by the Tax Commissioner, but otherwise shall be determined in the manner specified in Section 2346a6 or Section 2346a7 of the Supplement to the Compiled Laws of 1913 with respect to the allocation of income of corporations engaged in business within and without the State. Income of nonresidents derived from land contracts, mortgages, stocks, bond and securities or from the sale of similar intangible personal property shall not be taxed.

The provisions of law applicable to the assessment, levy and collection of income taxes from resident individuals, as to gross income, deductions allowed, items not deductible, personal exemptions and all other provisions not inconsistent with the provisions of this section shall govern the levy and collection of income taxes from nonresident individuals.

§ 3. AMENDMENT.] That Section 2346a7 of the Supplement to the Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 2346a7. ALLOCATION IN SPECIAL CASES: CONSOLIDATED RETURNS.]

(1) Any corporation organized under the Laws of North Dakota and subject to a tax under the provisions of this Act, which maintains no regular place of business outside this State, except a statutory office shall be taxed upon its entire net income.

(2) Corporations engaged in business within and without the State shall be taxed only on such income as is derived from business transacted and property located within the State. The amount of such income apportionable to North Dakota may be determined by an allocation and separate accounting thereof, when in the judgment of the Tax Commissioner that method will reasonably reflect the income properly assignable to this State.

(3) Any corporation liable to report under this Act and owning or controlling, either directly or indirectly, substantially all of the voting capital stock of another corporation, or of other corporations, may be required to make a consolidated report showing the combined net income, such assets of the corporation as are required for the purposes of this Act, and such other information as the Tax Commissioner may require, but excluding intercorporate stock-holdings and inter-corporate accounts.

Any corporation liable to report under this Act and owned or controlled either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, such assets of the corporation as are required for the purposes of this Act, and such other information as the Tax Commissioner may require, but excluding intercorporate stock-holdings and inter-corporate accounts.

In case it shall appear to the Tax Commissioner that any arrangement exists in such a manner as to improperly reflect the business done, the segregable assets or the entire net income earned from business done in this State, the Tax Commissioner is authorized and empowered, in such manner as he may determine, to equitably adjust the tax.

The Tax Commissioner may permit or require the filing of a combined report where substantially all the voting capital stock of two or more corporations liable to report under this Act is owned or controlled by the same interests. The Tax Commissioner may impose the tax provided by this Act as though the combined entire net income and segregated assets were those of one corporation, but in the computation, dividends received from any corporation whose assets, as distinguished from shares of stock, are included in the segregations shall not be included in net income.

(4) When any corporation required to make a return under this Act conducts the business, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business by selling its products or the goods or commodities in which it deals at less than a fair price which might be obtained therefor, or where such a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires

and disposes of the products of the corporations so owning the substantial portion of its capital stock in such manner as to create a loss or improper net income, the Tax Commissioner may require such facts as he deems necessary for the proper computation provided by this Act, and may for the purpose of the Act determine the amount which shall be deemed to be the entire net income of the business of such corporation for the calendar or fiscal year, and in determining such entire net income the Tax Commissioner shall have regard to the fair profits which, but for any agreement, arrangement or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

(5) If it shall appear to the Tax Commissioner that the segregation of assets shown by any report made under this Act does not properly reflect the corporate activity or business done, or the income earned from corporate activity or from business done in this State because of the character of the corporation's business and the character and location of its assets, the Tax Commissioner is authorized and empowered to equitably adjust the tax.

(6) In determining the entire net income for purposes of equitable taxation under this section, the Tax Commissioner may determine the portion of net income derived from business done within the State by an allocation upon the basis of sales, purchases, expenses of manufacture, payroll, value and situs of tangible property, or by reference to these or other factors, or by such other method of allocation as is fairly calculated to assign to the State the portion of net income reasonably attributable to the business done within this State. In determining the entire net income for purposes of equitable taxation under this Act, the Tax Commissioner may include income from any source provided only that the assets from which the income was derived shall be included in any segregation for the purpose of computing the tax.

(7) In case any corporation or individual uses leased property in its business the value of the leasehold interest of the lessee shall be included in the value of the tangible property of the corporation for purposes of allocation of net income.

(8) The income of a partnership shall be allocated to North Dakota and outside North Dakota in the same manner as is hereinbefore provided in the case of corporations.

§ 4. AMENDMENT.] Section 2346a18 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2346a18. Deductions allowed. In computing net income, there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid during the income year in the carrying on of any trade or business including a reasonable allowance for salaries or other compensation for personal

services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession, for the purpose of the trade or business, of property to which the taxpayer has not taken or is not taking title, or in which he has no equity.

(2) Interest paid or accrued within the year on taxpayer's indebtedness.

(3) Taxes paid or accrued within the income year upon property or business, but not including those assessed against local benefits of a kind tending to increase the value of the property assessed. Federal income taxes may be deducted to the extent such taxes represent a tax paid on income taxable under this Act.

(4) Losses actually sustained within the year and not compensated by insurance or otherwise, provided that no loss may be allowed in the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit but this proviso shall not be construed to exclude losses due to theft or the destruction of property by fire, flood or other casualty, or a loss sustained in any sale of the residence of the taxpayer. In the case of a taxpayer other than a resident of the State, losses shall be allowed only as to transactions in real property or in tangible personal property having an actual situs in this State and losses in connection with any business, trade, profession or occupation carried on in this State.

(5) Debts ascertained to be worthless and charged off within the income year. In the case of a debt existing on January first, nineteen hundred and nineteen, no more than its fair market value on that date shall be deducted. A worthless debt arising since January first, nineteen hundred and nineteen, from unpaid wages, salary, rent or any other similar item of taxable income, is not an allowable deduction unless the income which such item represents has been included as income by the taxpayer in a return rendered under this Act.

(6) A reasonable allowance for necessary repairs and a reasonable allowance for depreciation by use, wear and tear of property used in business or trade, and in case of mines, oil and gas wells or other natural deposits, a reasonable allowance for depletion of ores and other natural deposits on the basis of their actual original cost in cash or in the equivalent of cash, and including cost of development, and in case of property acquired prior to January 1, 1919, the fair market value on that date shall be taken in lieu of cost up to that date.

(7) Dividends or income received by any person from stock or interest in any corporation, the income of which shall have been assessed under this Act; provided, that when only a part of the income of any corporation shall have been assessed under this Act, only a corresponding part of the dividends or income received therefrom shall be deducted.

(8) Contributions or gifts made within the income year to (a) the State of North Dakota, or any political subdivision thereof, exclusively for public purposes, or (b) to any community chest, corporation, association or trust, or fund, or foundation, organized and operated exclusive for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or (c) to posts or organization, of war veterans or auxiliary units or societies of such organizations, if such posts, organizations, units or societies are within North Dakota and if no part of their net income inures (inures) to the benefit of any private shareholder or individual; provided, that such contributions or gifts may be deducted only to an amount which in all the above cases combined does not exceed fifteen per cent (15%) of the taxpayer's net income as computed without the benefit of this subsection.

§ 5. That Section 2346a21 of the Supplement to the Compiled Laws of 1913 is amended and re-enacted to read as follows:

§ 2346a21. RETURN. DUTY TO MAKE.] (a) Every individual subject to taxation under the provisions of this Act, having a net income during the incoming year of \$1,000 or over, if single, or if married and not living with husband or wife, or having a net income for the fiscal year of \$2,000 or over, if married and living with husband or wife, and every individual having a gross income during the income year of \$5,000 or more, regardless of the amount of his net income, shall make a return, under oath, stating specifically the items of his gross income and the deductions and exemptions allowed by this Act.

(b) If a husband or wife living together have an aggregate net income of \$2,000 or over, each shall make such a return, unless the income of each is included in a single joint return.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(d) Every fiduciary subject to taxation under the provisions of this article as provided in Section 2346a13 of the Supplement to the Compiled Laws of 1913, hereof, shall make a return under oath for the individual estate or trust for whom or for which he acts, if the net income thereof amounts to \$1,000 or over.

(e) The return made by a fiduciary shall state specifically the items of gross income and the deductions and exemptions allowed by this Act, and such other facts as the Tax Commissioner may prescribe. Under such regulations as the Tax Commissioner may prescribe, a return may be made by one or more joint fiduciaries.

(f) Fiduciaries required to make return under this Act shall be subject to all of the provisions of this Act which apply to individuals.

§ 6. Section 2346a46 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2346a46. NET LOSSES.] (a) Definition of "Net Loss." As used in this Act the term "net loss" means the excess of the deductions allowed by this Act over the gross income, with the following exceptions and limitations.

(1) Non-business deductions. Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall be allowed only to the extent of the amount of the gross income not derived from such trade or business.

(2) Dividends. The deductions provided for in Section 2346a18, Paragraph 7, and in Section 2346a30, Paragraph 7 of amounts received as dividends shall not be allowed.

(3) Interest. There shall be included in computing gross income the amount of interest received free from tax under this Act, decreased by the amount of interest paid or accrued which is not allowed as a deduction under this Act.

(4) Net loss not to produce net loss. In computing the net loss for any income year a net loss for a prior year shall not be allowed as a deduction.

(b) Net Loss as a Deduction. If, for any income year, it appears upon the production of evidence satisfactory to the Tax Commissioner that any taxpayer has sustained a net loss, the amount thereof shall be allowed as a deduction in computing the net income of the taxpayer for the succeeding income year, and if such net loss is in excess of such net income (computed without such deduction), the amount of such excess shall be allowed as a deduction in computing the net income for the next succeeding income year; the deduction in all cases to be made under regulations prescribed by the Tax Commissioner.

§ 7. The provisions of this Act shall be applicable to the assessment levy and collection of income taxes for the calendar year 1930 and for any income year ending in 1930. The sections amended by this Act shall remain in force and effect for the assessment, levy and collection of all taxes imposed thereby, and for the assessment, imposition and collection of all interest, penalties, or forfeitures which have accrued or which may accrue in relation to any such taxes.

§ 8. EMERGENCY.] 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 11, 1931.

CHAPTER 284  
(H. B. No. 36—Cox.)

TIME LIMIT REVISION INCOME TAX

An Act to amend and re-enact Section 2346a34 of the 1925 Supplement to the Compiled Laws of 1913 as amended by Chapter 240 of the Laws of 1929, and to extend the time within which additional taxes may be assessed upon certain income returns, and declaring an emergency.

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

§ 1. Amended. That Section 2346a34 of the 1925 Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 2346a34. The tax appearing on the face of the return shall be paid at the same time the report is filed. The taxpayer shall attach to his report his remittances for the amount of tax due as computed by him. Provided that the payments may be made in quarterly installments, and if paid in installments the first installment shall be paid at the time fixed by law for filing of the return; the second installment shall be paid on the fifteenth day of the third month; the third installment on the fifteenth day of the sixth month; and the fourth installment, on the fifteenth day of the ninth month after the time fixed by law for filing the return. The Tax Commissioner, shall as soon as possible after the receipt of the report and remittance issue a receipt to the taxpayer for the amount of his remittance. Such receipt shall not be a receipt in full for the amount of tax due, but only for the remittance made by the taxpayer. The Tax Commissioner shall proceed to audit the reports of taxpayers and not later than three years after the due date of the return assess the tax and if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase; provided, however, that the time within which the Tax Commissioner may audit returns of income for the calendar year 1927 and returns for a fiscal year ending during the calendar year 1928 and assess additional taxes thereon is hereby extended to December 31st, 1931. The taxpayer shall be given thirty days from the date of such notice to file objections to the additional tax, either in person or by attorney. Unless such objections are filed, said tax shall become delinquent forty-five days after notice. If objections are filed, the objections shall be considered by the Tax Commissioner who may call for any further information from the taxpayer that he deems necessary to make a fair determination. After making a redetermination of the disputed tax, the Tax Commissioner shall notify the taxpayer of his findings and the amount of tax as redetermined shall become delinquent fifteen days after notice. Interest at the rate of one per cent (1%) a month shall be computed upon all delinquent income tax payments with an additional

penalty of five per cent (5%) at the time such tax becomes delinquent. Any unpaid taxes shall be collected by the procedure outlined in Chapter 58, Special Session Laws of 1919, for the collection of delinquent taxes.

§ 2. EMERGENCY. This Act is hereby declared to be an emergency measure due to the fact that income tax files were destroyed in the recent fire and the period limited by statute is about to expire; and it shall be in full force and effect from and after its passage and approval.

Approved March 7, 1931.

---

CHAPTER 285  
(S. B. No. 158—Murphy.)

---

**NOTICE EXPIRATION REDEMPTION LAND SOLD FOR TAXES**

An Act to amend and re-enact Section 2223 of the Supplement to the Compiled Laws of 1913, relating to notice of expiration of period of redemption, the rights of certificate holders, mortgagees, or assignees thereof and prescribing the duties of the county auditor in connection therewith.

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

§ 1. That Section 2223 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 2223. NOTICE OF EXPIRATION OF REDEMPTION; CERTIFICATE HOLDERS; MORTGAGEES; ASSIGNEES; AUDITOR. Every person holding a tax sale certificate may at any time after the expiration of the statutory period of redemption, and before the expiration of six years from the date of such tax sale certificate, present such certificate to the County Auditor and thereupon the Auditor shall prepare under his hand and seal, a notice to the person in whose name such lands are assessed, and to all mortgagees, or assignees of mortgagees holding unsatisfied recorded mortgages, specifying in such notice the description of such lands, the amount for which the same were sold, the amount required to redeem such lands from sale, exclusive of the costs to accrue upon such notice, and the time when the redemption period will expire, which notice the Auditor shall cause to be delivered to the Sheriff or his deputy who shall serve it personally, or cause it to be so served upon the owner, if known to be a resident of the State, but if the owner be a nonresident of the State, such notice shall be served by registered mail addressed to such owner at his last known postoffice address, and by the publication once in each week, for three consecutive weeks in some newspaper printed and published in the County where such lands are situated, and if no newspaper is published therein, then in some newspaper printed and published at

the Capital of the State. In case the property covered by such certificate is occupied then such notice shall also be personally served upon the person in possession thereof. Proof of service of such notice must be filed in the office of the County Auditor and no deed shall issue until such proof has been duly filed. The fees for serving, and the printer's fee for publishing, such notice shall be added to the amount required to redeem such land, and shall be paid by the party offering to redeem such land before any certificate of redemption shall be issued. The County shall not be liable for any expense incurred under the provisions of this section and whenever a tax sale certificate is presented to the County Auditor, as hereinbefore provided, the Auditor shall estimate the fees for serving such notice and the cost of publication thereof and shall require the holder of such tax sale certificate to deposit with the Auditor the amount of such estimated fees and costs and if such amount is afterwards found to be excessive the excess shall be refunded to the holder of such certificate. The time for redemption of such lands shall expire ninety (90) days after the service and publication of such notice. Such tax sale certificate, and also any subsequent taxes paid by the holder thereof shall continue to draw interest until said taxes are paid or redeemed. Duplicate copies of the notice of expiration of period of redemption shall be prepared by the County Auditor and said copies shall be mailed to mortgagees, and assignees of mortgagees holding unsatisfied mortgages on said land as shown by the records in the office of the Register of Deeds, by registered letter addressed to such mortgagees or assignees at least ninety (90) days before the time for redemption expires, if any such mortgagee or assignee has in writing requested the County Auditor to mail him such duplicate notice and has paid to the Auditor, as a fee for preparing and mailing the same, the sum of one dollar and fifty cents (\$1.50).

Approved March 11, 1931.

---

## CHAPTER 286

(H. B. No. 23—Johnson.)

---

### PAYMENT OF TAXES UNDER PROTEST, ETC.

An Act relating to the payment of taxes under protest; limiting the time in which application may be filed for the refundment thereof; limiting the time in which an action may be commenced for the recovery of taxes so paid; providing for the right of appeal; prescribing the duty of the county treasurer with reference to taxes paid under protest; repealing all acts and parts of acts in conflict herewith.

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

§ 1. That any person (including any firm or corporation) against whom any tax is levied, or who may be required to pay the

same, who pays such tax under protest to the County Treasurer, giving notice at the time of payment of the reasons for such protest, may in writing at any time within SIXTY (60) DAYS thereafter apply to the Board of County Commissioners, under the provisions of Section 2241c of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, for an abatement, adjustment or refundment of taxes thus paid and may within SIXTY (60) DAYS after notice of rejection of such application commence an action against such County Treasurer for the recovery thereof. Such application shall show the post office address of the applicant and notice by registered mail addressed to such applicant shall be notice of rejection of applicant's claim. If the court determines that such tax was unlawfully collected, in whole or in part, for any reason going or pertaining to the merits of the tax, it shall enter judgment accordingly and such judgment shall be paid upon final determination of the action. Both parties shall have the right of appeal as in other actions.

§ 2. Whenever taxes have been paid under protest the County Treasurer shall keep money thus paid and collected in a separate fund known as "Taxes Paid Under Protest Fund" and such moneys shall not be paid or disbursed to the State, to any fund of the County, or to any local taxing district until the period prescribed in Section One (1) of this Act has expired, and in case an action is commenced, the County Treasurer shall retain in such fund until such action shall be finally determined, that part of portion of the tax, paid under protest, which the plaintiff in his complaint, contends is invalid or illegal.

§ 3. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 7, 1931.

#### CHAPTER 287

(S. B. No. 178—Committee on Tax and Tax Laws.)

#### REAL PROPERTY TAXING AREA; DIVISION TRACTS JOINTLY ASSESSED; PARTIAL REDEMPTION

An Act relating to the area of real property which may be assessed and taxed as a unit, providing for the division of tracts of land jointly assessed and taxed, and for the redemption of a part or parts thereof, and declaring an emergency.

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

§ 1. In all assessment books and tax lists and in all proceedings for the collection of taxes and proceedings founded thereon, land not situated within the limits of an incorporated city or village shall be described in subdivisions not exceeding quarter sections; real property in the platted portion of a city or village shall be separately assessed as to each lot, provided, however, that where a building or structure covers two or more contiguous lots or parts of lots owned

by the same person, firm or corporation, the assessment shall not be entered separately as to each lot or part of lot but the tract upon which the building is located shall be described and assessed as one parcel, and provided further, that blocks that have not been subdivided may be described, assessed and taxed in units of one block; provided, however, that failure to comply with the provisions of this section shall not impair the validity of taxes.

§ 2. In case a mortgage, or lien, or Sheriff's certificate, or conveyance, affects only a part of the real estate taxed as a unit, any person interested therein may petition the County Auditor that he be permitted to pay taxes and make redemption from tax sale as to that part only of the real estate in which he is interested. Such petition shall set forth his interest in the property, it shall be verified and may be in the form of an affidavit, and shall state the petitioner's interest in such property. Immediately upon the receipt of such petition the County Auditor shall consider such petition and make a fair and equitable valuation of the whole tract and shall apportion to the petitioner such part of the taxes, interest and penalty to be paid by him, in order to effect redemption, as the value of the part or parcel of land in which he claims an interest bears to the assessed tract of land. Thereupon the County Auditor, shall by registered mail notify all persons interested in such real property shown of record either as owner, or as the holder of a mortgage, or other lien, or Sheriff's certificate, of the filing of such petition and of his assessment of such tract or parcel of land and of his apportionment of the taxes thereon and the date when the same will be considered and heard by him, which hearing shall not be sooner than ten (10) days after the mailing of such notice. Upon the date set the County Auditor shall hear the parties interested and shall make such assessment of said tract and apportion the taxes thereon as he shall deem fair and equitable.

§ 3. In case any interested person is dissatisfied with the determination of the County Auditor, he may, within five (5) days after such hearing and determination by said Auditor, file with him a written request that the matter be considered by the Board of County Commissioners. The County Auditor shall thereupon notify by registered mail all persons having a record interest in such land of the date when the matter will be heard by the Board, which date shall not be sooner than ten (10) days after the mailing of such notice. Provided, however, said hearing shall be held at the next special regular meeting of the Board after said ten day period of notification has expired. Upon the date set the Board of County Commissioners shall hear the parties interested and shall make such division of the assessed valuation of the tract of land in question, and apportion the taxes thereon, as said Board shall deem to be fair and equitable.

§ 4. Any person dissatisfied with the order and determination of the Board of County Commissioners, may in accordance with the procedure provided for in Sections 3298 and 3299 of the Compiled

Laws of 1913 or Acts amendatory thereof, within fifteen (15) days after such determination, decision or order of the County Board, appeal therefrom to the District Court. When any person under the provisions of Section 2 files with the County Auditor a petition that he be permitted to pay taxes or make redemption from tax sale as to a part only of real estate in which he is interested, the issuance of a tax deed, thereon and all proceedings preliminary thereto shall be stayed until the matter is finally determined and settled.

§ 5. Upon payment by the petitioner of the amount as finally apportioned, a tax receipt or certificate of redemption, or both, as the case may be, shall be issued to such petitioner by the County Auditor. If there be outstanding tax certificates the proper amount of the proceeds of such redemption shall be paid to the holders of such certificates. The original certificate or certificates shall be deposited with, and cancelled by, the County Auditor and he shall issue in lieu thereof a tax sale certificate which shall be entitled "Substitute Tax Sale Certificate" and which shall be in substantially the following form:

SUBSTITUTE TAX SALE CERTIFICATE

I.....Auditor of the County of .....in the State of North Dakota, do hereby certify that the following described real estate situated in said County and State to-wit:.....

..... was together with other real estate on the.....day of....., 19.....sold by me in the manner provided by law for the delinquent taxes thereon for the year.....to....., he being the bidder who agreed to accept the lowest rate of interest thereon from the date of sale upon amount of taxes, penalties and interest paid by him and that the rate of interest which said purchaser agreed to accept was.... per cent per annum and thereafter redemption was made from said tax sale of a portion of the real estate then sold to said purchaser, that redemption of the above described real estate was not made, and I further certify that unless redemption of the above described real estate is made in the manner provided by law the said..... or assigns will be entitled to a deed of the property above described on and after the.....day of.....19.....on the surrender of this certificate, and I further certify that there remains due and unpaid upon this certificate the sum of \$.....together with interest thereon at.....per cent per annum from the..... day of ....., 19.....

In witness whereof I have hereunto set my hand and the seal of the County Auditor of said County this.....day of.....19.....

..... County Auditor of.....County.

Such substitute certificate shall have the same force and effect as the original certificate as to property covered thereby. The County Treasurer and County Auditor shall make the proper entries in

the tax records of their offices showing the payment of the taxes and the cancellation of the original certificate and the issuance of the substitute tax certificate.

§ 6. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 7. EMERGENCY.] An emergency is hereby declared to exist and this Act shall be in force and effect from and after the date of its passage and approval.

Approved March 11, 1931.

---

## CHAPTER 288

(H. B. No. 77—Twete.)

---

### SALE PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED

An Act to amend and re-enact Subdivision 6 of Section 1, of Chapter 266 of the 1927 Session Laws of the State of North Dakota, relating to the sale of property acquired by county through tax deed.

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

§ 1. AMENDMENT.] That Subdivision 6 of Section 1, of Chapter 266, of the 1927 Session Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 2. SALE OF PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED.] Property so acquired by tax deed shall, under the direction of the board of county commissioners be sold at public or private sale, notice of which shall be given by posting at the front door of the court house thirty (30) days prior to the sale, a description of the parcels to be sold and if the assessed value of such property exceeds \$100.00 by publishing a notice of such sale in the official newspaper of the county, giving a description of the parcels to be sold, such notice to be published at least once in each week for two consecutive weeks prior to the date of the sale. The description of all parcels of real estate to be sold at such sale shall be included in a single notice.

Before publishing such notice the board of county commissioners shall appraise each lot or parcel of land and fix a tentative minimum sales price thereon. Such minimum sales price shall be sufficient to cover all general taxes, special assessments, penalties, interest and costs which were charged against the property and which were delinquent at the time notice of the expiration of period of redemption was issued plus cost of service of such notice; provided if the fair cash value of the property is less than the aggregate of such general taxes, special assessments, penalties, interest and costs the board shall fix a fair and equitable minimum sales price. The board shall thereupon set a date for hearing objections to the minimum sales

price thus determined and the county auditor shall, at least ten (10) days previous to such hearing, mail to the auditor of any city, or the clerk of any village, or of any township board where such lots or tracts of land are located, a notice in writing that at the time and place mentioned therein objections to the minimum price fixed by the board, and specified in such notice, will be heard. At such hearing any member of the governing body of any such city, village or township or any representative thereof, shall be heard with reference to the fair value of such lot or parcel of land, and the board shall thereupon make such modifications and changes in the sales price of such property as it shall deem to be fair and just. The governing body of any such city, village or township may, if dissatisfied with the action of the board, appeal therefrom within ten (10) days after such hearing and determination to the district court and the perfecting of such appeal shall conform to the procedure prescribed by Sections 3298 and 3299 of the Compiled Laws of 1913, or acts amendatory thereof, except that no bond shall be required to perfect such appeal. All such determinations of value which in the opinion of any such governing body are too low shall be combined in one appeal and shall be heard de novo by the court without a jury.

The board of county commissioners may fix the minimum sales price at an amount sufficient to cover all general taxes, special assessment taxes, penalties, interest and costs which were a charge against the property and which were delinquent at the time notice of expiration of period of redemption was issued plus cost of service of said notice; provided, such amount shall not exceed the fair cash value of the property. The foregoing provision is intended to cover those cases where general taxes were struck off to the county and special assessment taxes were struck off to the city and were not included in the tax forfeiture proceedings of the county.

None of the foregoing provisions is intended to limit the minimum price which the board of county commissioners is required to fix, at less than their determination of the fair cash value of the tax title which the county is empowered to give.

Such sale shall take place at the county seat on the second Tuesday of June in each year and shall continue from day to day until completed.

Each parcel shall be sold to the highest bidder therefor but not for a sum less than the minimum sales price finally fixed by the board of county commissioners unless the governing body of the city, village or township where such property is located by resolution, consents to an amount less than such minimum price.

Such sale may be either for cash or for one-fourth of the purchase price in cash and the balance in equal annual payments not

to exceed a period of ten years; provided, however, that any purchaser may at any time within said ten year period pay any or all unpaid installments.

If the sale is for part cash, the purchaser shall forthwith pay the amount of the first installment of the bid to the county treasurer.

Whereupon the purchaser shall be given a contract for deed, setting forth the terms of the said sale executed in the name of the county by the chairman of the board of county commissioners and the county auditor.

Such contract shall be in the usual form and shall give the county the right, upon failure to comply with all the terms and conditions of the said contract by the purchaser, to cancel the said contract in manner and form now provided for by law between private individuals. Upon the execution and delivery of the said contract the real estate described therein shall be placed upon the assessment roll and be subject to assessment and taxation the same as though a deed had been issued therefor.

Such unpaid balance of purchase price shall draw interest at the rate of five per cent per annum upon all unpaid balances. Upon the payment of the balance due upon the said contract the county shall execute and deliver to the purchaser a deed conveying all right, title and interest, in and to such property.

If the sale is for cash the purchaser shall forthwith pay the amount so bid, to the county treasurer.

Upon complying with such requirements, the purchaser shall be given a deed executed in the name of the county by the chairman of the board of county commissioners and the county auditor, conveying all rights, title and interest in and to such property acquired by the county through the tax proceedings, which deed may be substantially in the following form:

#### TAX DEED

This Indenture, made this.....day of....., 193....., between the County of.....North Dakota, party of the first part, acting by and through the chairman of its board of county commissioners and its county auditor, and....., party of the second part, witnesseth:

That, whereas, the real property hereinafter described did revert to and become the property of said county on account of the non-payment of taxes assessed and levied against the same for the years .....and....., and the said taxes, interest and penalties aggregating in the sum of.....Dollars, and

Whereas, in conformity with law the said property was duly offered for sale pursuant to law on the .....day of.....,

193...., and at said sale said second party became the purchaser of the whole thereof for the sum of.....Dollars,

Now, therefore, the said County as party of the first part, in consideration of the premises and in pursuance of the statutes in such case made and provided, does hereby grant, bargain, sell and convey to the said second party, his heirs and assigns, that certain real property situated in the said County of....., North Dakota, more particularly described as follows, to-wit:

To Have and to Hold, said mentioned tract.....or parcel..... of land, with the appurtenances thereunto belonging to the said party of the second part.....heirs, and assigns, forever, in as full and ample manner as the said County is empowered by law to sell the same.

In Witness Whereof.....and..... as chairman of the board of county commissioners and auditor respectively of the said County, do hereby set their hands the day and year first above written, and do cause the seal of said County to be affixed hereto.

.....County, North Dakota.

By..... Chairman of the Board of County Commissioners. County Auditor.

State of North Dakota, } ss. County of..... }

On this.....day of....., 193...., personally appeared before me, a Notary Public within the aforesaid county and state, .....and.....to me personally known to be the chairman of the board of county commissioners and the auditor, respectively, of the said County and each acknowledged to me that he executed the foregoing deed on behalf of the said County.

..... Notary Public for.....County, N. D. My commission expires.....

Whenever in any action at law or in equity, the validity of any such tax deed is questioned, upon the pleadings or otherwise, such action shall not proceed until the party assailing such deed shall within such time as the Court shall deem reasonable deposit in Court for the benefit of the party claiming thereunder, an amount equal to the sum paid by said party to the county for the purchase of the property covered by the tax deed together with costs and disbursements of the action then incurred by the party claiming under such deed.

Approved March 7, 1931.

## CHAPTER 289

(H. B. No. 243—Traynor.)

SALE REAL ESTATE FOR DELINQUENT TAXES AND  
DELINQUENT HAIL INDEMNITY TAXES

An Act to amend and re-enact Section 2191 of the Supplement to the Compiled Laws of 1913, relating to the sale of real estate for delinquent taxes and delinquent hail indemnity taxes.

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

§ 1. AMENDMENT.] That Section 2191 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2191. AUDITOR TO SELL AT PUBLIC VENDUE.] Said sale shall be made at public auction at the office of the county auditor or usual place of holding court in the same building, and shall commence at the hour of ten (10) o'clock in the forenoon, but may be adjourned from day to day for a period of ten (10) days whenever it is necessary for the disposal of the lands advertised.

Before any tract or parcel of land is offered for sale, the auditor shall announce the total amount of taxes, including penalties and interest thereon, and the part representing personal property taxes (if any) entered and extended against such land. General taxes and hail indemnity taxes shall be advertised together but separately stated and sold separately. The total cost of publishing such delinquent tax list shall be assessed against each description of real property so advertised and shall be in addition to and collected at the same time and in the same manner as if it had been part of the original tax. The lands and lots shall be offered for sale by the county auditor or his deputy, in the order in which they appear in the advertised list, and each tract or lot shall be offered separately and struck off to the bidder who will pay the total amount of taxes, special assessments, or installments of special assessments, and penalties and costs charged against it, including any personal taxes specified in the list and in the advertisement, which are a lien upon it, and who will agree to accept the lowest rate of interest from the date of sale on the amount of such taxes, penalties and costs so paid by him, which rate shall in no case exceed nine per cent (9%) per annum. Lands and lots shall be offered separately for sale for hail insurance taxes and struck off to the bidder who will pay the total amount of hail insurance taxes, penalties and costs charged against it, which are a lien upon it, and who will agree to accept the lowest rate of interest from the date of sale on the amount of such taxes, penalties and costs so paid by him, which rate shall in no case exceed nine per cent (9%) per annum. If the sum bid for any tract or lot of land is not paid before the sale closes, such tract or lot shall again be offered for sale in like manner.

It shall be unlawful for the bidders at such sale to enter into any understanding or agreement direct or indirect to stifle competition, by bidding in rotation or turn, or in refraining from bidding to give others opportunity to acquire particular tracts without competition, and upon discovering any such combination, understanding or agreement to exist, or upon the development of any system of bidding in rotation or systematic refraining from bidding to avoid competition it shall be the duty of the auditor to refuse to accept bids made in furtherance of any such scheme, combination or understanding, and he may if he shall deem it probable that sales already made have been to bidders in any such combination, declare all such sales rescinded, and proceed to re-sell the same, or adjourn the sale from day to day for not to exceed ten (10) days until a proper sale can be had.

The county treasurer shall attend the sale and receive all moneys paid thereon and when any tract of land or lot remains unsold for want of bidders, the same shall again be offered before the sale closes, and if there is no other bidder he shall bid for the same in the name of the county and the same shall be struck off and become forfeited to the county in which the sale takes place, such county acquiring all the rights both legal and equitable that a person could acquire by reason of a purchase at such sale. Such tract or lot shall be assessed and taxed like other real estate until the period of redemption expires but shall not again be offered for sale for such subsequent taxes unless the county has made an assignment of the certificate of sale.

Whenever any real property shall be sold to the county, the county auditor shall make out certificate of sale to the county in the same manner as if sale had been made to any other person which certificate shall be retained by the county treasurer; but no tax receipt shall be issued and no amount due the state or any taxing district shall be paid by the county until the county has received payment, either through redemption or sale of the property or assignment of the certificate. A certificate so issued to the county shall bear interest at the rate of nine per cent (9%) per annum.

The county auditor, upon the order of the board of county commissioners shall defer the sale of any parcel of real estate for unpaid taxes until the delinquent taxes thereon, together with accrued penalty and interest, shall amount in the aggregate to the sum of five dollars (\$5.00) or such lesser sum as the board may determine upon. In any case where such tax sale shall be deferred upon the order of the board of county commissioners, the publication of delinquent tax list shall not include parcels not offered for sale. Such real estate may be included in the notice of tax sale and sold at the tax sale of any subsequent year, and in such notice the combined aggregate amount of all delinquent taxes, except hail indemnity taxes, against each parcel may be set forth in a single lump

sum and a single sale made for all delinquent taxes, penalties and interest against each parcel. The aggregate of all hail indemnity taxes against each parcel may be set forth in a single lump sum and a single sale made for all such delinquent taxes, penalties and interest against each parcel. It shall not be necessary for the notice of sale to contain anything to indicate that such amount or amounts includes taxes of more than one year. The omission of sale upon order of the board of county commissioners, or by error or otherwise, shall not invalidate any subsequent tax sale. Property inadvertently omitted from any tax sale may be sold at the tax sale of any subsequent year in a similar manner as though its sale had been purposely deferred and this may be done even though the amount of taxes against it, or hail indemnity taxes, when thus inadvertently omitted is in excess of five dollars (\$5.00).

Approved March 11, 1931.

#### CHAPTER 290

(H. B. No. 159—Olafson.)

#### SUSPENDING COLLECTION TAX CERTIFICATES HELD BY COUNTY ON LANDS ACQUIRED BY STATE TREASURER AS TRUSTEE

An Act providing that the right of any county holding a tax certificate, or other tax lien on lands acquired by the State Treasurer as Trustee of the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923 and acts amendatory thereof, to enforce the collection of the same, shall be suspended; providing the rate of interest such tax certificates and tax liens shall bear; and prohibiting the assignment or transfer of all tax certificates or tax liens held by the county on any lands that have been foreclosed under said acts.

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

§ 1. In all cases where the State Treasurer as Trustee of the State of North Dakota has heretofore, or hereafter acquires the title to any lands within the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923, and acts amendatory thereof, and there are outstanding against such lands tax certificates held by the county, the right of the county to acquire a tax deed thereto, or to otherwise enforce the collection of its tax certificates or other tax liens against said lands shall be wholly suspended, and any proceedings taken to acquire title by tax deed, or to otherwise enforce such tax liens shall be null and void; provided, that upon the resale of any such lands, either by deed or contract, the right of the county to enforce its tax certificates or tax liens in the manner provided by law shall thereupon be restored and shall thereafter remain in full force and effect.

§ 2. From and after the date of acquiring title by the State Treasurer as Trustee of the State of North Dakota to any lands as provided in Section 1 hereof, all tax certificates or other tax liens held by the county thereon shall bear interest at the rate of seven per cent (7%) per annum until redeemed or paid.

§ 3. From and after the date of the foreclosure sale of any lands under mortgages held by the State Treasurer as Trustee of the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919, and Chapter 292 of the Session Laws of North Dakota for 1923, and acts amendatory thereof, no tax certificate or tax lien held by the county on any of said lands shall be assigned, or in any manner transferred to any person, firm or corporation for any purpose whatever during the time such foreclosure sale remains unredeemed, and any purported assignment or transfer of any such tax certificate or other tax liens made in violation hereof, shall be null and void.

Approved March 10, 1931.

---

## CHAPTER 291

(H. B. No. 160—Jardine and McDowall.)

---

### TAXATION EXPRESS, SLEEPING CAR, TELEGRAPH, TELEPHONE, POWER AND GAS COMPANIES

**An Act** to provide for the assessment, equalization and taxation of operative property of express, sleeping car, telegraph, telephone, power and gas companies, defining the same, providing for obtaining information relative to such property, outlining duties of the Tax Commissioner, State Board of Equalization, County Auditors and County Treasurers and repealing Sections 2097, 2114, 2145, 2146, 2247, 2249, 2250 and 2251 of the Compiled Laws of 1913, and Sections 2144 and 2248 of the Supplement to the Compiled Laws of 1913, and all acts and parts of acts in conflict with the provisions of this act.

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

§ 1. DEFINITIONS.] For the purposes of this act, the following provisions and definitions are made:

1. This act shall be known and may be cited as the Public Utility Tax Act of 1931.

2. "Company" defined. The term company means and includes any individual, firm, copartnership, business trust, corporation, joint stock company, or association.

3. The term "express company" means a company conveying for hire to, from, or in this state money or property by express on any railroad or boat line, but shall not include railroad companies, steamship companies or bus or motor truck companies.

4. The term "sleeping car company" means a company owning any cars known as dining, buffet, chair, parlor, palace or sleeping cars which are used upon railroads within this state, unless the ownership of such cars be identical with that of the lines of the railroad on which they are operated.

5. The term "telephone company" means a company owning or operating under lease or otherwise, any property in this state used in the business of conveying messages by use of the telephone or any similar instrument or device.

6. The term "telegraph company" means a company owning or operating any telegraph or cable line in this state with appliances for the transmission of messages and engaged in the business of furnishing telegraph service for compensation as owner, lessee or otherwise.

7. The term "power company" means a company owning or holding under lease, or otherwise, any property in this state and operating the same for the purpose of furnishing electric light, electric power or steam heat, or distributing the same for public use.

8. The term "gas company" means a company owning, holding or operating under lease, or otherwise, any property in this state for the purpose of furnishing gas or distributing the same for public use by means of pipe lines.

9. Public Utilities Not Enumerated—Exceptions. The provisions of this act shall be applicable to and shall govern the assessment of the property of any other company used directly or indirectly in the carrying or conveying of persons, property or messages, except in cases where the said operative property is subject to a lieu tax in place of the general property tax, and except railway and street railway property.

10. Operative Property Defined. The term "operative property" means any and all property reasonably necessary for use by said companies exclusively in the operation and conduct of the particular kinds of business enumerated herein. Any such property held under a contract for the purchase thereof shall be considered for all purposes of taxation as the property of the company so holding the same. Any such property, real or personal, held by any company under a rental lease shall be assessed by the State Board of Equalization in the name of such company if an agreement in writing between the owner thereof and such company is filed with the Tax Commissioner requesting that such leased property be so assessed. Whenever any property of a public utility company required to be assessed by the State Board of Equalization under the provisions of this act, is used partly for operative purposes and partly for other purposes either by the company or by others, all such property shall be assessed by the State Board of Equalization as operative property.

§ 2. PROPERTY JOINTLY OWNED.] When property subject to assessment under the provisions of this act is owned jointly by two or more companies the State Board of Equalization may assess such property to the company having the control, supervision and maintenance thereof, or the Board may assess such property to the owning companies in accordance with the values of their respective interests therein. Every company shall, in its return required under this act, set forth in detail property thus jointly owned so as to show specifically what interest each of such joint owners has in such property. Notice to any company having control, supervision and maintenance of such jointly owned property shall be notice to all companies interested in such property.

§ 3. ANNUAL ASSESSMENT.] It shall be the duty of the State Board of Equalization annually to assess the franchises and all operative property of express, sleeping car, telephone, telegraph, power and gas companies and the property of other public utilities specified but not enumerated in Subdivision nine (9) of Section one (1) of this act. Such property shall be assessed with reference to the value thereof on the first day of January of that year.

§ 4. REPORTS OF COMPANIES.] Each company required to be assessed under the provisions of this act shall annually, under oath of the president, or other chief executive officer, and the secretary or treasurer or auditor or superintendent of such company make and file with the Tax Commissioner on or before May first, in such form as the Tax Commissioner may prescribe, a report containing the following information so far as applicable to the company making such report. The information shall be as of January first of the same year unless otherwise specified herein.

- (1) The name of the company.
- (2) The nature of the company, whether a person, association, company or corporation, and under the laws of what state or country organized, the date of original organization, date of reorganization, consolidation or merger, with specific reference to laws authorizing the same.
- (3) The location of its principal office.
- (4) The name of the place where its books, papers and accounts are kept.
- (5) The name and postoffice address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers.
- (6) The name and postoffice address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state.
- (7) The total number of shares of capital stock.

(8) The par value of the shares of the capital stock for the whole system showing separately:

- (a) Amount authorized.
- (b) Amount issued.
- (c) Amount outstanding.
- (d) Dividends paid thereon.

(9) If such capital stock has no market value, the actual value on the dates and for the periods designated by said Tax Commissioner.

(10) The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming a part of the funded debt at par value, with the date of issue, maturity, rate of interest and amount of interest for the preceding year.

(11) The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by said tax commissioner, and if the whole or a part of such funded debt has no market value then the actual value thereof for such dates and periods as the Tax Commissioner may specify.

(12) Such general description of the operative and non-operative real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property.

(13) A description of the personal property, including moneys and credits held by the company as a whole system and the part thereof apportioned to the line in North Dakota.

(14) The whole length of the lines of the system operated by the company and the length of the lines in North Dakota, whether operated as owner, lessee or otherwise. The length of the line owned and the length of the line operated for the whole system and in North Dakota shall be separately reported.

(15) The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the Tax Commissioner may request or specify, not exceeding five years.

(16) The location of the property of the company within this state by counties, municipalities and districts in such manner and in such detail as the Tax Commissioner shall prescribe.

(17) Such other facts and information as the Tax Commissioner may require in the form of returns prescribed by him or which the company may deem material upon the question of taxation of its property in this state.

(18) Each telephone, telegraph and power company shall further report as follows:

(a) Number of miles of pole line in each county in the state separated and classified as to location and character, as the Tax Commissioner may require.

(b) Average number of poles per mile in such lines and length and size of same.

(c) Number of miles of wire in such lines and a detailed description of same.

(d) Cost of construction of such lines fully equipped, together with the present value per mile of such lines in each county.

(19) Each gas company shall further report as follows:

(a) Number of miles of pipe line in each county in the state separated and classified as to location and character as may be required by the Tax Commissioner.

(b) A detailed description of same.

(c) Cost of construction of such lines fully equipped, together with the present value per mile of such lines in each county.

§ 5. PENALTY FOR FAILURE TO FURNISH STATEMENT.] In case any company refuses or neglects to make the reports required by this chapter or refuses or neglects to furnish any information requested, the Tax Commissioner shall inform himself as best he may on the facts necessary to be known in order to discharge his duties with respect to the valuation and assessment of the property of such company. In case any company fails to make the report required under this chapter on or before the first day of May of any year, the State Board of Equalization shall add 10 per cent to the assessed value of the property of such company for that year; provided, however, that the Tax Commissioner may upon application grant extensions of time within which such returns shall be filed.

§ 6. PLANTS UNDER CONSTRUCTION.] Any property of the classes mentioned in this chapter owned by a company constructing a new plant or system, even though no part of such new plant or system is in operation, shall be considered operative property and shall be subject to assessment and taxation as provided herein in the case of operative property.

§ 7. VALUATION BY STATE TAX COMMISSIONER.] The Tax Commissioner shall have power, and it shall be his duty on or before July fifteenth of each year, according to his best knowledge and judgment, to ascertain and determine the value of all operative property of any company required to be assessed under the provisions of this act located within the state. This determination of

value shall be made for the guidance of the State Board of Equalization in assessing such property at its annual meeting in August. In making such determination of value, the Tax Commissioner shall be governed by the rules laid down in this act, and by such directions as may be given him by the State Board of Equalization. The Tax Commissioner shall make a tentative assessment of all operative property of any such company located within the state and shall give ten (10) days notice by mail to each company or its representative within North Dakota, of the amount of its tentative assessment, and shall appoint a time and place between the first Tuesday of August and the first day of September, at which each such company shall be entitled to present evidence before the State Board of Equalization relating to the value of the property of such company.

§ 8. GENERAL POWERS OF INVESTIGATION.] In any matter material to the valuation, assessment or taxation of property under this act, the Tax Commissioner may, in his discretion, exercise any and all of the powers conferred upon him by law. Every state, county, city, village, township and other public officer shall make return to the Tax Commissioner in such form as he shall prescribe, of all information he shall call for. The property records, books, accounts and papers of any company required to be assessed under this act, shall upon order of State Board of Equalization be subject to visitation, inspection and examination by the Tax Commissioner or by such person as he may designate for that purpose.

§ 9. VALUATION, HOW DETERMINED.] The operative property of each company assessed under this act, shall be assessed in the following manner:

For the purpose of determining the value of the property of each company, the Tax Commissioner and the State Board of Equalization shall take into consideration the earning power of the property as shown by its gross earnings and net operating income, the market or actual value of its stocks and bonds, the value of its franchises, rights and privileges granted under the laws of this state to do business in this state and such other legally established evidences of value as shall enable the Board to make a just and equitable assessment. In the case of companies which own or operate properties or lines partly within and partly without the state, the Tax Commissioner and the State Board of Equalization shall value only the property within the state. In determining the value of the portion within the state, of an inter-connected or continuous system the Tax Commissioner and the State Board of Equalization may take into consideration the value of the entire system, and of the part within the state, the mileage of the whole system and of the part within this state, the total operating earnings within and without the state, together with such other information, facts and circumstances as will enable them to make a just and correct assessment,

provided that in case of express and sleeping car companies the term "mileage" as used in this section shall mean miles run or wheelage made by the cars of such express or sleeping car companies, and in the case of telephone and telegraph companies the term mileage shall mean miles of wire.

§ 10. ASSESSMENT AND APPORTIONMENT BY STATE BOARD OF EQUALIZATION.]

(a) Assessment. The State Board of Equalization may adopt the tentative assessment of the Tax Commissioner in whole or in part. The valuation and tentative assessment made by the Tax Commissioner shall be considered merely findings of fact of the executive officer of the Board. The State Board of Equalization shall review such valuation and tentative assessment at the time of its annual meeting in August of each year and shall make a final assessment of such property. It may increase or lower the entire assessment or any assessment contained therein, or any item contained within the assessment of any company. Before the State Board of Equalization may make an increase in the assessed valuation of the property of any of said companies over the valuation contained in the tentative assessment, notice shall be given to the company of any such proposed increase and a hearing granted thereon. A ten day written notice shall be given the company in such instance, either addressed to the company or personally served on a duly authorized agent of the company.

(b) Equalization. It shall be the duty of the State Board of Equalization in assessing the property of companies required to be assessed under this act to equalize the assessment of the property of such companies in order to bring about as nearly as possible equality and uniformity in the assessment of all classes of taxable property.

(c) Apportionment of Operative Property Constituting a Single and Continuous Property. Pole lines, pipe lines, and all operative property of any of said companies constituting a single and continuous line or property shall be separately assessed by the State Board of Equalization. The State Board of Equalization shall fix the value per mile of each pole line, pipe line, or other operative property constituting a single and continuous property. The State Board of Equalization shall thereupon make a pro rata distribution per mile of the assessment of the several lines to the counties of the state in which such lines are located.

(d) Allocation of Other Operative Property. All lots and parcels of real estate (not including rights of way) with the buildings, structures and improvements thereon, telephone exchange buildings, dams and power houses, substations, shops and other buildings, telephone exchange systems, electric power, electric light, gas or steam distribution systems, and other personal property not a pari

of any single and continuous property, shall be separately assessed and the assessment shall be allocated to the taxing district in which said property is located. The assessment by the State Board of Equalization covering such property shall give a legal description of the real estate and a general description of other property sufficient for identification. The assessment by the State Board of Equalization of such operative property shall cover the aggregate valuation of such property of any company in any municipality or taxing district of the state as a unit, and need not be made in detail.

§ 11. CERTIFICATION OF ASSESSMENT.] The State Tax Commissioner shall certify to the county auditor of each county in which the company assessed owns property: (a) The total assessed valuation of the company's property as to each assessment district of all property not constituting a single and continuous line, and (b) as to all such property constituting a single and continuous line, shall certify the number of miles of line, valuation per mile and the total valuation of such continuous property or lines within the county.

§ 12. DUTIES OF COUNTY AUDITOR.] It shall be the duty of the county auditor, after receiving such statement from the Tax Commissioner to enter such valuations in the assessment record of the several taxing districts of the county into or through which such lines extend or in which such property is located. Taxes shall be extended upon such percentage of full values as is required by law and at the same rate and in the same manner as taxes upon tangible personal property within his county.

§ 13. PRESUMPTION OF REGULARITY.] The proceedings of the State Board of Equalization shall be presumed to be regular and the determination of the Board shall not be impaired, vitiated or set aside upon any grounds not affecting the substantial justice of the assessment. The provisions of this act prescribing a date or period at or within which an act shall be performed, or determination shall be made by the Tax Commissioner or by the Board, shall be deemed directory only and no failure to perform any such act or make such determination at or within the time prescribed therefor shall affect the validity of such act or any determination made by the Board, unless it shall appear that substantial injustice has resulted therefrom.

§ 14. REPORTS TO COUNTY AUDITORS.] On or before the first day of May of each year each company required to be assessed under the provisions of this act shall file with the county auditor of each county within which any part of its operative property is located, a report giving a general description of all its property located within the county with operative and non-operative property listed separately. Such report shall give the length of the line or lines within the county and the length in each taxing district of

each line constituting part of a single and continuous line or property. The company shall also file with the county auditor a map of all of its lines within the county showing clearly the length of its lines within each taxing district as of January 1st of that year and shall file revised maps in subsequent years if changes have been made in its operative property. To facilitate the making of such maps the county auditor shall annually on or before the first day of April mail to the company an accurate map of the county showing the boundaries of each assessment district and school district.

§ 15. ENFORCEMENT OF COLLECTION.] The property of companies assessed under the provisions of this act, shall for the purpose of assessment and taxation and the collection thereof, be considered as personal property. The taxes assessed under the provisions of this act shall be a perpetual paramount lien upon all the franchises and property, both real and personal, of every kind and nature belonging to the companies assessed from and after the date upon which such assessment is made, and no sale or transfer of such property, or of any part thereof shall divest, or in any way affect, the lien for such taxes upon such property. No company having been assessed and taxed under the provisions of this act shall be entitled to have a transfer of any of its said property, whether by deed, bill of sale or otherwise, entered, filed or recorded upon the records of the register of deeds, county treasurer or county auditor unless all taxes then due against the said property shall first be paid and satisfied. All laws not in conflict with the provisions of this act relating to the enforcement of the payment of delinquent personal property taxes shall be applicable to all taxes levied under the provisions of this act. When any taxes levied under the provisions of this act shall become delinquent, the county treasurer charged with the duty of collecting such delinquent taxes shall proceed to collect same in the manner now provided by law for the collection of delinquent personal property taxes. Where collection is made by seizure and sale, the sale shall be at public auction held at the county court house.

§ 16. Whenever the Legislative Assembly shall provide by law for the payment of a per centum of gross earnings of any company which is subject to assessment under the provisions of this act, to be paid in lieu of taxes on the property and franchise of such company, the provisions of this act shall no longer be applicable to such company.

§ 17. REPEAL.] Sections 2097, 2114, 2145, 2146, 2247, 2249, 2250 and 2251 of the Compiled Laws of 1913, and Sections 2144 and 2248 of the Supplement to the Compiled Laws of 1913, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1931.

CHAPTER 292  
(S. B. No. 95—Fowler.)

**TAXATION GROSS RECEIPTS EXPRESS COMPANIES**

An Act imposing a tax on the gross receipts of express companies for the privilege of operating an express business in North Dakota, providing for the making of reports to the State Tax Commissioner and fixing penalty for failure or neglect to report; providing that such tax shall be a lieu tax, and repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. ANNUAL TAX.] For the privilege of exercising its franchise in this state, every domestic express company, and for the privilege of doing business in this state, every foreign express company, shall annually pay a tax to the state upon its gross receipts, as defined in Section 2 of this act, from the operation of its business over its lines or routes within this state of three-fourths of one ( $\frac{3}{4}$  of 1%) per cent of its total gross receipts within this state.

§ 2. DEFINITIONS.] Any corporation, association, partnership or person engaged in the business of conveying to, or from, or through this state, or any part thereof, money, packages, gold, silver plate or other property by express by means of passenger or mail trains, stage or motor bus lines shall be deemed and held to be an express company; provided, however, that railroad, steamship, bus and motor truck transportation companies shall not be deemed express companies. The word "company" as used in this act shall include any corporation, association, partnership or person engaged in the express business. The term "gross receipts" shall be understood to mean the total amount charged for transportation less uncollected revenue from transportation and before payment to any railroad company, or other company, of any amount for express privileges. When such express companies operate partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts from business beginning and ending within this state and all receipts earned in North Dakota on business passing through, into, or out of this state, provided that unless otherwise clearly shown, such last mentioned receipts shall be deemed to be that proportion of the total receipts from such business which the mileage within this state over which such business is done bears to the entire mileage over which such business is done.

§ 3. REPORTS OF EXPRESS COMPANIES.] Each express company shall on or before the first day of March in each year make and file with the Tax Commissioner in such form and upon such blanks as he may prescribe, a sworn statement of its gross receipts in the State of North Dakota during the preceding calendar year together with such other information as he may require. The State

Tax Commissioner may, in his discretion, grant extensions of time within which reports of express companies required under this act shall be filed.

§ 4. PENALTY.] If the return to be made by any express company under the provisions of Section 3 of this act is not made within twenty days after the time therein fixed, unless an extension of time is granted by the Tax Commissioner the company failing or refusing to make such return shall be liable to a penalty of fifty dollars (\$50.00) for each and every day thereafter during which said report shall be delayed. Such a penalty shall be assessed against the express company by the State Board of Equalization and shall be certified and collected in the manner herein provided for the assessment and collection of the tax.

§ 5. ASSESSMENT AND COLLECTION.] The total tax due from each express company shall be computed and determined by the Tax Commissioner from the annual return herein required or from any other information. The State Board of Equalization shall meet at the office of the State Tax Commissioner on or before the fourth Monday in April and assess and levy the tax as herein provided. The tax so determined and assessed shall be certified by the State Tax Commissioner to the State Treasurer for collection on or before the first day of May in each year. The tax shall be payable on the first day of June next following and if not paid shall become delinquent on the first day of July and thereupon a penalty of five per cent (5%) shall attach and be charged and interest at the rate of one per cent (1%) per month shall be charged after such taxes become delinquent.

§ 6. ARBITRARY ASSESSMENT.] Should any express company fail to make the report required by Section 3 on or before the first day of April in any year, the State Tax Commissioner shall, at such time as he may elect, and upon the best and most reliable information that can be procured, determine the gross receipts of such company within this state.

It shall be the duty of the Tax Commissioner to satisfy himself of the accuracy of the reports made by each express company, as provided in this act, and to correct any error or inaccuracy which he may discover therein. The records and books of account of express companies shall be subject to inspection and examination by the State Tax Commissioner or his duly authorized deputies or representatives.

In case a correction is made in the report of any company, or in case any express company fails to report, and the Tax Commissioner determines its gross receipts from the best and most reliable information that he can procure, the said Tax Commissioner shall certify his computations, and the data upon which they were based, to the State Board of Equalization, and he shall at the same time

advise such express company in writing of its tax so computed. Any express company feeling aggrieved at the amount of its tax so computed may file a petition for review with the Tax Commissioner as Secretary of the State Board of Equalization, stating its contention with regard thereto, and the Board shall forthwith set a date for hearing of which at least ten days notice to the company shall be given. At such hearing, the petitioning company and all parties interested shall be heard. After such hearing the Board of Equalization shall make a written order deciding the matter in disputes and shall determine the tax and the company may appeal from such order of the Board to the District Court in and for Burleigh County by serving notice of appeal upon the Tax Commissioner and filing the same with the Clerk of the Court, together with an undertaking in the sum of five hundred (\$500) dollars with such sureties as may be approved by the Clerk of District Court, conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against the appellant in District Court. Such undertaking shall be executed to the state and may be sued on in the name of the state. Such appeal shall be decided upon the record made before the Board which the Tax Commissioner shall certify to the Clerk of the District Court as soon as such notice of appeal has been filed. Such appeal may be heard by the Court without a jury and either party may appeal from a decision of such Court to the Supreme Court in the manner provided for appeals in civil cases.

§ 7. EXEMPTIONS FROM OTHER TAXATION.] The tax imposed by this act upon express companies for the privilege of doing business in this state shall be in lieu of all other taxes on property used exclusively in the operation of such business within this state, except that the real estate of such companies shall be subject to special assessments for local improvements. The tax imposed by this act shall also be in lieu of any franchise tax, income tax or excise tax except motor vehicle license and fuel taxes heretofore or hereafter imposed by law.

§ 8. All moneys collected under the provisions of this act shall be paid into the general fund of the state to be used in defraying the general expenses of the state government.

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

§ 10. EMERGENCY.] 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 10, 1931.

## CHAPTER 293

(S. B. No. 184—Bonzer and Magnuson.)

## TAXATION MUTUAL OR COOPERATIVE TELEPHONE COMPANIES

An Act imposing a tax upon the property of mutual or cooperative telephone companies operating in this state; providing for the making of reports to the State Tax Commissioner and fixing the penalty for failure or neglect to report; providing for apportioning such tax among the state, counties, cities, villages and other taxing districts; providing that such tax shall be a lieu tax and repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. DEFINITION.] For the purpose of this act the following definitions shall govern:

(a) The term "telephone company" as used in this act shall embrace mutual associations and other cooperative organizations engaged in the business of furnishing communication by telephone, the income of which chiefly consists of assessments, dues and fees collected from members for the purpose of meeting expenses, and which is not operated on a profit sharing basis.

(b) "Telephone operating receipts" shall consist of all revenue received for telephone service performed, including assessments collected from members of mutual associations or organizations in place of rentals.

§ 2. REPORTS OF TELEPHONE COMPANIES.] Each telephone company required to be assessed under the provisions of this act shall annually under oath of the president, secretary or other official of such company make and file with the State Tax Commissioner on or before May 1st on such form as the State Tax Commissioner may prescribe, a report containing a sworn statement of its telephone operating receipts in this state during the preceding calendar year and number of telephone instruments in service on December 31st preceding, together with such other information as the State Tax Commissioner may require.

§ 3. COMPUTATION OF TAXES BY STATE TAX COMMISSIONER.] On or before August 1st of each year the State Tax Commissioner shall compute the total tax to be assessed against such telephone company in this state, as follows:

The tax shall be fifty cents (50¢) for each telephone instrument used by such company in furnishing telephone service on December 31st preceding. This computation shall include telephone instruments owned by subscribers or members of such telephone company.

§ 4. ASSESSMENT BY STATE BOARD OF EQUALIZATION.] On or before the first Monday of September in each year, the State Board of Equalization shall, after considering the reports and computations of the State Tax Commissioner, make an assessment of the tax to be collected from each telephone company subject to the provisions of this act. The Board shall not increase the tax on any company beyond the sum computed by the State Tax Commissioner, except upon ten (10) days written notice to such company of the amount of proposed increase. Any company so notified may demand a hearing, which the Board shall grant forthwith.

§ 5. CERTIFICATION OF TAX.] The State Tax Commissioner shall certify to the county auditor of each county in which the company assessed owns property, the number of telephone instruments within the county belonging to the said company and the amount of tax to be collected from said company, as assessed by the State Board of Equalization.

§ 6. DUTIES OF COUNTY AUDITOR.] It shall be the duty of the county auditor after receiving such statement from the Tax Commissioner to certify such taxes to the county treasurer for collection at the same time real and personal property taxes are required to be so certified; such certification shall give the amount applicable to each taxing district in which the company owns property. The county auditor shall make such determination on the basis of the number of telephone instruments of the company in each assessment district.

§ 7. REPORTS TO COUNTY AUDITOR.] On or before the first day of May of each year, each telephone company subject to the provisions of this act, shall file with the county auditor in which any part of its operative property is located, a report giving the number of telephone instruments used by such reporting company in its telephone service in each assessment district as of December 31st preceding.

§ 8. ADMINISTRATIVE LAWS APPLICABLE.] The provisions of law applicable to the assessment, levy and collection of property taxes on the property of telephone companies other than those coming under the provisions of this act are hereby extended to and made applicable to those companies under the provisions of this act, except as otherwise herein provided.

§ 9. DISPOSITION OF REVENUE.] The amount collected under the provisions of this act shall be divided among the various funds upon the same pro rata basis as other taxes collected in such assessment districts are apportioned.

§ 10. PENALTY FOR FAILURE TO FURNISH STATEMENT.] In case any company refuses or neglects to make the reports required by this act, or refuses or neglects to furnish any information requested, the Tax Commissioner shall inform himself as best he may

on the facts necessary to be known in order to discharge his duties with respect to the taxation of the property of such company, and the tax shall be imposed upon the basis of such information; and the State Board of Equalization shall add a penalty not to exceed twenty-five cents (25¢) per telephone operated by such company for failure to make the required report, which shall be collected as a part of the tax.

§ 11. EXEMPTION FROM OTHER TAXATION.] The taxes imposed by this act shall be in lieu of any and all state, county, municipal, road or school taxes, licenses, or fees upon such telephone companies and their franchises, and upon all property of such companies, tangible and intangible, used or useful in telephone operations.

§ 12. CONFLICTING ACTS REPEALED.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 13. EMERGENCY.] This act is hereby declared to be an emergency and will take effect from and after its passage and approval.

Approved March 12, 1931.

---

## CHAPTER 294

(S. B. No. 132—Committee on Banks and Banking.)

---

### TAXATION STOCK OF BANKS AND TRUST COMPANIES

An Act amending and re-enacting Subdivision 3 of Section 2115, Supplement to the Compiled Laws of 1913, relating to the taxation of stock of banks and trust companies.

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

§ 1. AMENDMENT.] That Subdivision 3 of Section 2115, Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2115. (3) DEDUCTION OF REAL ESTATE AND PERSONAL PROPERTY TO ARRIVE AT TAXABLE VALUE OF SHARES OF STOCK.] Real estate owned by any bank or trust company shall be assessed and taxed as other real estate is under this article. Personal property of any bank or trust company, except furniture, fixtures and equipment, shall be returned in the name of the bank or trust company, and shall be assessed and taxed as other personal property is under this article. In determining the taxable value of the shares of stock of such corporation, the Tax Commissioner shall deduct the net amount of such corporation's investment in real estate and the net amount of its investment in taxed personal property from the aggregate amount of the capital stock, surplus and undivided profits, and the remainder shall be taken as the basis for valuation of such shares of stock in the hands of the stockholders subject to

the provisions of law requiring all property to be assessed at its true and full value, or such other provision of law as may be enacted at this or subsequent sessions of the Legislature classifying such property for assessment purposes.

In determining the net amount of such corporation's investment in real estate, no real estate which has been charged off nor any real estate not carried upon the books of such corporation as an asset shall be deductible.

To determine the amount which shall be considered as being invested in real estate, the Tax Commissioner shall also deduct from the total of such investment the amount of investments in real estate where the bank or trust company has sold the real estate under contract whereby the purchaser agrees to pay the taxes assessed against such property.

Approved March 11, 1931.

---

## CHAPTER 295

(H. B. No. 152—Johnson, Hausman and Northridge.)

---

### TAX EXEMPTION GRAIN AND SEED

**An Act to exempt from taxation grain and seed kept or stored on farm lands and upon premises used for agricultural purposes; requiring the taxation of grain and seed stored in public warehouses or upon other than farm lands or premises used for agricultural purposes; providing for the taxation of grain and seed kept for sale by persons engaged in the business of buying seed and grain for seed purposes; repealing conflicting statutory provisions and declaring an emergency.**

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

§ 1. All flax, wheat, oats, barley, corn, speltz, and other grains and seed of any nature, kind or variety kept or stored upon any farm lands or upon any premises used for agricultural purposes, shall be and the same are hereby exempted from taxation; provided, however, that grain and seed stored in any public warehouse or upon premises not used for agricultural purposes shall not be construed to be exempt from taxation but such grain or seed shall be taxed as provided in Sections 2256 and 2257 of the Compiled Laws of 1913.

§ 2. All grain or seed of any nature, kind or variety, held or kept for sale by any person, firm or corporation engaged in the business of buying and selling seed and grain for seed purposes shall be assessed and taxed as is other personal property.

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

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

Approved March 7, 1931.

---

CHAPTER 296

(S. B. No. 126—Renauld.)

**TAX EXEMPTION INDIAN WARDS OF U. S. GOVERNMENT**

An Act to amend and re-enact Subdivision 4 of Section 2078 of the Supplement to the Compiled Laws of 1913 relating to exemption from taxation of property of Indians who are wards of the United States Government, and declaring an emergency.

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

§ 1. That Subdivision 4 of Section 2078 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2078, Subdivision 4. Property of Indians where the title of such property is inalienable without the consent of the United States Secretary of the Interior, providing, however, that the provisions of this section shall not apply to any land that was not originally an Indian allotment or Indian homestead.

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

Approved March 11, 1931.

---

CHAPTER 297

(S. B. No. 91—Cain and Erickson.)

**TAX LEVY LIMITATIONS CITIES, VILLAGES AND SCHOOL DISTRICTS**

An Act to amend and re-enact Section 5 and Section 7 of Chapter 235 of the Session Laws of 1929, relating to the limitation of tax levies of cities, villages, and school districts, and repealing 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 5 of Chapter 235 of the Session Laws of North Dakota for the year 1929 be and the same is hereby amended and re-enacted to read as follows:

§ 5. CITY AND VILLAGE TAX LEVIES.] City and village taxes shall be levied by the city council or the village board of trustees, as the case may be, at the annual budget meeting of the city or village on the fourth Wednesday of July of each year or within ten days

thereafter. In levying city and village taxes the governing body of the municipality shall be limited by the amount necessary to raise to meet appropriations included in its annual budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality and to provide a sinking fund to pay and discharge the principal thereof at maturity.

(a) The aggregate amount levied for general village purposes shall not exceed such amount as will be produced by a levy of ten mills on the net taxable assessed valuation of property in the village.

(b) The aggregate amount levied for general city purposes shall not exceed such amount as will be produced by a levy of fourteen mills on the net taxable assessed valuation of property in the city.

(c) The foregoing limitations in this section shall not apply to:

(1) Taxes levied pursuant to the provisions of Section 3716 of the Supplement to the Compiled Laws of 1913, (or acts amendatory thereof) for the purpose of paying a deficiency in connection with a special improvement project.

(2) Nor to taxes levied pursuant to the provisions of Section 3723 of the Compiled Laws of 1913 for the purpose of paying a proportion of the cost of a special improvement project by general taxation;

(3) Nor to levies to pay interest on bonded debt and levies to pay and discharge the principal thereof at maturity.

(4) Nor to taxes levied for the purpose of paying any final judgment, or judgments, obtained against any city or village; provided, however, that the aggregate amount levied for the purpose of paying any final judgment, or judgments, obtained against any city or village shall not exceed such amount as will be produced by a levy of five (5) mills on the net taxable assessed valuation of property therein; and provided, further, that this section shall not be deemed or construed to modify, qualify or limit the authority of any city or village to issue bonds under the provisions of Subdivision (Subparagraph) seven (7) of Section 4 of Chapter 196 of the Session Laws of 1927 in case the governing body of any such city or village shall not deem it advisable to pay such judgment, or judgments, out of current revenues.

With the exception noted herein, the limitations prescribed in Paragraphs (a) and (b) of this section shall apply to all taxes which any village or city is authorized to levy.

§ 2. AMENDMENT.] That Section 7 of Chapter 235 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

§ 7. SCHOOL TAXES.] School district taxes shall be levied by the governing body of each school district on or before the last day of July of each year. Taxes for school district purposes shall be based upon an itemized budget statement which statement shall show the complete expenditure program of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The board of education or board of directors of each school district, whether common, independent or special, in levying taxes shall be limited by the amount necessary to raise for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the district and provide a sinking fund to pay and discharge the principal thereof at maturity.

(1) The aggregate amount levied by any school district, whether common, independent or special, shall not exceed such amount as will be produced by a levy of fourteen (14) mills on the dollar of the net assessed valuation of the district; provided, however, that any school district may levy not to exceed eighteen mills on the dollar of the net assessed valuation, if the excess, or such portion thereof as may be necessary, is to be used for the purpose of paying the tuition, as provided by law, of resident pupils who attend high school in another district, except that:

(2) Any school district giving two years of standard high school work may levy taxes not to exceed sixteen (16) mills, and;

(3) Any school district giving four years of standard high school work may levy not to exceed eighteen (18) mills, and;

(4) Any school district maintaining a consolidated school may levy not to exceed sixteen (16) mills on the dollar of its net taxable valuation.

(5) The governing body of any school district may levy taxes annually for a school building fund not in excess of one mill annually and not in excess of the limitations prescribed in this Section and Section 13, when authorized to do so by 60% of electors voting upon the question at a regular or special election. Such fund shall be used exclusively for erecting school buildings. All amounts received from such levy shall be kept in a special fund and such fund shall be known as a school building fund. Such fund may be used in connection with the proceeds of any bond issue made for the same purpose. It shall be illegal to use such fund or any part thereof for any purpose except for the purposes for which the fund was created. Such fund shall be subject to all requirements which now govern the sinking fund of any such school district and shall be retained by or deposited with the custodian of the sinking funds of the district. All payments from such fund shall be upon warrant of

the proper fiscal officer of the district for whose benefit the tax was levied. Whoever uses or authorizes to be used such fund or any part thereof for any purpose except the purposes for which the fund was created shall be liable therefor and upon his official bond. If any unexpended balance of such fund is no longer needed for the purpose for which the fund was created or the project is abandoned, such balance shall be transferred to the general fund of the municipality or to the sinking fund or funds of the municipality as directed by the governing board. No such transfer shall be made until the object of the levy is satisfied or abandoned.

(6) The foregoing limitations shall not apply to levies for the purpose of paying interest on bonded debt nor to levies made to pay and discharge the principal thereof at maturity; nor to taxes levied for the purpose of paying any final judgment, or judgments, obtained against any school district; provided, however, that the aggregate amount levied for the purpose of paying any final judgment, or judgments, obtained against any school district shall not exceed such amount as will be produced by a levy of five (5) mills on the net taxable assessed valuation of property therein, and provided further, that this Section shall not be deemed, or construed, to modify, qualify or limit the authority of any school district to issue bonds under the provisions of subdivision (sub-paragraph) seven (7) of Section 4 of Chapter 196 of the Session Laws of 1927, in case the governing body of any such school district shall not deem it advisable to pay such judgment, or judgments, out of current revenues.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] 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 February 24, 1931.

#### CHAPTER 298

(H. B. No. 171—Traynor.)

#### TAX SALE CERTIFICATES

An Act relating to the issuance of tax sale certificates; the payment of subsequent taxes; the issuance of subsequent tax sale certificates; the redemption of real estate from tax sale and redemption of real estate taxes paid as subsequent; amending and re-enacting Sections 2192 and 2197 of the Supplement to the Compiled Laws of 1913 and repealing all acts and parts of acts in conflict herewith.

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

§ 1. Section 2192 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2192. CERTIFICATE OF SALE. ASSIGNMENTS FILED. SUBSEQUENT PAYMENTS. SUBSEQUENT TAX SALE CERTIFICATES.] (a) The purchasers of any tract of real property sold by the County Auditor for taxes shall be entitled to a certificate describing the land so purchased, stating the sum paid and the time when the purchaser will be entitled to a deed, which certificate shall be signed by the County Auditor in his official capacity and shall be presumptive evidence of the regularity of all prior proceedings. The owner of such tax sale certificate shall be entitled to a tax deed three (3) years from the date of tax sale upon the giving of the statutory notice of expiration of period or redemption.

The County Auditor shall execute to the purchaser a certificate of sale which certificate shall be substantially in the following form:

COUNTY CERTIFICATE OF SALE FOR TAXES

I,.....Auditor for the County of..... in the State of North Dakota, do hereby certify that the following described real estate in said County and State, to-wit: (describing the same), was on the.....day of.....A. D. 19....., sold by me in the manner provided by law for the delinquent taxes of the year.....thereon, amounting to.....dollars, including interest and penalty thereon, and the costs allowed by law to.....for the sum of.....dollars, he being the bidder who agreed to accept the lowest rate of interest thereon from the date of sale on the amount of such taxes, penalties and costs as paid by him, and that said rate of interest which said purchaser so agreed to accept was.....per cent per annum.

And I further certify that unless redemption is made of said real estate in the manner provided by law the said..... or assignee will be entitled to a deed therefor on and after the..... day of.....A. D.....on the surrender of this certificate.

In Witness Whereof, I have hereunto set my hand and seal this.....day of.....A. D. 19.....

(SEAL)

.....  
Auditor

(b) Such certificate shall be assignable, and the assignee shall acquire all of the rights of the original purchaser of the real property described therein. He may present the assigned certificate to the County Auditor for entry and such Auditor shall enter on the record of such sale the fact that the certificate has been assigned, entering the name and address of the assignee and the date when such assignment was presented for such entry.

(c) The owner of a tax sale certificate may pay the taxes upon the property described in such tax sale certificate for any subsequent year at any time after the second installment of taxes becomes

delinquent. Upon payment of any such taxes with accrued interest and penalty thereon into the County Treasury, the County Auditor shall issue to the person entitled thereto a certificate which shall be known as a "subsequent tax sale certificate". Such subsequent tax sale certificate shall describe the premises upon which taxes were paid as subsequent; the number of the original tax sale certificate, that the person to whom the subsequent tax sale certificate is issued has the right to pay taxes as subsequent, either by virtue of being the holder and owner of an unredeemed tax sale certificate or an unredeemed subsequent tax sale certificate. The subsequent tax sale certificate shall also recite that by virtue of the payment of such subsequent taxes the person paying the same will be entitled to a tax deed of said property at the expiration of three (3) years from the date of tax sale at which said property would have been sold for taxes, in case said taxes had not been paid as subsequent, unless the same is redeemed by the payment of the amount set forth in such subsequent tax sale certificate together with interest thereon at the rate of three-fourths (3-4) of one (1) per cent per month from the date of such certificate.

A subsequent tax sale certificate shall have the effect of conveying all the rights, interest, privilege and title which would be conveyed by an original certificate of tax sale issued pursuant to the regular Auditor's tax sale. The owner of the subsequent tax sale certificate shall be entitled to a deed three (3) years from the date of tax sale at which the real estate described in such certificate would have been sold for taxes in case said taxes had not been paid as subsequent upon giving of the statutory notice of expiration of period of redemption. The procedure prescribed by Section 2223 of the Supplement to the Compiled Law of 1913 shall be followed, and in case redemption is not made, tax deed shall be issued in the same manner and with the same force and effect as though issued under an original tax sale certificate issued pursuant to a regularly conducted tax sale.

At all tax sales made as provided herein, except in case of purchase by the County, the County Treasurer shall make out a tax receipt in duplicate and shall write thereon the words "Sold for Taxes". The same record of subsequent tax sale certificates shall be kept by the County Auditor as is kept for tax sale certificates.

The owner of the subsequent tax sale certificate may pay the taxes for any subsequent year at any time after they become delinquent and upon such payment the County Auditor shall execute to him a subsequent tax sale certificate in form similar to the form set forth with only such change in the wording as is appropriate to state the fact that such payment was made as the owner of a subsequent tax sale certificate and not the owner of a tax sale certificate. Such subsequent tax sale certificate may be substantially in the following form:

## SUBSEQUENT TAX SALE CERTIFICATE

.....County, North Dakota.  
 I,.....County Auditor of.....County in  
 the State of North Dakota do hereby certify that at the annual tax  
 sale of real estate held on the.....day of December, 19.....the fol-  
 lowing described real estate was sold for the taxes of the year.....  
 to.....of.....for the aggregate sum of  
 ..... (\$.....) Dollars, and there was is-  
 sued to such purchaser tax sale certificate No.....; and that  
 thereafter, the owner of said tax sale certificate paid subsequent  
 taxes upon said real estate for the year.....which payment  
 was made on.....and it is hereby certified that there  
 is due him on account of subsequent taxes for said year, the sum  
 of..... (\$.....) Dollars, together with in-  
 terest at nine per cent (9%) per annum from.....,  
 and that unless redemption be made from this subsequent tax sale  
 certificate within three (3) years from December....., 19.....,  
 he will be entitled after due notice given, to a tax deed conveying to  
 him the said real estate.

Given under my hand and the Seal of the County Auditor of  
 ..... County, North Dakota, this.....day of.....  
 19.....

.....  
 County Auditor of.....County

### § 2. ISSUANCE OF SUBSEQUENT TAX SALE CERTIFICATE TO THE COUNTY:

(a) Subsequent tax sale certificates shall be issued to the  
 County annually as to all real property upon which the County is  
 holding the original certificate of tax sale or any subsequent tax  
 sale certificate. Such certificates shall be issued as of the date of  
 the annual tax sale. Subsequent tax sale certificates issued to the  
 County shall have the effect to convey all the rights, interest, priv-  
 ileges and title conveyed by an original certificate of tax sale issued  
 pursuant to the regular annual Auditor's tax sale. The County  
 shall be entitled to a tax deed three (3) years from the date of tax  
 sale at which the real estate described in such certificate would have  
 been sold for such taxes, in case said taxes had not been paid as  
 subsequent, upon giving the statutory notice of expiration of period  
 of redemption. In case redemption is not made tax deed shall be is-  
 sued in the same manner and with the same force and effect as  
 though issued under an original tax sale certificate, pursuant to a  
 regularly conducted tax sale.

(b) Subsequent tax sale certificates issued to the County shall  
 conform as nearly as may be to the form above set forth.

§ 3. That Section 2197 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2197. REDEMPTION OF REAL ESTATE.] Any original tax sale certificate may be redeemed at any time within three (3) years from the date of sale by any person or corporation having an interest in the real estate sold for taxes and described in such certificate, who shall pay into the treasury of the County for the credit of the person entitled thereto, the amount paid by the purchaser at the time of sale together with a penalty of three (3) per cent and interest thereon at the rate specified in such certificate of sale. Any subsequent tax sale certificate may be redeemed at any time within three (3) years from the date of tax sale at which the real estate described therein would have been sold for such taxes, in case said taxes had not been paid as subsequent. Redemption may be made by any person or corporation having an interest in such real estate by paying the amount of such subsequent certificate together with interest at the rate of three-fourths (3-4) of one (1) per cent per month from the date thereof; provided, however, that subsequent tax sale certificates must be redeemed in the order in which they were issued and provided, further, that any tax sale certificate, original or subsequent, may be redeemed by any person or corporation having an interest in the land described in such certificate at any time prior to the issuance of a tax deed. In case any piece or parcel of land has been struck off to the County at a tax sale any person or corporation having an interest in the real estate thus struck off to the County shall have the same right of redemption from the County, and upon the same terms, as from a purchaser at a tax sale or from the holder of a subsequent tax sale certificate. The County Auditor shall certify to the amount due upon redemption, and on payment of the same to the County Treasurer, the said Treasurer shall make duplicate receipts for the certified amount, describing the property redeemed, one of which receipts shall be filed with the County Auditor, which shall have the effect of annulling the sale. If the amount so paid for the purpose of redemption be less than required by law it shall not invalidate such redemption but the County Auditor shall be liable for the deficiency to the person entitled thereto, and shall personally have the right of action against the person redeeming to recover from him the amount of such deficiency.

Minors, insane persons or persons in captivity, or in any country with which the United States is at war, having an estate in, or liens on lands sold for taxes, may redeem the same within three (3) years after such disability ceases; but in such cases the right to redeem must be established in a suit for that purpose, brought against the party holding the title under sale. Any person who has or claims an interest in, or lien upon, any undivided estate in any piece or parcel of land sold, may redeem such undivided estate by paying

to the County Treasurer a proportionate part of the amount required to redeem the whole and in such case the certificate of redemption shall express the estate or interest redeemed.

Approved March 9, 1931.

---

## TOURIST CAMPS

---

### CHAPTER 299

(H. B. No. 227—Baseflug.)

---

#### REGULATION TOURIST CAMPS

**An Act to license and regulate tourist camps; to give to the owners or keepers thereof liens in certain cases and prescribe the manner in which the same may be enforced; empowering the State Food Commissioner to issue licenses to operate such camps, and to revoke the same; authorizing the State Food Commissioner to make rules and regulations relating to the operation of such camps, and prescribing penalties for violation of this act or of the rules and regulations of the Food Commissioner.**

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

§ 1. DEFINITION.] The words "Tourist Camp" as used in this act shall be construed to mean any plot of land used, maintained or held out to the public as a place for use for camping purposes by transient guests, whether equipped with tents, tent-houses, huts or cottages, or not so equipped, and by whatever name the same may be called, and whether any fee is charged for the use thereof or not.

§ 2. LICENSE, PENALTY FOR OPERATION WITHOUT LICENSE.] No person, firm or corporation, municipal or private, shall establish or maintain any tourist camp in this State without first obtaining a license therefor from the State Food Commissioner, and the State Food Commissioner shall have the power to revoke any license issued upon the failure of the holder thereof to comply with the provisions of this Act, or any other law, or any of the rules and regulations made and promulgated by the State Food Commissioner under authority of this Act. Any person, the members of any firm, and the officers of any corporation, private or municipal, who shall maintain or operate a tourist camp without first obtaining such license, or who shall operate the same after the revocation of such license, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars, or imprisonment in the county jail not exceeding ninety days, or both such fine and imprisonment.

§ 3. APPLICATION FOR LICENSE.] Application for such license shall be made in writing to the State Food Commissioner.