

STATE OF NORTH DAKOTA.

---

JOURNAL OF THE HOUSE

OF THE

# Fourth Legislative Assembly

BEGUN AND HELD AT THE

CAPITOL AT BISMARCK,

January 8, 1895, to March 8, 1895.

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BISMARCK, N. D.  
TRIBUNE, PRINTERS AND BINDERS.  
1895.



# MEMBERS AND OFFICERS

OF THE

## House of Representatives of North Dakota

FOR THE

FOURTH LEGISLATIVE ASSEMBLY, 1895.

### MEMBERS.

District.	NAME.	County.	Postoffice.
26	Armstrong, H. A.	Emmons	Williamsport
1	+Blacklock, Jas. T.	Pembina	Hamilton
25	+Brainard, Frank W.	Dickey	Oakes
14	Brown, Morris F.	Ransom	Plymouth
10	Colby, N. A.	Cass	Grandin
6	Colosky, Jos.	Grand Forks	Manvel
16	Cooper, Kollin C.	Griggs	Cooperstown
13	+Cryan, John	Sargent	Genesco
12	Dwyer, F. L.	Richland	Hankinson
9	Edwards, A. W.	Cass	Fargo
2	+Evolffson, Stephen	Pembina	Hamilton
18	*Flack, John	Cavalier	Milton
4	Fleming, Wm.	Walsh	Grafton
10	Gilbertson, E.	Cass	Hickson
10	Gill, J. C.	Cass	Gill
23	Gleason, E. J.	Stutsman	Spiritwood
2	*Guinan, Thomas	Pembina	Hensley
14	Gunderson, Erick	Ransom	Buttzville
7	Hancock, Henry	Grand Forks	Emerado
11	Hanna, L. B.	Cass	Page
8	Herbrandson, Peter	Traill	Caledonia
4	Hill, George	Walsh	Ardock
13	+Hodgson, John E.	Sargent	Harlem
30	Holritz, Fred	Morton	Sims
1	*Horgan, Patrick	Pembina	Neche
18	*Jennings, James	Cavalier	Langdon
3	Kellogg, A. H.	Walsh	Medford
30	Kroeger, Herman	Morton	New Salem
5	Korsmo, Peter N.	Grand Forks	Northwood
8	Lerom, John I.	Traill	Buxton
20	Lindstrom, C. L.	Benson	Oberon
15	+Logan, John	Barnes	Alderman
22	McLachlan, Chas.	Eddy	New Rockford
19	McDonald, A. B.	Rolette	Cando
29	Murphy, John S.	Williams	White Earth
5	Myers, Joseph A.	Grand Forks	Inkster
8	Nelson, T. E.	Traill	Hatton
23	Nierling, J. J.	Stutsman	Jamestown
22	Porter, Ed. F.	Foster	Melville
21	Prosser, Frank H.	Ramsey	Devils Lake
12	Purdon, James	Richland	Wahpeton
15	*Rasmussen, Nels P.	Barnes	Valley City

\* Democrat; † Independent and Populist.

MEMBERS—Continued.

District.	NAME.	County.	Postoffice.
17	Ray, Linn B.	Nelson	Petersburg
27	Richards, Thomas	Burleigh	McKenzie
3	†Rinde, N. H.	Walsh	Dundee
26	Roberts, Geo. S.	Kidder	Steele
4	Rod, Ole A.	Walsh	Grafton
11	Sargent, E. C.	Cass	Armenia
24	Sharp, J. B.	LaMoure	Kulm
31	Simpson, L. A.	Stark	Dickinson
25	*Smith, Andrew	Dickey	Yorktown
27	Spangberg, M.	Burleigh	Bismarck
12	Stafne, Eric	Richland	Abercrombie
23	Svensrud, Anton	Bottineau	Bottineau
16	Swenson, Nicolai	Steele	Cooperstown
20	Tofsrud, O. T.	Pierce	Rugby
10	Twichell, T.	Cass	Mapleton
9	Tvler, E. S.	Cass	Fargo
21	Walker, R. J.	Ramsey	Devils Lake
8	Wallin, O. S.	Trail	Portland
6	Wood, W. B.	Grand Forks	Grand Forks
7	Wineman, J. B.	Grand Forks	Grand Forks

OFFICERS.



*Speaker*—JAMES C. GILL.

*Chief Clerk*—J. M. DEVINE.

*Assistant Clerk*—H. E. LAVAYEA.

*Sergeant-at-Arms*—FRED SNORE.

*Engrossing and Enrolling Clerk*—JORGEN HOWARD.

*Bill Clerk*—VIVIAN MORGAN.

*Journal Clerk*—CHARLES S. BUCK.

*Doorkeeper*—HERBERT BARTON.

*Messenger*—O. A. BOYNTON.

*Postmaster*—DAVID MILLER.

*Stenographer*—MISS BESSIE WAGGONER.

*Clerk Committee on Judiciary*—M. MALLOY.

*Chaplain*—REV. A. DURRIE.

*Watchman*—THOMAS FARRINGTON.

*Pages*—THOS. CONROY, BERT ALLEN, JOHN PETERSON, CHARLES BENEDICT.

# Journal of the House.

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## FOURTH SESSION.

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### FIRST DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,

January 8, 1895.

At the hour of 12 o'clock meridian on Tuesday, the 8th day of January, A. D. 1895, being the day and hour designated by law for the convening of the Legislative Assembly of the State of North Dakota, the members elect of the House of Representatives of the Fourth Session of the Legislative Assembly of the State of North Dakota, assembled in the Capitol at Bismarck, and were called to order by J. G. Hamilton, the Chief Clerk of the Third Session of the Legislative Assembly of the State of North Dakota.

The session was opened with prayer by the Rev. Wm. M. Spoor, of Bismarck.

The roll being called the following members responded to their names:

First District—Jas. T. Blacklock and Patrick J. Horgan.

Second District—Stephen Eyolfson and Thos. Guinan.

Third District—A. H. Kellogg and N. H. Rinde,

Fourth District—Ole A. Rod, George Hill and William Fleming.

Fifth District—Joseph A. Myers and Peter A. Korsmo.

Sixth District—Joseph Colosky and W. B. Wood.  
 Seventh District—J. B. Wineman and Henry Hancock.  
 Eighth District—Peter Herbrandson, John I. Lerom, T. E. Nelson and O. S. Wallin.  
 Ninth District—Evan S. Tyler and Alanson W. Edwards.  
 Tenth District—N. A. Colby, T. Twichell and Egbert Gilbertson.  
 Eleventh District—J. C. Gill, and L. B. Hanna and E. C. Sargent.  
 Twelfth District—Erick Stafne, James Purdon and F. L. Dwyer.  
 Thirteenth District—John E. Hodgson and John Cryan.  
 Fourteenth District—Erick Gunderson and Morris F. Brown.  
 Fifteenth District—Nels P. Rasmussen and John A. Logan.  
 Sixteenth District—Nicolai Swenson and Rollin C. Cooper.  
 Seventeenth District—Linn B. Ray.  
 Eighteenth District—John Flack and James Jennings.  
 Nineteenth District—A. B. McDonald.  
 Twentieth District—C. L. Lindstrom and O. T. Tofsrud.  
 Twenty-first District—R. J. Walker and Frank H. Prosser.  
 Twenty-second District—Chas. McLachlan and Ed. F. Porter.  
 Twenty-third District—J. J. Nierling and E. J. Gleason.  
 Twenty-fourth District—J. B. Sharpe.  
 Twenty-fifth District—Andrew G. Smith and Frank W. Brainard.  
 Twenty-sixth District—H. A. Armstrong and Geo. S. Roberts.  
 Twenty-seventh District—Thomas Richards and M. Spanberg.  
 Twenty-eighth District—Anton Svensrud.  
 Twenty-ninth District—John S. Murphy.  
 Thirtieth District—Herman Kroeger and Fred Holritz.  
 Thirty-first District—Leslie A. Simpson.  
 The oath of office, administered by the Hon. J. M. Bartholomew, a Judge of the Supreme Court of the State of North Dakota, was then taken and subscribed by the members-elect.

The House proceeded to its organization.

Mr. Prosser nominated the Hon. James C. Gill, of Cass County, as speaker.

Messrs. Edwards, Cooper, Hodgson, Simpson and Svensrud seconded the nomination.

The roll being called, there were 60 votes cast, of which Mr. Gill received 60, and was declared the duly elected Speaker of the House.

Those who voted for Mr. Gill were:

Messrs Armstrong, Blacklock, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna Herbrandson,

Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Sprangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood.

Absent and not voting:

Messrs. Flack and Gill.

Mr Simpson moved

That the House proceed to complete its organization and that the nominations be made in the order prescribed in the Legislative Manual of 1893.

Which motion prevailed.

Mr. Cooper nominated Hon. J. M. Devine, of LaMoure County, as Chief Clerk of the House.

Messrs. Sharpe, Logan and McLachlan seconded the nomination.

The roll being called, there were 60 votes cast, of which Mr. Devine received 60 votes and was declared the duly elected Chief Clerk of the House.

Those who voted for Mr. Devine were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Eyolfson, Flack, Fleming, Gilbertson, Gleason, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Edwards and Guinan.

Mr. Wineman nominated H. E. Lavayea, of Grand Forks county, for Assistant Clerk of the House.

The roll being called there were 59 votes cast, of which Mr. Lavayea received 59 votes, and was declared the duly elected Assistant Clerk of the House.

Those who voted for Mr. Lavayea were:

Messrs. Armstrong, Blacklock, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards,

Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Brainard, Flack and Jennings.

Mr. Wallin nominated Jorgen Howard, of Traill county, for Chief Enrolling and Engrossing Clerk.

The roll being called there were 61 votes cast, of which Mr. Howard received 61 votes, and was declared duly elected Chief Enrolling and Engrossing Clerk.

Those who voted for Mr. Howard were:

Messrs. Armstrong, Blacklock, Brainard, Colby, Colosky, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Mr. Brown.

Mr. Stafne nominated Vivian Morgan, of Richland County, as Bill Clerk.

The roll being called, there were 57 votes cast, of which Mr. Morgan received 57 votes and was declared the duly elected Bill Clerk.

Those who voted for Mr. Morgan were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colosky, Cooper, Cryan, Dwyer, Edwards, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Colby, Eyolfson, Jennings, Murphy and Myers.

Mr. Richards nominated Miss Bessie Waggoner of Burleigh County, for Stenographer of the House.

The roll being called, there were 61 votes cast, of which Miss

Bessie Waggoner received 61 votes and declared duly elected Stenographer of the House.

Those who voted for Miss Waggoner were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Eylofson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlin, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Torsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Mr. Edwards.

Mr. Lindstrom nominated Fred Snore of Benson County, as Sergeant at Arms of the House.

The roll being called, there were 60 votes cast, of which Mr. Snore received 60 votes and was declared the duly elected Sergeant at Arms of the House.

Those who voted for Mr. Snore were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Cooper, Cryan, Dwyer, Eylofson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker,

Absent and not voting:

Messrs. Colosky and Edwards.

Mr. Nierling nominated O. A. Boynton, of Stutsman County, for Messenger.

The roll being called, there were 60 votes cast, of which Mr. Boynton received 60 votes and was declared duly elected Messenger.

Those who voted for Mr. Boynton were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Eylofson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen,

Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Edwards and Jennings.

Mr. Simpson nominated Thomas Farrington, of Mercer County, as Watchman of the House.

The roll being called there were 56 votes cast, of which Mr. Farrington received 56 votes, and was declared the duly elected Watchman of the House.

Those who voted for Mr. Farrington were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz Horgan, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Tofsrud, Twichell, Tyler, Walker, Wallin, Wood and Mr. Speaker,

Absent and not voting:

Messrs. Edwards, Eyolfson, Flack, Jennings, Swenson and Wineman.

Mr. Murphy nominated Herbert Barton for Doorkeeper.

The roll being called, there were 59 votes cast, of which Mr. Barton received 59 votes, and was declared duly elected Doorkeeper.

Those voting for Mr. Barton were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Eyolfson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Sveusrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Edwards, Ray and Wineman.

#### COMMITTEE FROM THE SENATE.

A Committee of the Senate announced through Senator Arnold that the Senate was organized and ready to receive any messages that the House desired to transmit.

Mr. Svensrud nominated David Miller as Postmaster of the House.

The roll being called, there were 56 votes cast, of which Mr. Miller received 56 votes and was declared the duly elected Postmaster of the House.

Those who voted for Mr. Miller were:

Messrs. Blacklock, Brainard, Colby, Colosky, Cooper, Cryan, Dwyer, Fleming, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Armstrong, Brown, Edwards, Eyolfson, Flack and Gilbertson.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Jan. 8, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate for the Fourth Session of the Legislative Assembly of the State of North Dakota has been organized with the following officers and is now ready for the transaction of business:

President Pro-tem—Hon. John E. Haggart.

Secretary—Fred Falley.

Assistant Secretary—J. O. Smith.

Engrossing and Enrolling Clerk—G. S. Reishus.

Bill Clerk—J. C. Warnock.

Stenographer—R. M. Tuttle.

Sergeant-at-Arms—L. L. Walton.

Assistant-Sergeant at-Arms—Erick Gilbertson.

Doorkeeper—R. D. Marshall.

Messenger—G. W. Strom.

Postmaster—A. A. Hall.

Chaplain—Rev. G. A. Chambers.

Janitor—D. McGarvey.

Clerk of Committee on Judiciary, M. A. Shirley.

Clerk of Committee on Appropriations, Lee Mitchell.

Journal Clerk, Miss Annie Nelson.

Pages—Wm. Morris, Harry McLean and Eddie Murphy.

FRED FALLEY,

Secretary

Mr. Richards nominated Rev. A. Durrie, of Bismarck, for Chaplain.

The roll being called, there were 54 votes cast of which Mr. Durrie received 54 votes, and was declared duly elected Chaplain for the House.

Those who voted for Mr. Durrie were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colosky, Cooper, Cryan, Dwyer, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Colby, Edwards, Eylofson, Flack, Fleming, Herbrandson, Hill, Wineman and Walker.

Mr. Murphy nominated Hon. R. N. Stevens, of Burleigh County, as Clerk of the Judiciary Committee.

Mr. Logan moved

That the election of the Clerk of the Judiciary Committee be postponed,

Which motion prevailed.

Mr. Murphy stated on behalf of Mr. Stevens that he was not a candidate for Clerk of the Judiciary Committee, as it would conflict with other duties and desired to withdraw his name from nomination.

Mr. McLachlan nominated Charles S. Buck as Journal Clerk of the House.

The roll being called, there were 53 votes cast, of which Mr. Buck received 53 votes and was declared the duly elected Journal Clerk of the House.

Those who voted for Mr. Buck were:

Messrs. Armstrong, Brainard, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Eylofson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Herbrandson, Hill, Holritz, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, McLachlan, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Ray,

Richards, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Spangberg, Stafne, Svensrd, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Absent and not voting:

Messrs. Blacklock, Edwards, Hodgson, Horgan, Jennings, Logan, McDonald, Rasmussen and Smith.

Mr. Lindstrom moved

That the election of pages be deferred until tomorrow,  
Which motion prevailed.

Mr. Simpson moved

That the rules of the House of the Third Legislative Assembly be adopted as the temporary rules of the House until otherwise ordered.

Which motion prevailed.

Mr. Logan moved

That the Speaker appoint a committee of seven on rules,  
Which motion was lost.

Mr. Colby rose to a question of privilege, and stated that he was absent while the voting for Speaker took place and desired to have his vote recorded for J. C. Gill for Speaker, and moved that the rules be suspended and that his vote be so recorded.

Which motion prevailed and his vote was so recorded.

Mr. Simpson moved

That the Speaker appoint a Committee of five to wait upon the Senate and notify that body that the House is organized and ready for the transaction of business.

Which motion prevailed and

The Speaker appointed as such Committee Messrs. Simpson, Gleason, Hodgson, Jennings and Sargent.

Also,

That the Speaker appoint a similar Committee to wait upon the Governor elect and retiring Governor and notify them that the House was organized and ready to receive any message or communication from them.

Which motion prevailed and

The Speaker appointed as such Committee Messrs. Edwards, Cooper, Walker, Blacklock and Rasmussen.

The Committee reported by Mr. Edwards that the Governor had designated the hour of 2 o'clock p. m. of Wednesday, the 9th day of January, when they would be ready to meet the Houses in Joint Session to present the message of the retiring Governor and the inaugural address of the Governor elect.

Mr. Sharp moved

That J. G. Hamilton be requested to act as Chief Clerk of the

House until such time as the Chief Clerk elect shall qualify,

Which motion prevailed.

Mr. Hodgson moved

That when the House adjourn, it adjourn to meet at 1:30 p. m. tomorrow,

Which motion prevailed.

Mr. Prosser moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. G. HAMILTON,  
Acting Chief Clerk.

## SECOND DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA.  
January 9th, 1895.

The House assembled at 1:30 p. m. pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present,

Excepting Mr. Herbrandson, who was excused.

The Speaker appointed the following to act as temporary Pages of the House:

John Peterson, of Burleigh, Thomas Conroy, of Morton, Chas. Benedict, of Richland and Bert Allin, of Cass.

Mr. Wallin requested that Mr. Herbrandson be excused on account of sickness,

Which request was granted.

The Sergeant at Arms announced the members of the Senate and the officers thereof in waiting.

## JOINT SESSION.

The Joint Session of the two houses was called to order by the President of the Senate.

The roll of the members of the Senate was then called by the Secretary of the Senate.

All the members being present excepting Mr. Sorley.

The roll of the members of the House was then called by the Chief Clerk of the House.

All the members present excepting Mr. Herbrandson, who was excused.

Senator Little moved

That a committee of five, consisting of two Senators and three House members, be appointed by the President to wait upon the retiring and Governor-elect, and invite them to deliver their respective messages to the Joint Session.

Which motion prevailed.

The President appointed as such committee Senators Little and White, and Messrs. Murphy, Simpson and Hodgson, of the House.

The committee appointed to wait upon Governors Shortridge and Allin, returned escorting the Governors.

The President introduced the Hon. Eli C. D. Shortridge, the retiring Governor, to the Joint Session,

#### GOVERNOR SHORTRIDGE'S MESSAGE.

Hon. Eli C. D. Shortridge arose and proceeded to read his message.

*Gentlemen of the Senate and House of Representatives :*

You have assembled for the transaction of such business as may be necessary to the welfare of the people whom you represent. Within the domain of legislative authority your will is supreme. The duty of the Executive in respect to legislation is merely advisory, as he can only make such recommendations or suggestions as he may deem expedient. Upon you devolves a grave responsibility, and it behooves you to proceed with the utmost caution in the execution of the public trust committed to your custody. Your action during this session of the General Assembly will provoke praise or censure as it approaches to or recedes from the principles of right and justice. The promotion of the common good should be your sole aim and object, and any proposed legislation that will not be conducive to that end should receive your prompt and emphatic condemnation. You bear your commissions from a brave, honest and intelligent people, which should inspire you with a determination to execute their will in a fearless and faithful manner. The acceptance or rejection of any measure that may be submitted for your consideration should be preceded by the most careful thought and analysis, so that your action in that

respect shall command the sanction of public approval. Hasty legislation is one of the growing evils of legislative bodies, and should be studiously avoided. In order that no ill-advised laws may creep into the body of our statutes, you should proceed at once to the consideration of those subjects which concern the public, and to which your attention will especially be called by the Governor-elect.

You have assumed the responsibility of legislators under the most critical and trying period of our State's history. The effect of wrongful legislation in the adoption of our State Constitution, and the laws enacted in pursuance thereof, is now being felt for the first time in full force, and it will devolve upon you to correct and remedy existing conditions, and in so doing your statesmanship and good judgment will be fully tested.

Much of our past legislation has been reckless, hasty and ill-advised, to say the least of it; and it is to be hoped, for the honor of the State and the credit of this legislative body, that many practices that have characterized our legislatures in the past will be omitted by you.

On assuming the executive chair two years ago, I could make no specific recommendations in my message to the Legislature, for the reason that I was not in possession of the reports of retiring officers, which left me without data or information as to the condition of our State affairs. In the present case, however, the Governor-elect is in possession of these reports, and will no doubt give you an outline of the policy that should be pursued by the incoming administration, with such recommendations as his judgment may suggest.

I therefore confine myself to a few suggestions based upon observation and experience in the execution of existing laws, which I trust may aid you in the discharge of your duties as legislators.

#### ECONOMY.

Economy and reform in our State affairs is absolutely necessary at the present time, and can easily be effected when the Legislative, Executive and Judicial powers of the Government are united, as they are in the hands of the present State administration. The people will expect much of you, and it is to be hoped that they may not be disappointed.

#### FINANCES.

The present financial condition of the State is not satisfactory, and is the result of the excessive number of State Institutions authorized by our Constitution and brought into existence by Legislative enactments. Others of like character will no doubt claim recognition at your hands at an early day.

## BONDS.

The bonded indebtedness of the State is limited by our Constitution to two hundred thousand dollars over and above the six hundred and forty-five thousand dollars assumed by the State as our share of the Territorial debt, making a total bonded indebtedness at the present time of \$845,807.46, provided the limit of the State bonded indebtedness of \$200,000 has been reached.

The issuance of bonds authorized by Legislative enactments under our Constitutional limitation is as follows:

Chapter 28 of the laws of 1890 authorized the issuance of bonds to the amount of \$200,000 "to defray the extraordinary expenses of the State Government." One hundred and fifty thousand of these bonds were issued under Governor Miller's administration, April 25th, 1890, and sold at a fair premium, and applied to revenue account. The other \$50,000, authorized by said act, has never been issued.

Chapter 89 of the laws of 1891, authorizes the Board of Directors of the Mayville and Valley City Normal Schools to issue bonds for building purposes to the amount of \$20,000 each.

These bonds were issued, sold and proceeds applied in the construction of school buildings as authorized by said act. Said bonds run twenty years from date of issue, at six per cent. interest and principal, payable from sale, rental, interest and income of lands granted said schools for educational purposes. The State has paid interest on these bonds to date, though they have in no other way been recognized as State bonds.

Chapter 29 of the laws of 1893, authorized the issuance of bonds to the amount of \$50,000 for the purpose of "erecting, constructing and completing the south wing of the capitol building at Bismarck." These bonds are payable in thirty years from date of issue, bearing four per cent. interest. Principal and interest provided for by the sale, interest and income of eighty-two thousand acres of land granted to the State of North Dakota, for the purpose of erecting public buildings at the capital of the State, for Legislative, executive and Judicial purposes. No other bonds have at any time been issued, that could make any claim to recognition as State bonds under our constitutional limitation.

If the Capitol and Normal school bonds are not State bonds within the meaning and intent of our Constitution, then our debt limit has not been reached by fifty thousand dollars. That all bonds authorized, issued and used by the State, will be paid when due, cannot be questioned for a moment, regardless of any irregularity of issuance. Repudiation of an honest debt will never be tolerated by North Dakotians.

Chapter 165 of the laws of 1890, authorized the Board of Trustees of the Soldiers' Home at Lisbon, to issue certificates to the amount of ten thousand dollars for the "erecting and main-

tenance of said Home." Said certificates were duly issued and used in the purchase of a suitable tract of land for building and other purposes. The certificates draw six per cent. interest, and are held by certain bankers in New York.

The State has not paid, or guaranteed the payment of interest on these certificates. The act authorizing their issuance provides that the principal and interest "shall be paid from the interest and income fund arising from the grant of lands to said Home, or from any appropriations that may hereafter be made for that purpose." At present no funds are available, as provided by law for the payment of interest on said certificates, hence the necessity of some action on your part to meet the same, or allow the certificates to become worthless in the hands of innocent parties for value, and thereby jeopardize the credit of our State.

Chapter 23 and 24 of the laws of 1889, authorized \$63,507.46 of refunding warrants to issue, running five years with five per cent interest. These warrants fell due April 1, 1894, but were not paid for want of necessary funds. They are held by New York bankers with whom arrangements have been made to carry them until they could be provided for by proper legislation, to which your attention is now called.

Chapter 94 of the laws of 1891, amends "an act for the protection of the public credit," and authorized the issuance of State funding warrants to the amount of \$80,000, bearing eight per cent. interest, and running not exceeding sixty days. It seems that this act was necessary to "pay the current expenses of the Legislature then in session." This law seems to be still in force.

#### STATE DEPOSITS.

Chapter 48 of the laws of 1893, entitled "Depositories of public funds" has been declared unconstitutional by the Supreme Court, on account of its imperfect title. This law was cheerfully approved by me and should be re-enacted, and made strictly constitutional in order to relieve the Treasurer and his securities from possible loss by bank failures.

In justice to our retiring State Treasurer, will say that he requested me to recommend to the last Legislature the enactment of a law taking the deposits out of the hands of the Treasurer, thereby giving the people the benefit of all interest arising from deposits of State funds.

#### APPROPRIATIONS.

It has been demonstrated that the revenues derived from all available sources are not sufficient to maintain the present and prospective number of State Institutions, and meet all other demands upon the State as provided by law.

The last Legislature made full appropriations for the first time for improvements and maintenance of the State Normal Schools

at Mayville and Valley City, School for the Deaf at Devils Lake, Soldiers' Home at Lisbon, and Agricultural College at Fargo.

To have withheld necessary appropriations from these institutions at that time would have been, in my judgment, more damaging to the State than taking the chances of a shortage in our revenues. If our tax collections had not been cut short by the general financial distress, all demands upon our treasury would have been met promptly. Appropriations were not made in excess of the needs of these Institutions; nor is it claimed by any that appropriations have been in any case wrongfully or injudiciously used by any Board of Trustees of my appointment; but on the contrary, all such Institutions have been wisely and judiciously managed, with an eye to the best interests of the State.

If discriminations are to be made for or against any State Institutions, it is the duty of the Legislature to make them.

The Executive can hardly be expected to set up his judgment against a majority of the people's representatives, in an arbitrary exercise of his veto power, unless he has the best of reason for so doing.

During the last Legislature, however, I found it necessary to withhold my signature from bills authorizing appropriations, and the issuance of bonds, to the amount of \$108,000, as follows:

Jamestown Asylum bonds.....	\$25,000
State University bonds.....	50,000
Mayville Normal School bonds.....	10,000
Valley City Normal School bonds.....	10,000
School of Mines appropriation.....	5,000
Higher Education appropriation.....	8,000

The State elevator bill of \$100,000 vetoed itself by reason of its unlawful provisions.

In the absence of any practical knowledge or experience as to the actual needs of our various State Institutions, I did not think it advisable at that time to exercise further veto power in the curtailment of appropriations, but am of the opinion now, that a judicious reduction all along the line could be made without impairing or destroying the usefulness of any State institution, and still bring our expenditures within our income.

The comparison, as shown in the Auditor's report of expenditures of like institutions in other States, is suggestive.

Bounties and special appropriations not absolutely necessary could well be omitted for a time. Other savings, by the enactment and repeal of laws recommended by the Executive-elect and reports of retiring officials, will no doubt contribute much toward a general reduction of expenditures, thereby making it possible for the incoming administration to bring our income and expenditures together.

It would be a wise provision of law to make an appropriation of \$2,000, subject to the order of the Governor, to meet contingencies that are sure to arise under his administration. Otherwise he will have to incur a considerable expense on personal account, or the State suffer loss by neglect. Also \$1,000 for necessary improvement on the Governor's mansion and grounds.

As a matter of economy, and a new departure, it might be well to place our State Institutions under the control of one Board of Trustees composed of nine members; the Governor and Attorney-General being ex-officio members of said Board; the remaining members being chosen from the counties in which our present State Institutions are located, with one member at large. A saving of many thousand dollars could be effected by so doing, and the per diem and mileage would be less than one-third of that of the present system, while the service would at least be as efficient. Under the present system it has been the policy of the retiring Executive to appoint members of the Board as near the location of the Institution as possible to save mileage, and thereby reduce to that extent the annual Board appropriation of \$12,000.

#### RAILROADS AND CORPORATIONS.

The prosperity of our people is not less dependent upon the bounties of nature than upon the means of handling and transporting their staple products. For many years the subject of railroads has prominently engaged the attention of our people and their law-makers.

Every session of the Legislature since 1884 has added its chapter to our statutes upon this subject, and yet I think it may seriously be questioned whether the total benefit which has accrued from these laws has been equal to the cost of their enactment. They exist to-day as a confused and contradictory mass, and, in some instances, void.

I submit for your thoughtful consideration whether it would not be best to repeal every statute upon this subject and enact new laws which shall be plain, simple, specific and constitutional, and directed to the evils which our people have actually experienced and from which they have suffered.

It is to be regretted, however, that our record on railroad legislation in some particulars has been disreputable in the extreme. As it is a well known fact that every bill brought before the Legislatures of the past, that was not satisfactory to corporations, and could not be otherwise defeated, was either stolen, mutilated, or destroyed in some way to prevent them from becoming laws of the State. This practice should be stopped. No Legislature can afford to engage in such disgraceful acts without damage to the good name of our State, and no excuse will be accepted by the people for a continuation of this practice.

Corporations have the same rights as individuals. Exclusive or special privileges do not belong to either under our Constitution and form of government.

It has been the practice of the retiring Executive to procure passes, if possible, in the name of the State, for all appointees in the discharge of official duties, with the express understanding that no appointee should make any charge for mileage against the State when traveling on a pass. This has saved the State many thousand dollars, and has never been violated by any appointee in any instance. All County and State officials accepting free transportation should in no case charge the State with mileage when they pay none. And if your honorable body will permit the suggestion, I would have this rule apply to our lawmakers as well as to County and State officials and appointees.

Otherwise a law should be enacted absolutely prohibiting members of the Legislature, as well as State and County officials, from accepting free transportation in the discharge of their public duties.

This reform is in line with the modern opinion on the subject, and on the first day of this year, I am informed, went into effect in the State of New York.

#### RAILROAD TAXATION.

The gross earnings system of railroad taxation should be abolished, and all roads required to pay a uniform tax, based on the valuation per mile of their respective lines. Railroads, telegraph, express and sleeping car companies should be required to pay their proportionate share of taxation. If a law can be enacted that will compel them to do so. All classes of property should contribute proportionately to its real value, to the expenses of the government maintained for its protection, both state and national.

#### RUSSIAN THISTLE.

In November, 1893, I called the public attention for the first time to the rapid spread and destructive properties of this noxious weed. I also called the attention of the Governors of adjoining States, asking their co-operation in checking its spread, and in securing national aid in stamping it out; and to that end suggested that the Governors of infected States visit Washington and lay the matter before the Secretary of Agriculture and the Senate and House committees. My visit to Washington and appearance before the House Committee was a surprise to them, on learning for the first time of the existence of this new pest and menace to the agricultural interest of the west. Senators Roach and Hansbrough secured satisfactory action in the Senate, and I am satisfied that if the Governors of all the Western States, effected by this pest, could have appreciated the importance and

necessity of prompt and concerted action, a satisfactory appropriation could have been had at the last session of Congress, and the extermination of this almost national pest well under way.

It will require at your hands prompt legislation, hoping for national aid later, which I am certain can be had with proper effort on the part of States interested. Just what your legislation should be to destroy this pest the most effectually, and at the least expense to the State, I am not prepared to say. In my judgment, extravagant and expensive legislation is not necessary, but prompt energetic measures by uniform and concerted action will be required to make effective any law you may enact for its destruction. You cannot fence against it; it must be pulled up or cut off near the ground during the growing season. It should not be permitted to mature and blow over the country. A thorough discussion of the subject before you take any action will be necessary. In my judgment, if something is not done to suppress or destroy this pest, it will overrun the Trans-Mississippi States in a few years. Its present damage to crops is estimated by the National Agricultural Department at \$20,000,000 for the year 1893.

It is claimed that our present noxious weed law is unconstitutional, and has been so declared by the courts; if so, the enactment of a new law to meet new conditions, that will stand the test of the courts, is a necessity.

#### EDUCATIONAL INTERESTS.

You will be glad to note the gratifying prosperity of our University and Normal Schools, and from the reports of trustees and faculties of these institutions you will find the management has been not only successful, but that expenditures have been confined to the smallest possible limit consistent with the purposes for which they are constructed. The advantages afforded the youth of our State by these higher schools, are of inestimable value, and praise is surely due the officers of these institutions for the earnestness and thoroughness which have characterized their every official act.

Our State Educational Institutions and facilities, however, are at least ten years in advance of our present needs. How to reduce or adjust them on a satisfactory basis, and thereby reduce our expenditures proportionately, is a question that cannot be settled without great difficulty.

I merely call your attention to this matter, and leave its solution to your united wisdom.

The permanent school fund of the State at present is \$2,323,000, and will in a few years be double that amount, and sufficient to educate every child in the State; making the item of school funds and school lands the most important interest in our State administration, and demanding the best business talent that can

be given it by the Superintendent of Public Instruction and the University and School Boards.

The welfare of our children and our children's children is dependent upon the honest and judicious management of our school moneys and school lands, and no breach of trust on the part of State officials will in future be tolerated by the people.

#### WORLD'S FAIR.

This Board, appointed by my predecessor, completed their work and made final report as early as possible after disposing of and removing to the State all remaining valuables.

#### THE COLUMBIAN EXPOSITION.

This grand aggregation of the world's best thought, enterprise and genius was utilized to the best possible advantage by the State and National Boards of management.

The World's Fair, a conception that only Americans could originate and execute on a scale of grandeur and magnificence unparalleled by any nation on the face of the earth, served its day and object in a blaze of glory, and is now numbered with the things that were.

All hail to American enterprise and genius; all praise to Chicago; and thanks to North Dakota's Board for bringing our State well to the front with the best advertisement and display of any State in the Union with the limited appropriation at their command, a portion of which was returned to the State Treasurer.

#### REVISION COMMISSION.

Among the most important matters to come before you is the report of the revising commission, appointed pursuant to an act passed at the last session of Legislature. It is nearly 20 years since the codes of this State were last officially revised. During that period a large body of statutes have accumulated in the form of Session Laws. Upon many important subjects repeated acts have been passed, so that now it is often difficult, if not impossible, to tell what law is in force, and what law has been repealed by implication. In addition to this, our State constitution required much new legislation to carry it into effect. It continued in force only such statutes as were not in conflict with its provision, and in many instances to ascertain when such conflict exists requires the experience and training of an expert. All these matters unite to demand the thorough revision of our statutory law; and the representatives of the people have testified to the necessity of this work by passing laws for its accomplishment at two successive sessions of the Legislative Assembly.

But if the necessity were less urgent than it is, we have now

passed the point of repentance. The State has already invested a large amount in the enterprise. The greater portion of the expense has been incurred. To stop now would be to sacrifice the money already paid out, and repudiate the judgment of the two preceding legislative assemblies. The commission is composed of men eminent in their profession, selected from widely different portions of the State, upon the emphatic recommendation of all the judges of the Supreme Court. Their work is now ready to present to you. I believe that it has been thoroughly, impartially, and honestly done. I urge upon you to take it in hand at once, to consider it in the light of its grave importance, and to do everything that can constitutionally be done to further its consideration and final enactment into law. If you do nothing more than revise existing laws, you will have accomplished much in the way of needed legislation.

#### RAILROAD COMMISSION.

It is generally conceded that the Commissioners of Railroads have conscientiously and successfully performed the duties of their office; that they have been painstaking in serving the public, and studious in investigating the needs of the department, to make it more effective. Their recommendations are incorporated in their report, and they deserve your careful consideration. They are plain and practical, and in touch with the advanced legislation of other States. Our State cannot afford to take a step backward in railroad legislation, nor enact such radical laws that the courts would set them aside. With the Board with such powers as the constitution contemplated that it should possess, it will be a department of inestimable value to the State. If these recommendations are made effective by such legislation as they call for, it will probably be as just to the people and the roads as present conditions will permit.

The Board's recommendation for a change in the Constitution, providing for but one new commissioner coming into office at each election, is much needed. The office requires too much technical knowledge to be acquired in two years. The Board should be composed of experts rather than amateurs in railroad matters, as must be the case under the present tenure of office. To place the enforcement of our laws with such a Board would assure their successful enforcement.

Their suggestion in regard to the grain marketing question merits investigation. Whatever assistance can be rendered to the producers of this State, should be rendered, as they are the well-spring of our prosperity.

The various other suggestions in their report are meritorious, and deserve careful consideration.

## STATE AUDITOR, TREASURER, AND ATTORNEY-GENERAL.

The reports from these departments are worthy of more detailed discussion than time and space here permit. Some of the most important points in them have been treated out under other heads.

I therefore respectfully urge that each be carefully studied by every member of your body, as the information in them contained will give you better grounds upon which to base your judgment in Legislative matters than all other sources.

## DEPARTMENT OF PUBLIC INSTRUCTION.

Under the able management of the Superintendent of this department—Mrs. Laura J. Eisenhuth—and from the income of our already large school fund invested, the educational interests of our State have made most favorable progress. The close of the past year finds the schools of our State in excellent condition, and you can justly feel proud of these, the best part of our institutions.

I would respectfully call your attention to the recommendations embodied in her report, regarding free text books, free kindergartens, better observance of Arbor day, election of school officers, examination of teachers, libraries, etc., with the assurance that they are given from a thorough practical knowledge of the needs of our school system, gained by unremitting labor and investigation.

## DEPARTMENT OF AGRICULTURE AND LABOR.

The reports of Hon. Nelson Williams, Commissioner of Agriculture and Labor, gives you a detailed and comprehensive review of the work done through this, one of the most important branches of our State departments. His recommendations regarding the gathering of agricultural, manufacturing, coal mining, labor and mortgage indebtedness statistics, will appeal directly to your honorable body, composed, as it is, so largely of men engaged in agricultural and commercial pursuits.

The treatise upon the Russian thistle, and contagious stock diseases, issued by this department, deserve careful perusal and study by every farmer and stockman of our State.

## COMMISSIONER OF INSURANCE.

From the complete and tabulated report of the Commissioner of Insurance, Hon. James Cudhie, you will see that insurance affairs have suffered to some extent in sympathy with the general depression in all lines of business.

You will find that about one-fourth of the fire insurance companies, formerly doing business within our State, have withdrawn, and the revenues derived from this source reduced accordingly.

Their withdrawals were owing to the extraordinarily heavy

losses sustained, and have been keenly felt by the insuring public. Information received leads to the belief that several other companies will shortly retire, and the companies which continue have raised their rates, an outcome of the losses referred to, and the financial depression and hard times, which, in the judgment of the underwriters, increases the moral hazard. Care should be taken that, while our insuring interests are fully protected, no unjust legislation aimed at these companies should be allowed, as the income to the State from this source is large, and our business interests demand every protection that can be given them in reliable insurance. It should be borne in mind that this department is more than self-sustaining, and the Commissioner's recommendation regarding an appropriation for investigation of affairs of doubtful companies, merits your attention. Consideration is also due his suggestion that the Commissioner be given increased authority in granting incorporation to mutual fire and hail insurance companies.

#### STATE EXAMINER.

From the reports of the State Examiner you will find our State banks in splendid condition. Considering the conditions that have prevailed in financial circles during the past two years, this fact surely speaks well for our State and these Institutions.

The failures have been few, and, with one or two exceptions, resulted in practically no loss to depositors. In this connection you will no doubt carefully consider the recommendation contained in this report regarding proposed amendments to the present banking laws, to the defects in which these failures are almost directly traceable.

You will also find in this report, statistics, statements of the financial condition of each county, and recommendations of the convention of county auditors. The latter especially worthy of serious attention, coming as it does from officers probably more thoroughly posted on matters of revenue, taxation and county affairs, than any other class of officers of our State.

I would also mention the ability and efficiency with which this department has been managed by Mr. Kemper Peabody, the State Examiner, and his able Deputy, Mr. W. E. Patterson. Their service has at all times been most prompt and thorough.

#### HOSPITAL FOR THE INSANE.

The report of the Trustees and Superintendent of the Hospital for Insane shows that this institution has maintained, for the past two years, its already well established reputation of institutions of its kind. A gratifying result of the present management is the noticeable reduction per capita per year, of maintaining and conducting the hospital.

While laboring under many disadvantages, the board has at

all times given the affairs and supervision of the institution the most careful attention.

The needs of this institution are many, and cannot, like some other of our institutions, be to any great extent curtailed. The most urgent necessity is more room for patients; and this can no longer be delayed without serious impairment of the institution's usefulness for the purpose for which it is maintained. Other recommendations and requests you will find by the board; and it seems to me, without question, that the wants of this institution should have your first consideration in matters of maintenance of public institutions.

#### SOLDIERS' HOME.

Under the management of the present Board of Trustees, the Soldiers' Home is in good hands, and is well managed. Col. McIlvane, the present commandant, is an exceptionally fine executive officer, and his excellent wife makes the "Home" a home indeed to our feeble and infirm veterans.

The Home is a new institution, receiving its first inmates under the present administration. The Congressional aid of \$100 to each inmate of the Home, received due attention by the Board as well as the Executive, and prompt action taken to secure the same, which will greatly aid the Home in matters of maintenance.

#### SCHOOL FOR THE DEAF.

The report of the Board of Trustees of this institution shows a most gratifying condition of the School, considering the limited amount of funds at their disposal. None of our State institutions have been more economically and carefully managed, nor any of the appropriations more judiciously expended, than by this Board. The parts of the new building erected have been substantially built and tastefully finished. Laboring as they do under the disadvantage of having to practically rebuild the entire structure left by their predecessors, they surely deserve credit for the ability, good judgment and careful supervision of every detail displayed. I bespeak for their suggestions and recommendations a fair and thorough consideration.

The general and educational supervision of the School has, under the management of Prof. A. R. Spear, received the most painstaking attention. The rapid advancement of the scholars under his care, the hearty approval of the Board of Trustees, and the high esteem in which he is held by citizens and officials of the State, are more expressive than words of mine could be.

#### REFORM SCHOOL.

Every effort has been put forth by the State Executive and Board of Trustees of the Reform School, during the past two

years, to procure by donation from the United States, the abandoned Fort Abraham Lincoln reservation, south of Mandan, as a site for this school. These efforts have, however, been unavailing. The Board, discouraged by the failure of these endeavors, has recently secured by purchase and donation, a site near Mandan, at an expense of \$1,600. There have been no further expenditures, except a small amount for incidental expenses. A bill for \$2,458.32 (a statement of which is hereto appended), for the care of children for the past two years, sent from this State to the South Dakota Reform School, will be presented to your honorable body.

It remains with you to decide whether the interests of the State will be best subserved by continuing this arrangement, or by permanent establishment and operation of our own school.

"A statement referring to the children from the State of North Dakota," cared for in the Reform School of South Dakota to Dec. 31, 1894 :

Henning Soderberg, from Morton County, 2 years, at \$200.....	\$ 400 00
Willie Smith, from Morton County, 2 years .....	400 00
Willard Ruscoe, from Morton County, 1 year, 4½ months.....	275 00
Eddie Garlick, from Morton County, 2½ months.....	41 65
Ervine McKay, from Grand Forks County, 1 year.....	200 00
John Halverson, from Grand Forks County, 9 months.....	149 94
Duncan McLeod, from Grand Forks County, 9 months.....	149 94
David Lindsay, from Emmons County, 9 months.....	149 94
Alice B. Gould, from Ramsey County, 4 months.....	\$ 66 64
Oscar Monson, from Barnes County, 5½ months.....	91 63
William Lundgren, from Walsh County, 5½ months.....	91 63
Tony Ervic, from Walsh County, 9½ months.....	158 65
Clyde Brown, from Stutsman County, 2½ months.....	41 65
Nellie De Racan, from Stutsman County, 1 year, 2½ months.....	241 65
Total .....	\$2,458 32

#### INDUSTRIAL SCHOOL.

The Board of Trustees of this institution report filing with the Secretary of State warranty deed for the site for a location of building, and designation of size and material of building to be erected.

No further steps have been taken owing to lack of funds.

#### STATE PENITENTIARY.

Marked improvement has taken place in the management of the State Penitentiary in the last two years. The report of the State Examiner, however, might suggest a further improvement in the management of this institution.

#### AGRICULTURAL COLLEGE.

This school, if properly managed, should be one of our most

valuable State institutions with but very little expense to the State, as it draws maintenance mainly from the general government. The report of the State Examiner, and the testimony taken in the board removal investigation, will give you all the information you want as to its present management.

#### APPOINTMENT OF TRUSTEES.

From recent decisions of the State Supreme Court, you will find that the power of appointment of Trustees, and Supervision of State Institutions, are (except in cases of resignation or death, which seldom happen in North Dakota,) practically taken from the Governor and placed in the hands of the Senate, and the acting Boards of Trustees of our several Institutions. No appointee of the Governor, no matter how worthy or well suited he may be to discharge the duties of Trustee, can act as such, without confirmation by the Senate; and no Board of Trustees of any of our State Institutions can be suspended or removed by the Governor for any cause whatever, no matter how corrupt or negligent they may be in the discharge of their official duties. This question was so decided by the Courts in my efforts to correct abuse of official trust and protect the interest of our State, in the removal of the Trustees of the State Penitentiary and Agricultural College. Whether or not I was justified in the effort, you can best judge after a careful reading of the report of our State Examiner. This ruling places the appointive power of Trustees under the absolute control of the Senate, making it subject to partisan abuse. The present Trustees can hold office for life, if so ordered by the Senate, and thereby the appointive prerogative of the Governor under the law made void and of no effect.

To give the Governor any discretionary power or control over State Institutions, you will have to enact a law to that effect.

#### STATE SUPERINTENDENT OF PUBLIC HEALTH.

The report of the Superintendent of this department you will find very complete in detailed, statistical, and advisory information. To his watchful and unceasing vigilance is due the fact that no eruptive contagious diseases have appeared within our borders during his incumbency of office. The complete system of reports, issued and received, together with the Superintendent's executive ability, long practical experience in sanitary matters, and professional connection with medical societies and men, both at home and abroad, has placed our State in advance of most of our neighbors in matters pertaining to the general health.

Dr. F. H. DeVeaux was re-appointed to this position by myself, after serving two years under Governor Burke in the same capacity.

The duties of this office are exacting and arduous, and I

would call your attention to the fact that the appropriations in the past have been far from sufficient; the doctor having expended from his personal resources far more than the amount received from the State.

I hope his suggestions and recommendations will receive, at your hands, the consideration due them.

#### DISTRICT VETERINARIANS.

Your particular attention is called to the reports of the District Veterinarians, and the suggestions contained therein. From these reports, you will see that service in this department has been most efficient and prompt, and that our State is at present nearer free from disease among domestic animals than at any time in its history.

Black leg, a peculiarly fatal disease among cattle, has recently made its appearance in the State, but has, by prompt action of the veterinarian officers, been so far confined to limited districts. Should this disease become general, the loss to our cattle interests would be beyond estimate. Every effort is being made by the veterinarians to stamp out this plague, and in this they should receive all possible assistance, and the co-operation of your honorable body and the stockmen of the State.

From careful attention to the working of the District Veterinarian Law, enacted by the Legislative Assembly of 1893, and now in force, I am convinced that this law is far superior to the old state veterinarian system, and most heartily recommend its retention, with a few changes which experience has shown desirable, viz.: the repeal of that part of the law requiring the summoning of three district veterinarians and the condemnation by them of a diseased animal, before said animal can be destroyed; and in lieu thereof, require the attending district veterinarian to apply the mallein test in case of suspected glanders, and tuberculin for tuberculosis, his decision, arrived at from the result of these tests, to be final; these two diseases being the only ones, I believe, over which there is often any discussion. The use, adoption and recommendation of these tests by the U. S. Bureau of animal industries, foreign governments, and all of the highest veterinarian authorities, as well as our district veterinarians, show them to be very near, if not quite, infallible in detection of the before mentioned diseases when used by qualified veterinarians.

I believe that the best interests of the State would be served by repealing that part of this law providing for the appointment of deputy veterinarians. The territory apportioned to each district veterinarian can readily receive attention under ordinary circumstances, and under the existing law, the expense to the State for deputies would far exceed that of the veterinarians.

There are other special recommendations and suggestions

embodied in these reports that I am sure you will find worthy of careful consideration, foremost among them being the necessity of prevention rather than cure of contagious diseases. A treatise upon the prevention and treatment of contagious stock diseases has recently been issued by the State Department of Agriculture and Labor, which should be in the hands of every stock owner and grower.

#### MEDICAL, DENTAL AND PHARMACY BOARDS.

Our State seems to have been particularly fortunate in the selection of members of the above Boards.

From personal knowledge of their methods and enforcement of the laws in their respective departments, I feel warranted in assuring you that their services have been prompt, impartial and very efficient.

Their several reports are submitted for your consideration. Considerable complaint has arisen regarding the provisions of section 6, chapter 58, laws of 1890, "regulating the practice of dentistry," which provides for the issuing of "temporary license." It is claimed, and I believe justly, that this provision allows non-resident and oft-times unskilled and irresponsible dentists to temporarily establish themselves within our State; and during the busy season reap an undue harvest at the expense of our established and reliable practitioners.

I would suggest that this receive your attention.

#### STATE MILITIA.

It is with, I think, a just pride, and one in which I feel you will share, that I refer you to the report of Adjutant-General W. H. Topping, of the North Dakota National Guards. You will find it very complete in reports from all departments of the service, including the roll of commissioned and non-commissioned officers and enlisted men: report of State encampment at Jamestown from June 27th to July 9th, 1894; report of the U. S. A. and N. G. inspecting officers; donation of Rock Island Military reservation by the United States, for permanent encampment grounds; aid of civil authorities of Fargo and Jamestown during the terrible fires in June and August of 1893; protection of Ramsey County Jail at Devils Lake during the "Bomberger trouble" of July, 1893; all worthy of your attention and consideration.

The rank and file and many of the officers of our Guards come from the very best element of our State's young men; the senior officers, as a rule, being soldiers who won their "spurs" on hard-fought battle fields in our country's service—all ready at the word of command to faithfully and loyally uphold the laws of our State, and, if needs be, defend our homes and firesides.

The recommendations contained in this report I submit to

you, feeling you will deal with them as defenders of a great and loyal State. In this connection I desire to call attention to the credit due our Representatives in Congress for securing the granting to our State of the Rock Island Military reservation on Devils Lake for permanent encampment grounds.

#### STATE BOARD OF AGRICULTURE.

This Board has been unable to utilize the appropriation made by the last Legislature for the purposes intended, owing to the fact that the grounds donated to the State by the citizens of Grand Forks, for State Fair purposes, contained no buildings. The appropriation was for premiums and expenses only; it could not be used for improvements.

Improvements have been made from rent received and gratuitous labor, by seeding to grass the grounds, and grading a race track.

It will be impossible to hold a fair until some arrangements are made for buildings and improvements, and the matter is left to your consideration and judgment.

#### IRRIGATION AND FORESTRY.

The report of State Superintendent of Irrigation and Forestry, the Hon. W. W. Barrett, should be made a careful study by every member of our Legislative Assembly. Besides calling your attention to the increased interest being taken in all parts of our country in irrigation matters, it gives facts and figures to prove the large returns from farming and fruit raising, judiciously engaged in by this method.

Every member of your body so well realizes the importance of the preservation, as well as encouragement of growth, of our forests and groves, that the part of this report referring to these matters will, I think, be received with interest and pleasure.

The display made by this department at the Columbian Exposition was not only a credit to our State, but went far to dispel the erroneous impression prevailing in many parts of the country, that ours was a treeless State.

#### FISH AND GAME.

From the report of the Fish and Game Commissioner you will find that every effort has been made, not only to protect our natural supply of game and fish by the enforcement of laws framed to this end, but commendable endeavor has also been put forth to stock the waters of our State with an ample and suitable supply of fish. The latter, however, has been only partially successful, owing to the inability of the U. S. Fish Commissioner to furnish the number of young fish requested.

Our present game law seems adequate, where enforced. It is

of course impossible for the State Fish and Game Commissioner to have a personal oversight of the entire State during the open season. And it seems impossible, with few exceptions, to find local Game and Fish Protectors who will see that the law is properly enforced. From this reason, there is each year a vast illegal destruction of game, which, if allowed to continue, will in a short time amount to practical eradication.

All the transportation companies within the State have cheerfully promised co-operation in suppressing the illegal shipment of game, and stringent orders have been issued by them prohibiting it.

#### PARDONS.

Executive clemency in the form of pardons has been extended to prisoners serving sentence in the North Dakota Penitentiary, as follows:

James McReady, sentenced September 30th, 1892, for six months for larceny; pardoned February 24th, 1893.

John Boyd, sentenced April 11th, 1891, for three years for grand larceny; pardoned May 24th, 1893.

Willie Weiger, sentenced December 27th, 1892, for life for robbery; pardoned June 3rd, 1893.

Thomas Cox, sentenced May 25th, 1891, for two years and six months for grand larceny; pardoned June 16th, 1893.

John E. McNamara, sentenced June 27th, 1892, for five years for forgery in the second degree; pardoned June 5th, 1893.

Peter Ness, sentenced May 19th, 1893, for six months for grand larceny; pardoned August 8th, 1893.

George F. Carr, sentenced December 22nd, 1888, for ten years for assault with intent to kill; pardoned January 11th, 1894.

Charles Smith, sentenced May 16th, 1890, for five years for grand larceny; pardoned April 16th, 1894.

Henry L. Ode, sentenced May 21st, 1890, for five years for forgery in the second degree; pardoned May 8th, 1894.

Henry Brokofsky, sentenced October 24th, 1893, for two years for assault with intent to kill; pardoned June 1st, 1894.

Charles W. Corwin, sentenced November 23rd, 1893, for one year for assault with a dangerous weapon; pardoned July 20th, 1894.

Orin P. Hines, sentenced March 2nd, 1893, for life for robbery; pardoned August 4th, 1894.

John Connolly, sentenced December 27th, 1892, for three and one half years, for grand larceny; pardoned September 7th, 1894.

Thomas Morris, sentenced December 20th, 1893, for one year for grand larceny; pardoned October 8th, 1894.

Peter J. Rasmussen, sentenced October 24th, 1893, for two years for assault with intent to kill; pardoned October 26th, 1894.

George Hall, sentenced December 16th, 1893, for one year and nine months, for selling mortgaged property; pardoned November 26th, 1894.

James Broderick, sentenced July 30th, 1892, for five years, for grand larceny; pardoned December 10th, 1894.

Frank McGlade, sentenced February 9th, 1894, for one year and ten months, for forgery in the third degree; pardoned December 31st, 1894.

James Morgan, sentenced December 8th, 1892, for life, for robbery; pardoned December 31st, 1894.

Harry Fee, sentenced December 27th, 1892, for three years and six months, for grand larceny; pardoned December 31st, 1894.

None of these cases have been acted upon without due consideration and investigation as far as possible. In a number of instances, pardons were granted only a few days before the expiration of term of sentence, in order to restore the prisoner's citizenship, believing that this inducement would tend more than almost any other to work a reformation in an ex-convict.

Two of the above number, Weiger and Connolly, were mere boys, and satisfactory proof was furnished that they would be taken to their homes in other States, furnished employment and cared for by parents and friends. There has also been brought to my notice evidence and statements of officers, which now leaves in my mind grave doubts as to the guilt of either of the parties convicted of this crime.

The sentence of James Morgan, sentenced December 27th, 1892, with Willie Weiger, for life, for robbery, was on June 3rd, 1893, commuted to three and one-half year's imprisonment in the North Dakota Penitentiary, for the reason that, under the charge and the existing law, the Judge had but power to impose a life sentence, which, for the crime committed, was excessive.

In this connection, I would recommend for your consideration that Section 6490, Compiled Laws, under which the trial Court is now compelled, in cases of conviction of joint robbery, to sentence the convicted persons to imprisonment for life, be so amended and modified as to fix a minimum punishment for a limited term, and leave it in the power of the trial Court to make the term as long as the facts of each particular case might, in the judgment of the Court, require.

#### CAPITOL COMMISSION.

Section 7, of Chapter 29 of the laws of 1893, constituted the

Governor, State Auditor and Secretary of State, a Board of Capitol Commissioners, and authorized them to "erect, construct and complete the south wing of the Capitol building at Bismarck." The duties of this commission were commenced in the year 1893, in the preparation of necessary building material; suspended during the winter, and renewed by the letting of the contract in June, 1894, since which time the work has been continued, with all possible speed, to the present time.

The result of our labor, which has been almost incessant, is before you and speaks for itself; with pride, the Commission can say that the work has been done honestly and economically. No favoritism has been shown any one in its construction, and no unearned perquisites have been at any time allowed by the Board.

The Commission have finished their labors, and bid you a hearty welcome to the new Capitol and all its comforts and conveniences. Nothing should be too good for the people's chosen representatives, while in the honest discharge of duty. The quarters of the new State officials, you will find greatly improved and beautified, and the old building redressed, and we trust will be duly appreciated by all concerned.

Our report to the Legislature, giving a detailed account of receipts and expenditures, is before you; no deficit hangs over your Capitol by reason of our work.

On behalf of our retiring officials, our kindest regards and best wishes are extended to our successors in office, and we trust that their administration in the interest of the people, may be wise, honest, efficient and economical.

Personally, I desire to thank the Press and the people of the State for the uniform courtesy and consideration I have received at their hands. I have tried honestly and conscientiously to discharge the duties of Governor of the State in the interest of the whole people of the State and to enforce existing laws as I found them upon our statute books; and now take my official leave of you, with charity to all, and a conscience void of offence towards my fellow citizens of the State of North Dakota. I bid you, one and all, farewell.

At the conclusion of his message, the retiring Governor expressed his thanks for the uniform courtesy, kindness and consideration received at the hands of the people and officials of the State.

Hon. Roger Allin took the oath of office as Governor, which was administered by Hon. Joseph M. Bartholomew, Judge of the Supreme Court.

The President of the Joint Session introduced Hon. Roger Allin as the Governor of the State of North Dakota, who delivered the following inaugural address:

## GOVERNOR ALLIN'S INAUGURAL ADDRESS.

*Gentlemen of the Senate and House of Representatives:*

Agreeably to the provisions of the Constitution, the Legislative Assembly of the State of North Dakota has convened to consider measures pertaining to the people and the State. The confidence of your constituents in choosing you to exercise the functions of the Legislative branch of our State Government is a sacred trust.

Officials change, but the Government continues. As the mantle of your predecessors has fallen upon you without blame or blemish, in like manner may you be enabled to transmit it to your successors, unstained by dishonor.

The true basis of government is found in the nature of men themselves. They have desires, wills, ideas and character, and have invested you with the authority to speak for them. Your intercourse with your constituents has made you familiar with these characteristics. They may have importuned you to secure the passing of measures which, in their individual capacity, they deem necessary to their best interests. An honest effort to secure them is commendable. But it is your duty to determine by conference whether the best interests of the State will be served by such measures; should it be necessary to abandon the effort for the general welfare, you do not prove recreant to the trust reposed in you, but rise to the dignity of broad-minded and liberal legislators, which will secure for you the plaudits of an intelligent constituency. A grave responsibility, therefore, rests upon you, and in the discharge of that duty, I invoke the assistance of Almighty God.

For your guidance, you have the results of the three Legislative Assemblies of the State of North Dakota and those of the Territory. Many measures then operative would today be inadequate and unsatisfactory. In the march of civilization Legislative Assemblies, as well as individuals, are required to contribute. A conservative policy has always characterized the American people, giving our State and Federal Governments strength at home and securing respect abroad. There are those who demand the repeal of laws because of ancient origin; others demand laws embodying the most advanced ideas, but the greatest number is that conservative class that finds the golden medium between the two extremes, possessing that disposition of mind which neither reveres what is old, or admires what is new, simply because it is old or new, but submits every question to the test of strict examination upon its intrinsic merits.

It is to be hoped, gentlemen, that, in your intercourse with your constituents, you have been impressed with the necessity of as economical a session as is compatible with public interests. Being compelled to practice the most rigid economy, on account of the financial depression and the low price of their products, they expect a reasonable degree of frugality on the part of their representatives.

I desire at this time to commend the people of the State, through you, for the admirable manner in which they deported themselves during the disturbances of the past year. Though inconvenienced and made material losers by reason of such disturbances the people of this State have faithfully kept the compact entered into with the General Government when admitted into the Union. They have proven themselves worthy of all the rights and privileges of Statehood.

My honorable predecessor has submitted a report of the executive office during his incumbency, together with a report of the various departments of State. It is not my purpose to recommend numerous or radical measures for your consideration, but to pursue a conservative course, believing that it will be to the best interests of the State

#### APPROPRIATIONS.

Reference has previously been made to the demand of the people for an economical administration. This is made imperative by reason of the condition of our finances and the inability to increase the limit of indebtedness. The negative vote of the people upon the Constitutional Amendment increasing the debt limit must be accepted as a direct expression of their wishes regarding indebtedness.

You have not only to provide for the support of the State Government and its institutions, but for the liquidation of warrants now outstanding and unpaid for want of funds. We can not ignore the fact that the appropriations of the last Legislative Assembly were in excess of the revenues of the State. Those entrusted with the management of the financial affairs of the State have been embarrassed by reason of such. That experience should be of benefit to all concerned in the matter of appropriations.

To maintain the credit of the State is essential to its prosperity; and the only way to do so is to keep the expenses within the limits of the revenues.

In making appropriations for the support and maintenance of the various institutions of the State, no one should be favored to such an extent that the others will be neglected.

The question is a grave one, requiring careful consideration and the test of business principles rather than sentiment. I do not desire to perplex you with an enumeration of remedies, which

may prove inadequate. You have studied the situation and are conversant with the needs of the State and its institutions. I desire to co-operate with you in whatever will prove to be the most business like proposition to obtain a satisfactory solution of the question.

#### FREE AND UNIFORM TEXT-BOOKS.

Though the Commonwealth of North Dakota is young, yet a system of public schools has been established, as abiding and progressive as that of older States. Men are not actuated solely by mercenary motives in choosing homes for themselves and their families. That which contributes to the development of morals and intelligence is always considered, and the efficiency of the public schools of a State is an incentive, no less than its agricultural resources.

But few subjects receive the careful consideration and thorough investigation that those pertaining to the public schools receive; for all regard this institution as the promoter of morality, patriotism and citizenship. Careful and prudent consideration, often amounting to reluctance, on the part of a Legislator, when considering measures pertaining to schools, is rather to be commended than condemned, for by his conservatism he protects the schools from innovations.

Liberal expenditures for the support of schools have always characterized the people of this State. Now that the State is furnishing no inconsiderable part of the funds to maintain the schools, thereby relieving the people of a corresponding tax, it is proper to consider the question of free and uniform text-books. The money necessary to provide these would be raised by taxation. Nevertheless, it is a question of economy. If each patron of the public school contributed to a text-book fund what he expends for school books in one year, the amount so contributed would furnish books for the use of an equal number of pupils for a period of five years, and the cost would be reduced in like ratio.

It may be urged as an objection that many would not contribute to the fund to provide these books. I am convinced that the number thus mentioned would not be greater than the number annually furnished books by the various school officers throughout the State. Such persons require books to be furnished yearly; the expenditure for this class becomes continuous, whereas one expenditure, as suggested, would be sufficient for a number of years.

Education being for the benefit of the State and community as well as for the individual, it is expedient that those able to contribute should do so, but at the same time as economically as possible. To lessen the expense upon those possessing the means to support public schools, those vast grants of public domain were made to establish a permanent fund.

The right of suffrage has been extended to some who, perhaps, are not able to use it intelligently. It is too late to disfranchise them, and the only course to pursue is to educate them and their successors. In so doing they are educated for the interests and service of the State.

Placing free and uniform text books in the public schools of North Dakota will make them all that the term "free" signifies, comprehending tuition, furniture, apparatus and libraries. It will aid in enforcing the law of compulsory attendance, as it removes one of the obstacles to its enforcement—inability to procure books. It will teach that class, most in need of the instruction, the principle consistent with independent and dignified manhood, that, whatever a man's condition may be, he is entitled to the means of improving it.

I would recommend such legislation as may be necessary to provide a system of free and uniform text books for each county in the State.

#### WOMAN SUFFRAGE.

Under Section 122, Article 5, of the Constitution, the Legislature is empowered to extend the right of suffrage to women. This question has engaged the attention of the Legislature of the Territory of Dakota, as well as the Constitutional Convention of North Dakota.

Women are citizens. Their civil rights are not inferior to those of men, but with regard to their political rights, they form almost a positive exception to the general doctrine of equality. They obey laws and contribute taxes; and it is political justice (and political justice always pays) that those who are subject to law and contribute taxes should have a voice in their enactment and the distribution of taxes.

The elective franchise has been extended, and restrictions removed, as men have demonstrated their ability to exercise it, and as the right to its possession became apparent.

A partial recognition has been given by granting women the right to participate in school matters. In the exercise of this privilege, women have demonstrated their ability to discharge greater suffrage, conscientiously, and to the best interests of the body politic and themselves.

I would recommend to your favorable consideration the extension of suffrage to women, in municipal matters at least.

#### GOOD ROADS.

The attention being paid to the subject of good roads in many States, agricultural as well as manufacturing, is evidence of its importance. In the development of a State, the proper building and improvement of highways is one of the last questions to re-

ceive consideration, though they are of great importance to all industries.

Streams and railroads are the arteries of commerce, and public highways are the tributaries. From the farm and the factory come the articles to be transported. With the low price that commodities often command, it is necessary that they be marketed as quickly and cheaply as possible. Every item of expense that can be saved in delivering to the lines of transportation, will augment the profit of the producer.

While the people of this State may not feel the need of judicious improvement of highways, I believe that the day is not far distant when they will realize that the subject should have received earlier and more careful attention.

These improvements are often objected to by farmers, who claim that they constitute the class least benefited. This is erroneous. Good roads enable the farmer to place his products upon the market at a time when they are at the highest point; bad roads often prevent this. Good roads enable him to deliver them in much better condition than they are otherwise delivered, and with a saving of time, expense and energy.

We believe there are few thinking people who doubt that the farmer of North Dakota will eventually have a diversity of products to market. When that time comes—and we will not have long to wait—the advantages to be derived from an early effort to establish and improve our highways will be appreciated. Good roads are the forerunners of other improvements—the erection of good farm residences, planting of groves, and increased valuation of land. Moreover, when we construct good highways, we build that which those who come after us will enjoy, for they are permanent.

The system under which our roads are built does not produce the best results attainable. There is enough work done, and a sufficient amount of money expended, which, if properly applied, would construct roads that would last for years.

I am of the opinion that if roads were built and kept in repair by a judicious system of contract and convict labor, under the direction of a competent road engineer in each township or county, more desirable and satisfactory results would be obtained.

I would recommend: 1. That the plan of road work now authorized by law be abolished, and that the work be done by contract and convict labor, the expense to be met by taxation. 2. That the office of road overseer be abolished, and that the work be performed under the direction of a road engineer. 3. That, in order to secure greater uniformity, a joint committee be appointed, to whom all road bills be referred.

## PRIMARIES AND CAUCUSES.

Under the election laws of this State, voters exercise the right of suffrage without hindrance. I believe there are but few thinking men who would consent to their repeal and the re-enactment of those previously in force. After holding two general elections under their provisions, no glaring inconsistencies, either in the spirit or letter of the law, have been made manifest.

If evils exist in the choice and selection of men to fill public offices, they are to be traced to the primary and the caucus. Much thought is being devoted to the problem, how to induce the voter to give them proper attention. The primary should be kept pure and just, for evils there perpetrated are not speedily remedied.

It has long been a favorite criticism of those opposed to popular Government that, owing to a lack of interest on the part of the voter and the unscrupulous methods of professional caucus workers, free Government will fail. Such is possible but not probable. We have that confidence in human nature to believe that men sooner or later will invariably assert their rights and exercise their prerogatives in rebuking designing men. Free Government is not a failure; but if it suffers adverse criticisms it may be attributed to defective primaries.

To guard against dangers from any source is as much the duty of the Representatives of the people as it is to provide for their correction. If, in your opinion, the system now in vogue is, or should become a menace to the liberties of the people, it is incumbent upon you to enact such measures as will avert it, for the demoralization of our politics means the ruin of our liberties.

## CENSUS.

Provision should be made by this Legislative Assembly for taking the enumeration of the inhabitants of the State, as required by the Constitution. The enumeration should be made as economically and speedily as is consistent with the nature and importance of the undertaking.

## RUSSIAN CACTUS.

The attention of the Legislative Assembly doubtless will be called to the reports of damages being done by the rapid spread of what is commonly known as the Russian Cactus.

It is a question that demands thorough investigation to determine whether it is expedient and constitutional for the State to undertake its eradication or to extend aid to the districts overrun by it.

## ENCOURAGEMENT OF INDUSTRIES.

The results of the last two years have not been very encourag-

ing to those engaged in agriculture, either in North Dakota or elsewhere. It has led many to doubt the propriety of confining our agricultural products to wheat alone, and to devote time and attention to other branches of farming. The cultivation of many plants, heretofore supposed to be unprofitable, has been carried on successfully in various parts of the State, and warrants the prediction that the State of North Dakota will eventually furnish a variety of products for the markets of other States. Measures that will encourage the farmer to raise a greater variety for home markets, if for no other, should receive encouragement.

Industries are often benefited or injured by indirect measures as much as by those having an immediate design. Every section of our State will eventually become wealth producing. Having the interests of the whole State to consider, rather than that of any particular section or industry, a liberal policy should be pursued in order that the active co-operation of men engaged in various enterprises, which are or may become profitable, be secured; no other policy will result in a full and satisfactory development of our resources.

#### NATIVE COAL.

By previous Legislative enactments the development of our coal fields has been stimulated. Its use has proven satisfactory; and if this Legislative Assembly can further the same it should be done. The greatest expense that our people have is the item of fuel. If this can be reduced by the use of native coal the consumer will be much benefited, and, at the same time, employment will be furnished many men and capital find profitable investment. The great sums of money being sent out of the State annually for coal, if kept here, would materially benefit the State as well as the people.

I shall be grateful if any measure that is reasonably certain of aiding in the further development of our coal fields receive recognition by your honorable body.

#### CONCLUSION.

After acquainting myself with the detailed reports of the various departments of State, it may be necessary to call your attention by special message to matters not now presenting themselves.

An intelligent people watch the labors of those chosen to serve them with unceasing interest. As their wishes are gratified or denied, so will they commend or condemn. It is not to be expected that all will receive what they desire, but so long as the best interests of the State and the whole people are advanced and made secure, the agents of the people have nothing to fear. The character and not the number of measures you enact will deter-

mine the ultimate verdict of the people upon your Legislative acts.

We have not the want and destitution in our midst that is prevalent in some other sections of our country. There has been no suffering as a result of decreased productions. It is true that we have the poor and unfortunate with us, but the people of this State as individuals, and by means of public institutions, are enabled to care for them. You should be proud to represent a constituency so situated as not to require you to make known their destitution to the world.

I enter upon the discharge of the duties of this high office, with which the people have honored me, conscious of its responsibilities. I trust to be able to sustain the dignity to which it has been raised, and to command the respect earned for it by virtue of the abilities of my honorable predecessors.

When you shall have finished your deliberations and returned to your respective homes, I trust that I shall be able to command your respect and confidence for having pursued a fearless and unprejudiced course, and for having shown you that courtesy due you as gentlemen and the Representatives of a free and noble people.

At the conclusion of Governor Allin's address, the President announced an informal recess of 10 minutes to enable the Senators and Representatives to meet the retiring Governor and Governor-elect.

JOINT SESSION REASSEMBLED.

Mr. Little moved  
That the joint session do now dissolve,  
Which motion prevailed, and  
The joint session dissolved.

HOUSE REASSEMBLED.

Mr. Wineman asked unanimous consent to introduce a bill,  
Which request was granted, and  
Mr. Wineman introduced  
House Bill No. 1,

A bill for for an act, entitled an act to provide for State depositories and to regulate the deposit of public monies therein and the interest thereon, and prescribing the means thereof,

Which was read the first time.

The Speaker announced the following as the Committee on Rules:

Messrs. Svensrud, Tyler, Prosser, Logan, Simpson, Sharpe, Horgan, Colosky, Colby.

The members of the House then proceeded to select their respective seats by lot.

Mr. Edwards asked unanimous consent to introduce a bill,  
Which request was granted.

Mr. Edwards introduced

House Bill No. 2,

A Bill for an act to extend the elective franchise to females,  
Which was read the first time.

Mr. Wineman moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. G. HAMILTON,  
Acting Chief Clerk.

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### THIRD DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 10, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present,

Excepting Messrs. Roberts and Herbrandson,

Who were excused.

Mr. Armstrong requested that Mr. Roberts be excused on account of sickness,

Which request was granted, and

Mr. Roberts was excused.

Mr. Tyler moved

That the reading of the Journal be dispensed with, and that a Committee of three be appointed to examine and correct the same,

Which motion prevailed.

The Speaker appointed as such Committee Messrs. Tyler, Logan and Hill.

## MOTIONS AND RESOLUTIONS.

Mr. Edwards offered the following resolution:

*Be it Resolved by the House of Representatives,* That the Trustees of the Capitol be requested to furnish for the use of the House a suitable room for the engrossment and enrollment of bills, and to provide the same with necessary desks and chairs.

That they also be requested to provide the Postmaster of the House with a desk and suitable equipment for the care, custody and distribution of mail belonging to members of the House.

Mr. Edwards moved

The adoption of the resolution,

Which motion prevailed, and

The resolution was adopted.

Mr. Wineman offered the following resolution:

*Resolved,* That the Secretary of State be requested to furnish for the use and guidance of the members, sixty-three copies each of the Session Laws of 1889, 1890, 1891 and 1893, and, if possible, one copy of the Compiled Laws, to be placed on the Clerk's desk for the use of members as they may require.

Mr. Wineman moved

The adoption of the resolution,

Which motion prevailed, and

The resolution was adopted.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Simpson presented the following report of the Revising Commission:

## REPORT OF REVISING COMMISSION.

*To the Honorable the Legislative Assembly of the State of North Dakota:*

We have the honor to submit to you herewith our report in the form of seven bills to establish a system of Codes for this State and specifically repeal Statutes inconsistent therewith. We have felt obliged to present our work in this form by reason of Sections 61 and 64 of the Constitution, which provide:

"No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

No bill shall be revised or amended, nor the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or extended or so incorporated shall be re-enacted and published at length."

Each of the Codes, as they were originally adopted in 1877, constituted a separate act with a specific name and title. Since their adoption, however, a large number of acts have been passed which in effect amended the Codes, but which were passed not as amendments, but as independent acts. To illustrate, Chapter 112 of the Laws of 1883, providing for the organization of civil townships, was in effect an amendment of the Political Code, but was passed without reference to that Code, as an independent act. Many of these acts were as much in need of amendment as the original Codes. For the purpose of amendment, however, each act amended constitutes a *subject*, and a bill purporting to amend two or more independent acts would be in con-

frict with Section 61 of the Constitution, which provides that no act shall embrace more than one subject. The Commission was, therefore, reduced to the alternative of preparing a multitude of bills, one for each act amended, or preparing a system of Codes which should embrace all the law, both new and old. The latter seemed by far preferable. It presented the law as an entirety so that the different parts could be considered in their relations. It was less expensive. There was less liability of important parts failing of enactment, and so leaving the law in a fragmentary state for ultimate compilation. Finally, the form in which we have prepared the work is free from Constitutional doubts, as the Supreme Courts of several States, having the same Constitutional provisions as North Dakota, have decided that an act establishing a Code, though the Code embraced many subordinate subjects, was not in conflict with the Constitutional provisions which we have quoted.

It would serve no good purpose for us to attempt to review at length the changes which we have proposed, or to assign reasons therefor. The work itself will best present these matters. In revising these laws we have been guided by the following rules:

1. To remove conflict and uncertainty from existing laws.
2. To present such new provisions as the Constitution and a complete system of Codes require.
3. To introduce no extreme or radical changes, believing that such measures should have their initiative in the Legislative Assembly.

We submit also a memorandum indicating the sections of the Codes which are left unchanged and those which have been re-drafted or amended.

Very respectfully yours,

BURKE CORBET,  
CHARLES F. AMIDON,  
GEO. W. NEWTON,

Revising Commission.

C. J. FISK, Secretary.

Mr. Simpson moved

The adoption of the report of the Revising Commission,  
Which motion prevailed, and  
The report was adopted.

#### CONCURRENT RESOLUTION.

Mr. Simpson presented the following Concurrent Resolution, and moved its adoption:

*Be it Resolved by the House, the Senate Concurring,* That a Joint Committee of nine, five from the House and four from the Senate, be appointed by the Speaker of the House and the President of the Senate, to which shall be submitted the bills prepared by the Revising Commission. Said Joint Committee to be chosen from the Judiciary Committees of the respective bodies, when said Committees shall have been announced,

Which motion prevailed, and  
The concurrent resolution was adopted.

#### UNFINISHED BUSINESS.

Mr. Richards moved

That the following be appointed as Pages of the House:  
Piatt Dunn, G. L. Bogue and Albin Erstrom.

Mr. Wineman moved

That the election of the Pages be deferred until Saturday, January 12th.

Mr. Hodgson moved

That the motion be laid upon the table,

Which motion was lost.

The question being upon the motion to postpone,

The motion prevailed,

And the election of Pages was deferred until Saturday, January 12th.

#### INTRODUCTION OF BILLS, JOINT RESOLUTIONS AND MEMORIALS.

Mr. Svensrud introduced

House Bill No. 3,

A Bill for an act to repeal Chapter 45, Session Laws of 1893,

Which was read the first time.

Also,

House Bill No. 4,

A Bill for an act to amend Sub-division 11 of Section 1, Chapter 100, Laws of 1891,

Which was read the first time.

Mr. Wineman introduced

House Bill No. 5,

A Bill for an act repealing an act entitled "an act to provide for the trial by the District Court without a jury, and for the hearing of such actions on appeal,"

Which was read the first time.

Also,

House Bill No. 6,

A Bill for an act repealing an act entitled "an act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof,"

Which was read the first time.

#### SECOND READING OF HOUSE BILLS, JOINT RESOLUTIONS AND MEMORIALS.

House Bill No. 1,

A Bill for an act, entitled "an act to provide for State Depositories and to regulate the deposit of public monies therein, and the interest thereon, and prescribing the means thereof,"

Was read the second time.

Mr. Wineman moved

That House Bill No. 1,

Be made a special order for Friday, at 2:30 p. m.;

Which motion was lost, and

House Bill No. 1 was ordered referred to the Committee on State Affairs when appointed.

House Bill No. 2,  
 A Bill for an act to extend the elective franchise to females,  
 Was read the second time, and  
 Ordered referred to the Committee on Woman Suffrage when  
 appointed.

Mr. Wineman moved  
 That the vote by which the election of Pages was deferred until  
 Saturday be reconsidered,  
 Which motion prevailed, and  
 The vote was reconsidered.

The Speaker announced that nominations for Pages were in  
 order.

Mr. Svensrud nominated G. L. Bogue for Page of the House.

Mr. Richards nominated Piatt Dunn, G. L. Bogue and Albin  
 Erstrom as Pages of the House.

Mr. Edwards nominated Charles Benedict, Bert Allin and John  
 Peterson as Pages for the House.

Mr. Holritz nominated Thomas Conroy for Page of the House.

Mr. Hodgson nominated Willie McConville for Page of the  
 House.

Mr. Cooper nominated Francis Halloran and J. C. Fritz for  
 Pages of the House.

Mr. Gleason nominated George Feldhauser for Page of the  
 House.

Mr. Armstrong nominated Lloyd Kurtz for Page of the House.

The roll being called, there were 60 votes cast, of which Charles  
 Benedict received 33 votes, Lloyd Kurtz 1 vote, Thomas Conroy  
 12 votes, Albin Erstrom 2 votes, George Feldhauser 1 vote, Willie  
 McConville 3 votes, Bert Allin 7 votes and Francis Halloran 1  
 vote.

Those voting for Charles Benedict were:

Messrs. Colby, Colosky, Cooper, Cryan, Dwyer, Edwards,  
 Fleming, Gilbertson, Gunderson, Hancock, Hanna, Hill, Hodgson,  
 Kellogg, Korsmo, Lindstrom, McLachlan, McDonald, Nelson,  
 Porter, Purdon, Rinde, Rod, Sargent, Stafne, Swenson Tofsrud,  
 Twichell, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Those voting for Thomas Conroy were:

Messrs. Blacklock, Eyolfson, Flack, Guinan, Holritz, Horgan,  
 Jennings, Kroeger, Lerom, Murphy, Nierling and Prosser.

Those voting for Albin Erstrom were:

Messrs. Brainard and Ray.

Those voting for Willie McConville were:

Messrs. Logan, Rasmussen and Smith.

Those voting for Bert Allin were:

Messrs. Myers, Richards, Sharpe, Simpson, Spangberg, Svensrud and Tyler.

Mr. Armstrong voted for Lloyd Kurtz.

Mr. Gleason voted for George Feldhauser.

Mr. Brown voted for Francis Halloran.

Absent and not voting were:

Messrs. Herbrandson and Roberts,

Who were excused.

Charles Benedict having received a majority of votes of all the members-elect was declared duly elected Page for the House.

The roll being called,

There were 60 votes cast, of which Burt Allin received 53 votes and Thomas Conroy received 6 votes, and Albin Erstrom received 1 vote.

Those who voted for Burt Allin were:

Messrs. Armstrong, Blacklock, Brainard, Colby, Colosky, Cooper, Dwyer, Edwards, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Hill, Hodgson, Holritz, Horgan, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rod, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Those who voted for Thomas Conroy were:

Messrs. Brown, Cryan, Eyolfson, Flack, Jennings and Rinde.

Mr. Lindstrom voted for Albin Erstrom.

Those absent and not voting were:

Messrs. Herbrandson and Roberts,

Who were excused.

Burt Allen having received a majority of all the votes of the members-elect, was declared duly elected Page of the House.

The roll being called,

There were 60 votes cast, of which Thomas Conroy received 56 votes, John Peterson received 2 votes and Albin Erstrom received 2 votes.

Those voting for Thomas Conroy were:

Messrs. Blacklock, Brown, Colby, Colosky, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling,

Porter, Prosser, Purdon, Rasmussen, Ray, Richards, Rinde, Rod, Sargent, Sharpe, Simpson, Smith, Spangburg, Stafne, Swenson, Tofsrud, Tyler, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Those voting for Albin Erstrom were:

Messrs. Armstrong and Twichell.

Those voting for John Peterson were:

Messrs. Brainard and Svensrud.

Those absent and not voting were:

Messrs. Herbrandson and Roberts, who were excused.

Thomas Conroy, having received a majority of all the votes of the members-elect, was duly declared elected Page of the House.

The roll being called,

There were 60 votes cast, of which John Peterson received 51 votes, Albin Erstrom received 8 votes and Willie McConville received 1 vote.

Those voting for John Peterson were:

Messrs. Blacklock, Brainard, Brown, Colby Colosky, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Flack, Fleming, Gilbertson, Guinan, Gunderson, Hancock, Hanna, Hill, Hodgson, Holritz, Horgan, Jennings, Kellogg, Kroeger, Korsmo, Lerom, Lindstrom, Logan, McDonald, Myers, Nelson, Nierling, Prosser, Purdon, Rasmussen, Rinde, Rod, Sargent, Sharpe, Simpson, Smith, Stafne, Svensrud, Swenson, Tofsrud, Walker, Wallin, Wineman, Wood and Mr. Speaker.

Those voting for Albin Erstrom were:

Messrs. Armstrong, Gleason, McLachlan, Porter, Ray, Richards, Spangberg and Twichell.

Mr. Murphy voted for Willie McConville.

Those absent and not voting were:

Messrs. Herbrandson and Roberts,

Who were excused.

John Peterson having received a majority of all the votes of the members-elect was declared duly elected Page of the House.

Mr. Richards moved

That an additional Page be elected,

Which motion was lost.

The oath of office was administered to the Pages-elect by the Speaker.

Mr. Nierling moved

That a Committee of three be appointed to investigate and arch for the desks lost from the House,  
se Which motion prevailed.

The Speaker appointed as such Committee Messrs. Nierling, Hanna and Horgan.

Mr. Svensrud moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. G. HAMILTON,  
Acting Chief Clerk.

#### FOURTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 11, 1895.

The House met at 2 o'clock pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present,

Excepting Mr. Herbrandson, who was excused.

Mr. Simpson moved

That the reading of the Journal be dispensed with, and that the present Committee be reappointed to revise and correct the Journal,

Which motion prevailed, and

The Speaker announced the reappointment of such Committee.

#### REPORT OF SELECT COMMITTEE.

MR. SPEAKER:

Your Committee to revise and correct the Journal have examined the Journal of the first day and recommend that it be amended as follows, viz:

That wherever the name of Representative Korsmo appears in said Journal as Peter A. Korsmo it be amended to read Peter N. Korsmo.

That wherever the name of Representative Twitchell appears in said Journal as Twitchell it be amended to read Twichell.

That wherever the name of Representative Purdon appears in said Journal as Purdan it be amended to read Purdon.

That wherever the name of Representative Wallen appears in said Journal as Wallin, it be amended to read Wallen.

That in the record of votes for Mr. Devine for Chief Clerk, as appears upon the third page of said Journal, the name of Representative Edwards be stricken out,

And with said amendments your Committee recommend that the Journals of the first and second days be approved.

EVAN S. TYLER,  
GEORGE HILL,  
JOHN A. LOGAN.

Mr. Wallen moved  
The adoption of the report,  
Which motion prevailed, and  
The report was adopted.

#### MOTIONS AND RESOLUTIONS.

Mr. Wood offered the following resolution:

*Be it Resolved by the House of Representatives:*

That the Trustees of the Capitol be requested to forthwith cause locks and keys to be supplied each desk that members may be able to take care of bills, documents and records.

Mr. Wineman moved  
The adoption of the resolution,  
Which motion prevailed, and  
The resolution was adopted.

Mr. Brainard offered the following Concurrent Resolution:

*Be it Resolved by the House, the Senate Concurring:*

That a Joint Committee of nine, five from the House and four from the Senate, be appointed by the Speaker of the House and the President of the Senate, to be known as the Russian Cactus Committee.

Mr. Brainard moved  
The resolution be adopted,  
Which motion prevailed, and  
The Concurrent Resolution was adopted.

#### UNFINISHED BUSINESS.

The House proceeded to the election of Janitor.

The Speaker announced that nominations for Janitor were in order.

Mr. Prossor nominated Mr. J. A. Jacobson, of Ramsey County.

Mr. Simpson nominated Mr. J. M. Boardman, of Barnes County.

Mr. Richards nominated Mr. Charles Chamberlain, of Burleigh County.

The roll being called, there were 61 votes cast, of which J. M. Boardman received 30 votes, J. A. Jacobson 29 votes and Charles Chamberlain 2 votes.

Those voting for J. M. Boardman were:

Messrs. Brainard, Brown, Colby, Cryan, Dwyer, Edwards, Flack, Gilbertson, Hancock, Hodgson, Jennings, Kellogg, Logan, McLachlan, Nelson, Porter, Purdon, Rasmussen, Richards, Rinde, Sargent, Sharpe, Simpson, Smith, Spangberg, Stafne, Tyler, Wallen, Wineman and Mr. Speaker—30.

Those voting for J. A. Jacobson were:

Messrs. Blacklock, Colosky, Cooper, Eyolfson, Fleming, Gleason, Guinan, Gunderson, Hanna, Hill, Holritz, Horgan, Kroeger, Korsmo, Lerom, Lindstrom, McDonald, Murphy, Myers, Nierling, Prosser, Ray, Rod, Svensrud, Swenson, Tofsrud, Twichell, Walker and Wood—29.

Those who voted for Chas. Chamberlain were:

Messrs. Armstrong and Roberts—2.

Absent and not voting:

Mr. Herbrandson, who was excused.

No one having received a majority of the votes of all the members elect, the House proceeded to take the second ballot for janitor.

The roll being called there were 61 votes cast of which Mr. Boardman received 32 votes, Mr. Jacobson received 29 votes.

Those voting for Mr. Boardman, were:

Messrs. Armstrong, Brainard, Brown, Colby, Cryan, Dwyer, Edwards, Flack, Gilbertson, Hancock, Hodgson, Jennings, Kellogg, Kroeger, Logan, McLachlan, Nelson, Purdon, Rasmussen, Ray, Richards, Rinde, Roberts, Sargent, Sharpe, Simpson, Smith, Spangberg, Tyler, Wallen, Wineman and Mr. Speaker—32.

Those voting for Mr. Jacobson, were:

Messrs. Blacklock, Colosky, Cooper, Eyolfson, Fleming, Gleason, Guinan, Gunderson, Hanna, Hill, Holritz, Horgan, Korsmo, Lerom, Lindstrom, McDonald, Murphy, Myers, Nierling, Porter, Prosser, Rod, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Walker and Wood—29.

Absent and not voting:

Mr. Herbrandson, who was excused.

Mr. J. M. Boardman having received a majority of the votes of all members elect, was declared the duly elected Janitor of the House.

The Speaker announced an informal recess of five minutes.

The House reassembled.

INTRODUCTION OF BILLS, JOINT RESOLUTIONS AND MEMORIALS.

Mr. Tofsrud introduced  
House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890, entitled an "act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Which was read the first time.

Mr Hodgson introduced  
House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collections of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto,"

Which was read the first time.

Mr. Twichell introduced  
House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways,

Which was read the first time.

Mr. Wineman introduced  
House Bill No. 10,

A bill for an act to amend Section 2578 of the Compiled Laws of 1887, relating to divorce,

Which was read the first time.

Mr. Ray introduced  
House Bill No. 11,

A bill for an act to amend the ninth paragraph of Section 7 of Chapter 132 of the Session Laws of 1890, entitled "An act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

. Which was read the first time.

Mr. Twichell introduced  
House Bill No. 12,

A bill for an act entitled "an act to provide for the uniform policy of fire insurance to be made and issued in this State by all insurance companies taking risks on property within this State,"

Which was read the first time.

Mr. Hanna introduced  
House bill No. 13,

A bill for an act to encourage the manufacture of potato starch in the State of North Dakota,  
Which was read the first time.

SECOND READING OF HOUSE BILLS, JOINT RESOLUTIONS AND  
MEMORIALS.

House Bill No. 3,

A Bill for an act to repeal Chapter 45, Session Laws of 1893,  
Was read the second time and referred to the Committee on  
Judiciary when appointed.

House Bill No. 5,

A Bill for an act repealing an act entitled "an act to provide for the trial by the District Court without a jury, and for the hearing of such actions on appeal,"

Was read the second time and referred to the Committee on  
Judiciary when appointed.

House Bill No. 6,

A Bill for an act repealing an act entitled "an act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof,"

Was read the second time and referred to the Committee on  
State affairs when appointed.

House Bill No. 4,

A Bill for an act to amend Sub-division 11 of Section 1, Chapter 100, Laws of 1891,

Was read the second time and referred to the Committee on  
Taxation when appointed.

Mr. Edwards moved

That a Special Committee of three be appointed by the Speaker to confer with the Trustees of the Capitol, and secure the selection of Committee rooms, a lavatory for the House, and all other conveniences necessary for the transaction of the business of the House,

Which motion prevailed.

The Speaker appointed as such Committee, Messrs. Edwards, Richards and Cooper.

Mr. Wineman offered the following resolution:

*Resolved*, That a committee be appointed to report to the House from time to time as to the necessity of the appointment of Clerks and other employes of the House.

Mr. Wineman moved

That the resolution be adopted,

Which motion prevailed, and

The resolution was adopted.

The Speaker appointed as such committee, Messrs. Wineman, Prosser and Twichell.

The Speaker announced an informal recess for ten minutes.

The House reassembled.

Mr. Hodgson moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. G. HAMILTON,  
Acting Chief Clerk.

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#### FIFTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 12, 1895.

The House assembled at 2 o'clock, pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Mr. Herbrandson, who was excused, and Messrs. Holritz, Lerom, Lindstrom, Purdon and Simpson.

Mr. Kroeger asked that Mr. Holritz be excused.

Mr. Wallen asked that Mr. Lerom be excused.

Mr. Walker asked that Mr. Lindstrom be excused.

Mr. Stafne asked that Mr. Purdon be excused.

Mr. Speaker asked that Mr. Simpson be excused.

Which requests were granted, and the absent members were excused.

## REPORT OF SELECT COMMITTEE.

The following report was made by the Select Committee, to revise and correct the Journal:

MR. SPEAKER:

Your Committee upon revision of the Journal respectfully report that they have examined the Journal for the third day; that they find the same correct and recommend that it be approved.

EVAN S. TYLER,  
Chairman.

Mr. Svensrud moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report was adopted.

Mr. Svensrud moved

That the reading of the Journal be dispensed with, and the same Committee of three be reappointed to revise and correct the same,

Which motion prevailed, and

The Committee was reappointed.

## REPORTS OF SELECT COMMITTEE.

The following report was made by the Committee to recover the desks lost from the House:

*To the Honorable, the Legislative Assembly of the State of North Dakota:*

We, the undersigned Committee, appointed by your honorable body for the purpose of investigating and search for desks lost by the House, beg leave to report that we have investigated this matter and find that said desks have been placed in the Senate Chamber by order of the Governor and Secretary of State, upon the representation that the same had heretofore been the property of the Senate by virtue of possession thereof; also that this Committee conferred with the Governor, Lieutenant Governor, Secretary of State and several members of the Senate, and it was suggested and agreed to that provisions be made for the purchase of new desks for the Senate, and the proper desks returned to this House.

J. J. NIERLING,  
L. B. HANNA,  
P. J. HORGAN.

Mr. Edwards for the Committee appointed to confer with the Trustees of the Capitol to secure Committee Rooms, a Lavatory and other conveniences for the House, made a partial report, and asked that the Committee be allowed further time.

Which request was granted.

## MOTIONS AND RESOLUTIONS.

Mr. Svensrud offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

*Resolved*, That files of all bills and journals be furnished for the Press Correspondents' tables.

Mr. Hanna offered the following resolution and moved its adoption,

Which motion prevailed, and  
The resolution was adopted.

*Resolved*, That there be printed for the use of each of the members, to enable them to supply the Press, the State Officers and Committees, five extra copies of the Journals and Bills.

Mr. Wineman offered the following Concurrent Resolution and moved its adoption,

Which motion prevailed, and  
The Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That a Committee, consisting of three members of the House of Representatives and two members of the Senate, be appointed to confer with a similar committee to be appointed by the Legislative Assembly of the State of Minnesota, with a view of proposing suitable legislation for the purpose of securing lower freight rates upon grains and coal.

*Resolved, further*, That a copy of these resolutions be transmitted to the Governor and Legislative Assembly of the State of Minnesota.

#### INTRODUCTION OF BILLS, JOINT RESOLUTIONS AND MEMORIALS.

Mr. Myers introduced

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of veterinary science in the State of North Dakota,"

Which was read the first time.

Mr. Nierling introduced

House Bill No. 15,

A Bill for an act to amend Section seventy-nine (79) of Chapter 109 of the Laws of 1893, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Which was read the first time.

Mr. Hancock introduced

House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

Which was read the first time.

Mr. Wood introduced

House Bill No. 17,

A Bill for an act entitled "an act making account books *prima facie* evidence of the entries therein contained,"

Which was read the first time.

Mr. Nierling introduced

House Bill No. 18,

A Bill for an act to amend Section 24, of Chapter 132, of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessment, and the levy and the collection of taxes, and for other purposes relative thereto,"

Which was read the first time.

SECOND READING OF HOUSE BILLS, JOINT RESOLUTIONS AND MEMORIALS.

House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890, entitled an "act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Was read the second time, and referred to the Committee on Taxes and Tax Laws when appointed.

House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collections of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto,"

Was read the second time, and referred to the Committee on Taxes and Tax Laws when appointed.

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways,

Was read the second time, and referred to the Committee on Highways and Bridges when appointed.

House Bill No. 10,

A Bill for an act to amend Section 2578 of the Compiled Laws of 1887, relating to divorce,

Was read the second time, and referred to the Committee on Judiciary when appointed.

House Bill No. 11,

A Bill for an act to amend the ninth paragraph of Section 7 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

Was read the second time, and referred to the Committee on Taxes and Tax Laws when appointed.

House Bill No. 12,

A Bill for an act entitled "an act to provide for the uniform

policy of fire insurance to be made and issued in this State by all insurance companies taking risks on property within this State,"

Was read the second time, and referred to the Committee on Insurance.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
January 12, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has this day concurred in the House Resolution appointing a Committee to whom shall be referred the report of all bills reported by the Compilation Committee.

Respectfully,  
FRED FALLEY,  
Secretary.

CONCURRENT RESOLUTION.

*Be it Resolved by the House, the Senate Concurring:*

That a joint committee of nine (9), five from the House and four from the Senate, be appointed by the Speaker of the House and the President of the Senate, to which shall be submitted the bills prepared by the Revising Commission, said Joint Committee to be chosen from the Judiciary Committee of the respective bodies, when said Committee shall have been announced.

SECOND READING OF HOUSE BILLS.

House Bill No. 13,

A Bill for an act to encourage the manufacture of potato starch in the State of North Dakota,

Was read the second time, and

Referred to the Committee on State Affairs when appointed.

The Speaker announced an informal recess of ten minutes.

The House reassembled.

Mr. Wineman moved.

That the vote by which the Concurrent Resolution relating to lower freight rates was adopted be reconsidered, and the vote to reconsider be laid upon the table,

Which motion was lost.

Mr. Cooper moved

That the House do now adjourn,

Which motion was withdrawn.

The Speaker announced an informal recess of the House for ten minutes.

The House reassembled.

Mr. Blacklock moved

That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. G. HAMILTON,  
Acting Chief Clerk.

SEVENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 14th, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

The Speaker announced the presence of Hon. J. M. Devine, and introduced him to the House as the Chief Clerk.

Mr. Devine made a short address and thanked the House for its extension of courtesy.

Roll called.

All members present,

Excepting Messrs. Lindstrom and Purdon,

Who were excused.

Mr. Wineman moved

That the reading of the Journal be dispensed with, and that the same Committee of three be re-appointed to revise and correct the same,

Which motion prevailed, and  
Such Committee was re-appointed.

REPORT OF SELECT COMMITTEES.

Mr. Tyler, of the Committee to revise and correct the Journal, made the following report:

MR. SPEAKER:

Your Committee to revise and correct the Journal respectfully report, that they have examined the Journal of the Fourth Day; find it correct, and recommend that the same be approved.

EVAN S. TYLER,  
Chairman.

Mr. Hodgson moved  
That the report be adopted,  
Which motion prevailed, and  
The report was adopted.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

The Speaker announced the following

STANDING COMMITTEES.

RULES—Messrs. Svensrud, Chairman; Tyler, Prosser, Logan, Simpson, Sharpe, Horgan, Colosky, Colby.

JUDICIARY—Messrs. Simpson, Chairman; Wineman, Edwards, Sharpe, Fleming, Prosser, Hanna, Lindstrom, Guinan, McDonald, Armstrong, Blacklock, Murphy, McLachlan, Ray.

WAYS AND MEANS—Messrs. Lindstrom, Chairman; Wallen, Gleason, Ray, Hanna, Cryan, Rod, Stafne, Colby, Spangberg, Blacklock.

RAILROADS—Messrs. Cooper, Chairman; Twichell, Ray, Edwards, Walker, Hanna, Nierling, Sharpe, Lerom, Roberts, Rasmussen, Holritz, Richards, Hodgson, Myers.

APPROPRIATIONS—Messrs. Prosser, Chairman; Tyler, Richards, Hancock, Gleason, Svensrud, Logan, Simpson, Gunderson, Murphy, Colosky, Purdon, Nelson.

ENGROSSMENT—Messrs. Wallen, Chairman; Porter, Armstrong, Blacklock, Cooper, Cryan, Jennings, Sargent, Hill.

ENROLLMENT—Messrs. Hanna, Chairman; Colby, Holritz, Horgan, Kellogg, Fleming, Lerom, Hodgson, Walker.

EDUCATION—Messrs. Logan, Chairman; Cooper, Sharpe, Murphy, Sargent, Kroeger, Blacklock, Rinde, Armstrong.

ELECTIONS AND PRIVILEGES—Messrs. Walker, Chairman; Hancock, McDonald, Wood, Ray, Brainard, Lerom, Gunderson, Rinde.

MUNICIPAL CORPORATIONS—Messrs. Purdon, Chairman; Colosky, Cooper, Lindstrom, Cryan, Tyler, Lerom, Gleason, Wineman.

CORPORATIONS OTHER THAN MUNICIPAL—Messrs. Hancock, Chairman; Gilbertson, Brainard, Blacklock, Colosky, Cryan, Eyolfson, Guinan, Hill.

AGRICULTURE—Messrs. Brown, Chairman; Spangberg, Rasmussen, Colby, Smith, Flack, Eyolfson, Dwyer, Kellogg.

PUBLIC PRINTING—Messrs. Edwards, Chairman; Gleason, Brainard, Wallen, Swenson, Horgan, Richards, Hill, Roberts.

**IRRIGATION**—Messrs. Hodgson, Chairman; Brainard, Gilbertson, Hancock, Purdon, Swensrud, Wallen, McDonald, Gunderson.

**INSURANCE**—Messrs. Nierling, Chairman; Lerom, Purdon, Prosser, Twichell, Porter, Murphy, Wineman, Holritz.

**BANKING**—Messrs. Sharpe, Chairman; Tyler, Brown, Hanna, Brainard, Fleming, Eyolfson, Flack, Murphy.

**LABOR**—Messrs. Herbrandson, Chairman; Flack, Brainard, Colby, Kroeger, Cooper, Gunderson, Richards, Kellogg.

**IMMIGRATION**—Messrs. Gilbertson, Chairman; Nierling, Holritz, Nelson, Smith, Myers, Tofsrud, Dwyer, Gunderson.

**APPORTIONMENT**—Messrs. Blacklock, Chairman; Guinan, Rinde, Rod, Korsmo, Wood, Hancock, Lerom, Edwards, Colby, Hanna, Stafne, Cryan, Gunderson, Rasmussen, Swenson, Ray, Jennings, McDonald, Tofsrud, Walker, Porter, Gleason, Sharpe, Brainard, Roberts, Spangberg, Svensrud, Murphy, Kroeger, Simpson.

**SCHOOL AND PUBLIC LANDS**—Messrs. Colosky, Chairman; Gleason, Flack, Fleming, Gilbertson, Myers, Stafne, Lerom, Walker.

**PUBLIC HEALTH**—Messrs. Wood, Chairman; McLachlan, Hodgson, Lerom, Kellogg, Walker, Guinan, Nierling, Svensrud.

**MILITARY AFFAIRS**—Messrs. McLachlan, Chairman; Edwards, Flack, Rasmussen, Brown, Hill, Hancock, Nelson, Walker.

**WAREHOUSES, GRAIN GRADING AND DEALING**—Messrs. Tyler, Chairman; Gilbertson, Rasmussen, Stafne, Blacklock, Gunderson, Jennings, Korsmo, Cryan, Guinan, Ray, Rinde, Rod, Wallen, Wineman.

**FEDERAL RELATIONS**—Messrs. Kroeger, Chairman; Herbrandson, Korsmo, Roberts, Spangberg, Simpson; Smith, Hancock, Wood.

**MINES AND MINING**—Messrs. Armstrong, Chairman; Porter, Rinde, Swenson, Wood, Kroeger, Smith, Tofsrud, Korsmo.

**TEMPERANCE**—Messrs. Sargent, Chairman; Dwyer, Wineman, Logan, Prosser, Colby, Gleason, Korsmo, Tyler.

**HIGHWAYS, BRIDGES AND FERRIES**—Messrs. Kellogg, Chairman; Rasmussen, Hill, Dwyer, Eyolfson, Spangberg, Herbrandson, Brown, Myers.

**STATE AFFAIRS**—Messrs. Twichell, Chairman; Svensrud, Brown, Rod, Rinde, Myers, Swenson, Wood, Armstrong.

**SUPPLIES AND EXPENDITURES**—Messrs. Porter, Chairman; Sharpe, Rinde, Nelson, McLachlan, Stafne, Swenson, Cryan, Holritz.

**FORESTRY**—Messrs. Ray, Chairman; Wood, Tofsrud, Swenson, Nelson, Guinan, Rod, Stafne, Purdon.

**PUBLIC DEBT**—Messrs. Korsmo, Chairman; Herbrandson, Kellogg, Jennings, McDonald, Porter, Prosser, Eyolfson, Purdon.

**WOMAN'S SUFFRAGE**—Messrs. Dwyer, Chairman; Edwards, Brown, Smith, Logan, Lindstrom, Murphy, Gleason, Jennings.

**MANUFACTURES**—Messrs. McDonald, Chairman; Cryan, Fleming, Holritz, Nierling, Spangberg, Twichell, Wineman, Wallen.

**COUNTIES AND COUNTY BOUNDARIES**—Messrs. Murphy, Chairman; Svensrud, Simpson, Twichell, Lindstrom, McLachlan, Horgan, Richards, Herbrandson.

**TAXES AND TAX LAWS**—Messrs. Swenson, Chairman; Gilbertson, Porter, Tofsrud, Stafne, Sargent, Jennings, Kroeger, Rinde.

**COAL LANDS AND MINING**—Messrs. Holritz, Chairman; Spangberg, Jennings, Rod, Tofsrud, Myers, Hodgson, Roberts, Dwyer.

**SHEEP HUSBANDRY**—Messrs. Roberts, Chairman; Rasmussen, Hanna, Richards, Flack, Kroeger, Cooper.

**REVISION AND CORRECTION OF THE JOURNALS**—Messrs. Hill, Chairman; Logan, Tyler, Ray, Sargent, Jennings, Wood.

**JOINT COMMITTEE. PUBLIC BUILDINGS**—Messrs. Nelson, Chairman; Purdon, Wineman, Richards, Nierling, Edwards, Gunderson, Twichell, Prosser.

**JOINT COMMITTEE, CHARITABLE INSTITUTIONS**—Messrs. Gleason, Chairman; Walker, Brown, Kellogg, Horgan, Hancock, Smith, Myers, Purdon.

**JOINT COMMITTEE, PENAL INSTITUTIONS**—Messrs. Richards, Chairman; Armstrong, Kroeger, Korsmo, Lindstrom, Flack, Rod, Sargent, Nierling.

**JOINT COMMITTEE, EDUCATIONAL INSTITUTIONS**—Messrs. Wineman, Chairman; Wallen, Rasmussen, Edwards, Dwyer, Guinan, Hill, Hodgson, Tofsrud.

**JOINT COMMITTEE, STATE LIBRARY**—Messrs. Fleming, Chairman; Twichell, Simpson, Roberts, Nelson, McLachlan, Eyolfson, Hanna, McDonald.

**JOINT COMMITTEE, RULES**—Messrs. Horgan, Chairman; Colby, Colosky, Sharpe, Simpson, Logan, Prosser, Tyler, Svensrud.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Flack presented the following petition:

LANGDON, N. D., January 8th, 1895.

*To the Honorable Legislative Assembly of the State of North Dakota:*

GENTLEMEN: We, your petitioners, who are members of the Board of County Commissioners of Cavalier County, N. D., would respectfully ask your Honorable Body to repeal Sub-division 11 (eleven) of Section (5), Chapter 132, of the Laws of 1890, as amended by Section 1, Chapter 100, of the Laws of 1891, being the law exempting \$200 worth of personal property from taxation.

We would further state as our reason for petitioning you to repeal this law is, that there is almost no revenue for County or State purposes derived from the taxing of personal property on account of the fraudulent methods used to evade the law.

GEORGE WEIR, Chairman,  
HARRY DUNFORD, Co. Com.  
P. McHUGH, Co. Com.  
HENRY PORTER, Co. Com.

Which petition was received and referred to the Committee on Taxes and Tax Laws.

#### REPORTS OF SELECT COMMITTEES.

The Select Committee to investigate the needs of the House, as to Clerks and other employes, made the following report:

MR. SPEAKER:

We, your Committee appointed to investigate the needs of the House, as to the appointment of Clerks and other employes, respectfully recommend the appointment of one Doorkeeper for the Gallery, one Janitor for Committee Rooms, one Superintendent of Cloak Rooms and ten Engrossing and Enrolling Clerks. We recommend that all Engrossing and Enrolling Clerks be directed to report to the Chief Clerk at the close of each day's session for assignment, to committee work.

We recommend that an Assistant Postmaster be appointed.

We also recommend that the pay of all employes and Clerks, with the exception of the Chief Clerk, be reduced 25 per cent.

J. B. WINEMAN,  
T. TWICHELL,  
F. H. PROSSER.

Mr. Wineman moved

That the House do now resolve itself into a Committee of the Whole for the consideration of the report of the Committee.

Mr. Edwards moved

To amend by adding that the reports of the other Select Committees be included, and that the consideration be deferred until the order of consideration of General Orders was reached.

The Committee to attend to the Conveniences of the House made the following report,

MR. SPEAKER:

Your Special Committee selected to confer with the Trustees of the Capitol Building have secured the southeast room on the main floor, formerly occupied by the Superintendent of Public Instruction, for the Enrolling and Engrossing Committee of the House. Tables and chairs are supplied.

Keys for members desks have not been supplied, but are ordered and expected soon.

The room on this floor near to the right of the entrance of the Supreme Court Clerk's room has been selected for a lavatory and material ordered. It will require several days to finish it.

Members report that the calcimining on the cloak room walls rubs off and ask it be remedied by whitewashing the walls. We have called the attention of the Superintendent of the building to the complaint.

Awaiting the further instructions,

Respectfully submitted,

A. W. EDWARDS,

Chairman.

Which report was referred to General Orders:

The same committee also made the following report, which was referred to General Orders:

MR. SPEAKER:

Your Committee has propositions for down-town rooms for use of Judiciary, Railroad and other Committees of the House, as follows:

Grand Army Hall, for \$30; they furnish coal, chairs and tables; large hall.

J. Fox, across the street, first floor; furnish coal, chairs and tables; \$30 per month; large room.

A. Cressy's House, committee room; furnish coal, chairs and tables; \$30 per month.

Two rooms in First National Bank Block, for \$30 each; furnish coal, tables and chairs.

It will be necessary to have a Janitor to look after these rooms. The Committee has several applications from old soldiers, but have not deemed it in the scope of their duties to employ such.

Your Committee recommends the securing of the rooms mentioned, and asks the House for further instructions as to securing the necessary Janitors.

Respectfully submitted,

THOS. RICHARDS,

From the Committee.

#### MOTIONS AND RESOLUTIONS.

Mr. Blacklock offered the following resolution, and

Moved its adoption,

Which motion prevailed, and

The resolution was adopted and referred to General Orders:

*Resolved*, That the Secretary of State be requested to furnish each member of the House with a Legislative Manual.

Mr. Spangberg offered the following resolution,

Which was read and referred to General Orders:

*Resolved*, That the rooms reported by the Committee be accepted on the terms named, and the Committee authorized to employ Janitors for the same,

The G. A. R. Hall for Appropriations,

Fox Room for Railroad Committee,

Cressy House for Ways and Means,

First National Bank for Judiciary and Joint Revision.

#### INTRODUCTION OF BILLS, JOINT RESOLUTIONS AND MEMORIALS.

Mr. Tofsrud introduced

House Bill No. 19,

A Bill for an act to amend Section 1 of Chapter 131 of the Session Laws of 1890, entitled "an act to amend Chapter 48 of the Session Laws of 1889," entitled "an act to amend Section 103 of Chapter 28 of the Political Code," relating to the publication of receipts and disbursements of County Treasurer,

Which was read the first time.

Mr. Tofsrud introduced

House Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 183 of the Ses-

sion Laws of 1890, entitled "an act to provide for a system of accounts for the State Auditor and State Treasurer,"

Which was read the first time.

Mr. Sharpe introduced  
House Bill No. 21,

A Bill for an act prescribing the duties of States' Attorneys, fixing their compensation and the method of determining the same.

Which was read the first time.

Mr. Simpson introduced  
House Bill No. 22,

A Bill for an act to increase the revenues of the State by changing and increasing the boundaries of the counties of Billings, Stark and Mercer,

Which was read the first time.

Mr. Guinan introduced  
House Bill No. 23,

A Bill for defining the duties of Railways in regard to Station Houses,

Which was read the first time.

Mr. Wineman introduced  
House Bill No. 24,

A Bill for an act to amend Section 162 of Chapter 62 of the Laws of 1890, being an act entitled "an act to provide for a uniform system of free Public Schools throughout the State and to prescribe penalties for violation of the provisions thereof,"

Which was read the first time.

Mr. Logan introduced  
House Bill No. 25,

A Bill for an act entitled "an act to regulate the Liability of Corporations,"

Which was read the first time.

Mr. Rasmussen introduced  
House Bill No. 26,

A Bill for an act to repeal Chapter 101, Session Laws of 1893,

Which was read the first time.

Mr. Logan introduced  
House Bill No. 27,

A Bill for an act requiring the Board of Railroad Commissioners to ascertain the value of No. 1 Hard Wheat in Duluth or West Superior, based on the Liverpool market price, and providing for the publication thereof,

Which was read the first time.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
 Jan. 14, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has concurred in the House resolution to the effect that a Committee be appointed by the Legislative Assembly to confer with a like Committee from the Minnesota Legislature.

Respectfully,  
 FRED FALLEY,  
 Secretary.

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That a committee consisting of three members of the House of Representatives and two members of the Senate be appointed to confer with a similar committee to be appointed by the Legislative Assembly of the State of Minnesota with a view of proposing suitable legislation for the purpose of securing lower freight rates upon grains and coal.

*Resolved, further,* That a copy of these resolutions be transmitted to the Governor and Legislative Assembly of the State of Minnesota.

Mr. Speaker informed the House that it was his sad duty to announce to the members of the House of Representatives that he had just received the news of the death of Mrs. H. C. Hansbrough, wife of Hon. H. C. Hansbrough, Senator from North Dakota.

Mr. Edwards moved

That out of respect to our honored senior Senator, and in extension of our sympathy for him in his bereavement, by the death of Mrs. Hansbrough in Washington today, this House adjourn immediately after the consideration of General Orders.

Mr. Wineman seconded the motion.

Mr. Simpson moved

To amend, by adding that a committee of five from the House be appointed by the Speaker to draft appropriate resolutions on the death of Mrs. Hansbrough, and that the Representative from Mr. Hansbrough's district be made chairman of such committee.

The question recurred on the motion as amended,  
 Which motion prevailed.

The Speaker appointed as a committee to draft resolutions of respect for Mrs. Hansbrough Messrs. Prosser, Hill, Cooper, Hanna and Nelson.

SECOND READING OF HOUSE BILLS.

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of veterinary science in the State of North Dakota,"

Was read the second time, and

Referred to the Committee on State Affairs.

House Bill No. 15,

A Bill for an act to amend Section seventy-nine (79) of Chapter 109 of the Laws of 1893, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,"

Was read the second time, and

Referred to Committee on Taxes and Tax Laws.

House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

Was read the second time, and

Referred to the Committee on Taxes and Tax Laws.

House Bill No. 17,

A Bill for an act entitled "an act making account books *prima facie* evidence of the entries therein contained,"

Was read the second time, and

Referred to the Committee on Judiciary.

House Bill No. 18,

A Bill for an act to amend Section 24 of Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessment and the levy and the collection of taxes, and for other purposes relative thereto,"

Was read the second time, and

Referred to the Committee on Taxes and Tax Laws.

Mr. Svensrud asked the unanimous consent of the House, that the House return to the fifth order of business, in order that he could make a report,

Which was granted, and

The Committee on Rules made the following report:

#### REPORT OF THE COMMITTEE ON RULES.

MR. SPEAKER:

Your Committee on Rules desire to make the following report:

We recommend the adoption of the rules of the House of Representatives of 1893, with the following amendments:

Change the third order of business to read, "Reference of the Journal," and also strike out in the ninth, tenth, eleventh, fourteenth and fifteenth order, the words, "Joint Resolutions."

Amend rule 2 by striking out all after the word "be" in second line of said rule and in lieu thereof insert the following: "Referred to the Committee on Revision and Correction of the Journal. Any mistakes therein shall be corrected by the Committee and reported to the House for action."

Amend rule 22 by striking out the words, "and Joint Resolutions," wherever they occur.

Change rule 24 to read as follows: "The first reading of a bill shall be for information, and the bill shall be presented and go to its second reading without further question. All bills shall be printed after the first and second reading thereof, excepting bills reported from the Joint Committee to con-

sider the report of the Revision Commission, which shall not be printed unless ordered by the House."

Amend rule 26 by adding the following proviso: "Provided, however, that the House may make such rules, with reference to bills submitted from Joint Committee, to consider the work of the Revision Commission, as the House may deem necessary."

Amend rule 39 by striking out the word "second" in the fourth line and inserting in lieu thereof the word "first."

Amend rule 40 by adding the following Committee: "On Mileage and Per Diem, to consist of three members."

Amend rule 43 by striking out in the second line the words "Joint Resolutions" and insert therein the word "Memorials."

Amend rule 46 by striking out the word "Court" after the word "Supreme" in the third line and in lieu thereof insert the words "and District Courts;" also by striking out in the fourth line the words "ex-members of Congress."

Amend rule 55 by striking out in the third line the words "Joint Resolutions" and insert in lieu thereof the words "Concurrent Resolutions to amend the Constitution."

Amend rule 61 by inserting after the word "Clerk" in the first line the word "nor" in lieu of the word "or," and after the word "any" in the fifth line the words "bills, resolutions and."

Amend rule 63 by striking out the words "lay on the Clerk's desk" and in lieu thereof insert the words "send to the Chief Clerk's desk."

We recommend that the Rules of the House and Senate, and the Committees of each House be printed in Manual form for use of the members and State officers.

A. SVENSRUD,  
Chairman.

Mr. Svensrud moved

The adoption of the report.

Mr. Wineman moved

As a substitute

That the rules be printed and made a special order for Tuesday.

Mr. Svensrud withdrew his motion.

The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Wineman to the Chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration the report of the Committee on Clerks and Employes and recommend the adoption of the report, except that it be amended by striking out that portion relating to the salaries of clerks and employes, and when so amended that the report be adopted,

Also,

The resolution in reference to the selection of committee rooms, and recommend the adoption of the resolution.

J. B. WINEMAN,  
Chairman.

Mr. Wallen moved

The adoption of the report,  
Which motion prevailed, and  
The report of the Committee was adopted.

Mr. Wineman moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

EIGHTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 15, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present,  
Excepting Messrs. Gunderson and Sharpe,  
Who were excused.

REPORTS OF SELECT COMMITTEES.

The Select Committee to revise and correct the Journal, made the following report :

MR. SPEAKER :

Your Committee upon Revision and Correction of the Journal respectfully report that they have examined the Journal of the

fifth day, and find the same correct, and recommend that it be approved.

GEORGE HILL,  
Chairman.

Mr. Colby moved  
That the report be adopted,  
Which motion prevailed.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor, which was referred to the Committee on Appropriations:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., Jan. 15, 1895. }

To the Honorable House of Representatives:

GENTLEMEN—I have the honor to transmit herewith a bill of the State Industrial School of South Dakota, for the care of inmates from North Dakota, to December 31, 1894.

Also correspondence relative to the same.

Respectfully,  
ROGER ALLIN,  
Governor.

A statement referring to the children from the State of North Dakota, cared for in the Reform School of South Dakota:

Henning Soderberg, from Morton County, two years at \$200.....	\$	400	00
Willie Smith, from Morton County, two years at \$200.....		400	00
Willard Ruscoe, from Morton County, 1 year 4½ months.....		275	00
Eddie Garlick, from Morton County, 2½ months.....		41	65
Erving McKay, from Grand Forks County, 1 year.....		200	00
John Halverson, from Grand Forks County, 9 months.....		149	94
Duncan McLeod, from Grand Forks County, 9 months.....		149	94
David Lindsay, from Emmons County, 9 months.....		149	94
Alice B. Gould, from Ramsey County, 4 months.....		66	64
Oscar Monson, from Barnes County, 5½ months.....		91	63
William Lundgren, from Walsh County, 5½ months.....		91	63
Tony Ervic, from Walsh County, 9½ months.....		158	65
Clyde Brown, from Stutsman County, 2½ months.....		41	65
Nellie DeRacan, 1 year, 2½ months.....		241	65

\$ 2,428 32

To December 31, 1894.

PLANKINTON, S. D., Nov. 26, 1894.

Hon. E. C. D. Shortridge, Governor of North Dak., Bismarck, N. D.:

DEAR SIR—Complying with your request of the 22d inst., herein enclosed please find our statement for taking care of the children from North Dakota sent to this institution. I have made the bill to December 31, 1894. We have ten children from your State at this time.

Very respectfully,  
C. W. AINSWORTH,  
Superintendent.

BISMARCK, NORTH DAKOTA,  
November 22, 1894. }

C. W. Ainsworth, Supt. State Reform School, Plankinton, S. D.:

DEAR SIR—Governor Shortridge desires me to request you that you give

him a detailed statement of the expense, number, etc., of which the State of North Dakota is indebted to the State of South Dakota for the care and schooling of refractory children up to December 1 of this year.

Awaiting your early reply, I have the honor to be, Sir,

Yours very truly,

(Signed) ORR SAUNDERS,  
Private Secretary.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

The Speaker presented the following petition,  
Which was referred to the Committee on Russian Cactus:

*To the Representatives of Cass County:*

HON. GENTLEMEN: We, the committee named at a cactus meeting of the citizens of Cass County, held in Casselton, December 28, 1894, for the purpose of benefiting the people at large of the State of North Dakota in the suppression and spread of the Russian cactus and other noxious weeds, recommend your honorable body that all acts on the statutes pertaining to destruction of noxious weeds be repealed. We would suggest your honorable body that a law be enacted making it obligatory upon all officers connected with highways or public grounds to destroy all noxious weeds, such as Russian cactus, wild oats, mustard and cockle burs and others known as noxious weeds. Also, that the growing of such weeds be declared by law a public nuisance, and all persons growing and allowing to mature the above noxious weeds be subject to a severe penalty. We would suggest the time of destroying the above named noxious weeds be named by law and not left discretionary to any board.

G. LEE CLARK,  
THOS. SMYTH,  
JNO. H. PLATT, JR.,  
A. M. ANSON,  
W. H. FLYNN,  
S. H. ADAMS,  
F. J. LANGER.

Mr. Wineman moved

That the Select Committee to confer with the Trustees of the Capitol to secure conveniences for the House, be instructed to have additional storm sash secured for the House Chamber.

Mr. Edwards for the Committee

Reported that the Committee already had the matter under consideration and would attend to the same.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
January 15, 1895. )

MR. SPEAKER:

I have the honor to inform you that the President of the Senate has appointed Senators McCarten, Valentine and Rourke as members of the Joint Committee on Cactus measures.

Also on conference with like committee in Minnesota on grain and freight rates, Senators Little and Burke.

Also on Compilation Joint Committee, Senators Gregory, Burke, Rourke and Sorley.

FRED FALLEY,  
Secretary.

UNFINISHED BUSINESS.

Mr. Svensrud moved  
That the report of the Committee on Rules be adopted,  
Which motion prevailed, and  
The report of the Committee on Rules was adopted.

INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Hill introduced  
House Bill No. 28,  
A Bill for an act entitled "an act making Labor Day a legal holiday,"  
Which was read the first and second times, and  
Referred to the Committee on Labor.

Mr. Logan introduced  
House Bill No. 29,  
A Bill for an act to provide free and uniform school text books throughout the several counties of the State,  
Which was read the first and second times, and  
Referred to the Committee on Education.

Mr. Fleming moved  
That Professor Woods, of Walsh County, be allowed the privileges of the floor and allowed to address the House,  
Which motion prevailed, and  
Professor Woods made a short address to the House in relation to the introduction of free text books.

SECOND READING OF HOUSE BILLS AND MEMORIALS.

House Bill No. 19,  
A Bill for an act to amend Section 1 of Chapter 131 of the Session Laws of 1890, entitled "an act to amend Chapter 48 of the Session Laws of 1889," entitled "an act to amend Section 103 of Chapter 28 of the Political Code," relating to the publication of receipts and disbursements of County Treasurer,  
Was read the second time and  
Referred to the Committee on Public Printing.

House Bill No. 20,  
A Bill for an act to amend Section 3 of Chapter 183 of the Session Laws of 1890, entitled "an act to provide for a system of accounts for the State Auditor and State Treasurer,"  
Was read the second time, and  
Referred to the Committee on State Affairs.

## House Bill No. 21,

A Bill for an act prescribing the duties of States' Attorneys, fixing their compensation and the method of determining the same,

Was read the second time, and

Referred to the Committee on Judiciary.

## House Bill No. 22,

A Bill for an act to increase the revenues of the State by changing and increasing the boundaries of the Counties of Billings, Stark and Mercer,

Was read the second time, and

Referred to the Committee on Counties and County Boundaries.

## House Bill No. 23,

A Bill for defining the duties of Railways in regard to Station Houses.

Was read the second time, and

Referred to the Committee on Railroads.

## House Bill No. 24,

A Bill for an act to amend Section 162 of Chapter 62 of the Laws of 1890, being an act entitled "an act to provide for a uniform system of free Public Schools throughout the State, and to prescribe penalties for violation of the provisions thereof,"

Was read the second time, and

Referred to the Committee on Education.

## House Bill No. 25,

A Bill for an act entitled "an act to regulate the Liability of Corporations,"

Was read the second time, and

Referred to the Committee on Corporations Other Than Municipal.

## House Bill No. 26,

A Bill for an act to repeal Chapter 101, Session Laws of 1893,

Was read the second time, and

Referred to the Committee on Railroads.

## House Bill No. 27,

A Bill for an act requiring the Board of Railroad Commissioners to ascertain the value of No. 1 Hard Wheat in Duluth or West Superior, based on the Liverpool market price, and providing for the publication thereof,

Was read the second time, and was

Referred to the Committee on Warehouses, Grain Grading and Dealing.

Mr. Edwards moved

That the House return to the order of presentation of Petitions and Communications,

Which motion prevailed.

Mr. Edwards presented the following petition from Cass County,

Which was referred to the Committee on Banking:

FARGO, NORTH DAKOTA,  
January 14, 1895.

*Hon. A. W. Edwards:*

DEAR MAJOR: I notice by the papers that some one has introduced a bill in the House to assess the capital of National Banks to the banks as corporations instead of assessing it to the individual stockholders. I drew a bill of this nature two years ago and had Mr. Bullard introduce it. It was House Bill No. 64, 65, 66, 67 or 68. I don't remember which, as these were all my bills and this was among them. Mr. Newman and myself investigated the bank question thoroughly and found that according to decision of the courts bank stock could not be assessed to the corporation. We found the decisions in the State Library, but I have forgotten what book it was. Please look this up and see that no mistake is made.

Yours,

C. H. ANHEIER.

The Speaker announced  
As Committee on Mileage and Per Diem,  
Messrs. Wood, Hodgson and Tofsrud.

The Speaker announced  
An informal recess of ten minutes.

The House reassembled.

The Speaker announced as members of the Joint Committee on  
Russian Cactus,  
Messrs. Brainard, Colby, Svensrud, Brown and Purdon.

The Speaker announced the following appointments:

Doorkeeper Gallery—L. Brandt.

Janitor of Committee Rooms—Alfred Cressy.

Janitor of Committee Rooms—A. S. Hobson.

Superintendent of Cloak Rooms—J. A. Jacobson.

Assistant Postmaster—T. W. Allshouse.

Assistant Enrolling and Engrossing Clerks—W. H. Carleton,  
S. Thompson, W. H. Aymar, A. H. Johnson, A. Ellingson, D. C.  
Boyd, William Collins, J. C. Shaver, W. J. Smith.

Mr. Horgan moved that the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

NINTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 16, 1895.

The House assembled at 2 o'clock pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting

Mr. Gunderson, who was excused, and Mr. Logan.

Mr. Rasmussen asked that Mr. Logan be excused.

Which request was granted, and

Mr. Logan was excused.

REVISION OF THE JOURNAL.

The Committee on Correction and Revision of the Journal made the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal, respectfully report that they have examined the Journal of the seventh day and recommend that it be amended as follows, viz:

That the report of the Select Committee on page 5 be amended by expunging from the records all that portion referring to the Postmaster, so that the paragraph will read that an Assistant Postmaster be appointed.

With such amendment we recommend that Journal be approved.

GEORGE HILL,  
Chairman.

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have examined the Journal for the eighth day and recommend that it be amended as follows, viz:

That on page 6 Mr. Hogan moved that the House do now adjourn. It be amended to read that Mr. Horgan moved that the House do now adjourn.

And with such amendment your Committee recommend that the Journal of the eighth day be approved.

GEORGE HILL,  
Chairman.

Mr. Svensrud moved

That the report of the Committee of Revision of the Journal for the seventh day be adopted,  
Which motion prevailed, and  
The report was adopted, and  
The Journal for the seventh day was approved.

Mr. Fleming moved

That the report of the Committee of Revision of the Journal for the eighth day be adopted,  
Which motion prevailed, and  
The report was adopted, and  
The Journal for the eighth day was approved.

#### REPORTS OF SELECT COMMITTEES.

The Committee to Procure Committee Rooms made the following report:

MR. SPEAKER:

The G. A. R. decline to allow the lease of their hall except in charge of their own janitor, and your committee have secured in lieu of the same a room, No. 40 Main street, adjoining the Fox room, to be furnished as others, for \$25 per month. This room is on the ground floor and as commodious as the G. A. R. hall. This and the Fox rooms are just west of the Bismarck Bank. This new room will be ample for other committees to be assigned, as required, the Railroad and Appropriation Committees to have the preference. It will require a janitor and we recommend the appointment of same by the Speaker.

THOS. RICHARDS,  
From Special Committee.

Mr. Edwards moved

The adoption of the report,  
Which motion prevailed, and  
The report was adopted.

The Committee to Provide Conveniences for the House made the following report:

MR. SPEAKER:

Your Committee in charge have the promise of the Capitol Trustees that inside storm windows will be immediately provided for the west side of the hall.

A. W. EDWARDS,  
Chairman.

Mr. Edwards moved  
The adoption of the report,  
Which motion prevailed, and  
The report was adopted.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor, which was referred to the Committee on Appropriations:

EXECUTIVE CHAMBER, }  
January 16, 1895. }

To the House of Representatives:

GENTLEMEN—I have the honor to transmit herewith a bill of the Northern Pacific Railroad, for transportation of the National Guards, to attend the Encampment at Jamestown in 1894.

Also, correspondence relative to the same.

Respectfully,  
ROGER ALLIN,  
Governor.

ST. PAUL, MINN., October 13, 1894.

State of North Dakota, Military Department, Bismarck, N. D.

DEAR SIR: Bills as follows were sent you on dates named:

August 8, No. 2851, Transportation of National Guards.....	\$623 25
August 8, No. 3169, Transportation of National Guards.....	1 16

\$ 624 41

These bills stand unsettled on our books. Will you please make prompt remittance to cover, or advise why payment is delayed.

Quote our bill number when remitting.

C. A. CLARK,  
Ass't Treasurer.

ST. PAUL, MINN., October 13, 1894.

Gen. W. H. Topping, Adjutant General, State of North Dakota, Grand Forks, N. D.

DEAR SIR—I beg to enclose you herewith statement of unpaid bills of this company against the Military Department of your State, for transportation of National Guard, amounting to \$624.41, which were sent to you on August 8th. Will you be kind enough to advise me at an early date as to when I may expect to receive settlement of these bills, and oblige,

Yours truly,  
C. A. CLARK,  
Ass't Treasurer.

GRAND FORKS, October 15, 1894.

Hon. Orr Sanders, Bismarck, N. D.

DEAR SIR—I enclose you herewith statement from Northern Pacific Rail-

road. I thought some arrangement had been made with the Railroad Company by which this transportation would be taken out of their tax, or something of the kind. I hope it will soon be settled.

Yours truly,  
W. H. TOPPING,  
Adjutant General.

The Speaker announced the following as members of a Joint Committee to consider the report of the Revision Commission. Messrs. Simpson, Wineman, Edwards, Prosser and Murphy.

Mr. Simpson asked that the House return to the seventh order of business,

Which request was granted.

Mr. Simpson moved

That when this House adjourns to-day it adjourn to meet on Thursday morning at 10 o'clock.

Mr. Hodgson raised the point of order that the rules required the House to meet at 2 o'clock.

The Speaker read the rule, which states that the House meet at 2 o'clock until the House directs otherwise.

The motion of Mr. Simpson prevailed.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
January 15, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith a concurrent resolution providing for the appointment of a Joint Committee to visit and report upon the condition and needs of the State University, Agricultural College, Normal Schools and the School for the Deaf.

Respectfully,

FRED FALLEY,  
Secretary.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the Senate, the House Concurring,* That a Joint Committee of five, composed of members from counties not having State institutions, two from the Senate and three from the House, be appointed by the President of the Senate and Speaker of the House to visit the State University at Grand Forks, the Agricultural College at Fargo, and the State Normal Schools at Mayville, Valley City, and the Deaf School at Devils Lake, and report to the Assembly upon the following particulars:

1. Condition of all State buildings, manner and quality of construction, state of repairs, sanitary condition, etc.

2. Condition of schools, number of students in actual attendance in the different departments now, and at the end of last term average age of students, quality and character of work done.

3. Employees, number of instructors, classes taught by each daily, salaries of each, all other employees' duties, wages paid and time employed.

4. Fuel, kind and quality, amount used and price paid.
5. Recommendations.

Mr. Wineman moved

That when the House reach the order for consideration of General Orders the House consider the messages of Governor Allin and ex-Governor Shortridge,

Which motion prevailed.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Purdon introduced

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities,

Which was read the first and second times, and

Referred to the Committee on Municipal Corporations.

Mr. McDonald introduced

House Bill No. 31,

A Bill for an act to amend Section 345, Chapter 13, Code of Civil Procedure of Revised Code of 1877, being Section 5151 of the Compiled Laws of 1887,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Hodgson introduced

House Bill No. 32,

A Bill for an act to amend Sections 20, 25 and 26, of Chapter 27 of the Session Laws of 1893, relating to the organization and government of State Banks,

Which was read the first and second times, and

Referred to the Committee on Banking.

Mr. Wineman introduced

House Bill No. 33,

A Bill for an act authorizing Town Supervisors to issue the bonds of their respective towns for the purpose of refunding or paying the outstanding bonds of said towns and regulating the issue and providing for the payment thereof,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Rod introduced

House Bill No. 34,

A Bill for an act entitled "an act to fix all railroad rates of fare for passenger travel at not over three cents per mile, and to prescribe a penalty for exacting or receiving a greater rate,"

Which was read the first and second times, and

Referred to the Committee on Railroads.

Mr. Purdon moved

That the House concur in the Senate Concurrent Resolution relating to the appointment of a committee to visit or investigate certain State institutions,

Which motion prevailed.

GENERAL ORDERS.

Mr. Hodgson moved

That the House resolve itself into a Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The Speaker called Mr. Hodgson to the chair.

When the committee arose it made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration the message of ex-Governor Shortridge, and recommend

That the portion of the message referring to economy be referred to the Committee of the Whole.

That portion of the message referring to finances be referred to the Committee on Banking.

That portion of the message referring to bonds be referred to the Committee on State Affairs.

That portion of the message referring to State deposits be referred to the Committee on Banking.

That portion of the message referring to appropriations be referred to the Committee on Appropriations.

That portion referring to railroads to the Committee on Railroads.

That portion referring to railroad taxation to the Committee on Taxation and Tax Laws.

That portion referring to Russian thistle to Special Committee on that subject.

That portion referring to educational institutions to Committee on Education.

That portion referring to Revision Commission to Special Committee on Revision.

That portion referring to Railway Commission to Committee on Railroads.

That portion referring to public instruction to the Committee on Education.

That portion referring to agriculture to Committee on Agriculture.

That portion referring to labor to Committee on Labor.

That portion referring to Commissioner of Insurance to Committee on Insurance.

That portion referring to public institutions, not otherwise mentioned, to Committee on Appropriations.

That portion referring to Industrial School to Joint Committee on Educational Institutions.

That portion referring to State Penitentiary to Joint Committee on Penal Institutions.

That portion referring to Agricultural College to Joint Committee on Educational Institutions.

That portion referring to appointment of Trustees to the Committee on Judiciary.

That portion referring to State Superintendent of Public Health to Committee on Public Health.

That portion referring to District Veterinarian to Committee on State Affairs.

That portion referring to medical, dental and Pharmacy Board, to Committee on State Affairs.

That portion referring to State Militia to Committee on Military Affairs.

That portion referring to State Board of Agriculture to Committee on Agriculture.

That portion of the message referring to irrigation be referred to the Committee on Irrigation.

That portion of the message referring to forestry be referred to the Committee on Forestry.

That portion of the message referring to fish and game be referred to the Committee on State Affairs.

That portion of the message referring to pardons be referred to the Committee on Penal Institutions.

That portion of the message referring to Capitol Commission be referred to the Committee on State Affairs.

The Committee have also had under consideration the inaugural address of Governor Roger Allin, and recommend that that portion on page 4, referring to appropriations, be referred to the Committee on Appropriations.

That portion on page 5 referring to text books be referred to the Committee on Education.

That portion on page 6 referring to woman's suffrage be referred to the Committee on Woman's Suffrage.

That portion referring to good roads be referred to the Committee on Highways, Bridges and Ferries.

That portion on page 8 referring to primaries and caucuses, and that part referring to census be referred to the Committee on State Affairs.

That portion referring to Russian cactus be referred to a Joint Committee on that subject.

That portion referring to encouragement of industry be referred to the Committee on Labor.

That portion referring to native coal to Committee on Coal Lands and Mining.

JOHN E. HODGSON,  
Chairman.

Mr. Hodgson moved

That the reading of the report be dispensed with, and

That the report be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

Mr. Prosser asked unanimous consent to offer a resolution,

Which request was granted, and he offered the following resolution:

*Resolved.* That the Senate be invited to meet with the House in joint session on Monday, January 21, at 2 o'clock p. m., to participate in memorial exercises in honor of the late Mrs. H. C. Hansbrough.

The resolution was adopted.

The Committee on Mileage and Per Diem made the following report:

MR. SPEAKER:

Your Committee on Mileage respectfully report that they find the members entitled to mileage as follows:

H. A. Armstrong, 80 miles	\$ 8 00
J. T. Blacklock, 696 miles	69 60
Frank W. Brainard, 340 miles	34 00
Morris F. Brown, 518 miles	51 80
W. A. Colby, 440 miles	44 00
Joseph Colosky, 568 miles	56 80
Rollin C. Cooper, 320 miles	32 00
John Cryan, 774 miles	77 40
F. L. Dwyer, 495 miles	49 50
A. W. Edwards, 386 miles	38 60
Stephen Eyolfson, 694 miles	69 40
John Flack, 716 miles	71 60
William Fleming, 622 miles	62 20
Egbert Gilbertson, 425 miles	42 50
J. C. Gill, 370 miles	37 00
E. J. Gleason, 222 miles	22 20
Thos. Guinan, 678 miles	67 80
Erick Gunderson, 494 miles	49 40

Henry Hancock, 574 miles.....	\$ 57 40
L. B. Hanna, 488 miles.....	48 80
Peter Herbrandson, 490 miles.....	49 00
George Hill, 592 miles.....	59 20
J. E. Hodgson, 546 miles.....	54 60
Fred Holritz, 82 miles.....	8 20
P. J. Horgan, 716 miles.....	71 60
Jas. Jennings, 772 miles.....	77 20
A. H. Kellogg, 740 miles.....	74 00
Herman Kroeger, 78 miles.....	7 80
Peter A. Korsmo, 470 miles.....	47 00
John I. Lerom, 492 miles.....	49 20
C. L. Lindstrom, 368 miles.....	36 80
John A. Logan, 302 miles.....	30 20
Chas. McLachlan, 322 miles.....	32 20
A. B. McDonald, 812 miles.....	81 20
John S. Murphy, 1,094 miles.....	109 40
Joseph A. Myers, 634 miles.....	63 40
T. C. Nelson, 454 miles.....	45 40
J. J. Nierling, 202 miles.....	20 20
Ed. F. Porter, 272 miles.....	27 20
Frank H. Prosser, 712 miles.....	71 20
James Purdon, 482 miles.....	48 20
W. P. Rasmussen, 272 miles.....	27 20
Liun B. Ray, 662 miles.....	66 20
Thos Richards, 60 miles.....	6 00
W. H. Rinde, 662 miles.....	66 20
Geo. S. Roberts, 84 miles.....	8 40
Ole A. Rod, 636 miles.....	63 60
E. C. Sargent, 404 miles.....	40 40
J. B. Sharpe, 372 miles.....	37 20
Leslie A. Simpson, 232 miles.....	23 20
Andrew G. Smith, 368 miles.....	36 80
M. Spangberg, 50 miles.....	5 00
Erick Stafne, 656 miles.....	65 60
Anton Svensrud, 872 miles.....	87 20
Nicolai Swenson, 360 miles.....	36 00
O. T. Totsrud, 826 miles.....	82 60
T. Twichell, 372 miles.....	37 20
E. S. Tyler, 386 miles.....	38 60
R. J. Walker, 768 miles.....	76 80
O. S. Wallen, 440 miles.....	44 00
J. B. Wineman, 542 miles.....	54 20
W. B. Wood, 542 miles.....	54 20

Respectfully submitted,  
 W. B. Wood,  
 Chairman.

Mr. Svensrud moved  
 The adoption of the report,  
 Which motion was withdrawn.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
January 15, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has adopted the accompanying resolution and requests the concurrence of the House.

Respectfully,  
FRED FALLEY,  
Secretary.

*Resolved by the Senate, the House Concurring,* That when the Legislative Assembly adjourns to-day that it adjourn to meet again on Monday next at 2 o'clock.

Mr. Svensrud moved

That the House proceed to the consideration of the report of the Committee on Mileage,  
Which motion prevailed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
January 15, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has accepted the invitation of the House to meet with that body on Monday at 2 o'clock p. m., and take part in memorial services.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Hodgson moved

That the vote by which the House agreed to meet at 10 o'clock tomorrow be reconsidered,  
Which motion prevailed.

Also,

Moved to lay the motion to meet at 10 o'clock tomorrow, on the table,

Which motion prevailed.

Mr. Simpson moved

That the resolution of the Senate be amended to conform to the motion passed by the House, and when so amended that the House concur therein,

Which motion was withdrawn.

Mr. Wineman moved

That the House consider the report of the Committee on Mileage,

Which motion prevailed.

Mr. Svensrud moved

To reconsider the vote by which consideration of the report of the Mileage Committee was postponed,

Which motion prevailed.

Mr. Rod moved

That the report of the Committee on Mileage and Per Diem be adopted,

Which motion prevailed, and

The report was adopted.

The Speaker announced the following appointments:

Janitor for Committee Rooms—Ole Bojstie.

Assistant Enrolling and Engrossing Clerks—E. G. Melby, Mat Johnson.

Mr. Wineman moved

That the House do now adjourn until 2 o'clock p. m., Monday, January 21.

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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## FOURTEENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 21, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment.

Prayer by the Chaplain.

Mr. Blacklock moved

That the rules be suspended and the roll call be dispensed with,

Which motion was lost.

Roll called.

All members present excepting  
Messrs. Brown, Cooper, Cryan, Eyolfson, Flack, Fleming,  
Guinan, Horgan, Kellogg, Korsmo, McDonald, Nierling, Twich-  
ell, Tyler, Walker, Wallen and Wood.

Mr. Armstrong requested that Mr. Roberts be excused.

Mr. Hodgson moved

That Mr. Cyran be excused.

Mr. Sargent moved

That all the absent members of the House be excused for the  
day,

Which motion prevailed,  
And the absentees were excused.

Mr. Edwards moved

That the Speaker appoint a committee of five to wait upon the  
Senate and inform them that the House is now ready to receive  
the members of the Senate in Joint Session, and to conduct them  
to the House,

Which motion prevailed,

And the Speaker appointed as such committee, Messrs. Hanna,  
Sharpe, Murphy, Rinde and Blacklock.

The Sergeant-at-Arms announced the Lieutenant Governor,  
members of the Senate and officers thereof, with the House Com-  
mittee escorting, in waiting.

#### JOINT MEMORIAL SESSION.

The Joint Session was called to order by the President of the  
Senate.

Memorial prayer by the Chaplain of the Senate.

The President of the Joint Session announced the object of the  
Convention, and made the following address:

#### GENTLEMEN OF THE JOINT CONVENTION:

We have met today for the first time in the history of our State,  
to pay a tribute of respect to the dead. We have met to give  
formal expression to our sympathy for Senator Hansbrough upon  
the death of his devoted wife, and by word and deed to record our  
sorrow for this sad visitation of death to his home. In four  
years Mrs. Hansbrough endured more than the average of human  
suffering. Only recently she awoke joyfully to recovered health,  
when hope and gladness sat once more where pain and suffering  
had dwelt so long. It seems a cruel fate that should thus in the  
dawn of hope's bright morning cross their threshold and tear her  
from her husband's side, and rob their beautiful new home at  
Devils Lake of its light and life and inspiration. But the bribe-  
less messenger has carried her beyond the shadows and across the

mysterious river, yet her pure, strong, noble womanhood will always linger as a gentle memory in the minds of those who knew her in life. Gentlemen of the Joint Assembly, what is your pleasure?

Mr. Wineman moved

That the Stenographer of the Senate be designated as the Stenographer of the Joint Session, and that he be instructed to take the addresses of the members of the Joint Session, and that the addresses appear in the Journals of the House and Senate,

Which motion prevailed.

#### REPORT OF THE JOINT COMMITTEE ON RESOLUTIONS OF RESPECT.

WHEREAS, the sad intelligence of the death at Washington, D. C., on the 14th day of January, A. D. 1895, of Josephine Orr Hansbrough, wife of United States Senator Henry C. Hansbrough, has been received by the Senate and House of Representatives of North Dakota, and

WHEREAS, the Senate and House have each passed resolutions providing for the appointment of a Committee on "Resolutions of Respect," and providing for this Joint Assembly and Memorial Service.

The Committee appointed as aforesaid present for the consideration of this Joint Assembly the following:

*Be it Resolved by the Senate and House of Representatives of the State of North Dakota, in Joint Convention Assembled,*

That we hereby extend to the Hon. H. C. Hansbrough our sincerest sympathy in this, his hour of deepest sorrow and bereavement, assuring him that while we know, and sad experience every day teaches the truth, that the fairest and most beautiful of all earthly things, conjugal love, is broken by the ruthless hand of death, yet such qualities of mind and soul as characterized the deceased are evidences of their own immortality and must, in the great economy of things, continue to exert a beneficent influence in some happier sphere than this troubled and imperfect life can afford.

*Resolved further,* That these resolutions be spread upon the Journal, and an engrossed copy forwarded to Hon. H. C. Hansbrough at Washington, D. C.

Mr. Prosser moved

The adoption of the resolution, and addressed the Assembly as follows:

MR. PRESIDENT:

It is with sad hearts that we meet to-day for the purpose of giving expression to the high esteem and respect in which we all most sincerely held a noble woman, the late Mrs. Senator Hansbrough.

No words or action will adequately express our sympathy for the living or our sorrow for the dead.

There is a sentiment that words will not define, a delicacy of feeling—a fear—in every sympathetic heart, that in attempting to console the broken-hearted, one will only revive and intensify that overwhelming grief such as our distinguished friend—our Senator—is now called upon to bear, and for that reason oft times the tender sympathy and deep sorrow of the nearest friend is never known, or expressed, by word or deed.

The eminent station of the departed renders this mark of our respect most timely; it is the last tribute to a Christian character, a loving and devoted wife, to a well spent life. We can do no more; we can only encourage each other to emulate those many virtues so essential to a useful and happy life, that at the end it may be truly said of us as we can now say of the departed, "well done thou good and faithful servant."

Mr. Day made the following address:

MR. PRESIDENT:

I would second the resolution in behalf of the residents of the Twenty-first District. We deeply sympathize with Senator Hansbrough in the loss of his companion, and the citizens of Devils Lake deeply feel the loss of Mrs. Hansbrough. They have lost an estimable lady who will be sadly missed in their social gatherings, as a lady of worth, whose kindly acts of friendship were ever prominent as a friend. To the poor her sympathies were of a substantial character, always giving and assisting those less fortunate in their strength to meet the necessities of life; always bringing sunshine to the homes of the needy, through her Christian character, which seemed to control her every act of life.

Mr. Gregory made the following address:

MR. PRESIDENT:

In seconding the motion for the adoption of the resolution just read, I am, on this sad occasion, more than I ever was on an occasion of like nature before, confronted with the extreme difficulty of saying the absolutely fitting thing. Upon the death of a man, and especially of a public man, it is not hard to review his life *in memoriam*. His acts, and to a certain extent his life, are public, and, in a degree, the property of the public. But with a woman it is different. Her life is spent in the privacy of the home. She is not on the forum, in the arena, in the fore front of the battle of life. It is her part to instill hope and courage into the warrior. It is her part to administer consolation to the sore-hearted, and bind up the hurts of the wounded. It is her part to double the joys of the victor in his victory—to share the sorrows of the vanquished in his defeat.

And as such her life is more sacred than a man's and the *requiem* over her death should be sung in softer tones than a man can sing it.

Such was particularly the life of Mrs. Hansbrough. She was always, and in the best sense, the true helpmate of her husband.

Not a society woman in the sense of one whose whole life is given up to society, she was yet a cultured and refined lady who graced and adorned any circle of society in which she moved.

Her life was absolutely and entirely bound up in her husband and her home. What was for his interest was not alone her duty

but her greatest pleasure to do. I have never known husband and wife more entirely one. It seemed as though she had said in the beautiful words of Ruth, "Whither thou goest I will go, thy country shall be my country and thy God my God;" and this not in a spirit of blind, silly worship, but in the spirit of love, devotion and perfect trust, which should ever bind the true wife to the husband.

Her husband being a self-made man who has risen from the ranks in the journalistic field to the United States Senate, she rose with him; but in all the different conditions and circumstances of her life she was always the same cultured lady, treating all, high and low, rich and poor, with a kindness and courtesy which made them all her friends.

Her death at this time is particularly cruel. Her life had not been one of unalloyed pleasure. She has been a sufferer for years, and at times her life was despaired of, but her great vitality and courage carried her through. All her pain and suffering she has borne cheerfully and patiently, but she has at last obtained surcease from pain. For a number of months prior to her death she was in better health than she had been for years. Her new and beautiful home was just finished, and in that new home, freed from pain and suffering, she looked forward to many years of happy life with her husband. But it was not so to be.

She grew too weary in the journey, and, life's fitful fever over, she now sleeps well the dreamless sleep. And by her death has passed away a gentle lady, a true friend. By her death has passed away a benefactor of the poor, who never missed an opportunity to do a good deed. By her death has passed away a good, pure woman and a true wife. Higher praise than this cannot be given to woman.

Her loss will be deeply felt and long mourned by all who knew her, but will be most deeply felt and longest mourned by her husband, Senator Hansbrough, to whom the heartfelt sympathy of all goes out in this his deep sorrow.

May he be comforted with the thought that death is not an eternal sleep, but that the loved one may be met on the sunny shore of the great beyond, where an eternity of love and trust may be spent unalloyed by pain or sorrow.

Mr. President: I second the motion.

Mr. Edwards made the following address:

**MR. PRESIDENT AND GENTLEMEN OF THE JOINT ASSEMBLY:**

Hushed forever is the voice of her for whom we have gathered here to place in memory's lap the garland of respect.

Little did those who bade her God speed, when en route with her husband to resume the duties as Senator, only last November, infer that the bright sunlight of her glad life should so soon forever be extinguished.

Those who knew Mrs. Hansbrough in official and home life at Washington, need not be told of the kindly greeting vouchsafed all—especially North Dakotans—who were ever entitled to her solicitous care and generous forethought.

With a sincere affection for the Senator, of whom she was, rightly too, exceeding proud, for he was a kind and loving husband, and ever ambitious for her good health and comfort—it was her greatest pleasure to be with and aid and cheer him.

In death all paths end, and as we drop a silent tear, to the memory of her who has passed to the Great Beyond, let us not forget, as she ever held, "a good name is rather to be chosen than great riches, and loving favor rather than silver and gold."

If there have been differences in the past, I conjure you, now, in respect to this occasion, forgive and forget, and resolve for the future to--

"So live that when thy summons comes to join  
The innumerable caravan, which moves,  
To the mysterious realm

\* \* \* \* \*

Approach thy grave like one  
Who wraps thy drapery of his couch about him  
And lies down to pleasant dreams."

While yet in full of life, the deceased enters on the last long sleep, perhaps in the happiest hour of her sunny life's voyage while pleasant gales are kissing each unfurled, whitened sail. The tender Christian woman loved the beautiful and never wearied of good works.

She believed in the poet of poets, James Whitcomb Riley's—

"This world is full of roses, the roses full of dew,  
The dew is full of honey, that drips for me and you."

But never more the voiceless lips shall utter sound of loving words. She sleeps beneath the clouds in the windowless palace of rest, unmindful alike of sunshine or storms—leaving here on earth the record of generous acts treasured by friends as perfumed flowers.

To the bereaved husband, the senior Senator, let us forget all else but that the greatest desolation that comes to man, is the loss of a loving wife: We open our hearts to him and tender our sympathies, feeling that though the dead has gone from us, she watches over her earthly friends and sighs to them on loved-kissed breezes—

"This world is full of beauty,  
As other worlds above:  
And if we only do our duty,  
This world is full of love."

Mr. President, I thank you; gentlemen, I have done.

Mr. Stevens made the following address :

MR. PRESIDENT:

Not knowing what the program of these exercises is, and feeling anxious that the other sex should be represented in the expression of this tribute of respect to the dead, I desire to say on behalf of my wife and the ladies who are present, and their sex generally, that I am thankful that such testimony as has been presented before this body, has been brought to our notice for contemplation, emulation and imitation. Mrs. Hansbrough has been alluded to here as a Christian, and reference has been made to her standing as a Christian. Not having had the pleasure of a personal acquaintance with her or her husband, I merely wish to say that if she has fallen asleep in Jesus she is resting from her labors; the wicked will cease from troubling her; she will forever be at rest and her works will follow her, and they will never be lost to mankind or to either sex. The death of a great man—of a public man—one who is known, and who has made a mark and attracted attention and has received respect of his fellow citizens—it makes an occasion of great solemnity when we remember him and his acts. Doubly is it so of a good woman. The book I take as a lamp to my feet and a light to my path gives me the information and the assurance that women—noble women—are remembered in the purposes of the Deity in the future that is before us. I apprehend that there is a good time coming when friends will rejoice in a new and everlasting meeting. In behalf of the ladies of the land I offer my voluntary tribute to the memory of the deceased.

Mr. Burke made the following address:

**MR. PRESIDENT AND GENTLEMEN OF THE JOINT ASSEMBLY:**

It is with mingled feelings of joy and of sorrow that I rise to second the motion. Joy for this splendid mark of respect paid to the distinguished husband of the noble lady for whom we mourn, for the consoling knowledge to him that he is kindly remembered at home and that our hearts go out in sympathy to him in his great sorrow. Sorrow for the sad event that has called us together—the untimely death of the cultured lady who had the courage to leave the luxuries of an eastern home, and who in this Western clime has side by side with her husband lover fought the great battle of life, until that husband occupies today the highest position in the gift of his fellow citizens.

This much is generally known of her, that the trials and hardships of the pioneer life which she endured, the many acts of Christian charity she performed, the countless number of homes infested with sickness, sorrow and death that she entered, a ministering angel of joy and of gladness to the inmates, is stamped indelibly upon the hearts of her friends and neighbors at Devils Lake.

Hers was not a charity of mere words. It was that charity

which always follows in the wake of generosity and sympathy—a charity of kind words and noble deeds—a charity that reached down into the hearts of the poor and the lowly, making them better and brighter and lifting them up to a higher plane. It is sad that one so good and useful should be called away at the noontide of life, but yet, if in that better land our lives are measured by the good that we have done, by the joy and the gladness that we have brought into the lives of those we have known, by the pain and sorrow that we have alleviated, then, indeed, was the time ripe for the Master to say “All thy work is done,” and “Well done, thou good and faithful Servant.”

The resolutions were adopted by a standing vote.

Mr. McGillivray moved

That the Joint Assembly do now dissolve.

Which motion prevailed, and

The Joint Session dissolved.

FRED FALLEY,  
Secretary.

The House reassembled.

The Speaker announced an informal recess.

#### REPORT OF STANDING COMMITTEES.

The Committee to Revise and Correct the Journal made the following report:

MR. SPEAKER :

Your Committee of the Revision and Correction of the Journal respectfully report that they have examined the Journal of the ninth day, and recommend it be amended as follows, viz.:

That the House do not adjourn until 2 o'clock p. m. Tuesday, January 21st. it be amended to read, “That the House do now adjourn until 2 o'clock p. m. Monday, January 21st.”

With such amendment, we recommend the Journal of the ninth day be adopted.

GEO. HILL,  
Chairman.

Mr. Hanna moved

The adoption of the report,

Which motion prevailed, and

The Journal of the ninth day was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

The Speaker presented the following petition,

Which was referred to the Committee on Irrigation:

CHEYENNE, WYOMING, January 18th, 1895.

*To the Speaker of the House of Representatives, Bismarck, N. D.:*

DEAR SIR: We are preparing a bill for the acceptance and development

of the arid lands donated by Congress of one million acres of land to the arid states. Would you have the kindness if you have had such a bill presented, or about to be presented, to forward a copy, and we will reciprocate with a copy of our bill when presented, so that we can exchange views.

Very respectfully,

F. J. STANTON.

Mr. Edwards presented the following communication,  
Which was referred to the Committee on Labor.

#### CONVICT LABOR VS. FREE LABOR.

DEAR SIR: You are doubtless aware that a strong feeling exists throughout the State against the injustice of allowing the work of convicts in our State Penitentiary to be farmed out to private contractors and thereby brought into competition with free labor, and often with skilled industries which are struggling to establish manufacturing interests in this young State. It is not likely that the State, in the letting of these contracts, takes due care not to saddle this competition of the Penitentiary upon some one industry, thus forcing it to bear more than its share of the hardship, or provide that the prices shall not be so indiscriminate as to be out of accord with prices of the general market or regulated by the laws of supply and demand, and thus bringing about disorganization and perhaps ruin to the few industries against which the Penitentiary competition is directed. Public opinion throughout the entire United States has so strongly condemned the competition of convict labor that some States have, and many others will during the present session, prohibit it by law. New York State has just amended its Constitution forever prohibiting convict competition with free labor. Iowa, Illinois, Wisconsin and Minnesota are proceeding on the same lines. These States represent the advanced and progressive ideas of the times. Is it not proper that North Dakota should be abreast of the times and act before this menacing evil has taken root in our affairs, and becomes more difficult to correct?

Under the present system of contracts the State is undoubtedly losing money; the money received for each convict does not reimburse the State, but on the contrary enriches the contractor at the expense of the State. The pittance paid for each convict by the contractor kills the earning power of one free mechanic, amounting to many times the amount received by the State and thus contracting to that extent the tax-paying and purchasing power of the community. Abundant opportunity is available to the State to carry on mining for its own use, and State work of other kinds, that will utilize convict labor to advantages vastly greater than at present.

Undoubtedly the present Legislature will give consideration to this important subject. If you are in sympathy with the movement we trust you will, without delay, write to the representatives of your district at Bismarck—or if you prefer, inclose this letter to them as a statement of your views and ask their support of measures that will relieve our infant industries of this incubus.

BRISTOL & SWEET, Manufacturers of Harness.

D. W. SHIELDS, Manufacturers of Shoes.

LUGER FURNITURE Co., Manufacturers of Furniture.

HARRINGTON & KNIGHT, Manufacturers of Hardware.

JOHT T. McCORMICK, Manufacturer of Harness.

J. H. BOWERS, Manufacturer of Cigars.

The Joint Committee to consider the report of the Revision Commission made the following report:

BISMARCK, Jan. 21, 1895.

MR. SPEAKER:

Your Joint Committee appointed to consider the report of the Revision Commission respectfully report:

That they have organized by the election of Senator C. E. Gregory as Chairman of the Joint Committee.

Through the courtesy of Hon. A. D. Thomas, United States Judge, they have secured the rooms of the United States Court on the corner of Main and Third streets for the meetings of the committee.

The Committee submit the following recommendations for the action of the House:

First. That all proposed changes in the law shown by the report of the Revision Commission, which relate to substantive law and amount to new legislation be printed in the House Journal.

Second. That 550 extra copies of the Journals of the days containing the changes be printed and furnished the Committee for distribution.

Third. That an appropriation to cover the postage on the Journals be made.

Fourth. That members of the House furnish the clerk of the Committee the names of persons to whom they desire the extra Journals sent.

Fifth. The Committee recommend the appointment of J. G. Hamilton as Secretary of the Joint Committee to be assigned to the House pay roll.

The Civil Code will be first considered and presented for the consideration of the Legislative Assembly.

Respectfully,  
C. E. GREGORY,  
Chairman.

Mr. Wineman moved

That the report of the committee be adopted,

Which motion prevailed, and

The report was adopted.

The Committee on Corporations made the following report:

MR. SPEAKER:

Your Committee on Corporations to whom was referred  
House Bill No. 25,

A Bill for an act entitled an "act to regulate the liability of corporations,"

Have had the same under consideration, and recommend that the same be referred to the Committee on Railroads.

H. HANCOCK,  
Chairman.

Which report was adopted without objection, and  
 The bill was referred to the Committee on Railroads.  
 The Committee on Woman Suffrage made the following report:

MR. SPEAKER:

Your Committee on Woman Suffrage to whom was referred  
 House Bill No. 2,

A Bill for an act to extend the elective franchise to females,  
 Have had the same under consideration, and recommend that the  
 same be amended by striking out all of Section 1, and substituting  
 in lieu thereof the following:

SECTION 1. At the general election to be held on the first  
 Tuesday after the first Monday in November, 1896, the question  
 of granting the right of suffrage to women shall be submitted to  
 the qualified voters of the State of North Dakota, as provided in  
 Article 5, Section 122 of the Constitution.

SEC. 2. All electors at this election, who are in favor of  
 woman's suffrage, shall have written or printed on their ballots  
 the words, "For Woman Suffrage." and all electors opposed to  
 woman's suffrage shall have written or printed on their ballots,  
 "Against Woman Suffrage."

SEC. 3. Judges of election and returning boards shall canvass  
 the votes and announce the result in the usual manner.

SEC. 4. If it is found that a majority of all the votes cast for  
 the measure is in favor of woman's suffrage, then women shall be  
 entitled to all the rights, benefits and privileges of citizenship  
 enjoyed by the male voters, and shall be subject to all the laws,  
 restrictions and penalties governing the same.

And recommend that the substitute do pass.

F. L. DWYER,  
 Chairman.

Which was referred to General Orders.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
 Jan. 21, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
 Senate Bill No. 8,

A Bill for an act to increase the State debt limit; an act pro-  
 posing an amendment to Section 182 of Article 12 of the Consti-  
 tution of the State of North Dakota,

Also,

Senate Bill No. 7,

A Bill for an act to amend Section one (1) of Chapter nine (9),  
 of the Laws of 1891, providing clerk hire for the various State  
 officers and making an appropriation therefor,

Which the Senate has passed, and your favorable consideration is respectfully requested.

Respectfully,  
 FRED FALLEY,  
 Secretary.

#### MOTIONS AND RESOLUTIONS.

Mr. Simpson offered the following Concurrent Resolution, and moved the adoption of the resolution,

Which motion prevailed, and  
 The Concurrent Reslution was adopted.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That a Joint Committee of five, consisting of three from the House and two from the Senate, be appointed to confer with the Legislatures of Minnesota, Montana and Washington relative to suitable legislation by the respective States looking to the taxation of property of the various Sleeping Car Companies operating in said States, and also with a view to establishing uniform rates, which shall be adopted by the different Companies so operating said cars; and that a copy of these resolutions be sent to the Governors and Legislatures of the States of Minnesota, Montana and Washington.

Mr. Edwards offered the following Concurrent Resolution, and moved its adoption,

Which motion prevailed and the Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the State Treasurer, with the advice and consent of the Governor and State Auditor, be requested to negotiate a temporary loan according to the provisions of Chapter 94 of the Laws of 1891, authorizing the issue of State Funding Warrants in anticipation of taxes for the purpose of defraying legislative expenses and paying the ordinary current expenses of the State government.

Mr. Wineman moved

That the vote by which the Concurrent Resolution was adopted be reconsidered, and the motion to reconsider be laid on the table.

Which motion prevailed.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Purdon introduced

House Bill No. 35,

A Bill for an act to amend Section 39 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto,"

Which was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

Mr. Hanna introduced

MONDAY, JANUARY 21, 1895.

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House Bill No. 36,

A Bill for an act entitled "an act to provide for the licensing of dogs and the indemnifying of owners of sheep and other stock in case of damage by dogs, and creating a fund to pay for the same by a dog license,"

Which was read the first and second times, and

Referred to the Committee on Sheep Husbandry.

Mr. Sargent introduced

House Bill No. 37,

A Bill for an act to regulate the fees of the clerks of the District Courts of the State of North Dakota,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Hill introduced

House Bill No. 38,

A Bill entitled "an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakota's refractory children at the South Dakota Reform School,"

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Wineman introduced

House Bill No. 39,

A Bill for an act entitled "an act prohibiting the sale of cigarettes,"

Which was read the first and second times, and

Referred to Committee on Judiciary.

Mr. Gunderson introduced

House Bill No. 40,

A Bill for an act to provide for the licensing and registration of attorneys at law, and fixing penalties for the violation thereof,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. McLachlan introduced

House Bill No. 41,

A Bill for an act to amend Sections 5, 6 and 18 of Chapter 86 of the Laws of 1891,

Which was read the first and second times, and

Referred to the Committee on Military Affairs.

Mr. Ray introduced

House Bill No. 42,

A Bill for an act entitled "an act to amend Chapter 24 of the Laws of 1890 by inserting therein Section 6 and for amending its title,"

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Logan by request introduced  
House Bill No. 43,

A Bill for an act entitled "an act for the construction of cattle guards, crossings and signs."

Which was read the first and second times, and  
Referred to the Committee on Railroads.

Mr. Gunderson introduced  
House Bill No. 44,

A Bill for an act to provide for the licensing and registration of physicians, surgeons and dentists and fixing penalties for the violation thereof.

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Lerom introduced  
House Bill No. 45,

A Bill for an act to amend Section 324 of Chapter 13, regarding exemption,

Which was read the first and second times, and  
Referred to the Committee on Taxes and Tax Laws.

FIRST AND SECOND READING OF SENATE BILLS AND MEMORIALS.

Senate Bill No. 7,

A Bill for an act to amend Section one (1) of Chapter nine (9) of the Laws of 1891, providing clerk hire for the various State officers and making an appropriation therefor,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 8,

A Bill for an act to increase the State Debt Limit; an act amendment to Section 182 of Article 12 of the Constitution of the State of North Dakota,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Hill moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTEENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 22, 1895.

The House assembled at 2 o'clock, pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. McDonald, Porter and Swenson.

Mr. Cooper moved

That Mr. Swenson be excused.

Mr. Hill moved

That Mr. McDonald be excused.

Mr. McLachlan moved

That all absent members of the House be excused for the day,

Which motion prevailed, and

The absentees were excused.

REVISION OF THE JOURNAL.

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fourteenth day and recommend the following change, viz: On page 11 of printed Journal, Section 1, line 2, the date 1895 be made to read 1896. With such change we recommend that the Journal of the fourteenth day be approved.

GEO. HILL,  
Chairman.

There being no objection, the report of the Committee was adopted, and the Journal of the fourteenth day was approved.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Blacklock presented the following petition:

*To the Honorable Members of the House of Representatives:*

We, the undersigned, believing that it is for the best interests of our citizens that our prohibitory law should remain entrenched in our Constitution and laws, would respectfully petition your Honorable Body to use your votes and influence against the resubmission of the question of prohibition at this time, and we will ever pray.

DRAYTON, N. D., January 14, 1895.

At a meeting held in the Presbyterian Church, this date, at which 165 were present, all, by a rising vote, expressed themselves as unanimously in favor of the above.

Signed by  
J. P. SCHELL, Chairman,  
and many others.

Which petition was referred to the Committee on Temperance.

REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 21,

A Bill for an act prescribing the duties of States' Attorneys, fixing their compensation and the method of determining the same.

Have had the same under consideration and recommend that the same be amended, as follows:

By inserting the following as sub-division J of Section 1 of the printed bill:

"J." The States' Attorney is authorized and empowered to appoint an Assistant States' Attorney within his county and shall be responsible under his official bond for the acts of such assistant.

In Section 3, in lines 8 and 9 of the printed bill, strike out the words "twenty-five per cent." In Section 9, line 4 of the printed bill strike out the word "major." Also, that the following be substituted as Section 10 of the bill: "The County Auditor shall determine the population of his county for the purposes of the foregoing section, by taking the last census, State or Federal, and adding thereto five per cent of the population as shown by such census for each year expiring after the year in which such census was taken; provided, however, that not more than twenty per cent shall be added to the census taken as a basis until the next succeeding census."

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

A minority report of the Judiciary Committee on House Bill No. 21, was made as follows:

We, the undersigned, members of the House Judiciary Committee, recommend that House Bill No. 21 do not pass.

J. T. BLACKLOCK,  
THOS. GUINAN,  
W. R. FLEMING.

Mr. Simpson moved

The adoption of the majority report of the Judiciary Committee,

Which motion was lost.

Mr. Svensrud moved

That the minority report be adopted,

Which motion was withdrawn, and

House Bill No. 21 was referred to General Orders.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs, to whom was referred

House Bill No. 13,

A Bill for an act to encourage the manufacture of potato starch in the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection,

House Bill No. 13 was referred to the Committee for Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs, to whom was referred

House Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 183 of the Session Laws of 1890, entitled "an act to provide for a system of accounts for the State Auditor and State Treasurer,"

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection,

House Bill No. 20 was referred to the Committee for Engrossment.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Fleming introduced

House Bill No. 46,

A Bill for an act to amend Section 7, of Chapter 110, of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors, for medicinal, scientific and mechanical purposes,"

Which was read the first and second times, and  
Referred to Committee on Temperance.

Mr. Svensrud introduced

House Bill No. 47,

A Bill for an act providing for extention of the fines for the payment of taxes for the year 1894,

Which was read the first and second times, and  
Referred to the Committee on Taxes and Tax Laws.

Mr. Nierling introduced

House Bill No. 48,

A Bill for an act to provide for the preservation and protection of fish and game,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Wallen introduced

House Bill No. 49,

A Bill for an act to prohibit the use and maintenance of slaughter houses and the deposit of filth and unhealthy matter upon the banks of flowing streams in this State, and to provide penalties for its violation,

Which was read the first and second times, and  
Referred to the Committee on Public Health.

Mr. Guinan introduced

House Bill No. 50,

A Bill for an act to amend Section 2 (a) of Chapter 122 of the General Laws of 1890, entitled "an act to regulate common carriers and defining the duties of the Commissioners of Railroads in relation thereto, in the State of North Dakota,"

Which was read the first and second times, and  
Referred to the Committee on Railroads.

Mr. Flack introduced

House Bill No. 51,

A Bill for an act to amend Section 687 of Penal Code of Revised Codes of 1877, being Section 6876 of the Compiled Laws of 1887,  
Which was read the first and second times, and

Referred to the Committee on Highways, Bridges and Ferries.

Mr. Sargent introduced

House Bill No. 52,

A Bill for an act to amend Section 15, of Chapter 67, of the Laws of 1887, being Section 3097 of the Compiled Laws of 1887, relating to county mutual insurance companies,

Which was read the first time.

Mr. Edwards moved

That the rules be suspended and that House Bill No. 52 be referred to the Joint Committee on Revision, without printing,

Which motion prevailed, and

House Bill No. 52 was so referred.

Mr. Prosser introduced

House Bill No. 53,

A Bill for an act to amend Paragraph 3, of Chapter 49, of the Laws of 1893, being an act relating to the deposit and loaning of county funds,

Which was read the first and second times, and

Referred to the Committee on Ways and Means.

Mr. Lerom introduced

House Bill No. 54,

A Bill for an act to amend Section 1, of Chapter 67, of the Laws of 1891, being an act defining and limiting the homestead exemptions,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Logan introduced

House Bill No. 55,

A Bill for an act providing for the registration of the legal voters of this State, outside of the cities containing more than three thousand people, to be made from data and other means to be furnished by the local assessor,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Rinde introduced

House Bill No. 56,

A Bill for an act to amend Section 1 of Chapter 9 of the Laws of 1891, providing clerk hire for the various State officers, and making an appropriation therefor,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Tyler introduced

House Bill No. 57,

A Bill for an act providing for the authentication of the records in the offices of the register of deeds within the State and defining certain duties of the registers in relation thereto,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

The Speaker announced as members of the Joint Committee to visit the State University at Grand Forks, Agricultural College at Fargo, State Normal Schools and the Deaf School at Devils Lake, Messrs. Sharpe, Hodgson and Murphy.

An informal recess.

The House reassembled.

Mr. Hodgson moved

That the House resolve itself into a Committee of the Whole for the consideration of General Order,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole.

The Speaker called Mr. Hodgson to the chair.

When the Committee arose, they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 2,

A Bill for an act to extend election franchise to females, and recommend that the bill be referred back to the Committee on Woman's Suffrage to report upon the constitutionality of the bill.

Also,

House Bill No. 21,

A Bill for an act prescribing the duties of States' Attorneys, fixing their compensation and the method of determining the same,

Together with the amendments reported by the Judiciary Committee, and also the minority report of the Judiciary Committee that the bill do not pass,

And recommend that the bill be referred back to the Committee on Judiciary.

JNO. E. HODGSON.

Chairman.

Mr. Svensrud moved

That the report of the Committee of the Whole be adopted,

Which motion prevailed, and

The report of the Committee of the Whole was adopted.

Mr. Hanna moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,

Chief Clerk.

SIXTEENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 23, 1895.

The House assembled at 2 o'clock, p. m. pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Messrs. Brainard and Cryan.

Mr. Smith moved

That Mr. Brainard be excused.

Mr. Rinde moved

That Mr. Cryan be excused,

Which motions prevailed, and

The absentees were excused.

REVISION OF THE JOURNAL.

The Committee to Revise and Correct the Journal made the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal for the fifteenth day and find it correct, and recommend that same be approved.

GEORGE HILL,  
Chairman.

Mr. Purdon moved

The adoption of the report,

Which motion prevailed, and

The Journal of the fifteenth day was approved.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Dwyer presented the following petition:

*To the Honorable House of Representatives:*

We, the undersigned, citizens of Richland county, we, your petitioners, most earnestly entreat you, as our representatives, to do your utmost in the support and continuance of our Prohibitory Law; we ask this in the name of our citizens, our children and our homes.

While we have a right to expect that Richland county will not dishonor herself and our State in the crisis that is now upon us, yet there is so much at stake that we urge upon you the great importance of standing by our Prohibitory Law, and while we expect our Representatives to do this, we pledge ourselves to do what we can to sustain our law-makers in maintaining and retaining our Prohibitory Law.

J. J. HALL,

(And 30 other men and 26 women.)

Which was referred to the Committee on Temperance.

REPORT OF STANDING COMMITTEES.

The Joint Committee on Report of the Revision Commission made the following report:

MR. SPEAKER:

Your Joint Committee on Report of the Revision Commission to whom was referred

House Bill No. 52,

A Bill for an act to amend Section 15 of Chapter 67 of the Laws of 1887, relating to county mutual insurance companies,

Have had the same under consideration and recommend that the same be laid upon the table for the time being, as the changes asked in this law appear in the Civil Code as reported by the Revision Commission. If the Civil Code is not adopted the bill can be taken up in the future and passed.

C. E. GREGORY,

Chairman.

Mr. Prosser moved

The adoption of the report,

Which motion prevailed, and

The report of the committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

House Bill No. 21,

A Bill for an act prescribing the duties of States' Attorneys, fixing their compensation and the method of determining the same,

Have had the same under consideration and recommend that the same be amended as follows:

That the following be adopted as Section 9 of the bill and that the numbers of the section following be changed to correspond therewith:

SECTION 9. The District Court, whenever there shall be no resident attorney within the county elected, to discharge the duties of States' Attorney may, by orders entered in the minutes of the court, appoint a suitable person to act as States' Attorney until the election and qualification of a States' Attorney by the county, and fix his salary as provided by this act,

Adopted as a section and other sections renumbered.

That after the words "as follows" in line 3, Section 9 of the printed bill, insert the following in lieu thereof: For the first 2,000 inhabitants or fraction thereof the sum of \$400; over 2,000 and not exceeding 4,000 the sum of \$500; over 4,000 and not exceeding 5,000 the sum of \$700; over 5,000 and not exceeding 8,000 the sum of \$800; over 8,000 and not exceeding 10,000 the sum of \$900; over 10,000 and not exceeding 13,000 the sum of \$1,000; over 13,000 and not exceeding 15,000 the sum of \$1,200; over 15,000 and not exceeding 18,000 the sum of \$1,400; over 18,000 and not exceeding 20,000 the sum of \$1,600; over 20,000 and not exceeding 25,000 the sum of \$2,000; over 25,000 not to exceed the sum of \$2,500,

And when so amended recommend the passage of the bill.

F. H. PROSSER,  
Acting Chairman.

Which report was referred to General Orders.

#### MESSAGES FROM THE SENATE.

The following messages were received from the Senate:

SENATE CHAMBER, }  
January 23, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the President of the Senate has appointed as Senate members of the Joint Committee to visit the State institutions, Senators McGillivray and McCarten.

Also,

A concurrent resolution praying the Congress of the United States to amend the Constitution providing for the election of United States Senators by a direct vote of the people, which the Senate has passed and the concurrence of the House is respectfully requested.

FRED FALLEY,  
Secretary.

Also,

I have the honor to transmit herewith

Senate Bill No. 45.

A Bill for an act to empower the Governor to accept for the State the condition imposed by an act of Congress, entitled "an act to provide aid to State and Territorial Homes for the support of disabled soldiers and sailors of the United States, and empowering the State Auditor to receive and receipt for all money which may become due to the State under said act,"

Which the Senate has passed, and your favorable consideration of the same is requested.

FRED FALLEY,  
Secretary.

The Committee on Banking made the following report:

MR. SPEAKER:

Your Committee on Banking, to whom was referred  
House Bill No. 32,

A Bill for an act to amend Sections 20, 25 and 26, of Chapter 27 of the Session Laws of 1893, relating to the organization and government of State Banks,

Have had the same under consideration and recommend that the same do pass.

J. B. SHARPE,  
Chairman.

There being no objection, the bill was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 183 of the Session Laws of 1890, entitled "an act to provide for a system of accounts for the State Auditor and State Treasurer,"

Also,

House Bill No. 13,

A bill for an act entitled "an act to encourage the manufacture of potato starch in the State of North Dakota,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### MOTIONS AND RESOLUTIONS.

Mr. Wineman moved

That House Bill No. 10 be recalled from the Committee on Judiciary, and that the bill be referred to the Committee on Woman Suffrage,

Which motion was lost.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Stafne introduced

House Bill No. 58,

A Bill for an act for the destruction of noxious weeds, providing penalties for the violation of the same, and for the repeal of an act entitled "an act to prevent the spread of noxious weeds in the Territory of Dakota,"

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Korsmo introduced

House Bill No. 59,

A Bill for an act entitled "an act authorizing the counties of the State of North Dakota to raise and expend a fund for the destruction of gophers,"

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Cooper introduced

House Bill No. 60,

A Bill for an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto, as amended by Chapter 100 of the Session Laws of 1893,"

Which was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

Also,

House Bill No. 61,

A Bill for an act entitled "an act directing all fines, penalties and forfeitures to be paid into the general fund of the several counties and repealing all conflicting law,"

Which was read the first and second times, and

Referred to the Committee on Ways and Means.

Also,

House Bill No. 62,

A Bill for an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3 of Chapter 57 of the Penal Code, entitled "offenses pertaining to sale of intoxicating liquors,"

Which was read the first and second times, and

Referred to the Committee on Temperance.

Mr. Murphy introduced

House Bill No. 63,

A Bill for an act for the consolidation and organization of contiguous unorganized counties,

Which was read the first and second times, and

Referred to the Committee on Counties and County Boundaries.

Mr. Prosser by request introduced

House Bill No. 64,

A Bill for an act compelling railroad companies to provide a certain number of men to man trains, and prescribing penalties for neglect thereof,

Which was read the first and second times, and

Referred to the Committee on Railroads.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
January 23, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the Senate has concurred in the House Concurrent Resolutions as follows:

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That a Joint Committee of five, consisting of three from the House and two from the Senate, be appointed to confer with the Legislatures of Minnesota, Montana and Washington relative to suitable legislation by the respective States looking to the taxation of property of the various Sleeping Car Companies operating in said States, and also with a view to establishing uniform rates, which shall be adopted by the different Companies so operating said cars; and that a copy of these resolutions be sent to the Governors and Legislatures of the States of Minnesota, Montana and Washington.

Also in the

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the State Treasurer, with the advice and consent of the Governor and State Auditor, be requested to negotiate a temporary loan according to the provisions of Chapter 94 of the Laws of 1891, authorizing the issue of State Funding Warrants in anticipation of taxes for the purpose of defraying legislative expenses and paying the ordinary current expenses of the State government.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Tyler introduced

House Bill No. 65,

A Bill for an act to provide for the establishment, construction and maintenance of drains in this State,

Which was read the first and second times, and

Referred to the Committee on Highways, Bridges and Ferries.

Mr. Edwards introduced

House Bill No. 66,

A Bill for an act authorizing and requiring the Board of Trustees of the Penitentiary of this State to contract for, lease and operate a coal mine and appurtenances, and to employ the inmates

of the Penitentiary in mining coal, and the disposition of any coal so mined,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Edwards introduced

House Bill No. 67,

A Bill appointing the Governor as Superintendent of Census, and providing for carrying out the Constitutional provisions as to taking the State census of 1895, and an appropriation therefor,

Which was read the first and second times, and  
Referred to the Committee on Appropriations.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
January 23, 1895. )

MR. SPEAKER:

Through an error I messaged the concurrence of the Senate in the House resolution that a committee be appointed to confer with the Legislatures of the States of Minnesota, Montana and Washington, which I would respectfully request the return of.

FRED FALLEY,  
Secretary.

Mr. Wineman moved

The request of the Senate be concurred in,

Which motion prevailed, and

The request of the Senate was concurred in.

Mr. Svensrud asked unanimous consent for the House to return to the ninth order of business, that he might introduce a bill,

Which request was granted, and

Mr. Svensrud introduced

House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota School of Forestry, and making appropriation therefor,

Was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Twichell asked unanimous consent for the House to return to the fifth order of business,

Which request was granted, and

The House returned to the consideration of reports of standing committees.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

## House Bill No. 1,

A Bill for an act to provide for State depositories and to regulate the deposit of public monies therein, and the interest thereon, and prescribing the means thereof,

Have had the same under consideration and recommend that the same be amended as follows:

On page two in line 6 of printed bill after the word "rate" strike out the word "fixed" and insert in lieu thereof the word "approved."

On page two, line 10 of printed bill strike out the word "ten" and insert in lieu thereof the word "five."

Strike out Section 3 of printed bill and insert in lieu thereof the following:

The Board of Deposit shall not at any time accept the bid of any banking corporation at a rate less than three (3) per cent., nor exceeding five (5) per cent., and securities being equal the board shall accept the highest bids.

On page four, line 3 of printed bill after the word "in" strike out the words "one or more" and insert in lieu thereof "daily newspapers of general circulation, published at three different points in the State."

On page four, line 10, printed bill strike out the word "minimum" and insert in lieu thereof the words "on the average daily deposit of."

On page four, line 11 of printed bill strike out the word "monthly" and insert in lieu thereof the word "quarterly."

On page five, Section 12 of printed bill strike out emergency clause and insert the following in lieu thereof:

WHEREAS, An emergency exists in this that it is necessary to make the provisions of this act operative in time for the annual meeting designated in this act; therefore, This act shall take effect and be in force from and after its passage and approval,

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

Mr. Wineman moved

That the report of the committee be adopted,  
Which motion prevailed, and

The report of the Committee was adopted, and

House Bill No. 1 and the report of the Committee on State Affairs were

Referred to the Committee on Engrossment.

Mr. Wallen moved

That the courtesies of the floor be extended to Mr. H. A. Langlie, of Traill county,  
Which motion prevailed.

Mr. Logan moved

That the courtesies of the floor be extended to Mr. Dunlap, of Valley City,  
Which motion prevailed.

THIRD READING OF HOUSE BILLS.

House Bill No. 13,

A Bill for an act to encourage the manufacture of potato starch in the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill.

The roll being called, there were ayes 60, nays none, not voting 2.

Those who voted in the affirmative were:

Messrs.

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,

Messrs.

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs.

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs. Brainard and Cryan,  
Who were excused.

So the bill passed and the title was agreed to.

House Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 183 of the Session Laws of 1890, entitled "an act to provide for a system of accounts for the State Auditor and State Treasurer,"

Was read the third time.

The question being upon the final passage of the bill.

The roll being called there were ayes 56, nays none, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,

Messrs—

Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,

Messrs—

Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,  
Holritz.

Messrs—

Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Blacklock,  
Brainard,

Messrs—

Cryan,  
Edwards,

Messrs—

Simpson,  
Wineman,

Messrs. Brainard and Cryan being excused.

So the bill passed and the title was agreed to.

The Speaker announced an informal recess of ten minutes.

The House reassembled.

## CONSIDERATION OF MESSAGES FROM THE SENATE.

## CONCURRENT RESOLUTION.

WHEREAS, It is the sentiment of the people of the State of North Dakota that United States Senators be elected by popular vote, therefore

*Be it Resolved by the Senate and House of Representatives Concurring,*

That our Senators and Member of Congress be instructed and requested to use their influence in securing such amendments to the Constitution of the United States as will confer upon the electors of the several States the right to choose their Senators at general elections,

Mr. Wineman moved

That the House concur in the concurrent resolution,

Which motion prevailed, and

The concurrent resolution was adopted.

## FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 45,

A Bill for an act to empower the Governor to accept for the State the condition imposed by an act of Congress entitled "an act to provide aid to State or Territorial homes for the support of disabled soldiers and sailors of the United States, and empowering the State Auditor to receive and receipt for all money which may become due to the State under said act,"

Was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Cooper moved

That an additional enrolling and engrossing clerk be appointed,

Which motion was lost.

Mr. Wood moved

That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

SEVENTEENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 24, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Mr. Svensrud.

REPORTS OF STANDING COMMITTEES.

The Committee on Municipal Corporations made the following report:

MR. SPEAKER:

Your Committee on Municipal Corporations to whom was referred

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities,

Have had the same under consideration and recommend that said bill do pass.

JAMES PURDON,  
Chairman.

There being no objections, House Bill No. 30 was referred to Committee for engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 40,

A Bill for an act to provide for the licensing and registration of attorneys at law, and fixing penalties for the violation thereof,

Have had the same under consideration and recommend that the same be reported back, recommending that it be referred to the Committee on Judiciary.

T. TWICHELL,  
Chairman.

There being no objections, House Bill No. 40 was referred to the Committee on Judiciary.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 44,

A Bill for an act to provide for the licensing and registration of physicians, surgeons and dentists, and fixing penalties for the violation thereof,

Have had the same under consideration and recommend that the same be reported back, recommending that it be referred to the Committee on Judiciary.

T. TWICHELL,  
Chairman.

There being no objections, House Bill No. 44 was referred to the Committee on Judiciary.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred  
House Bill No. 29,

A Bill for an act to provide free and uniform school text books throughout the several counties of the State,

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

Mr. Logan moved

That House Bill No. 29 be re-committed to the Committee on Education,

Which motion prevailed.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 4,

A Bill for an act to amend Subdivision 11 of Section 1, Chapter 100, Laws of 1891.

Have had the same under consideration and recommend that the same be amended as follows:

Striking out the words fifty (50) dollars in line four of Section 1 in printed bill and inserting the words ten (10) dollars.

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objections, House Bill No. 4 was referred to General Orders.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collection of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto,"

Have had the same under consideration and recommend that the same be referred to the Judiciary Committee.

N. SWENSON,  
Chairman.

There being no objections House Bill No. 8 was referred to the Committee on Judiciary.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 15,

A Bill for an act to amend Section seventy-nine (79) of Chapter one hundred and nine (109) of the Laws of 1893, being an act entitled "an act prescribing the mode of making assessment and

the levy and collection of taxes and for other purposes relative thereto."

Have had the same under consideration and recommend the same be amended as follows:

By substituting the word "of" in the place of the word "or" in line one of Section two of the written bill between the words "parts" and "acts."

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objections, House Bill No. 15 was referred to General Orders.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 39,

A Bill for an act entitled "an act prohibiting the sale of cigarettes,"

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objections, House Bill No. 39 was referred to the Committee for engrossment.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 31,

A Bill for an act to amend Section 345, Chapter 13, Code of Civil Procedure,

Have had the same under consideration, and recommend that the same be laid on the table for the time being, until the Code of Civil Procedure is reported from the Joint Committee, at which time the provisions of this act can be incorporated therein if desired.

L. A. SIMPSON,  
Chairman.

Mr. Purdon moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
House Bill No. 31 was laid upon the table.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
Senate Bill No. 8,

A Bill for an act to increase the State debt limit; an act proposing an amendment to Section 182 of Article 12 of the Constitution of the State of North Dakota,

Have had the same under consideration and recommend that the same be amended by striking out the word "them" in line 4 of Section 1 of the printed bill and inserting in lieu thereof the word "it," and when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objections, Senate Bill No. 8 was referred to General Orders.

Mr. Simpson requested Senate Bill No. 8 be referred back to the Committee on Judiciary.

There being no objections, Senate Bill No. 8 was so referred.

The Committee on Taxes and Tax Laws made the following report:

**MR. SPEAKER :**

Your Committee on Taxes and Tax Laws to whom was referred  
House Bill No. 11,

A Bill for an act to amend the ninth paragraph of Section 7 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

Have had the same under consideration and recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objections, House Bill No. 11 was referred to Committee for engrossment.

**MESSAGE FROM THE SENATE.**

The following message was received from the Senate:

SENATE CHAMBER, }  
January 24, 1895. }

**MR. SPEAKER:**

I have the honor to transmit herewith the following Concurrent Resolutions:

**CONCURRENT RESOLUTION**

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing the Governor, Auditor and Treasurer to negotiate an extension of time for payment of certain Refunding Warrants of the Territory of Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

That the Governor, Auditor and Treasurer of the State of North Dakota be, and they are hereby authorized and instructed to negotiate for an extension of time for one year, at the present rate of interest, for the payment of the 5 per cent. refunding warrants dated April 1, 1889, and remaining unpaid to the amount of \$63,507.46.

Also,

#### CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing and instructing the Governor, Auditor and Treasurer of the State of North Dakota to fund certain floating indebtedness of the State of North Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

That the Governor, Auditor and Treasurer of the State of North Dakota are hereby authorized and instructed to fund the floating indebtedness of the State, consisting of unpaid bills now on file in the office of the Auditor of State, to an amount not exceeding one hundred and thirty thousand dollars, at such discount as will allow a reasonable rate of interest, such indebtedness to become due and payable on or before November 1, 1896,

Which the Senate has passed, and the concurrence of the House is respectfully requested.

Also,

I have been instructed by the Senate to request the recall of Senate Bill No 7 from the House Committee for correction.

Respectfully,  
FRED FALLEY,  
Secretary.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads to whom was referred

House Bill No. 26,

A Bill for an act to repeal Chapter 101, Session Laws of 1893, Have had the same under consideration and recommend that the same do pass.

ROLLIN C. COOPER,  
Chairman.

There being no objections, House Bill No. 26 was referred to Committee for engrossment.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads to whom was referred

House Bill No. 23,

A Bill for an act defining the duties of Railroads in regard to Station Houses,

Have had the same under consideration and recommend that the same be amended as follows:

In line 4 of Section 1 the amount be changed to (\$20,000)

twenty thousand and that the following clause be added to Section 2 after the word dollars on line 3, "and it shall be the duty of the Railroad Commissioners to enforce the provisions of this act in the name of the State of North Dakota,"

And when so amended recommend that the same do pass.

ROLLIN C. COOPER,  
Chairman.

There being no objections, House Bill No. 23 was referred to General Orders.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred House Bill No. 38,

A Bill for an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakota's refractory children at the South Dakota Reform School,

Have had the same under consideration and recommend that the same do pass.

F. H. PROSSER,  
Chairman.

There being no objections, House Bill No. 38 was referred to Committee for engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined House Bill No. 32,

A Bill for an act to amend Sections 20, 25 and 26 of Chapter 27 of the Session Laws of 1893, relating to the organization and government of State banks,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### REVISION OF THE JOURNAL.

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report, that they have carefully examined the Journal of the sixteenth day, and recommend it be amended as follows, viz.:

That on page 3, line 26, of the printed Journal the sum of \$8,000 should be amended to read \$800,

Also on page 10, line 5, change 66 so as to read 56,

And with such amendments we recommend that the Journal of the sixteenth day be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved

That the report of the Committee be adopted,  
Which motion prevailed, and  
The report was adopted, and  
The Journal of the sixteenth day was approved.

Mr. Cooper requested that House Bill No. 61 be recalled from the Committee on Ways and Means and returned to him,  
Which request was granted, and  
House Bill No. 61 was ordered returned to Mr. Cooper.

#### MOTIONS AND RESOLUTIONS.

Mr. Hanna offered the following resolution and moved the adoption of the same.

*Be it Resolved by the House of Representatives:*

That all bills amending or repealing any of the existing laws of the State before being referred to the committees or printed, shall be referred to the Compilation Joint Committee in order that said Committee may ascertain whether the said amendments or repeals have been incorporated in the report of the Commission.

Mr. Hodgson moved

To amend that the bills be reported back from said Joint Committee within two days.

Mr. Hanna accepted the amendment,  
And the motion prevailed.

Mr. Svensrud offered the following concurrent resolution :

#### CONCURRENT RESOLUTION

For a Memorial to Congress for the appropriation of forty thousand acres of land of the unappropriated public lands lying within the limits of the State of North Dakota, for the use and support of a School of Forestry in said State.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That a copy of the following memorial, signed by the President of the Senate and by the Speaker of the House of Representatives, and attested by the Secretary of the Senate and Chief Clerk of the House of Representatives, be sent to Hon. Henry C. Hansbrough, William N. Roach and Martin N. Johnson.

That Honorables H. C. Hansbrough and W. N. Roach, representing this State in the Senate of the United States, and Honorable M. N. Johnson, representing this State in the House of Representatives of the Congress of the United States, be and they are hereby respectfully requested to present the following memorial to their respective houses, and to urge the passage of an act of Congress in accordance with this memorial, to-wit:

*To the Honorable, the Congress of the United States:*

The people of the State of North Dakota, in Legislative Assembly con-

vened, respectfully request that whereas the people of the State of North Dakota do earnestly desire that thorough and efficient research and instruction be given in the science and art of forest culture; therefore the people of this State do respectfully petition your honorable body to grant this State forty thousand acres of unappropriated public lands lying within the limits of the State and for the use and support of a School of Forestry.

Which Concurrent Resolution was read and  
Referred to the Committee on State Affairs.

Mr. Logan moved

That the vote by which House Bill No. 29 was referred to the Committee on Education be reconsidered,

Which motion prevailed,

And the vote by which House Bill No. 29 was referred to the Committee on Education was reconsidered.

Mr. Logan moved

That House Bill No. 29 be referred to the Committee of the Whole,

Which motion prevailed,

And the bill was so referred.

Mr. Hodgson moved

That Senate Bill No. 7 be returned to the Senate,

Which motion prevailed,

And the bill was so returned:

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Brown introduced

House Bill No. 69,

A Bill for an act to encourage the culture of the sugar beet in the State of North Dakota and the manufacture of sugar from the same and to appropriate three hundred dollars or so much as may be necessary to defray the expenses thereof,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. McDonald introduced

House Bill No. 70,

A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Logan introduced

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries,

Which was read the first and second times, and

Referred to the Committee on Corporations Other Than Municipal.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Jan. 24, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 24,

A Bill for an act to increase the revenues of the State by changing and increasing the boundaries of the counties of Billings, Stark and Mercer,

Also,

Senate Bill No. 23,

A Bill for an act to prohibit managers, officers and employes of State institutions from being interested in contracts, purchases or sales for or on account of said institutions,

Also,

Senate Bill No. 18,

A Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25, of the General Laws of 1881, being Section 4383 of the Compiled Laws,

Also,

Senate Bill No. 13,

A Bill for an act providing for and regulating the re-districting of counties into commissioner districts,

Which the Senate has passed, and consideration by the House is respectfully requested.

FRED FALLEY,  
Secretary.

Mr. Cryan introduced  
House Bill No. 72,

A Bill for an act to amend Section 24, Chapter 132, Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,"

Which was read the first and second times, and  
Referred to the Committee on Taxes and Tax Laws.

Mr. Jennings introduced  
House Bill No. 73,

A Bill for an act to invest states' attorneys and courts of North Dakota with discretionary power to require security for costs in all criminal prosecutions that they may deem unmeritorious, before they shall be instituted.

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Tyler introduced  
House Bill No. 74,

A Bill for an act to cure defective acknowledgments,  
Which was read the first and second times, and  
Referred to the Committee on Ways and Means.

Mr. Tofsrud introduced  
House Bill No. 75,

A Bill for an act to amend Section 1 of Chapter 50 of the Ses-  
sion Laws of 1890, entitled "an act to fix the compensation of  
the judges of the county courts and provide a fund to reimburse  
the county for the same,"

Which was read the first and second times, and  
Referred to the Committee on Ways and Means.

Mr. Hanna introduced  
House Bill No. 76,

A Bill for an act requiring county auditors to furnish township  
clerks with lists of real and personal property taxes assessed in  
their township and the amount thereof,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Colby presented the following petition:

*To the House of Representatives:*

We, the undersigned voters in the Tenth Legislative District, Cass County,  
North Dakota, respectfully petition your honorable body to defeat Senate  
Bill No. 5. We do not want our present prohibitory liquor law changed, but  
do want to see it fully enforced, and hereby petition you to pass measures for  
its full enforcement.

WILLIAM THORNE,  
(And many others).

GRANDIN, N. D., Jan. 14, 1895.

Which was read and referred to the Committee on Temperance.

The Committee on Appropriations made the following report:

**MR. SPEAKER:**

Your Committee on Appropriations to whom was referred  
Senate Bill No. 7,

A Bill for an act to amend Section one (1) of Chapter nine (9)  
of the Laws of 1891,

Have had the same under consideration and return the same to  
the House to be referred to the Senate for correction.

F. H. PROSSER,  
Chairman.

INFORMAL RECESS.

The House reassembled.

Mr. Wineman asked unanimous consent that the House return  
to the seventh order of business,

Which request was granted.

Mr. Wineman moved

That the report of the Committee on State Affairs on House Bill No. 1 be corrected as follows:

That in line 14 of the report as it appears in the printed Journal of the sixteenth day the words "on the average daily deposit of" be stricken out, and the words "average daily balance of" be inserted in lieu thereof,

Which motion prevailed, and

The report was so corrected.

Mr. Edwards asked unanimous consent that the House return to the ninth order of business,

Which request was granted, and

The Joint Committee on Revision introduced

House Bill No. 77,

A Bill for an act to appropriate money to pay postage,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 32,

Was read the third time and placed upon its final passage.

The roll being called there were ayes 57, nays 2, not voting 3.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spanberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting—

Messrs—

Sharpe,

Messrs—

Svensrud.

Messrs—

Wineman.

Messrs. Edwards and Herbrandson voting in the negative.

So the bill passed and the title was agreed to.

## CONSIDERATION OF MESSAGES FROM THE SENATE.

## CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing the Governor, Auditor and Treasurer to negotiate an extension of time for payment of certain Refunding Warrants of the Territory of Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

That the Governor, Auditor and Treasurer of the State of North Dakota be, and they are hereby authorized and instructed to negotiate for an extension of time for one year, at the present rate of interest, for the payment of the 5 per cent. refunding warrants dated April 1, 1889, and remaining unpaid to the amount of \$63,507.46.

Mr. Twichell moved

That the concurrent resolution be adopted,  
Which motion prevailed, and  
The concurrent resolution was concurred in.

Also,

## CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing and instructing the Governor, Auditor and Treasurer of the State of North Dakota to fund certain floating indebtedness of the State of North Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

That the Governor, Auditor and Treasurer of the State of North Dakota are hereby authorized and instructed to fund the floating indebtedness of the State, consisting of unpaid bills now on file in the office of the Auditor of State to an amount not exceeding one hundred and thirty thousand dollars, at such discount as will allow a reasonable rate of interest, such indebtedness to become due and payable on or before November 1, 1896.

Mr. Prosser moved

That the concurrent resolution be adopted,  
Which motion prevailed, and  
The concurrent resolution was concurred in.

## FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 13,

A Bill for an act providing for and regulating the re-districting of counties into commissioner districts.

Which was read the first and second times, and

Referred to the Committee on Counties and County Boundaries.

Senate Bill No. 18,

A Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25 of the General Laws of 1881, being Section 4383 of the Compiled Laws,"

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Senate Bill No. 23,

A Bill for an act to prohibit managers, officers and employes

of State institutions from being interested in contracts, purchases or sales for or on account of said institutions,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Senate Bill No. 24,

A Bill for an act to increase the revenues of the State by changing and increasing the boundaries of Billings, Stark and Mercer,

Which was read the first and second times, and  
Referred to the Committee on Counties and County Boundaries

Mr. Armstrong moved

That the House resolve itself into the Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole.

The Speaker called Mr. Armstrong to the chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 21,

A Bill for an act prescribing the duties of states' attorneys, fixing their compensation and the method of determining the same, and recommend that all amendments be printed in bill form.

Also,

House Bill No. 15,

A Bill for an act to amend Section seventy-nine (79) of Chapter 109 of the Laws of 1893, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,"

And recommend that the bill be amended by substituting the word "of" in the place of the word "or" in line one of Section two of the written bill, between the words "parts" and "acts," and when so amended recommend that the bill do pass.

Also,

House Bill No. 23,

A Bill for defining the duties of Railways in regard to Station Houses,

And recommend that the bill be amended as follows:

In line 4 of Section 1 the amount be changed to \$20,000, (twenty thousand), and that the following clause be added to Section 2 after the word dollars on line 3: "And it shall be the duty of the Railroad Commissioners to enforce the provisions of this act in the name of the State of North Dakota.

And that when so amended the bill do pass.

H. A. ARMSTRONG,  
Chairman.

Mr. Wineman moved

That the report of the Committee of the Whole be adopted,  
Which motion prevailed, and

The report of the Committee of the Whole was adopted.

Mr. Hancock moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## EIGHTEENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 25, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Mr. Wood.

Mr. Fleming requested that Mr. Wood be excused.

There being no objections, Mr. Wood was excused.

Mr. Edwards moved that the courtesies of the floor be extended to Messrs. Gage and Walker of the Fargo Argus and Mr. Hendershott of the Fargo Sun.

There being no objections, the courtesies of the floor were so extended.

## REVISION OF THE JOURNAL.

The Committee to Revise and Correct the Journal made the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the seventeenth day and recommend it be amended as follows, viz:

On page 12 in printed Journal strike out the word "title" where it appears in line 20, and when so amended we recommend that the Journal of the seventeenth day be approved.

GEO. HILL,  
Chairman.

Mr. Blacklock moved  
The adoption of the report,  
Which motion prevailed, and  
The report was adopted, and  
The Journal of the seventeenth day was approved.

## REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

MR. SPEAKER:

The Judiciary Committee recommend that M. Malloy be elected clerk of said Committee, to enter upon duty at once.

L. A. SIMPSON,  
Chairman.

Mr. Blacklock moved  
That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
The report was adopted.

The House then proceeded to the election of a clerk of the Judiciary Committee.

The roll being called for the election of a clerk for the Judiciary Committee, there were 56 votes cast, of which Mr. Malloy received 54, Mr. Hamilton received 1 and Mr. Bratton received 1.

Those voting for Mr. Malloy were:

Messrs. Armstrong, Blacklock, Brainard, Brown, Colby, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Flack, Fleming, Gilbertson, Gleason, Guinan, Gunderson, Hancock, Hanna, Hill, Hodgson, Horgan, Jennings, Kellogg, Kroeger, Lerom, Lindstrom, Logan, McLachlan, McDonald, Murphy, Myers, Nelson, Nierling, Porter, Prosser, Purdon, Rasmussen, Ray, Rinde, Roberts, Rod, Sargent, Sharpe, Simpson, Smith, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Tyler, Walker, Wineman and Mr. Speaker.

Mr. Spaugberg voted for Mr. Bratton.

Mr. Wallen voted for Mr. Hamilton.

Those absent and not voting were Messrs. Colosky, Herbrandson, Holritz, Korsmo, Richardson and Wood.

Mr. Wood being excused.

Mr. Malloy having received a majority of votes of all the members-elect, was declared duly elected clerk of the Judiciary Committee.

The Committee on Engrossed Bills made the following report:

**MR. SPEAKER:**

Your Committee on Engrossed Bills have examined  
House Bill No. 11,

A bill for an act to amend the ninth paragraph of Section 7 of Chapter 132 of the Session Laws of 1890, entitled "An act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

Also,

House Bill No. 26,

A Bill for an act to repeal Chapter 101, Session Laws of 1893,

Also,

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities,

Also,

House Bill No. 39,

A Bill for an act, entitled "an act prohibiting the sale of cigarettes,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Labor made the following report:

**MR. SPEAKER:**

Your Committee on Labor to whom was referred

House Bill No. 28,

A Bill for an act entitled "an act making Labor Day a legal holiday,"

Have had the same under consideration and recommend that the same do not pass.

P. HERBRANDSON,  
Chairman.

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs, to whom was referred

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of veterinary science in the State of North Dakota,"

Have had the same under consideration and recommend that the same be amended as follows:

On page 1, Section 2, line 4 of printed bill strike out the word "nativet" and insert in lieu thereof the word "citizen." After the word "or" strike ou" "if alien born then shall be naturalized or shall have duly declared his intention before a court of competent jurisdiction to become naturalized," and insert in lieu thereof the following words: "Shall have declared his intention to become such."

On page 2, Section 3, line 4 of printed bill insert after the word "veterinarian" the following words: "Who each shall be the holder of a diploma granted by a legally authorized veterinary school, college or university." On page 2, Section 3, lines 4 and 5, strike out the words "two, four and six" and insert in lieu thereof the words "one, two and three." On page 2, Section 3, line 6 of printed bill after the word "thereafter" strike out the words "and at each biennial session of the Legislative Assembly" and insert in lieu thereof the words "each year." On page 2, Section 3, line 8 of printed bill strike out the words "by and with the advice and consent of the Senate." On page 2, Section 3, line 10 of printed bill after the word "appointed" add the following words: "And is further authorized to fill such vacancies as may occur." On page 2, Section 4, line 4 of printed bill strike out the words "at Fargo." On page 2, Section 4, line 5 of printed bill strike out the words "at Grand Forks." On page 2, Section 4, line 6 of printed bill strike out the words "at the State Capital." On page 2, Section 4, line 7 of printed bill after the word "necessary" insert the words: "At such place and time as said Board may appoint."

On page 3, Section 4, line 9 of printed bill after the word "shall" strike out "farther show that if not native born" and insert in lieu thereof the word "be." On page 3, Section 4, line 10 of printed bill strike out the words "they are duly naturalized." On page 3, Section 5, line 4 of printed bill after the word "shall" insert the following words: "Upon payment of five dollars." On page 6, Section 12, line 1 of printed bill after the word "emergency" insert a comma.

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 14 was referred to General Orders.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
Senate Bill No. 45,

A Bill for an act to empower the Governor to accept for the State the condition imposed by an act of Congress, entitled "an act to provide aid to State or Territorial homes for the support of disabled soldiers and sailors of the United States, and empowering the State Auditor to receive and receipt for all money which may become due to the State under said act,"

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, Senate Bill No. 45  
Was referred to the Committee for engrossment.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 5,

A Bill for an act to repeal an act entitled an "act to provide for trial by the District Court without a jury a fair hearing of such action or appeal,"

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 5 was referred to the Committee for engrossment.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 57,

A Bill for an act providing for the authentication of the records in the offices of the register of deeds within the State, and defining certain duties of the registers in relation thereto,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 57 was referred to the Committee for engrossment.

The Committee on Judiciary made the following majority report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 42,

A Bill for an act entitled "an act to amend Chapter 24 of the Laws of 1890, by inserting therein Section 6 and for amending its title."

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 42 was referred to General Orders.

The Committee on Judiciary made the following minority report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 42,

A Bill for an act entitled "an act to amend Chapter 24 of the Laws of 1890, by inserting therein Section 6 and for amending its title,"

Have had the same under consideration and recommend that the same do not pass.

J. B. WINEMAN,  
W. R. FLEMING,  
THEO. GUINAN,  
J. T. BLACKLOCK.

The Committee on Insurance made the following report:

**MR. SPEAKER:**

Your Committee on Insurance to whom was referred  
House Bill No. 12,

A Bill for an act to amend an act entitled "an act to provide for the uniform policy of fire insurance companies to be made and issued in this State by all insurance companies taking risks on property within this State,"

Have had the same under consideration and recommend that the same be amended as follows:

On page (1), Section (1), line (5), of printed bill, after the word "thereof" add the following clause: "Provided, that the provisions of this act shall only apply to insurance policies on buildings and structures of all descriptions,"

And when so amended recommend that the same do pass.

J. J. NIERLING,  
Chairman.

There being no objection, House Bill No. 12 was referred to General Orders.

The Committee on Taxes and Tax Laws made the following report:

**MR. SPEAKER:**

Your Committee on Taxes and Tax Laws to whom was referred  
House Bill No. 45,

A Bill for an act amending Section 324 of Chapter 13 of the Code of Civil Procedure, being Section 5128 of the Compiled Laws, relating to property exempt from execution,

Have had the same under consideration and recommend that the same do not pass.

N. SWENSON,  
Chairman.

The Committee on Taxes and Tax Laws made the following report:

**MR. SPEAKER:**

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

Have had the same under consideration and recommend that the same be amended by striking out Sections two and three,

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 16 was referred to General Orders.

The Committee on Taxes and Tax Laws made the following report:

**MR. SPEAKER:**

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 47,

A Bill for an act providing for extension of the fines for the payment of taxes for the year 1894,

Have had the same under consideration and recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 47 was referred to the Committee for grossment.

The Committee on Highways, Bridges and Ferries made the following report:

**MR. SPEAKER:**

Your Committee on Highways, Bridges and Ferries to whom was referred

House Bill No. 51,

A Bill for an act to amend Section 687, Penal Code of Revised Codes of 1877, being Section 6876 of the Compiled Laws of 1887,

Have had the same under consideration and recommend that the same be amended as follows:

That the word "road" in line 6, Section 1 of printed bill be amended to read "trail,"

And when so amended recommend that the same do pass.

A. H. KELLOGG,  
Chairman.

There being no objection, House Bill No. 51 was referred to General Orders.

## MOTIONS AND RESOLUTIONS.

Mr. Colby offered the following resolution, and moved the adoption of the same,

Which motion prevailed, and  
The resolution was adopted.

*Resolved*, That all bills which have been reported from committees or passed to their third reading shall lay over one day, unless otherwise ordered by the House, and the Chief Clerk shall cause lists to be printed each day for the use of the members—one under the heading of "Bills on Third Reading Today" and another under the heading of "Bills in General Orders Today," also that they be printed in the Journal, so that the members may know at the opening of each day's session what measures are properly before the House for action on that day.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Gleason introduced  
House Bill No. 78,

A Bill to amend the Compiled Laws of the State of North Dakota—Section 448, Article 5, Chapter 8,  
Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Lindstrom introduced  
House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers, to define the duties of commissioners of railroads, and to provide for the control of railroads, bridge corporations and ferry companies within the State,"

Which was read the first and second times, and  
Referred to the Committee on Railroads.

Mr. Kellogg introduced  
House Bill No. 80,

A Bill for an act to amend Section 97, Chapter 21 of the Political Code, Revised Statutes of 1877, being Section 689 of the Compiled Laws of 1887, relating to county surveyors and their duties,  
Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Logan introduced  
House Bill No. 81,

A Bill for an act making it lawful for certain kinds of stock to run at large during a portion of each year, and for prohibiting stallions and vicious stock from running at large and providing penalties, and to repeal Chapter 89, Laws of 1890.

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Herbrandson introduced  
House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivisions four

and five of Section two thousand one hundred and forty-four (2144) of Chapter twenty-two of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor,"

Which was read the first and second times, and

Referred to the Committee on Judiciary.

The Speaker called Mr. Prosser to the chair.

THIRD READING OF HOUSE BILLS.

House Bill No. 11.

A Bill for an act to amend the ninth paragraph of Section 7 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

Was read the third time, and

Placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 55, nays 2, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Rinde,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Sharpe,
Cryan,	Lerom,	Simpson,
Dwyer,	Lindstrom,	Smith,
Eyolfson,	Logan,	Spangberg,
Fleming,	McLachlan,	Stafne,
Gilbertson,	Myers,	Svensrud,
Gleason,	Nelson,	Swenson,
Guinan,	Nierling,	Tofsrud,
Gunderson,	Porter,	Twitchell,
Hancock,	Prosser,	Tyler,
Hanna,	Purdon,	Walker,
Herbrandson,	Rasmussen,	Wallen,
Hill,	Ray,	Wineman,
Hodgson,	Richards,	Mr. Speaker.
Holritz.		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	McDonald,	Wood.
Flack,	Murphy,	

Messrs. Blacklock and Edwards voting in the negative.

Mr. Wood being excused.

So the bill passed and the title was agreed to.

House Bill No. 26,

A Bill for an act to repeal Chapter 101, Session Laws of 1893

Was read the third time and placed upon its final passage.

Mr. Gill moved

That the further consideration of House Bill No. 26 be deferred until after the House received the report of the Joint Committee on Revision of the Civil Code,

Which motion prevailed, and

Further consideration of House Bill No. 26 was so deferred.

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities,

Was read the third time and placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called, there were ayes 60, nays none, not voting 2.

Those who voted in the affirmative were:

Messrs.

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs.

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs.

Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Messrs. McLachlan and Wood absent and not voting,

Mr. Wood being excused.

So the bill passed and the title was agreed to.

House Bill No. 39,

A Bill for an act entitled "an act prohibiting the sale of cigarettes."

Was read the third time, and placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 59, nays 2, not voting 1.

Those who voted in the affirmative were:

Messrs--

Armstrong,  
Blacklock,  
Brainard,

Messrs--

Hill,  
Hodgson,  
Holritz,

Messrs

Rasmussen,  
Ray,  
Rinde,

## Messrs—

Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

## Messrs—

Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,

## Messrs—

Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Those who voted in the negative were Messrs. Richards and Svensrud.

Absent and not voting, Mr. Wood, being excused.

So the bill passed and the title was agreed to.

## THIRD READING OF SENATE BILLS.

## Senate Bill No. 45.

A Bill for an act to empower the Governor to accept for the State the condition imposed by an act of Congress, entitled "an act to provide aid to State and Territorial Homes for the support of disabled soldiers and sailors of the United States, and empowering the State Auditor to receive and receipt for all money which may become due to the State under said act,"

Was read the third time and placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 60, nays none, not voting 2.

Those voting in the affirmative were:

## Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,

## Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nel on,

## Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,

Messrs	Messrs—	Messrs—
Gunderson,	Nierling,	Walker,
Hancock,	Porter,	Wallen,
Hanna,	Prosser,	Wineman,
Herbrandson,	Purdon,	Mr. Speaker.

Messrs. Rasmussen and Wood absent and not voting.

Mr. Wood being excused.

So the bill passed and the title was agreed to.

COMMITTEE OF THE WHOLE.

Mr. Hodgson moved

That the House do now resolve itself into a Committee of the Whole for the consideration of General Orders, Which motion prevailed, and

The House resolved itself into a Committee of the Whole for consideration of General Orders.

The Speaker called Mr. Simpson to the chair.

When the Committee arose, they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 21,

A Bill for an act prescribing the duties of states' attorneys, fixing their compensation and the method of determining the same.

As reported back from the Committee of the Whole with amendments printed in bill form, and

Recommend that the bill be further amended, as follows:

Strike out of Section 10, printed bill, beginning with the word "over" in line 12, all down to and including the word "dollars" in line 16, and the word "further" in line 16; also, in line 11 of Section 10, after the figures 20,000, the words, "and not exceeding 25,000;" also in line 11 change \$1,600 so as to read "\$1,400."

Also, insert in Section 10, line 11, after the figures 20,000, the words, "and not exceeding 22,000, \$1,600; and over 22,000 the sum \$2,000," and recommend the adoption of Section 10 as so amended.

And we further recommend that the bill do pass as amended in the Committee of the Whole.

L. A. SIMPSON,  
Chairman.

Mr. Hodgson moved

That the report of the Committee of the Whole be adopted,

Which motion prevailed, and

The report of the Committee of the Whole was adopted.

Mr. Wineman moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

NINETEENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 26, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Mr. Tyler,  
Who was excused.

REVISION OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the eighteenth day, and recommend that it be amended as follows:

That on page 13, line 1, of the printed Journal, bills on third reading to-day be amended to read "Bills on third reading for nineteenth day."  
Also on page 13, line 3, be amended to read "General Orders for nineteenth day."

And when so amended that the Journal be approved.

GEO. HILL,  
Chairman.

Mr. Fleming moved  
That the report of the Committee on Revision and Correction  
of the Journal be adopted,  
Which motion prevailed, and  
The Journal of the eighteenth day was approved.

Mr. Hodgson asked unanimous consent to offer a Concurrent Resolution.

There being no objection, Mr. Hodgson offered the following Concurrent Resolution:

#### CONCURRENT RESOLUTION.

*Resolved by the House of Representatives, the Senate Concurring:*

1. That the Joint Committee on Russian Cactus be authorized and instructed to secure for its meeting on Tuesday evening, Jan. 29th, a room large enough to accommodate all members of this Legislative Assembly, the State officials, and others who may be interested.

2. That Prof. H. L. Bolley of the North Dakota Agricultural College, and ex-Senator Lyman R. Casey be invited to attend the meeting.

3. That the Committee report as to place of holding said meeting not later than Monday, January 28th.

Mr. Hodgson moved  
The adoption of the Concurrent Resolution,  
Which motion prevailed.

Mr. Svensrud moved  
That the vote by which the Concurrent Resolution was adopted  
be reconsidered, and the motion to reconsider be laid upon the  
table,

Which motion prevailed.

Mr. Lindstrom asked unanimous consent to offer a Concurrent Resolution.

There being no objection, Mr. Lindstrom offered the following Concurrent Resolution:

#### CONCURRENT RESOLUTION.

*Resolved by the House of Representatives, the Senate Concurring:*

That the Governor of the State is respectfully requested to investigate and report to the Legislative Assembly the advisability of establishing a plant for the manufacture of binding twine in the Penitentiary and the utilizing of convict labor in the manufacture thereof.

Also to furnish the Legislative Assembly with an estimate of the probable cost thereof for the ensuing two years and whether or not the establishing of such a plant is feasible and would serve the interest of the State.

Mr. Hodgson moved  
The adoption of the Concurrent Resolution,  
Which motion prevailed, and  
The Concurrent Resolution was adopted.

Mr. Lindstrom moved  
That the vote by which the Concurrent Resolution was adopted  
be reconsidered, and the motion to reconsider be laid on the  
table,

Which motion prevailed.

Mr. Gilbertson requested that the courtesies of the floor be ex-  
tended to Messrs K. Olsen, of Fargo and Pierce, of the Grafton  
Record.

There being no objection, the courtesies of the floor were so  
extended.

Mr. Fleming requested that the courtesies of the floor be ex-  
tended to Mr. Grover, of Grafton.

There being no objection, the courtesies of the floor were so  
extended.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

MR. SPEAKER:

I have the honor to return to the House  
Senate Bill No. 7,  
Which the Senate recalled for the purpose of correction.

FRED FALLEY,  
Secretary.

#### REPORT OF STANDING COMMITTEES.

The Committee on Ways and Means made the following re-  
port:

MR. SPEAKER:

Your Committee on Ways and Means to whom was referred  
House Bill No. 53,

A Bill for an act to amend Paragraph 3 of Chapter 49 of the  
Laws of 1893, being an act relating to the deposit and loaning of  
county funds,

Have had the same under consideration and recommend that  
the same do pass.

C. L. LINDSTROM,  
Chairman.

There being no objection, House Bill No. 53 was referred to  
the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 1,

A Bill for an act, entitled "an act to provide for State depositories and to regulate the deposit of public moneys therein and the interest thereon and prescribing the means thereof,

Also,

House Bill No. 38,

A Bill for an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakota's refractory children at the South Dakota Reform school,"

Also,

House Bill No. 47,

A Bill for an act providing for extension of the time for the payment of taxes for the year 1894,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Military Affairs made the following report:

MR. SPEAKER:

Your Committee on Military Affairs to whom was referred  
House Bill No. 41,

A Bill for an act to amend Sections 5, 6 and 18 of the Military Code, being Chapter 86 of the Session Laws of 1891,

Have had the same under consideration, and recommend that the same be amended as follows:

In Section 1, lines 5 and 6, strike out the words "Adjutant General." In line 9 strike out the word "Governor" and insert in lieu thereof the words "Commander-in-Chief." In line 10, after the word "with" strike out the words "any or all" and insert in lieu thereof the words "all, or reduce the number."

In Section 3, line 4, after the word "Governor" insert the words "for a term of two years." In line 5, after the word "Guard" insert the words "or in the regular or volunteer service of the United States."

Insert the following as Section 4 of the bill: "Section 4. That Section 43 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended, to read as follows: 'Section 43. The National Guard of North Dakota may be called out by the Commander-in-Chief, and may be by him turned over into the service of the United States on requisition of the President for service within or without the State, as the exigencies may require. The Commander-in-Chief shall have power, in case of insurrection, invasion or breaches of the peace, or imminent danger thereof, to order into the active service of the State any or all of the National Guard, militia or other military organizations of the State that he may deem proper, and no member thereof who shall be ordered out by the proper authority for such duty shall be held answerable by any court, nor liable to civil prosecution for any act or acts done by him in the discharge of his lawful military duty on such occasions; and in such cases the forces called into service shall receive the same pay and allowance as provided in Section 56 of this act.'"

Change the number of Section 4 to read "Section 5."

Also amend the title of the bill to read as follows: "A bill for an act to

amend Sections 5, 6, 18 and 43 of the Military Code, being Chapter 86 of the Session Laws of 1891,"

And when so amended recommend that the same do pass.

C. MCLACHLAN,  
Chairman.

There being no objection, House Bill No. 41 was referred to General Orders.

The Speaker announced that he was about to sign the following Concurrent Resolutions:

#### CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing the Governor, Auditor and Treasurer to negotiate an extension of time for payment of certain Refunding Warrants in the Territory of Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

That the Governor, Auditor and Treasurer of the State of North Dakota be, and they are hereby authorized and instructed to negotiate for an extension of time for one year, at the present rate of interest, for the payment of the 5 per cent. refunding warrants, dated April 1, 1889, and remaining unpaid to the amount of \$63,507.46.

Also,

#### CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing and instructing the Governor, Auditor and Treasurer of the State of North Dakota to fund certain floating indebtedness of the State of North Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

That the Governor, Auditor and Treasurer of the State of North Dakota are hereby authorized and instructed to fund the floating indebtedness of the State, consisting of unpaid bills now on file in the office of the Auditor of State to an amount not exceeding one hundred and thirty thousand dollars, at such discount as will allow a reasonable rate of interest, such indebtedness to become due and payable on or before November 1, 1896.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 5,

A Bill for an act repealing an act entitled "an act to provide for the trial by the District Court without a jury, and for the hearing of such actions on appeal,"

Also,

House Bill No. 15,

A Bill for an act to amend Section seventy-nine (79) of Chapter one hundred and nine (109) of the Laws of 1893, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto."

Also,

House Bill No. 28,

A Bill for an act entitled "an act making Labor Day a legal holiday."

Also,

House Bill No. 45,

A Bill for an act to amend Section 324 of Chapter 13, regarding exemptions.

Also,

House Bill No. 23,

A Bill for an act defining the duties of railways in regard to station houses.

Also,

House Bill No. 57,

A Bill for an act providing for the authentication of the records in the offices of the Registers of Deeds within the State and defining certain duties of the Registers in relation thereto,

And find the same correctly engrossed.

O. S. WALLEN,

Chairman.

The Committee appointed to investigate the need of clerks and other employes of the House made the following report:

Mr. SPEAKER:

We, your Committee on Clerks, to whom was referred the resolution of Mr. Cooper, in reference to the appointment of a clerk, after due investigation deem it advisable, and therefore, recommend the appointment of an additional engrossing and enrolling clerk.

J. B. WINEMAN,

Chairman.

Mr. Porter moved

The adoption of the report of the Committee.

Roll call demanded.

The roll being called there were ayes 31, nays 26, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Eyolfson,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,

Messrs—

Gunderson,  
Hancock,  
Hill,  
Holritz,  
Kellogg,  
Lindstrom,  
McLachlan,  
Murphy,  
Porter,  
Prosser,

Messrs—

Ray,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Twichell,  
Walker,  
Wineman,  
Wood.

Those who voted in the negative were:

Messrs—

Colosky,  
Cryan,  
Plack,  
Hanna,  
Herbrandson,  
Hodgson,  
Jennings,  
Kroeger,  
Korsmo,

Messrs—

Lerom,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Purdon,  
Rasmussen,  
Richards,

Messrs—

Rinde,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Wallen.

Absent and not voting:

Messrs—

Dwyer,  
Edwards,

Messrs—

Horgan,  
Tyler,

Messrs—

Mr. Speaker.

Mr. Tyler being excused.

So the motion prevailed, and

The report of the Committee was adopted.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred  
House Bill No. 77,

A Bill for an act to appropriate money to pay postage,

Have had the same under consideration and recommend that  
the same do pass.

FRANK H. PROSSER,  
Chairman.

There being no objection, House Bill No. 77 was referred to  
the Committee on Engrossment.

Your Committee on Counties and County Boundaries made the  
following majority report:

MR. SPEAKER:

Your Committee on Counties and County Boundaries, to whom  
was referred

Senate Bill No. 24,

A Bill for an act to increase the revenues of the State by  
changing and increasing the boundaries of the Counties of Bil-  
lings, Stark and Mercer,

Have had the same under consideration and recommend that  
the same do pass.

C. McLACHLAN,  
Acting Chairman.

The Committee on Counties and County Boundaries made the  
following minority report:

MR. SPEAKER:

Your Committee on Counties and County Boundaries to whom  
was referred

Senate Bill No. 24,

A Bill for an act to increase the revenues of the State by changing the boundaries of the counties of Billings, Stark and Mercer,

Have had the same under consideration, and recommend that the same be referred to the Revision Committee to pass upon the constitutionality of the bill,

J. S. MURPHY.

Mr. Simpson moved

The adoption of the majority report of the Committee on Counties and County Boundaries on Senate Bill No. 24.

Which motion prevailed, and

The majority report was adopted.

Mr. Murphy moved

That the House do now adjourn,

Which motion was lost.

The Speaker announced that Senate Bill No. 7, recalled by the Senate for correction, had been returned to the House, and was referred to the Committee on Appropriations.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Brainard introduced

House Bill No. 83,

A Bill for an act to amend Chapter 87 of the Session Laws of 1891, entitled "an act to provide for maintenance of the Military Department as provided in the Military Code of the State of North Dakota, so as to reduce the standing appropriation of \$11,000 per annum for said purpose, to \$5,000 per annum,"

Which was read the first time.

Mr. Herbrandson introduced

House Bill No. 84,

A Bill for an act to amend Section 4 of Chapter 100 of the Session Laws of 1891, being an amendment to Section 46 of Chapter 132 of the Session Laws of 1890, relating to the State Board of Equalization; how constituted, meetings, and rules for equalization

Which was read the first time.

Mr. Herbrandson introduced

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges,"

Which was read the first time.

Mr. Wood moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

TWENTY-FIRST DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 28, 1895.

The House assembled at 2 o'clock p. m. pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Messrs. Spangberg and Tyler.

Mr. Tyler being excused.

Mr. Richards requested that Mr. Spangberg be excused for the day,

There being no objection, Mr. Spangberg was excused.

REVISION OF THE JOURNAL.

The Committee on Revision and Correction of the Journal made the following report:

**MR. SPEAKER:**

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the nineteenth day, find it correct and recommend that it be approved.

**GEORGE HILL,**  
Chairman.

**Mr. Purdon moved**

That the report of the Committee be adopted.

**Mr. Wineman moved**

That the Journal be corrected so that House Bill No. 1 would appear in the Order of the day for January 28.

**Mr. Colby moved**

That on page 5 of the printed Journal the name of R. McLachlan be changed so as to read C. McLachlan.

There being no objections the corrections were allowed.

The question recurred on the motion of Mr. Purdon,

Which motion prevailed, and

The Journal of the nineteenth day, as corrected, was approved.

**Mr. Edwards moved**

That the courtesies of the floor be extended to Chas. A. Pollock and Dr. Hill, of Fargo, and Mr. Wood, of Steele.

**Mr. Svensrud moved**

That the courtesies of the floor be extended to N. A. Stewart, of Williston.

**Mr. Logan moved**

That the courtesies of the floor be extended to John D. Black, of Valley City,

Which motions prevailed, and the courtesies of the floor were so extended.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7th, 1889, entitled "an act providing for the levy and collection of taxes upon the property of railroad companies in the Territory and all acts amendatory thereto,"

Have had the same under consideration and recommend that the same be amended as follows:

That Section "2" be amended to read as follows:

"An emergency exists in that the property of railroads is required to be assessed before July 1st, 1895, therefore this act shall take effect and be in force from and after its passage and approval,

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Mr. Simpson moved  
The adoption of the report,  
Which motion prevailed, and  
The report of the Committee on Judiciary was adopted.

Mr. Hodgson moved that the rules be suspended and that House Bill No. 8, as amended, be engrossed and placed upon its third reading,

Which motion prevailed, and  
House Bill No. 8, as amended, was referred to the Committee on Engrossment.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
January 28, 1895. (

MR. PRESIDENT:

I have the honor to inform the House that the Senate has concurred in the House resolution relating to securing room for meeting of Committee on Cactus.

Respectfully,  
FRED FALLEY,  
Secretary.

The Committee on Corporations Other Than Municipal made the following report:

MR. SPEAKER:

Your Committee on Corporations Other Than Municipal to whom was referred

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries.

Have had the same under consideration, and recommend that the same be amended as follows:

That the word "two" in the second line of the second section of the printed bill after the word "exceeding" be stricken out, and in lieu thereof the word "five" be inserted."

And when so amended recommend that the same do pass.

HENRY HANCOCK,  
Chairman.

There being no objections, House Bill No. 71 was referred to General Orders.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. McLachlan introduced

House Bill No. 86,

A Bill for an act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the State of North Dakota; and to define and punish the offense of practicing dentistry in this State contrary to the provisions thereof,

Which was read the first and second times, and  
Referred to the Committee on Public Health.

Mr. Wineman introduced

House Bill No. 87,

A Bill for an act entitled "an act relating to steam threshing machines, saw mills and steam traction engines, and their passage on the public highway,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Edwards introduced

House Bill No. 88,

A Bill for an act to prohibit the giving, granting, accepting or using of free passes or tickets at a discount to certain officials in this State by transportation companies, their officers and agents and imposing penalties in relation thereto,

Which was read the first and second times, and  
Referred to the Committee on Railroads.

Mr. Hanna introduced

House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890 and Chapter 65 of the Laws of 1891 and to provide for the management, control and disposal of university, school and all other public lands of the State and the management of the fund arising therefrom and making an appropriation therefor,"

Which was read the first and second times, and  
Referred to the Committee on Appropriations.

Mr. Rasmussen introduced

House Bill No. 90,

A Bill for an act to establish a State printing office and create the office of superintendent of State printing and make appropriations therefor,

Which was read the first and second times, and  
Referred to the Committee on Public Printing.

Mr. Smith introduced

House Bill No. 91,

A Bill for an act to amend Sections 1, 2 and 3 of Chapter 97 of the Laws of 1893, being an act entitled "an act to amend Sections 1 and 3 of Chapter 86 of the Laws of 1890," entitled "an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota and to provide for the compensation and payment of the same,"

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Gunderson introduced

House Bill No. 92,

A Bill for an act to encourage the culture of sugar beets in the State and their manufacture into sugar,

Which was read the first and second times, and  
Referred to the Committee on Agriculture.

#### SECOND READING OF HOUSE BILLS.

House Bill No. 83,

A Bill for an act to amend Chapter 87 of the Session Laws of 1891, entitled "an act to provide for maintenance of the Military Department as provided in the Military Code of the State of North Dakota, so as to reduce the standing appropriation of \$11,000 per annum for said purpose, to \$5,000 per annum,"

Was read the second time, and  
Referred to the Committee on Military Affairs.

House Bill No. 84,

A Bill for an act to amend Section 4 of Chapter 100 of the Session Laws of 1891, being an amendment to Section 46 of Chapter 132 of the Session Laws of 1890, relating to the State Board of Equalization; how constituted, meetings and rules for equalization,

Was read the second time, and  
Referred to the Committee on State Affairs.

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges,"

Was read the second time, and  
Referred to the Committee on Highways, Bridges and Ferries

#### THIRD READING OF HOUSE BILLS.

House Bill No. 1,

A Bill for an act entitled "an act to provide for State deposi-

tories and to regulate the deposit of public monies therein, and the interest thereon, and prescribing the means thereof."

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 56, nays 4, not voting 2.

Those who voted in the affirmative were:

Messrs--	Messrs--	Messrs--
Armstrong,	Hodgson,	Richards,
Blacklock,	Holritz,	Rinde,
Brainard,	Horgan,	Roberts,
Brown,	Jennings,	Rod,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Simpson,
Cryan,	Lerom,	Smith,
Dwyer,	Lindstrom,	Stafne,
Eyolfson,	Logan,	Swenson,
Flack,	McDonald,	Svensrud,
Fleming,	Murphy,	Tofsrud,
Gilbertson,	Myers,	Twichell,
Gleason,	Nelson,	Walker,
Guinan,	Nierling,	Wallen,
Gunderson,	Prosser,	Wineman,
Hancock,	Purdon,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hill,	Ray,	

Those who voted in the negative were:

Messrs--	Messrs--	Messrs--
Edwards,	McLachlan,	Porter,
Hanna.		

Messrs. Spangberg and Tyler absent and not voting,  
Who were excused.

So the bill passed and the title was agreed to.

House Bill No. 15.

A Bill for an act to amend Section seventy-nine (79) of Chapter 109 of the Laws of 1893, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 58, nays 1, not voting 3.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,  
 Brown,  
 Colby,  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Eyolfson,  
 Flack,  
 Fleming,  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hancock,  
 Hanna,  
 Herbrandson,  
 Hill,

Messrs—  
 Hodgson,  
 Holritz,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Lerom,  
 Lindstrom,  
 Logan,  
 McLachlan,  
 McDonald,  
 Murphy,  
 Myers,  
 Nelson,  
 Nierling,  
 Porter,  
 Prosser,  
 Purdon,

Messrs—  
 Rasmussen,  
 Ray,  
 Richards,  
 Rinde,  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Stafne,  
 Svengrud,  
 Swenson,  
 Tofsrud,  
 Twichell,  
 Walker,  
 Wallen,  
 Wineman,  
 Wood,  
 Mr. Speaker.

Mr. Edwards voting in the negative.

Absent and not voting:

Messrs—  
 Roberts,

Messrs—  
 Spangberg,

Messrs—  
 Tyler.

Messrs. Spangberg and Tyler being excused.

So the bill passed and the title was agreed to.

House Bill No. 23,

A Bill for defining the duties of Railways in regard to Station Houses,

Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 59, not voting 3.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,  
 Brown,  
 Colby,  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Edwards,  
 Eyolfson,  
 Flack,  
 Fleming,  
 Gilbertson,

Messrs—  
 Hill,  
 Hodgson,  
 Holritz,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Lerom,  
 Lindstrom,  
 Logan,  
 McLachlan,  
 McDonald,  
 Murphy,

Messrs—  
 Rasmussen,  
 Ray,  
 Richards,  
 Rinde,  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Stafne,  
 Svensrud,  
 Swenson,  
 Tofsrud,  
 Twichell,

Messrs—	Messrs—	Messrs—
Gleason,	Myers,	Walker,
Guinan,	Nelson,	Wallen,
Gunderson,	Nierling,	Wineman,
Hancock,	Porter,	Wood,
Hanna,	Prosser,	Mr. Speaker,
Herbrandson,	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Roberts,	Spangberg,	Tyler.

Messrs. Spangberg and Tyler being excused.

So the bill passed and the title was agreed to.

Mr. Hill moved

That the further consideration of House Bill No. 28 be deferred,

Which motion prevailed, and

Further consideration of House Bill No. 28 was deferred.

House Bill No. 5,

A bill for an act repealing an act entitled "an act to provide for the trial by the district court without a jury, and for the hearing of such actions on appeal,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 59, not voting 3.

Those who voted in the affirmative were—

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Holritz,	Richards,
Brainard,	Horgan,	Rinde,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Sharpe,
Cryan,	Leron,	Simpson,
Dwyer,	Lindstrom,	Smith,
Edwards,	Logan,	Stafne,
Eyolfson,	McLachlan,	Svensrud,
Flack,	McDonald,	Swenson,
Fleming,	Murphy,	Tofsrud,
Gilbertson,	Myers,	Twichell,
Gleason,	Nelson,	Walker,
Guinan,	Nierling,	Wallen,
Gunderson,	Porter,	Wineman,
Hanna,	Prosser,	Wood,
Herbrandson,	Purdon,	Mr. Speaker.
Hill,	Rasmussen,	

Absent and not voting—

Messrs—  
Hancock,

Messrs—  
Spangberg,

Messrs—  
Tyler.

Messrs. Spangberg and Tyler being excused.

So the bill passed and the title was agreed to.

House Bill No. 57,

A Bill for an act providing for the authentication of the records in the offices of the registers of deeds within the State and defining certain duties of the registers in relation thereto,

Was read the third time.

Mr. Armstrong moved

That further consideration of House Bill No. 57 be postponed,  
Which motion prevailed, and

Further consideration of House Bill No. 57 was postponed.

House Bill No. 45,

A Bill for an act to amend Section 324 of Chapter 13, regarding exemption,

Was read the third time.

Mr. Brainard moved

That further consideration of House Bill No. 45 be indefinitely postponed,

Which motion prevailed, and

Further consideration of House Bill No. 45 was indefinitely postponed.

House Bill No. 47,

A Bill for an act providing for extension of the fines for the payment of taxes for the year 1894,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 39, nays 20, not voting 3.

Those who voted in the affirmative where:

Messrs—  
Armstrong,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Flack,  
Gilbertson,  
Gunderson,  
Hancock,  
Hodgson,

Messrs—  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Porter,  
Prosser,  
Purdon,

Messrs—  
Rasmussen,  
Ray,  
Richards,  
Rinde,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Swensrud,  
Swenson,  
Tofsrud,  
Walker,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Herbrandson,	Roberts,
Colosky,	Hill,	Rod,
Eyolfson,	Holritz,	Sargent,
Fleming,	Lerom,	Wallen,
Gleason,	McLachlan,	Wineman,
Guinan,	Nelson,	Wood.
Hanna,	Nierling,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Spangberg,	Twichell,	Tyler.

Messrs. Spangberg and Tyler being excused.

Two-thirds of all the members-elect not voting in the affirmative, the emergency clause was lost.

The Speaker announced that he was about to sign

Senate Bill No. 45,

A Bill for an act to empower the Governor to accept for the State of North Dakota the condition imposed by an act of Congress, entitled "an act to provide aid to State and Territorial homes for the support of disabled soldiers and sailors of the United States, and empowering the State Auditor to receipt for same; all money which may become due to the State under said act."

House Bill No. 38,

A Bill for an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakota's refractory children at the South Dakota Reform school,"  
Was read the third time.

The question being upon the final passage of the bill,  
The roll being called, there were ayes 59, nays none, not voting 3.

Those who voted in the affirmative were:

Messrs.	Messrs.	Messrs.
Armstrong,	Hill,	Rasmussen,
Blacklock,	Hodgson,	Ray,
Brainard,	Holritz,	Richards,
Brown,	Horgan,	Rinde,
Colby,	Jennings,	Roberts,
Colosky,	Kellogg,	Rod,
Cooper,	Kroeger,	Sargent,
Cryan,	Korsmo,	Sharpe,
Dwyer,	Lerom,	Simpson,
Edwards,	Lindstrom,	Smith,
Eyolfson,	Logan,	Stafne,
Flack,	McLachlan,	Swenson,
Fleming,	McDonald,	Tofsrud,

Messrs—  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hancock,  
 Hanna,  
 Herbrandson,

Messrs—  
 Murphy,  
 Myers,  
 Nelson,  
 Nierling,  
 Porter,  
 Prosser,  
 Purdon,

Messrs—  
 Twichell,  
 Walker,  
 Wallen,  
 Wineman,  
 Wood,  
 Mr. Speaker.

Absent and not voting:

Messrs—  
 Spangberg,

Messrs—  
 Svensrud,

Messrs—  
 Tyler,

Messrs. Spangberg and Tyler being excused.

So the bill passed and the title was agreed to.

The Committee on Engrossed Bills made the following report:

MR SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 21,

A Bill for an act prescribing the duties of states' attorneys, fixing their compensation and the method of determining the same.

Also,

House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collection of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto."

Also,

House Bill No. 53,

A Bill for an act to amend Paragraph 3 of Chapter 49 of the Laws of 1893, being an act relating to the deposit and loaning of county funds.

Also,

House Bill No. 77,

A Bill for an act to appropriate money to pay postage,  
 And find the same correctly engrossed.

O. S. WALLEN,  
 Chairman.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Edwards presented the following petitions:

*Hon. A. W. Edwards, House of Representatives:*

DEAR SIR: This department is in receipt of a large number of letters

from prominent and thoughtful farmers of the State in response to a circular letter issued by this department on that now most important Russian cactus question, and I herewith send you a copy of one received from the Hon. Franklin Estabrook, of Inkster, N. D., containing some thoughts worthy of consideration, and knowing your thoughtful interest in the needs and requirements of the people I furnish you this that the subject may be brought to the attention of the members, as in your judgment may seem best and proper. Mr. Estabrook is an ex-member of the House and one of the oldest farmers in North Dakota.

Respectfully yours,  
A. H. LAUGHLIN,  
Commissioner of Agriculture and Labor.

INKSTER, N. D., Jan. 21, 1895.

*Hon. A. H. Laughlin:*

DEAR SIR: Your circular came to hand today. In reply have to say that I have had no experience in handling Russian cactus, but expect to have, as it is here in small quantities and think it one of the most important subjects of legislation that the present Legislature has to meet, and meet it they should, if a dozen other things get left; for instance, Commissioner of Forestry and Irrigation, is a nice thing on paper but of no utility. Commissioners of Railroads are not worth what they cost. The Normal School system should have been put off at least ten years. Retrenchment in many other respect could be practiced and give room for this all important subject. I have hopes of good results from the burning machine spoken of, but have not seen it. In my judgment the State should make an appropriation sufficient to meet experiments thoroughly testing such machines; if successful buy the right for the State and let them be made in the Penitentiary and sold to the different counties at cost, for the use of farmers in exterminating the pest, compelling use under penalty.

There are many things that would have to be provided for in regard to non-residents' lands, but I am confident a law could be so framed as to accomplish the object. Some provisions must and ought to be made in my judgment.

Respectfully,  
FRANKLIN ESTABROOK.

There being no objection the petitions were referred to the Joint Committee on Cactus.

#### THIRD READING OF HOUSE BILLS.

##### House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collection of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 60, nays none, not voting 2.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twitchell,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Messrs. Spangberg and Tyler absent and not voting,  
Who were excused.

So the bill passed and the title was agreed to.

Informal recess.

The House reassembled.

THIRD READING OF SENATE BILLS.

Mr. Murphy moved that  
Senate Bill No. 24,

A Bill for an act to increase the revenues of the State by  
changing and increasing the boundaries of the counties of Bill-  
ings, Stark and Mercer,

Be referred to the Joint Commission on Revision to report as  
to its constitutionality,

Which motion was withdrawn.

Mr. Twichell moved

That the bill be referred to the Attorney General, to be re-  
ported so that the bill be a special order Friday, February 1,

Which motion was lost.

Mr. Murphy moved

That the bill be made a special order for next Thursday at  
2:30 p. m.,

Which motion was lost.

Mr. Blacklock moved

That the House do now adjourn,

Which motion was lost.

Senate Bill No. 24 was read the third time.

Mr. Murphy moved  
That the House do now adjourn,  
Which motion was lost.

Mr. Murphy asked the unanimous consent of the House to offer an amendment,

Which request was ruled out of order.

The question being upon the final passage of the bill.

The roll being called there were ayes 55, nays 4, not voting 3.

Those who voted in the affirmative were—

Messrs—	Messrs—	Messrs—
Blacklock,	Hodgson,	Richards,
Brainard,	Horgan,	Rinde,
Colby,	Jennings,	Roberts,
Colosky,	Kellogg,	Rod,
Cooper,	Korsmo,	Sargent,
Cryan,	Lerom,	Sharpe,
Dwyer,	Lindstrom,	Simpson,
Edwards,	Logan,	Smith,
Eyolfson,	McLachlan,	Stafne,
Flack,	McDonald,	Svensrud,
Fleming,	Myers,	Swenson,
Gilbertson,	Neleon,	Tofsrud,
Gleason,	Nierling,	Twichell,
Guinan,	Porter,	Walker,
Gunderson,	Prosser,	Wallen,
Hancock,	Purdon,	Wineman,
Hanna,	Rasmussen,	Wood,
Herbrandson,	Ray,	Mr. Speaker.
Hill,		

Those voting in the negative were—

Messrs—	Messrs—	Messrs—
Armstrong,	Kroeger,	Murphy,
Holritz,		

Absent and not voting—

Messrs—	Messrs—	Messrs—
Brown,	Tyler,	Spangberg,

Messrs. Spangberg and Tyler being excused.

So the bill passed and the title was agreed to.

Mr. Simpson moved

That the vote by which Senate Bill No. 24 was passed be reconsidered, and the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Gleason moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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TWENTY-SECOND DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 29, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Mr. Tyler,  
Who was excused.

REVISION OF THE JOURNAL.

The Committee on Revision and Correction of the Journal  
make the following report:

MR. SPEAKER :

Your Committee on the Revision and Correction of the Journal have carefully examined the Journal of the twenty-first day, and recommend that it be amended as follows:

That on page 14, line 10, ayes 56, nays 3 be amended to read "ayes 55, nays 4,"

And when so amended that the Journal be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved

The adoption of the report of the Committee,

Which motion prevailed, and

The Journal of the twenty-first day, as corrected, was approved

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Speaker presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Eleventh Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of re-submitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

WALTER MUIR,  
(And 44 others.)

There being no objection,

The petition was referred to the Committee on Temperance.

Mr. Edwards presented the following communication:

TRADES, LABOR AND PROTECTIVE UNION No. 1,  
FARGO, N. D., Jan. 26, 1895. }

*A. W. Edwards, Bismarck, N. D.:*

DEAR SIR:—At a meeting of the Trades, Labor and Protective Union of Fargo, held Jan. 24, 1895, the following preamble and resolutions were adopted:

WHEREAS, A very large portion of the wage earners of the State are in enforced idleness, although willing and anxious to engage in any honorable occupation whereby they may earn a support for themselves and those dependent upon them, and

WHEREAS, The employment of convict labor by private parties has a tendency to increase the aforesaid idleness, and

WHEREAS, The enforced idleness of the masses of any people, if long continued, will surely lead to the overthrow of all right government, and

WHEREAS, We consider the employment of convict labor in competition with free labor as un-American and unworthy a liberty loving people, and

WHEREAS, One of our Representatives has recently introduced a bill to the effect that the State lease certain coal mines and operate the same by employing convict labor therein, which would but add to the enforced idleness already too prevalent, and

WHEREAS, There is at this time a company manufacturing harnesses and employing convict labor therefor, thus bringing said convict labor in direct competition with honest free labor, and

WHEREAS, Other States of the Union have had factories run by convict labor, thereby building up large monopolies and trusts, at the expense of free labor; therefore, be it

*Resolved*, That the Trades, Labor and Protective Union No. 1, of Fargo, hereby urgently request that the Legislature now in session at Bismarck, take prompt measures to prevent in the future the employment of penitentiary convicts in any way whereby they compete with free labor.

*Resolved*, That a copy of these resolutions be forwarded to His Excellency Governor Allin, and to His Honor Senator Haggart, and to each of our Representatives from Fargo.

J. C. PINNEY,

W. W. HARVEY,

W. B. MORGAN,

Committee on Resolutions.

There being no objection the petition was referred to the Committee on Labor.

Mr. Murphy presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

We, the undersigned citizens and taxpayers of the unorganized counties of Dunn, McKenzie, Alred, Wallace and Williams respectfully petition your honorable body to allow us to organize said described territory into an organized county to be named Kildeer county, with county seat at Oakdale. An effort is now being made on the part of the State Senator and Representative from the Thirty-first District to put the above named territory into the counties of Stark, Billings and Mercer, and we protest against such action for the reason that Stark and Mercer counties are heavily in debt and we have in no way been the cause of said indebtedness; and for the further reason that we should then have an unnecessarily long distance to travel to reach our county seats; and for the further reason that the territory which we now ask to be made into the county of Kildeer is wholly fit only for grazing purposes, while Stark and Mercer counties are inhabited almost entirely by farmers, and laws made that would be suitable for Stark and Mercer counties would work greatly to the disadvantage of the present and future interests of the leading industry of the proposed county of Kildeer, namely, the stock interests.

BEN LAMLIS,

(And 31 others).

There being no objection, the petition was referred to the Committee on Counties and County Boundaries.

Mr. Murphy presented the following petition:

*To the Governor and the Legislative Assembly of the State of North Dakota:*

We, the undersigned, each and every one of us being *bona fide* inhabitants, residing and living and making our actual homes within that portion of the State of North Dakota described as follows, viz.:

Beginning at a point on the line common to the States of Montana and North Dakota, where the same is intersected by the eleventh (11th) standard parallel; thence running north along said line until the same reaches the middle of the main channel of the Missouri river; thence down the source of the stream of said Missouri river and through the center of the main channel thereof to where the same is intersected

by the range line common to ranges ninety (90) and ninety-one (91) in said State; thence south on the line of said range line to where the same is intersected by the tenth (10th) standard parallel; thence along the tenth (10th) standard parallel to the range line common to ninety-seven (97) and ninety eight (98); thence north along the line common to ninety-seven (97) and ninety eight to the eleventh (11th) standard parallel; thence west to the place of beginning, do hereby respectfully petition and request that there be presented to the Legislative Assembly of said State, and approved by the Governor, a bill authorizing and empowering the organization of the aforesaid territory into a county to be known as the County of Kildeer, under such constitutional requirements as are necessary in the premises, and we do show to your Excellency and to your honorable body that we are citizens of said scope of country embraced within the description aforesaid and are now deprived and are without the means of a county organization, and that being so deprived we are also disfranchised and there is no provision made, nor can there be any provision made to provide for the existing unorganized county embraced within said description and elective franchise without organizing said country into an organized county, and we shall ever pray.

Signed by  
WENDEL SADOVSKY, SR.,  
and 53 others.

There being no objection, the petition was referred to the Committee on Counties and County Boundaries.

Mr. Murphy presented the following petitions:

*To the Legislative Assembly of the State of North Dakota:*

We, the undersigned citizens and taxpayers of the unorganized counties of Dunn, McKenzie, Allred, Wallace and Williams, respectfully petition your honorable body to allow us to organize said described territory into an organized county, to be named Kildeer county, with county seat at Oakdale. An effort is now being made on the part of the State Senator and Representative from the 31st District to put the above named territory into the counties of Stark, Billings and Mercer, and we protest against such action for the reason that Stark and Mercer counties are heavily in debt, and we have in no way been the cause of said indebtedness; and for the further reason that we should then have an unnecessarily long distance to travel to reach our county seats; and for the further reason that the territory which we now ask to be made into the county of Kildeer is wholly fit only for grazing purposes, while Stark and Mercer counties are inhabited almost entirely by farmers, and laws made that would be suitable for Stark and Mercer counties would work greatly to the disadvantage of the present and future interests of the leading industry of the proposed county of Kildeer, namely, the stock interests

W. N. CRIST,  
(And others.)

*To His Excellency, the Governor, and to the Legislative Assembly of the State of North Dakota:*

We, the undersigned citizens and taxpayers of the unorganized counties of Dunn, McKenzie, Allred, Wallace and Williams respectfully petition your honorable body to allow us to organize said described territory into an organized county to be named Kildeer county, with county seat at Oakdale. An effort is now being made on the part of the State Senator and Representative from the Thirty-first District to put the above named territory into the counties of Stark, Billings and Mercer, and we protest against such action for the rea-

son that Stark and Mercer counties are heavily in debt and we have in no way been the cause of said indebtedness, and for the further reason that we should then have an unnecessarily long distance to travel to reach our county seats, and for the further reason that the territory which we now ask to be made into the county of Kildeer is wholly fit only for grazing purposes, while Stark and Mercer counties are inhabited almost entirely by farmers, and laws made that would be suitable for Stark and Mercer counties would work greatly to the disadvantage of the present and future interests of the leading industry of the proposed county of Kildeer, namely the stock interests.

MICHAEL S. CUSKELLY,  
(And 42 others.)

*To His Excellency, the Governor, and to the Legislative Assembly of the State of North Dakota:*

We, the undersigned citizens and taxpayers of the unorganized counties of Dunn, McKenzie, Allred and Wallace, respectfully petition your honorable body to allow us to organize said described territory into an organized county to be named Kildeer county, with county seat at Oakdale. An effort is now being made on the part of the State Senator and Representative from the 31st District to put the above named territory into the counties of Stark, Billings and Mercer, and we protest against such action for the reason that Stark and Mercer counties are heavily in debt, and we have in no way been the cause of said indebtedness; and for the further reason that we should then have an unnecessarily long distance to travel to reach our county seats; and for the further reason that the territory which we now ask to be made into the county of Kildeer is wholly fit only for grazing purposes, while Stark and Mercer counties are inhabited almost entirely by farmers, and laws made that would be suitable for Stark and Mercer counties would work greatly to the disadvantage of the present and future interests of the leading industry of the proposed county of Kildeer, namely, the stock interests.

J. G. STROUD,  
(And 34 others.)

*To His Excellency the Governor, and to the Legislative Assembly of the State of North Dakota:*

We, the undersigned, citizens and taxpayers of the unorganized counties of Dunn, McKenzie, Allred, Wallace and Williams respectfully petition your honorable body to allow us to organize said described territory into an organized county to be named Kildeer county, with county seat at Oakdale. An effort is now being made on the part of the State Senator and Representative from the Thirty-first District to put the above named territory into the counties of Stark, Billings and Mercer, and we protest against such action for the reason that Stark and Mercer counties are heavily in debt and we have in no way been the cause of said indebtedness; and for the further reason that we should then have an unnecessarily long distance to travel to reach our county seats; and for the further reason that the territory which we now ask to be made into the county of Kildeer is wholly fit only for grazing purposes, while Stark and Mercer counties are inhabited almost entirely by farmers, and laws made that would be suitable for Stark and Mercer counties would work greatly to the disadvantage of the present and future interests of the leading industry of the proposed county of Kildeer, namely, the stock interests.

W. N. CRIST,  
(And 197 Others.)

There being no objection the petitions were referred to the Committee on Counties and County Boundaries.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

MR. SPEAKER:

I have the honor to transmit to the House

Senate Bill No. 10,

A Bill for an act to amend Section 2 of Chapter 110 of Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such liquors for medicinal, scientific and mechanical purposes,"

Which has passed the Senate, and your favorable consideration thereof is respectfully requested.

FRED FALLEY,  
Secretary.

## REPORTS OF STANDING COMMITTEES.

The Committee on Counties and County Boundaries make the following report:

MR. SPEAKER:

Your Committee on Counties and County Boundaries to whom was referred

House Bill No. 63,

A Bill for an act for the consolidation and organization of contiguous unorganized counties,

Have had the same under consideration, and recommend that the same be sent back to the House with a recommendation that it be sent to the Revision Committee to ascertain if they are considering a like bill on the subject, as indicated by the Constitution.

C. McLACHLAN,  
Acting Chairman.

Mr. Murphy moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

Senate Bill No. 23,

A Bill for an act to prohibit managers, officers and employes of State institutions from being interested in contracts, purchases or sales for or on account of said institutions,

Have had the same under consideration and recommend that the same do pass.

Also,

House Bill No. 33,

A Bill for an act authorizing town supervisors to issue the bonds of their respective towns for the purpose of refunding or paying the outstanding bonds of said towns and regulating the issue, and providing for the payment thereof,

Have had the same under consideration and recommend that the same be reported back on recommendation that it be indefinitely postponed.

T. TWICHELL,  
Chairman.

There being no objection House Bill No. 33 was referred to General Orders.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs, to whom was referred House Bill No. 76,

A Bill for an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their townships and the amounts thereof,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection House Bill No. 76 was referred to the Committee on Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

House Bill No. 81,

A Bill for an act making it lawful for certain stock to run at large during a portion of each year, and for prohibiting stallions and vicious stock from running at large, and providing penalties, and to repeal Chapter 89, Laws of 1890,

Have had the same under consideration, and recommend that the same be reported back without recommendation.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 81 was referred to General Orders.

Mr. Svensrud moved  
That the vote by which  
House Bill No. 47,

A bill for an act providing for extension of the fines for the  
payment of taxes for the year 1894,

Was passed be reconsidered,  
Which motion prevailed, and

The vote by which House Bill No. 47 was passed was reconsid-  
ered, and

House Bill No. 47 was placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 49, nays 12, not voting 1.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hodgson,  
Holritz,

Messrs—

Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rinde,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those voting in the negative were:

Messrs—

Colosky,  
Eyolfson,  
Fleming,  
Gleason,

Messrs—

Herbrandson,  
Hill,  
Lerom,  
McLachlan,

Messrs—

Nelson,  
Nierling,  
Roberts,  
Wallen.

Mr. Tyler absent and not voting,  
Who was excused.

So the bill passed and the title was agreed to.

Mr. Svensrud moved

That the vote by which House Bill No. 47 was passed be recon-  
sidered, and that the motion to reconsider be laid on the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Korsmo introduced

House Bill No. 93,

A Bill for an act relating to public highways,  
Which was read the first and second times, and

Referred to the Committee on Highways, Bridges and Ferries.

Mr. Hancock introduced

House Bill No. 94,

A Bill for an act entitled "an act to destroy weeds and grasses  
along the public highways,"

Which was read the first and second times, and

Referred to the Joint Committee on Cactus.

Mr. Smith introduced

House Bill No. 95,

A Bill for an act entitled "an act to amend Sections 3, 7 and 9  
of Chapter 125 of the Laws of 1893,"

Which was read the first and second times, and

Referred to the Committee on Education.

Mr. Wallen introduced

House Bill No. 96,

A Bill for an act repealing Chapter 127 of the Session Laws of  
1893, entitled "an act to establish a weather and crop service for  
the collection and dissemination of crop statistics and meteorological  
data,"

Which was read the first and second times, and

Referred to the Committee on State Affairs.

## THIRD READING OF HOUSE BILLS.

House Bill No. 21.

A Bill for an act prescribing the duties of states' attorneys,  
fixing their compensation and the method of determining the  
same,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 57, nays 2, not voting 3.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,

Messrs—	Messrs—	Messrs—
Dwyer,	Korsmo,	Smith,
Edwards,	Lerom,	Spangberg,
Eyolfson,	Lindstrom,	Stafne,
Flack,	Logan,	Svensrud,
Fleming,	McLachlan,	Swenson,
Gilbertson,	McDonald,	Tofsrud,
Gleason,	Myers,	Twichell,
Guinan,	Nelson,	Walker,
Gunderson,	Nierling,	Wallen,
Hancock,	Porter,	Wineman,
Hanna,	Prosser,	Wood,
Herbrandson,	Purdon,	Mr. Speaker.

Messrs. Brainard and Rinde voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Murphy,	Rod,	Tyler,

Mr. Tyler being excused.

So the bill passed and the title was agreed to.

House Bill No. 53,

A Bill for an act entitled "an act to amend Paragraph 3 of Chapter 49 of 1893, being an act relating to the deposit and loan-  
ing of county funds,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 58, not voting 4,

Those who voted in the affirmative were—

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Holritz,	Richards,
Brainard,	Jennings,	Rinde,
Brown,	Kellogg,	Roberts,
Colby,	Kroeger,	Rod,
Colosky,	Korsmo,	Sargent,
Cooper,	Lerom,	Sharpe,
Cryan,	Lindstrom,	Smith,
Dwyer,	Logan,	Spangberg,
Edwards,	McLachlan,	Stafne,
Eyolfson,	McDonald,	Svensrud,
Flack,	Murphy,	Swenson,
Gilbertson,	Myers,	Tofsrud,
Gleason,	Nelson,	Twichell,
Guinan,	Nierling,	Walker,
Gunderson,	Porter,	Wallen,
Hancock,	Prosser,	Wineman,
Hanna,	Purdon,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hill,		

Absent and not voting—

Messrs—  
Fleming,  
Horgan,

Messrs—  
Simpson,

Messrs—  
Tyler,

Mr. Tyler being excused.

So the bill passed and its title was agreed to.

Mr. Edwards moved

That the vote by which House Bill No. 21 was passed be reconsidered and that the motion to reconsider be laid upon the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

House Bill No. 77,

A Bill for an act entitled "an act to appropriate money to pay postage for Revision Committee,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 59, nays none, not voting 3.

Those who voted in the affirmative were:

Messrs—  
Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Sveusrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—  
McDonald,

Messrs—  
Simpson,

Messrs—  
Tyler.

Mr Tyler being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 77 was passed be reconsidered and the motion to reconsider be laid upon the table,  
Which motion prevailed, and  
The motion to reconsider was laid upon the table.

Mr. Prosser moved

That the vote by which House Bill No. 53 was passed be reconsidered and the motion to reconsider be laid upon the table,  
Which motion prevailed, and  
The motion to reconsider was laid upon the table.

FIRST READING OF SENATE BILLS AND MEMORIALS.

Senate Bill No. 10,

A Bill for an act to amend Section 2 of Chapter 110 of Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such liquors for medicinal, scientific and mechanical purposes,"

Was read the first and second times, and  
Referred to Committee on Temperance.

Informal recess.

House reassembled.

THIRD READING OF SENATE BILLS.

Senate Bill No. 23,

A Bill for an act to prohibit managers, officers and employes of State institutions from being interested in contracts, purchases or sales for or on account of said institutions,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 57, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,

Messrs—

Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,

Messrs—

Purdon,  
Rasmussen,  
Ray,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,

Messrs—  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hancock,  
 Hanna,

Messrs—  
 Murphy,  
 Myers,  
 Nelson,  
 Nierling,  
 Porter,  
 Prosser,

Messrs—  
 Tofsrud,  
 Twichell,  
 Walker,  
 Wallen,  
 Wineman,  
 Mr. Speaker.

Absent and not voting:

Messrs—  
 Horgan,  
 Richards,

Messrs—  
 Rinde,  
 Tyler,

Messrs—  
 Wood,

Mr. Tyler being excused.

So the bill passed and the title was agreed to.

COMMITTEE OF THE WHOLE.

Mr. Svensrud moved

That the House resolve itself into a Committee of the Whole  
 for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole.

The Speaker called Mr. Svensrud to the chair.

When the Committee arose, they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration  
 House Bill No. 29,

A Bill for an act entitled "an act to provide free and uniform  
 school text books throughout the several counties of the State,"

And recommend that the bill do pass.

Also,

House Bill No. 51,

A Bill for an act to amend Section 687, Penal Code of Revised  
 Codes of 1877, being Section 6876 of the Compiled Laws of 1887,

And recommend that the bill do pass as amended.

Also,

House Bill No. 12,

A Bill for an act entitled "an act to provide for uniform policy  
 of fire insurance to be made and issued in the State by all insur-  
 ance companies taking risks on property within this State,"

And recommend that the consideration of House Bill No. 12  
 be made a special order for 2:30 o'clock Thursday, January 31.

Also,

House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

And recommend that the bill be amended by adding thereto the following:

*Provided*, That no part of this act shall be so construed as to make such firemen ineligible for jury duties,

And that Section 3 be retained in the bill, and

As so amended that the bill do pass.

Also,

House Bill No. 41,

A Bill for an act to amend Sections 5, 6 and 18 of the Military Code, being Chapter 86 of the Session Laws of 1891,

And recommend that the bill be referred to the Committee on Military Affairs.

A. SVENSRUD,  
Chairman.

Mr. Gleason moved

That the report of the Committee of the Whole be adopted.

Which motion prevailed, and

The report of the Committee of the Whole was adopted.

Mr. Rod requested

That the courtesies of the floor be extended to Messrs. Charles Nolman, Gunder Olson and E. A. Jacobson, of Walsh county.

There being no objection, the courtesies of the floor were so extended.

Mr. Fleming moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

TWENTY-THIRD DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 30, 1895.

The House assembled at 2 o'clock p. m., pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Hill, Hodgson, Murphy, Sharpe, Stafne and Tyler,

Mr. Tyler being excused.

Mr. Purdon requested that Mr. Stafne be excused on account of sickness.

Mr. Fleming requested that Mr. Hill be excused.

Mr. Speaker requested that Messrs. Sharpe, Hodgson and Murphy be excused.

There being no objection, Messrs. Stafne, Hill, Sharpe, Hodgson and Murphy were excused.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
January 30, 1895. }

Mr. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 69,

A Bill for an act making boards of trustees, commissioners, directors, person or persons liable for amount expended in excess of appropriation, and providing for emergency expenses,

Which the Senate has passed, and

The consideration of the House is respectfully requested.

FRED FALLEY,  
Secretary.

Mr. Porter requested that the courtesies of the floor be extended to Messrs H. A. Hogue and John Baker, of Foster County.

There being no objection, the courtesies of the floor were so extended.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Roberts presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-sixth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

REV. B. A. BURNS,  
(And 23 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

The Speaker presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Eleventh Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

WM. C. HUNTER,  
(And 24 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Blacklock presented the following petition:

JOLIETTE, Jan. 23, 1895.

We hereby petition you in behalf of our prohibitory liquor law. We earnestly desire the defeat of the resubmission bill now before the House.

MRS. E. L. PURDY,  
(And 31 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Simpson offered the following petition:

We, the undersigned farmers and small stockmen residing in the unorganized county of Dunn hereby respectfully petition your honorable body to pass the law as introduced in the Senate by Mr. McGillivray and in the House by Mr. Simpson, attaching the said unorganized county of Dunn to the county of Stark. We respectfully submit that we are without organization of any kind or character and are greatly in need of organization that school districts may be established and our children thereby be given the privilege of schools; that in the present condition of the county, as unorganized, we are disfranchised and not allowed the privileges of citizens of the State. That the number of people residing in the said county of Dunn do not exceed in number 100 and that we heretofore have been prevented from annexation to the county of Stark by reason of the efforts of the large stockmen, whose aim is to keep the territory unorganized that their cattle, large numbers of which are grazed therein, may escape taxation.

WENCEL SADOVSKY,  
(And 77 others.)

There being no objection, the petition was referred to the Committee on Counties and County Boundaries.

Mr. Hancock presented the following petition:

*To the Honorable Legislative Assembly of the State of North Dakota:*

At a Congregational meeting of the members of First M. E. church of Emerado, North Dakota, held at Emerado, North Dakota, on the 27th day of January, A. D. 1895, the following resolution was unanimously adopted:

*Resolved*, That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota, now in session, be requested by this meeting not to resubmit to the next Legislative Assembly of this State, nor to the people of this State, Article twenty of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors.

*Resolved further*, That the Legislative Assembly of this State, now in session, be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of intoxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

I. N. BRYAN, Secretary.  
W. BALDWIN, Chairman,  
(And 61 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Flack presented the following petition:

*To the Honorable Members of the North Dakota Legislature, Bismarck, N. D.:*

We, the undersigned citizens of North Dakota, would request your honorable body to pass a law prohibiting non-residents of this State from killing wild ducks, geese, brant, prairie chickens, grouse, pheasants, or quail, during any part of the year; or in your discretion to grant a license of not less than \$25 per week to such non-residents, during the open season.

We further urge that more stringent measures be adopted to prevent shipping game out of this State.

J. H. McCULLOUGH,  
(And 36 others.)

There being no objection, the petition was referred to the Committee on State Affairs.

Mr. Rasmussen presented the following petition:

*To the Honorable the Senate and House of Representatives of the State of North Dakota in General Assembly Met, in Legislatures, Convened at Bismarck, Capital City of North Dakota:*

The petition of the subscribers, citizens of Griswold and surrounding country in the County of LaMoure, respectfully ask or pray the members of Senate and House not to repeal or change the prohibitory liquor law now in existence in any form or manner.

H. L. HANSON,  
(And 15 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Lindstrom presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twentieth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

O. P. CHAMPLIN,  
(And 34 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Twichell presented the following petition:

MAPLETON, N. D., January, 1895.

*T. Twichell, Esq.*

DEAR SIR—I have been requested to forward to you enclosed petition on the subject or 'resubmission,' and request you will present it to your honorable House when the subject comes up.

Very respectfully yours,  
S. ANDREWS.

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Tenth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

REV. S. ANDREWS,  
(And 53 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Kellogg presented the following petition:

*To A. H. Kellogg, Representative Third Legislative District:*

We, the undersigned, voters of the Third Legislative District, hereby re-

quest that you will use your utmost endeavor by both your vote in the Legislature and your influence among your fellow members to defeat any and every measure that may be introduced looking to the resubmission or the repeal or the defeat of the prohibition law to any extent whatever, and we further urge you to use all means in your power to strengthen instead of weaken the law by such judicious amendments or additions to it as will make it more effective.

C. H. HONEY,  
(And 154 Others)

[Also endorsed by 110 members of M. E. church congregation, Sunday evening, January 27.]

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Fleming presented the following petition:

*To Wm. Fleming, Representative Fourth Legislative District:*

We the undersigned voters of the Fourth Legislative District hereby request that you will use your utmost endeavors by both your vote in the Legislature and your influence among your fellow members to defeat any and every measure that may be introduced looking to the resubmission or the repeal or the defeat of the prohibition law to any extent whatever, and we further urge you to use all means in your power to strengthen instead of weaken the law by such judicious amendments or additions to it as will make it more effective.

ROBERT GEDDES,  
(And 140 others.)

[This petition was endorsed by 62 persons in the M. E. church; by 85 in the Lutheran church; by 75 in the morning and 120 in the evening at the Presbyterian church, Sunday, Jan. 27, 1895, Grafton, N. D.]

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Prosser requested that the courtesies of the floor be extended to Messrs. Burke Corbett and C. J. Fisk, of Grand Forks; also, O. E. Sawter, of Walsh county,

There being no objection, the courtesies of the floor were so extended.

Mr. Hanna requested that the courtesies of the floor be extended to Messrs. Lindersmith and Underwood, of LaMoure county,

There being no objection, the courtesies of the floor were so extended.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 8,

A Bill for an act to increase the State debt limit; an act

proposing an amendment to Section 18 of Article 12 of the Constitution of the State of North Dakota.

Have had the same under consideration and recommend that the same be referred back to the Senate with the recommendation that the title be changed to that of a Concurrent Resolution.

L. A. SIMPSON,  
Chairman.

Mr. Wineman moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
The report of the Committee on Judiciary was adopted.

The Committee on Counties and County Boundaries made the following report:

MR. SPEAKER:

Your Committee on Counties and County Boundaries, to whom was referred

Senate Bill No. 13,

A Bill for an act providing for and regulating the redistricting of counties into commissioner districts,

Have had the same under consideration and recommend that the same do pass.

S. J. MURPHY,  
Chairman.

There being no objection, Senate Bill No. 13 was referred to the Committee on Engrossment.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
January 30, 1895. {

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws of 1893, being an act, entitled "an act providing for the compilation, revision and codification of the laws of North Dakota, and the publication and distribution and sale thereof, and to repeal Chapter 82 of the Laws of 1891 in relation thereto,"

Has passed the Senate and your favorable consideration thereof is requested.

FRED FALLEY,  
Secretary.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

## Senate Bill No. 18,

A Bill for an act to amend Section 1, Chapter 25, Laws 1881, being Section 4383, Compiled Laws 1887,

Have had the same under consideration and recommend that the same be sent back to the Senate for change, the Senate's attention being hereby called to Chapter 41, Laws 1890, which said chapter amended the section referred to in the bill above mentioned.

L. A. SIMPSON,  
Chairman.

Mr. Wallen moved

The adoption of the report of the Committee,  
Which motion prevailed, and

The report of the Committee on Judiciary was adopted.

The Committee on Temperance made the following report:

MR. SPEAKER:

Your Committee on Temperance to whom was referred  
House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110 of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors, for medicinal, scientific and mechanical purposes,"

Have had the same under consideration and recommend that the accompanying bill be substituted:

## SUBSTITUTE FOR HOUSE BILL No. 46.

## A BILL

For an Act to Amend Section 7 of Chapter 110 of the Session Laws of 1890, Entitled "An Act to Prescribe Penalties for the Unlawful Manufacture, Sale, Barter and Giving Away of Such Intoxicating Liquors for Medicinal, Scientific and Mechanical Purposes."

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

SECTION 1. That Section 7 of Chapter 110 of the Session Laws of 1890 be, and the same is hereby amended and re-enacted so as to read as follows:

SECTION 7. LIFE OF A LIQUOR PERMIT.] A permit to sell intoxicating liquors under this act shall continue in force until the same is revoked for cause, unless sooner forfeited under the provisions of this act; *Provided, however,* That if at any time the number of free holders and reputable women who sign the petition of the applicant shall fall below said number of twenty-five (25), by removal from the State, County, City or Town, or by death, or at the end of any year by withdrawal of their names from the petition, then the life of said permit shall expire, unless a new petition containing a sufficient number of qualified freeholders and reputable women to bring the entire number up to the requirements of an original petition as provided in Section 2 in this act, shall be within three days from the time of such withdrawals filed anew in the office of the County Judge; *Provided, further, however,* That within fifteen (15) days prior to the expiration of each year, during the life of the permit, the applicant must obtain from the County Judge and post with said permit a certificate, stating that the appli-

cation upon which said permit was issued continues to possess the requisite attributes of an original application.

And further recommend that the substitute do pass.

E. C. SARGENT,  
Chairman.

Mr. Wineman moved

That the report of the Committee on Temperance on House Bill No. 46 be adopted,

Which motion prevailed, and

The report of the Committee on Temperance was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 54,

A Bill for an act to amend Section 1, Chapter 67, Laws of 1891,

Have had the same under consideration and recommend that the same be indefinitely postponed, the Compilation Committee having covered the same subject.

L. A. SIMPSON,  
Chairman.

Mr. Twichell moved

The adoption of the report of the Committee,

Which motion prevailed, and

House Bill No. 54 was indefinitely postponed.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 55,

A Bill for an act providing for the registration of voters of this State outside of the cities containing more than 3,000 people,

Have had the same under consideration and recommend that the same be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

Mr. Twichell moved

That the report of the Committee on Judiciary be adopted.

Mr. Svensrud moved

To amend by referring House Bill No. 55 to General Orders,  
Which motion prevailed.

The question recurring on the original motion as amended,

The motion prevailed, and

The report as amended was adopted.

The Committee on Ways and Means made the following report:

**MR. SPEAKER:**

Your Committee on Ways and Means to whom was referred  
House Bill No. 74,

A Bill for an act to cure defective acknowledgments, (introduced by Mr. Tyler),

Have had the same under consideration and recommend that the same do pass.

C. L. LINDSTROM,  
Chairman.

There being no objection, House Bill No. 74 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

**MR. SPEAKER:**

Your Committee on Engrossed Bills have examined  
House Bill No. 76,

A Bill for an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their townships and the amounts thereof,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Highways, Bridges and Ferries made the following report:

**MR. SPEAKER:**

Your Committee on Highways, Bridges and Ferries to whom was referred

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges,"

Have had the same under consideration and recommend that the same do pass.

A. H. KELLOGG,  
Chairman.

There being no objection, House Bill No. 85 was referred to the Committee on Engrossment.

Mr. Lindstrom moved

That House Bill No. 79 be printed, and also that 200 additional copies be printed for general distribution,

Which motion prevailed.

Mr. Cooper moved

That House Bill No. 29 be referred to the Committee on Education for amendment,

Which motion prevailed, and

House Bill No. 29 was so referred.

Mr. Nierling moved  
That House Bill No. 18 be recalled from the Committee on  
Taxes and Tax Laws,  
Which motion prevailed, and  
House Bill No. 18 was so recalled.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Murphy introduced  
House Bill No. 97,  
A Bill for an act to encourage immigration into the State of  
North Dakota, and to enable the Commissioner of Agriculture  
and Labor to carry out the provisions of Section 8 of Chapter 46  
of the Session Laws of 1890, and to make appropriation therefor,  
Which was read the first and second times, and  
Referred to the Committee on Appropriations.

Mr. Nelson introduced  
House Bill No. 98,  
A Bill for an act amending Section 28 of Chapter 24 of the  
Political Code, being Section 1049 of the Compiled Laws of 1887,  
relating to the qualification of officers of incorporated towns,  
Was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

Mr. Simpson introduced  
House Bill No. 99,  
A Bill for an act to promote speedy justice, and a prompt hear-  
ing of cases appealed to the Supreme Court,  
Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Rassmussen introduced  
House Bill No. 100,  
A Bill for an act requiring railway corporations to provide  
bulletin boards at stations, and providing penalties,  
Which was read the first and second times, and  
Referred to the Committee on Railroads.

Mr. Rasmussen introduced  
House Bill No. 101,  
A Bill for an act to provide for the licensing of public ware-  
houses,  
Which was read the first and second times, and  
Referred to the Committee on Warehouses, Grain Grading and  
Dealing.

Mr. Hancock introduced  
House Bill No. 102,  
A Bill for an act to authorize the Secretary of the State of North  
Dakota to receive, preserve and turn over to his successor in office  
the portraits of State officials and Members of Congress,

Which was read the first and second times, and Referred to the Committee on State Affairs.

## THIRD READING OF HOUSE BILLS.

House Bill No 76,

A Bill for an act entitled "an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their townships and the amount thereof,"

Which was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Rasmussen,
Blacklock,	Holritz,	Ray,
Brainard,	Horgan,	Richards,
Brown,	Jennings,	Rinde,
Colby,	Kellogg,	Roberts,
Colosky,	Kroeger,	Rod,
Cooper,	Korsmo,	Sargent,
Cryan,	Lerom,	Simpson,
Dwyer,	Lindstrom,	Smith,
Edwards,	Logan,	Spangberg,
Eyolfson,	McLachlan,	Svensrud,
Flack,	McDonald,	Swenson,
Fleming,	Myers,	Tofsrud,
Gilbertson,	Nelson,	Twichell,
Gleason,	Nierling,	Walker,
Guinan,	Porter,	Wiueman,
Gunderson,	Prosser,	Wood,
Hancock,	Purdon,	Mr. Speaker.
Hanna,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Hill,	Sharpe,	Tyler.
Hodgson,	Stafne,	Wallen,
Murphy,		

Messrs. Hill, Hodgson, Murphy, Sharpe, Stafne and Tyler being excused.

So the bill passed and the title was agreed to.

The Speaker announced that he was about to sign Senate Bill No. 24.

A Bill for an act to increase the revenues of the State by changing and increasing the boundaries of the counties of Billings, Stark and Mercer.

Mr. Purdon moved

That House Bill No. 16 be referred to its committee,

Which motion prevailed, and

House Bill No. 16 was so referred.

## FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws of 1893, being an act entitled "an act providing for the compilation, revision and codification of the laws of North Dakota, and the publication and distribution and sale thereof and to repeal Chapter 82 of the Laws of 1891 in relation thereto,"

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 69,

A Bill for an act making boards of trustees, commissioners, directors, person or persons liable for amount expended in excess of appropriation, and providing for emergency expenditures,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

## COMMITTEE OF THE WHOLE.

Mr. Gleason moved

That the House do now resolve itself into a Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Gleason to the Chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration  
House Bill No. 4,

A Bill for an act to amend Subdivision 11 of Section 1, Chapter 100, Laws of 1891,

And recommend that Section 1, line 4, of Subdivision eleven be amended by striking out the word "fifty" and figures "50" where they occur in said line, and inserting the word "twenty-five" and figures "25" in lieu thereof,

And recommend that as so amended that the bill do pass.

Also,

House Bill No. 42,

A Bill for an act entitled "an act to amend Chapter 24 of the Laws of 1890, by inserting therein Section 46, and for amending its title."

And recommend that the title of the bill be amended so as to read as follows: "A Bill for an act repealing Chapter 23 of the Laws of 1893, relating to State Board of Agriculture,"

And that as so amended that the bill do pass.

E. J. GLEASON,  
Chairman.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
January 30, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 74,

A Bill for an act to repeal Chapter 172, of the Laws of 1890,  
being an act entitled "an act providing for the purchase and dis-  
tribution of the remaining reports of the Supreme Court of Da-  
kota Territory,"

Which the Senate has passed, and your favorable consideration  
thereof is respectfully requested.

FRED FALLEY,  
Secretary.

Mr. Wineman moved

That the report of the Committee of the Whole be adopted, ex-  
cept so much of the report as refers to House Bill No. 42.

Mr. Svensrud moved

As an amendment to the motion of Mr. Wineman,  
That the report of the Committee of the Whole be adopted.

Mr. Svensrud's motion was ruled out of order, and

The motion of Mr. Wineman prevailed, and  
The report of the Committee of the Whole, except its reference  
to House Bill No. 42, was adopted.

Mr. Hanna moved

That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## TWENTY-FOURTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
January 31, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Cryan, Guinan, Hodgson, Murphy, Sharpe and Twichell,

Messrs. Hodgson, Murphy and Sharpe being excused.

Mr. Rinde asked that Mr. Cryan be excused on account of sickness.

There being no objection, Mr. Cryan was excused.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

**MR. SPEAKER:**

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the twenty-second day, find it correct and recommend that it be approved.

GEORGE HILL,  
Chairman.

The Committee on Revision and Correction of the Journal make the following report:

**MR. SPEAKER:**

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the twenty-third day, find it correct and recommend that it be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved

That the reports of the Committee on Revision of the Journal be adopted,

Which motion prevailed, and

The Journals of the twenty-second and twenty-third days were approved.

Mr. Sargent requested that the courtesies of the floor be extended to J. W. Mitchell, of Wheatland, and C. A. Roberts, of Fargo.

There being no objection, the courtesies of the floor were so extended.

REPORTS OF STANDING COMMITTEES.

The Speaker announced that the Joint Committee on Revision had made their report on the Code of Civil Procedure.

The Committee on Railroads made the following report:

**MR. SPEAKER:**

Your Committee on Railroads to whom was referred

House Bill No. 43,

A Bill for an act entitled "an act for the construction of cattle guards, crossings and signs,"

Have had the same under consideration and recommend that the same be indefinitely postponed.

ROLLIN C. COOPER,  
Chairman.

Mr. Hanna moved

The adoption of the report of the Committee on Railroads,

Which motion prevailed, and

House Bill No. 43,

A Bill for an act entitled "an act for the construction of cattle guards, crossings and signs,"

Was indefinitely postponed.

The Committee on Taxes and Tax Laws made the following report:

**MR. SPEAKER:**

Your Committee on Taxes and Tax Laws to whom was referred

House Bill No. 35,

A Bill for an act to amend Section 39, Chapter 132, of the Session Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto,"

Have had the same under consideration, and recommend that the same do pass as written.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 35 was referred to the Committee on Engrossment.

The Committee on Taxes and Tax Laws made the following report:

**MR. SPEAKER:**

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 72,

A Bill for an act to amend Section 24, Chapter 132, Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,"

Have had the same under consideration and recommend that the same do pass as written.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 72 was referred to the Committee on Engrossment.

The Committee on Agriculture made the following report:

**MR. SPEAKER:**

Your Committee on Agriculture to whom was referred House Bill No. 92,

Entitled, "a Bill for an act to encourage the culture of sugar beets in the State and their manufacture into sugar,"

Have had the same under consideration, and recommend that

Section 2 be amended by inserting after the word "factory" on line 5 the words "of not less than one hundred and fifty (150) tons daily capacity,"

And that when so amended the bill do pass.

MORRIS F. BROWN,  
Chairman.

There being no objection, House Bill No. 92 was referred to General Orders.

The Committee on Appropriations made the following report:

**MR. SPEAKER:**

Your Committee on Appropriations to whom was referred House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws 1893 entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school all and other public lands of the State and the manage-

ment of the funds arising therefrom, and making an appropriation therefor,"

Have had the same under consideration and recommend that the same be referred to the House with the recommendation that it be referred to the Committee on State Affairs,

FRANK H. PROSSER,  
Chairman.

Mr. Wineman moved

That the report of the Committee on Appropriations be adopted,  
Which motion prevailed, and

House Bill No. 89 was referred to the Committee on State Affairs.

The Committee on Military Affairs made the following report:

MR. SPEAKER:

Your Committee on Military Affairs to whom was referred

House Bill No. 41,

A Bill for an act to amend Chapter 86 of the Laws of 1891; being the Military Code,

Have had the same under consideration and recommend the passage of a substitute bill transmitted herewith:

#### SUBSTITUTE FOR HOUSE BILL No. 41.

#### A BILL

For an Act to Amend Sections 4, 5, 6, 18, 22, 23, 43, 57 and 61 of the Military Code, Being Chapter 86 of the Session Laws of 1891.

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

SECTION 1. That Section 4 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 4. The organized militia of the State shall be known as the North Dakota National Guard and shall consist of one regiment of infantry, one adjutant general's department, one inspector and judge advocate department, one quartermaster department, an engineer and ordnance department, a medical department and such staff officers as may be necessary; *Provided*, That in the discretion of the Governor a battalion of artillery and one or more troops of cavalry may be organized."

SEC 2. That Section 5 of Chapter 86 of the Laws of 1891 be and the same is hereby amended to read as follows: "Section 5. The Governor of the State shall be the commander-in-chief of the militia and may appoint as many aides-de-camp as he may deem necessary, who shall have the rank of colonel, and whose terms shall expire with that of the appointing power. He shall have full power to appoint the adjutant general, inspector and judge advocate, general officers of the quartermasters' department, chief of engineers and ordnance, and officers of the medical department, who shall be appointed for the term of two years; *Provided*, That the commander-in-chief may at his discretion dispense with all or reduce the number of the above staff officers. He may, at his discretion, organize the North Dakota National Guard into a brigade, in which case he shall appoint a brigadier general to command the same. The brigadier general may select two aides-de-camp from the captains or lieutenants of the National Guard."

SEC. 3. That Section 6 of Chapter 86 of the Laws of 1891 be and the same is hereby amended to read as follows: "Section 6. All commissions

shall be issued by the Governor and no commissioned field or line officers shall be removed from office except by sentence of court martial."

SEC. 4. That Section 18 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 18. The adjutant general's department shall consist of one adjutant general, with the rank of brigadier general, who shall be appointed by the Governor, and shall have been a member of the National Guard or in the regular or volunteer service of the United States for at least three years previous to the date of his appointment."

SEC. 5. That Section 22 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 22. The quartermaster's department shall consist of one quartermaster with the rank of colonel, and two assistants with rank of major. The assistants shall be assigned to appropriate duties with the brigade."

SEC. 6. That Section 23 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 23. The quartermaster shall give a bond to the State in the sum of \$10,000 in the usual form with two sureties, each in the amount of the bond, to be approved by the commander-in-chief for the faithful discharge of his duties. He shall keep a just and true account of all expenses necessarily incurred for the military service of the State, and said account shall be paid on the order and approval of the commander-in-chief. He shall purchase and distribute to the National Guard all military stores and supplies authorized by law, shall pay all incidental expenses of the service, including transportation, freight, express, postage and telegrams on public business; shall pay the officers and members of the National Guard; shall furnish clothing, rations, tools, camp and garrison equipment; make contracts for and pay the rent for offices, armories, storehouses, camp grounds, and such other duties authorized by law as he may be directed to perform by the orders of the commander-in-chief."

SEC. 7. That Section 43 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 43. The National Guard of North Dakota may be called out by the commander-in-chief, and may be by him turned over into the service of the United States on requisition of the President for service within or without the State as the exigencies may require. The commander-in-chief shall have power in case of insurrection, invasion or breaches of the peace, or imminent danger thereof, to order into the active service of the State any or all of the National Guard, militia or other military organization of the State, as he may deem proper, and no member thereof who shall be ordered out by the proper authorities for such duties shall be held answerable by any court, nor liable for civil prosecution for any act or acts done by him in the discharge of his lawful military duty on such occasions; and in such cases the forces called into service shall receive the same pay and allowance as provided in Section 56 of this act."

SEC. 8. That Section 57 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 57. All members of the National Guard that are required to be mounted shall provide for their own use a horse and horse equipments, but shall be allowed forage for the same when on duty and be paid the sum of one dollar for each day such horse may be on duty in the service of the State, or as may be provided in this act. And the sums authorized by this section shall be paid by the quartermaster in such manner as the commander-in-chief may direct."

SEC. 9. That Section 61 of Chapter 86 of the Laws of 1891 be, and the same is hereby amended to read as follows: "Section 61. The officers and members of the National Guard shall be allowed free transportation for themselves, their horses and equipments and the property of the State, going to and returning from any service authorized or directed by law, their subsistence in kind or commutation therefor, and their quarters, tents and camp equipments, and the quartermaster and the officers of his department will at

all times be prepared to furnish these things as may be required by orders of the commander-in-chief."

Sec. 10. All acts or parts of acts in conflict with this act are hereby repealed.

C. McLACHLAN,  
Chairman.

Mr. McLachlan moved

That the report of the Committee on Military Affairs be adopted,

Which motion prevailed, and

The report of the Committee on Military Affairs was adopted.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred

The Governor's Message relating to bill of N. P. R'y company for transportation of militia,

Have had the same under consideration and recommend that the same be referred to the Committee on State Affairs.

F. H. PROSSER,  
Chairman.

There being no objection the Governor's Message was referred to the Committee on State Affairs.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

Senate Bill No. 61,

A Bill for an act repealing Chapter 74 of Session Laws of 1893,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Mr. Simpson moved

The adoption of the report of the Committee on Judiciary in reference to Senate Bill No. 61,

Which motion was lost.

Mr. Wineman moved

That Senate Bill No. 61 be referred to the Judiciary Committee,

Which motion prevailed, and

Senate Bill No. 61 was so referred.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 74,

A Bill for an act to cure defective acknowledgments.

Also,  
House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38, of the Session Laws of 1890, relating to the construction of county bridges."

Also,  
House Bill No. 51,

A Bill for an act to amend Section 687, Penal Code of Revised Codes of 1877, being Section 6876 of the Compiled Laws of 1887, And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Horgan requested that the courtesies of the floor be extended to Mr. Brynjolfson, of Pembina county,

There being no objection, the courtesies of the floor were so extended.

The Joint Committee to consider the report of the Revision Committee made the following report:

MR. SPEAKER:

The Joint Committee to consider the report of Revision Commission respectfully report that they have carefully examined the Code of Civil Procedure as reported by the Revision Commission, section by section, and have amended and corrected the same where in their judgment it was necessary, and now submit as the joint work of the Commission and your Committee, a bill for an act to establish a Code of Civil Procedure for the State of North Dakota, and the favorable consideration thereof by the House is requested.

C. E. GREGORY,  
Chairman.

MR. SPEAKER:

Your Joint Committee to consider the report of the Revision Committee respectfully report that through the courtesy of Hon. A. D. Thomas, Judge of the United States Court, they have secured the use of the United States Court rooms for the meetings of the Committee and its officers and for the use of members of the House when not occupied by the Committee. To cover the incidental expenses of the maintenance of rooms and the furnishing of necessary fuel and light, your Committee recommends the appointment of John Byrne as messenger of the rooms. This will be the entire expense to the State for the rooms.

Respectfully,  
C. E. GREGORY,  
Chairman.

Mr. Edwards moved

That the report of the Joint Committee to consider the report of the Revision Committee be adopted,

Which motion prevailed, and

The reports of the Joint Committee were adopted.

Mr. Gleason asked unanimous consent for the House to return to the fourth order of business.

There being no objection, the House returned to the fourth order of business.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Gleason presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-third Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

D. HALFPENNY,  
(And 52 Others.)

There being no objection, the petition was referred to the Committee on Temperance,

Mr. Edwards presented the following petition:

311 SEVENTH AVE. S., FARGO, N. D., Jan. 28, 1895.

*Hon. A. W. Edwards:*

DEAR SIR:—The liquor traffic lawfully lives in our nation. Each house of Congress has a saloon. Our soldiers' homes are institutional drink shops. At our military posts today, enlisted men in uniform are detailed to do federal duty serving drinks at the canteen bar.

In consideration of the payment by it of about one-third of the public revenue, the liquor traffic remains our sovereign industry, censor of our press, controller of our finances and moderator of our politics. The liquor traffic is the foot-rot of civilization. Saloons are the progeny of cities betrayed by party politics, and shall the glorious republicau party of North Dakota still keep its name, or shall she go down to ignominy and death by the votes of men sent elected upon her platform. To you and your associates the people trusted this, and will you betray that trust and vote for resubmission, or will you be a man and dare to be a Daniel?

MRS. H. L. CAMPBELL.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Wineman moved

That 100 copies of House Bill No. 1 be furnished to the Senate,

Which motion prevailed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Jan. 31, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 16,

A Bill for an act for the establishment of courts of conciliation

and prescribing the mode of procedure of the same, and to repeal Chapter 45 of the Laws of 1893.

Also,

Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction, fixing the terms of court, compensation of judges and clerks and their duties,

Which the Senate has passed, and the favorable consideration of the House is respectfully requested.

FRED FALLEY,  
Secretary.

Mr. Edwards presented the following communication:

*Hon. A. W. Edwards, Bismarck:*

DEAR SIR—As per your request of yesterday, I take pleasure in handing you a statement of taxes paid the State by Cass and Grand Forks counties during the year 1894:

CASS COUNTY.

	State Tax.		School Tax.
January 20.....	\$ 8,415 92	January 20.....	\$ 4,375 95
April 13.....	11,128 97	April 13.....	6,773 49
August 19.....	13,252 12	August 19.....	6,007 49
November 16.....	16,942 97	November 16.....	7,628 26
Total,.....	\$ 49,739 98	Total,.....	\$ 24,785 02
Grand Total,.....			\$ 74,524 00

GRAND FORKS COUNTY.

	State Tax.		School Tax.
March 10.....	\$ 4,348 75	March 10.....	\$ 2,290 24
April 28.....	7,839 30	April 28.....	5,436 58
September 19.....	7,932 82	September 19.....	3,503 95
December 10.....	12,636 55	December 10.....	5,968 17
Total,.....	\$32,757 52	Total,.....	\$ 17,198 94
Grand Total,.....			\$ 49,956 46

Yours respectfully,

G. E. NICHOLS,  
Treasurer.

The hour having arrived for the House to consider as a special order

House Bill No. 12,

A Bill for an act entitled "an act to provide for uniform policy of fire insurance to be made and issued in the State by all insurance companies taking risks on property within this State."

Mr. Svensrud stated that Mr. Twichell, the author of the bill, was sick, and moved that the consideration of House Bill No. 12 be deferred and made a special order for Friday, February 1st, at 3 o'clock,

Which motion prevailed.

## INTRODUCTION OF BILLS AND MEMORIALS.

## Substitute for House Bill No. 46.

A Bill for an act to amend Section 7 of Chapter 110 of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors for medical, scientific and mechanical purposes,"

As reported by the Committee on Temperance,  
Was read the first time.

There being no objection, substitute for House Bill No. 46 was read the second time, and referred to the Committee on Engrossment.

Mr. Blacklock introduced  
House Bill No. 103,

A Bill for an act to create the Seventh Judicial District of the State of North Dakota and defining the boundaries of the First and Seventh Judicial Districts, and providing for terms of court in the Seventh Judicial District,

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Tyler introduced  
House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks,"

Which was read the first and second times, and  
Referred to the Committee on Banking.

Mr. Armstrong introduced  
House Bill No. 105,

A Bill for an act to amend Section 18 of Chapter 60 of the Laws of 1893, entitled "an act to amend Sections 1, 2, 4, 5, 16, 17, 18 and 24 of Chapter 66 of the Laws of 1891, known as the Australian Ballot Law, and to amend Section 20 of Chapter 66 of the Laws of 1891, providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections,"

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

## Substitute for House Bill No. 41,

A Bill to amend Sections 5, 6 and 18 of the Military Code, being Chapter 86 of the Session Laws of 1891,

As reported by the Committee on Military Affairs,  
Was read the first and second times, and  
Referred to the Committee on Engrossment.

Mr. Ray requested that the courtesies of the floor be extended to J. S. Metcalf, of Lakota.

There being no objection, the courtesies of the floor were so extended.

Mr. Cooper moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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## TWENTY-FIFTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 1, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Gleason, Herbrandson, Hodgson, Murphy, Sharpe, Svensrud and Twichell.

Messrs. Hodgson, Sharpe and Murphy being excused.

Mr. Nierling requested that Mr. Gleason be excused for the day.

Mr. McLachlan requested that Mr. Twichell be excused for the day.

Mr. Nelson requested that Mr. Herbrandson be excused for the day.

There being no objection, Messrs. Gleason, Twichell and Herbrandson were excused.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the twenty-fourth day, and recommend that it be amended as follows:

Where Mr. Hanna moved that the report of the Committee on Revision of the Journal be adopted, which motion prevailed and the Journal of the twenty-third day was approved, be amended to read: "That the reports of the Committee on Revision of the Journal be adopted, which motion prevailed, and the Journals of the twenty-second and twenty-third days were approved."

Also, on page 8, lines 30 and 33, where the word "report" appears, it be amended to read "reports."

Also, on page 9, where Mr. Wineman moved that 100 copies of House Bill No. 1 be printed and furnished to the Senate, be amended by striking out the words "printed and,"

And when so amended that the Journal be approved.

GEO. HILL,  
Chairman.

Mr. Blacklock moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

And the Journal of the twenty-fourth day, as amended, was approved.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 1, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 47,

A Bill for an act to amend Section 332 of Chapter 13 of the Code of Civil Procedure, being Section 5136 of the Compiled Laws relating to property not exempt from execution,

Which the Senate has passed and the favorable consideration of the House is respectfully requested.

FRED FALLEY,  
Secretary.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Porter presented the following petitions:

*To Messrs. D. T. Davis, Chas. McLachlan and E. F. Porter, Representatives of the Twenty-second District:*

We, the undersigned, legal voters of the Twenty-second District, do respectfully petition you to do all in your power to secure the resubmission of the prohibition question to the people, believing that the people should have a chance to vote again on the question.

T. W. BOYLE,  
(And 23 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

We, the undersigned, citizens of Foster county, hereby respectfully petition the members of the Twenty-second Legislative District to vote for resubmission.

H. A. HOGUE,  
(And 44 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. McLachlan presented the following petition:

We, the undersigned residents of Eddy county, do hereby petition your honorable bodies, the Senate and Legislative Assembly of North Dakota, to bring about the passage of a resubmission bill believing such a bill conducive to the best interests and welfare of the State of North Dakota.

J. E. RENFREN,  
(And 112 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Messrs. Rod and Fleming presented the following petition:

GRAFTON, N. D., Jan. 26, 1895.

We, the individual members of District Lodge No. 1 of the Independent Order of Good Templars of the State of North Dakota, in session at Grafton, N. D., respectfully submit the following petition to your honorable body, that you use your conscientious efforts to defeat any measure or bill recommending or authorizing resubmission of the prohibitory amendment to the Constitution of North Dakota to another vote of the citizens of North Dakota.

ALVIN BRIGGS, G. V. T.,  
(And 23 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Sargent presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Eleventh Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

STARR DENISON,  
(And 36 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Messrs. Rinde and Kellogg presented the following petition:

PARK RIVER, N. D., January 23, 1895.

To the Honorable William Hillier, Senator, and the Honorable Nels H. Rinde and the Honorable A. H. Kellogg, Representatives of the Third Legislative District of the State of North Dakota:

GENTLEMEN: We, the undersigned voters and taxpayers of the said Legislative District, do hereby petition you, our Representatives in the State Legislature at Bismarck, and represent for your consideration:

First. That the First Judicial District of said State embraces too many populous counties for the prompt disposition of legal business, and that by reason of the large and populous territory of which said district is composed, one Judge can not conveniently attend to the different terms of court and matters arising before him in chambers within the same.

Second. That by reason of the facts aforesaid frequent adjournments of court have been necessary, imposing a great deal of expense on litigants, witnesses, attorneys, and others, besides involving the counties in a vast amount of extra and unnecessary expenditure for mileage, fees, etc.

Now, therefore, we, your constituents and petitioners, would pray that you use all honorable means to secure legislation either organizing a new judicial district from a portion of the former, or creating the office of an associate judge for the dispatch of business.

E. SMITH PETERSON,  
(And 36 others.)

There being no objection, the petition was referred to the Committee on Judiciary.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132, of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Have had the same under consideration and recommend that the same be amended as follows:

On line 2, Section 2, the word "February" be changed to "March;" line 4 Section 2, strike out the following words after constitute: "And be first mortgagor;" and on line 5, same section, strike out "and shall take procedure over all other mortgages or liens thereon whatsoever;" line 6, same section, strike out "February" and put in "March" instead; line 13, same section, commencing with the word "and" and strike out to the word "stating" in line 16, and insert following amendments: "And whenever the amendment of said taxes to be collected by such distress shall be fifteen dollars or more, shall in addition thereto advertise the same in one official newspaper, if there is one in the county,"

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 7 was referred to General Orders.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

Have had the same under consideration, and recommend that the same be amended as follows:

Section 2, line 3, word "five" be amended to read word "ten."

Also, Section 3, line 2, word "five" amended to read "ten."

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

Mr. Simpson requested that House Bill No. 16 be referred to the Committee on Taxes and Tax Laws.

There being no objection, House Bill No. 16 was so referred.

The Committee on Warehouses and Grain Grading made the following report:

MR. SPEAKER:

Your Committee on Warehouses and Grain Grading to whom was referred

House Bill No. 27,

A Bill for an act requiring the board of railroad commissioners to ascertain the value of No. 1 hard wheat in Duluth or West Superior, based on the Liverpool market prices, and providing for the publication thereof,

Have had the same under consideration and recommend that the same do not pass.

EVAN S. TYLER,  
Chairman.

There being no objection, House Bill No. 27 was referred to General Orders.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred

House Bill No. 24,

A Bill for an act to amend Section 162 of Chapter 62 of the Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof,"

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

There being no objection, House Bill No. 24 was referred to the Committee on Engrossment.

The Committee on Education made the following majority report:

MR. SPEAKER:

A majority of the Committee on Education to whom was referred

House Bill No. 29,

A Bill for an act entitled "an act to provide free and uniform school text books throughout the several counties of the State,"

Have had the same under consideration and recommend that the same be amended as follows:

On page 2, Section 6, line 1, of printed bill after the word "and" strike out the words "a teacher of recognized ability who shall be selected by the said county superintendent and county auditor are hereby constituted" and insert in lieu thereof the following words: "The chairman of the board of county commissioners shall constitute."

On page 3, Section 6, line 10 of printed bill strike out the word "March" and insert in lieu thereof the word "July," and on the same line strike out the word "May" and insert in lieu thereof the word "September," and that all of Section 10 be stricken out,

And when so amended recommend that the same do pass.

JOHN LOGAN,  
Chairman.

The Committee on Education made the following minority report:

MR. SPEAKER:

A minority of the Committee on Education to whom was referred

House Bill No. 29,

A Bill for an act entitled "an act to provide free and uniform school text books throughout the several counties of the State,"

Have had the same under consideration and recommend that the same be amended by making the provision of the law depend upon the adoption of the same by the several counties.

H. A. ARMSTRONG,  
J. T. BLACKLOCK.

Mr. Logan moved

That the majority report of the Committee on Education be adopted.

Mr. Edwards moved

As an amendment that the bill be referred to General Orders,  
Which motion was lost.

The question recurring on the original motion,  
Which motion prevailed, and

The report of the majority of the Committee on Education was  
adopted.

The Committee on Appropriations made the following report:

MP. SPEAKER:

Your Committee on Appropriations to whom was referred  
Senate Bill No. 7,

A Bill for an act to amend Section 1 of Chapter 9 of the Laws  
of 1891, providing clerk hire for the various State officers and  
making an appropriation therefor,

Have had the same under consideration and recommend that  
the same be amended as follows:

By striking out the words "eighteen hundred" in line 6 of page 1, and  
the words "three thousand" be inserted in lieu thereof.

By striking out the word "nine" in line 4, page 2 of the original bill, and  
inserting the word "fifteen" in lieu thereof,

And when so amended recommend that the same do pass.

FRANK H. PROSSER,  
Chairman.

There being no objection, Senate Bill No. 7 was referred to  
General Orders.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads, to whom was referred  
House Bill No. 64,

A Bill for an act compelling railroad companies to provide a  
certain number of men to man trains, and prescribing penalties  
for neglect thereof,

Have had the same under consideration and recommend that  
the same be amended as follows:

That the word "freight" be inserted before the word "train" wherever the  
same appears in Section 1. and the words "or less" be stricken out when the  
same appears after the word "forty-five cars," on line 4 of printed bill.

Also, that the following proviso be added to Section 1: *Provided*, The  
provisions of this act shall not apply to any train which has therein equipped  
with air brakes a sufficient number of cars to render the hand brakes un-  
necessary in the ordinary stoppage of trains,

And when so amended recommend that the same do pass.

ROLLIN C. COOPER,  
Chairman.

Mr. Cooper moved

That the report of the Committee be adopted.

Which motion prevailed, and

The report of the Committee on Railroads was adopted.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 35,

A Bill for an act to amend Section 39, Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Also,

House Bill No. 4,

A Bill for an act entitled "an act to amend Subdivision 11 of Section 1, Chapter 100, Laws of 1891,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Warehouses, Grain Grading and Dealing made the following report:

MR. SPEAKER:

Your Committee on Warehouses, Grain Grading and Dealing to whom was referred

House Bill No. 101,

A Bill for an act to provide for the licensing of public warehouses,

Have had the same under consideration and recommend that the same do pass.

EVAN S. TYLER,  
Chairman,

There being no objection, House Bill No. 101 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 72,

A Bill for an act to amend Section 24, Chapter 132, Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes and for other purposes relative thereto,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Judiciary made the following majority report

MR. SPEAKER:

A majority of the Committee on Judiciary to whom was referred Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws 1893, being an act entitled "an act providing for the compilation, revision and codification of the Laws of North Dakota and the publication and distribution and sale thereof, and to repeal Chapter 82 of the Laws of 1891 in relation thereto,"

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

The Committee on Judiciary made the following minority report:

MR. SPEAKER:

A minority of your Committee on Judiciary to whom was referred

Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws of 1893, being an act entitled "an act providing for the compilation, revision and codification of the Laws of North Dakota," etc.,

Have had the same under consideration and recommend that the annexed bill be substituted in place thereof:

SUBSTITUTE FOR SENATE BILL No. 61.

A BILL

For an Act to Repeal Section 9, Chapter 74, of the Laws of 1893.

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

SECTION 1. That Section 9, Chapter 74, of the Laws of 1893 be and the same is hereby repealed.

SEC. 2. WHEREAS, the members of the Revising Commission appointed and acting under the provisions of said Chapter 74 of the Laws of 1893, are willing to donate their services to the State after the 13th day of March, 1895, in the completion of said work of revision, and

WHEREAS, an emergency exists in view of the present condition of the finances of the State, which requires that this act shall take effect and be in force prior to July 1st, 1895, therefore this act shall take effect and be in force from and after March 13th, 1895.

A. B. McDONALD,  
THOS. GUINAN,  
H. A. ARMSTRONG,  
J. B. WINEMAN,  
Minority.

There being no objection; substitute for Senate Bill No. 61 was referred to General Orders.

## MOTIONS AND RESOLUTIONS.

Mr. Hanna offered the following Concurrent Resolution:

*Be it Resolved by the House of Representatives of the Fourth Legislative Assembly, the Senate Concurring:*

That in the judgment of the Fourth Legislative Assembly no State Fair should be held for the ensuing two years, and that the appropriation for the payment of premiums should not be drawn upon or used until such time as the State has paid its outstanding indebtedness and is relieved from financial embarrassment.

Mr. Hanna moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

Mr. Brainard offered the following Concurrent Resolution:

## CONCURRENT RESOLUTION

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the following memorial to the Legislative Assembly of the State of South Dakota, when signed by the officers of the respective bodies be transmitted by the Governor of the State to the Legislative Assembly of the State of South Dakota in session assembled:

## MEMORIAL

*To the Honorable the Legislative Assembly of the State of South Dakota:*

Your memorialists, the Legislative Assembly of the State of North Dakota, respectfully petition your honorably body to pass measures to prevent the spread of the pest known as the Russian Cactus or Thistle and to co-operate with this State in measures to stamp it out where now existing.

In our judgment unless vigorous and efficient laws are promptly passed to eradicate this evil, the value of agricultural lands in all these States will be greatly depreciated, if not totally destroyed, and serious financial disaster result to the citizens of the States and as a consequence to the State governments thereof.

Wherefore we pray that you co-operate with us in the adoption of such remedial legislation as will lead to the permanent destruction of the cactus and the evils resulting from its spread and growth.

Mr. Brainard moved

To amend the Concurrent Resolution by including therein the States of Nebraska and Minnesota,

Which motion prevailed, and

The amendment was adopted.

Mr. Brainard moved

That the Concurrent Resolution as amended be adopted,

Which motion prevailed, and

The Concurrent Resolution as amended was adopted.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Brown introduced

House Bill No. 106,

A Bill for an act to amend Section 63, Chapter 86, Laws of 1891, entitled "Military Code,"

Which was read the first and second times, and  
Referred to the Committee on Military Affairs.

Mr. Wallen introduced

House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 93 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota; to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act,

Which was read the first and second times, and  
Referred to the Committee on Public Health.

The hour having arrived for the consideration of Special Orders.

House Bill No. 12,

A Bill for an act entitled "an act to provide for uniform policy of fire insurance to be made and issued in the State by all insurance companies taking risks on property within this State,"

Mr. McLachlan moved

That House Bill No. 12 be made a special order for Tuesday, February 5th at 3 p. m.,

Which motion prevailed, and

House Bill No. 12 was made a special order for Tuesday, February 5th at 3 p. m.

Mr. Korsmo introduced

House Bill No. 108,

A Bill for an act requiring county treasurers to report to town clerks amounts of township funds on hand and amount drawn by town treasurers and requiring town clerks to keep accounts of township funds,

Was read the first and second times, and

Referred to the Committee on Ways and Means.

The Joint Committee to reconsider the report of the Revision Commission introduced

House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota,

Which was read the first and second times,

Mr. Prosser requested unanimous consent for the House to return to the sixth order of business.

There being no objection, the House returned to the sixth order of business.

#### REPORTS OF SELECT COMMITTEES.

The Committee on Clerks made the following report:

MR. SPEAKER:

Your Committee on Clerks and Employes would respectfully recommend that one additional enrolling clerk be appointed at once, and would further recommend the appointment of Edward Murphy to such position.

J. B. WINEMAN,  
F. H. PROSSER.

Mr. Holritz moved

That the report of the Committee on Clerks be adopted,  
Which motion prevailed, and  
The report of the Committee on Clerks was adopted.

FIRST READING OF SENATE BILLS.

Senate Bill No. 74,

A Bill for an act to repeal Chapter 172 of the Session Laws of 1890, being an act entitled "an act providing for the purchase and distribution of the remaining reports of the Supreme Court of Dakota Territory,"

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 16,

A Bill for an act for the establishment of Courts of Conciliation and prescribing the mode of procedure of the same, and to repeal Chapter 45 of the Laws of 1893,

Was read the first and second times, and  
Referred to the Judiciary Committee.

THIRD READING OF HOUSE BILLS.

House Bill No 4,

A Bill for an act entitled "an act to amend Subdivision 11 of Section 1 of Chapter 100, Laws of 1891."

Mr. Smith moved

That further consideration of House Bill No. 4 be postponed,  
Which motion prevailed,  
And further action on House Bill No. 4 was postponed.

House Bill No. 35,

A Bill for an act entitled "an act to amend Section 39 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,

Messrs—

Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Edwards,  
Gleason,  
Herbrandson,  
Hodgson,

Messrs—

Horgan,  
Murphy,  
Sharpe,

Messrs—

Svensrud,  
Twichell,  
Wieman.

Messrs. Gleason, Herbrandson, Hodgson, Murphy, Sharpe and Twichell being excused.

So the bill passed and the title was agreed to.

The Speaker called Mr. Wallen to the Chair.

Substitute for House Bill No. 41,

A Bill for an act entitled "an act to amend Sections 5, 6 and 18 of the Military Code, being Chapter 86 of the Session Laws of 1891,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 54, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,

Messrs—

Hill,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Tyler,

Messrs—

Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Nelson,  
Nierling,  
Porter,  
Prosser,

Messrs—

Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Gleason,  
Herbrandson,  
Murphy,

Messrs—

Rinde,  
Sharpe,  
Svensrud,

Messrs—

Twichell,  
Wineman.

Messrs. Gleason, Herbrandson, Hodgson, Murphy, Sharpe and Twichell being excused.

So the bill passed and the title was agreed to.

Substitute for House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110 of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors for medicinal, scientific and mechanical purposes,"

Was read the first time.

The question being on the final passage of the bill,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,  
Holritz,

Messrs—

Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brainard,  
Edwards,  
Gleason,

Messrs—

Herbrandson,  
Hodgson,  
Murphy,

Messrs—

Sharpe,  
Svensrud,  
Twichell.

Messrs. Gleason, Herbrandson, Hodgson, Murphy, Sharpe and Twichell being excused.

So the bill passed and the title was agreed to.

## House Bill No. 51,

A Bill for an act entitled "an act to amend Section 687, Penal Code of 1879, being Section 6876 of the Compiled Laws of 1887,"  
Was read the third time.

The question being on the final passage of the bill.

Mr. Armstrong moved

To amend the title of House Bill No. 51 by adding to the title the words, "and relating to obstructions on public highways,"

Which motion prevailed, and

The title to House Bill No. 51 was amended.

The roll being called, there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs.	Messrs.	Messrs—
Armstrong,	Holritz,	Richards,
Blacklock,	Horgan,	Rinde,
Brainard,	Jennings,	Roberts,
Brown,	Kellogg,	Rod,
Colby,	Kroeger,	Sargent,
Colosky.	Korsmo,	Simpson,
Cooper,	Lerom,	Smith,
Cryan,	Lindstrom,	Spangberg,
Dwyer,	Logan,	Stafne,
Edwards,	McDonald,	Swenson,
Eyolfson,	Myers,	Tofsrud,
Flack,	Nelson,	Tyler,
Gilbertson,	Nierling,	Walker,
Guinan,	Porter,	Wallen,
Gunderson,	Prosser,	Wineman,
Hancock,	Purdon,	Wood,
Hanna,	Ray,	. Mr. Speaker.
Hill,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	McLachlan,	Sharpe,
Gleason,	Murphy,	Svensrud,
Herbrandson,	Rasmussen,	Twichell.
Hodgson,		

Messrs. Gleason, Hodgson, Herbrandson, Murphy, Sharpe and Twichell being excused.

So the bill passed and the title as amended was agreed to.

## House Bill No. 72,

A Bill for an act entitled "an act to amend Section 24, Chapter 132, Laws of 1890, entitled 'an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,'"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen.

Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Fleming,  
Gleason,  
Herbrandson.

Messrs—

Hodgson,  
Murphy,  
Sharpe,

Messrs—

Svensrud,  
Twichell,  
Wineman.

Messrs. Gleason, Herbrandson, Hodgson, Murphy, Sharpe and Twichell being excused.

So the bill passed and the title was agreed to.

Mr. McLachlan moved

That the vote by which the substitute for House Bill No. 41 was passed be reconsidered, and the motion to reconsider be laid upon the table,

Which motion prevailed.

Mr. Prosser requested unanimous consent for the House to return to the seventh order of business.

There being no objection, the House returned to the seventh order of business.

Mr. Prosser offered the following resolution:

*Resolved by the House of Representatives of the State of North Dakota:*

That the Commissioner of University and School Lands be, and is hereby requested to furnish at his earliest convenience for the information of this House, a detailed statement of the expenditures of his department for clerk hire and all other incidental expenses during the past two years.

Mr. Prosser moved

The adoption of the resolution,

Which motion prevailed, and

The resolution was so adopted.

Mr. Logan requested that the courtesies of the floor be extended to Edward Winterer, of Barnes county.

There being no objection, the courtesies of the floor were so extended.

Mr. Lindstrom moved  
That the House do now adjourn,  
Which motion was lost.

## THIRD READING OF HOUSE BILLS.

House Bill No. 74,

A Bill for an act entitled "an act to cure defective acknowledgments,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 54, nays none, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Holritz,	Richards,
Brainard,	Horgan,	Rinde,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Simpson,
Cryan,	Lerom,	Smith,
Dwyer,	Logan,	Spangberg,
Edwards,	McLachlan,	Statne,
Eyolfson,	McDonald,	Swenson,
Flack,	Myers,	Tofsrud,
Fleming,	Nelson,	Tyler,
Gilbertson,	Nierling,	Walker,
Guinan,	Porter,	Wallen,
Gunderson,	Prosser,	Wineman,
Hancock,	Purdon,	Wood,
Hanna,	Rasmussen,	Mr. Speaker.

Absent and not voting—

Messrs—	Messrs—	Messrs—
Gleason,	Lindstrom,	Svensrud,
Herbrandson,	Murphy,	Twichell.
Hodgson,	Sharpe,	

Messrs. Gleason, Hodgson, Murphy, Sharpe and Twichell being excused.

So the bill passed and its title was agreed to.

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges,"

Was read the third time.

Mr. Wallen moved

That further consideration of House Bill No. 85 be deferred until Tuesday, February 5,

Which motion prevailed, and

The further consideration of House Bill No. 85 was so deferred.  
Mr. Cooper moved  
That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## TWENTY-SIXTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 2, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.  
Prayer by the Chaplain.  
Roll called.

All members present excepting Messrs. Gleason, Hanna, Herbrandson, Holritz, Prosser, Purdon, Rasmussen, Roberts, Rod, Simpson, Svensrud and Wood.

Messrs. Herbrandson and Rasmussen being excused.

Mr. Nierling requested that Mr. Gleason be excused for the day.

Mr. Sargent requested that Mr. Hanna be excused for the day.

Mr. Kroeger requested that Mr. Holritz be excused for the day.

Mr. Walker requested that Mr. Prosser be excused for the day.

Mr. Stafne requested that Mr. Purdon be excused for the day.

Mr. Armstrong requested that Mr. Roberts be excused for the day.

Mr. Fleming requested that Mr. Rod be excused for the day.

Mr. Colosky requested that Mr. Wood be excused for the day.

There being no objections, Messrs. Gleason, Hanna, Holritz, Prosser, Purdon, Roberts, Rod and Wood were excused.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the twenty-fifth day, and recommend that it be amended as follows:

On page 4, line 43, "and whenever the amendment of said taxes" be amended to read "and whenever the amount of said taxes,"

And when so amended that the Journal be approved.

GEO. HILL,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the twenty-fifth day, as amended, was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Stafne presented the following petition:

In behalf of the citizens of Richland county, we, your petitioners most earnestly entreat you as our representatives, to do your utmost in the support and continuance of our prohibitory law. We ask this in the name of our citizens, our children and our homes.

While we have a right to expect that Richland county will not dishonor herself and our State in the crisis that is now upon us, yet there is so much at stake that we urge upon you the great importance of standing by our prohibitory law, and while we expect our representatives to do this, we pledge ourselves to do what we can to sustain our lawmakers in maintaining and retaining our prohibitory law.

C. M. JOHNSON,  
(And 26 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Dwyer presented the following petition:

WAHPETON, NORTH DAKOTA, January 23, 1895.

*To the Legislature of the State of North Dakota:*

We, the undersigned residents of the city of Wahpeton, respectfully petition your honorable body to pass the woman's suffrage bill now pending for determination.

W. E. HOWRY,  
(And 98 Others.)

There being no objection, the petition was referred to the Committee on Woman Suffrage.

Mr. Colby, by request, presented the following petition:

DAVENPORT, N. D., January 29, 1895.

*To the Honorable Members of the House of Representatives of the State of North Dakota, Greeting:*

We, the undersigned, legal voters and residents of the State of North Dakota, do hereby petition your honorable body against the enactment of House Bill No. 65, being a bill for an act to provide for the establishment, construction and maintenance of drains in this State.

THEODORE O. JOHNSRUD,  
(And 29 others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Gilbertson, by request, presented the following petition:

DAVENPORT, N. D., January 29, 1895.

*To the Honorable Members of the House of Representatives of the State of North Dakota, Greeting:*

We, the undersigned, legal voters and residents of the State of North Dakota, do hereby petition your honorable body against the enactment of House Bill No. 65, being a bill for an act to provide for the establishment, construction and maintenance of drains in this State.

WM. MCGUINAN,  
(And 32 Others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Smith presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-fifth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

MRS. JAS. THOMPSON,  
(And 140 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Smith presented the following petition:

*To the Honorable Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of the Baptist church of Ellendale, North Dakota, held at Ellendale, North Dakota, on the 27th day of January, A. D. 1895, the following resolution was unanimously adopted:

*Resolved*, That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota, now in session, be requested by this meeting not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article Twenty of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors.

*Resolved, further*, That the Legislative Assembly of this State now in session, be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of intoxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

H. H. HEWITT,  
Chairman.

D. B. SCOTT, Secretary.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Sharp presented the following petition:

We, the undersigned, citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota, to enact such measures as will result in the resubmission of Article 20 of the State Constitution, to a vote of the people.

AUGUST BRODCKORBS,  
(And 35 Others.)

There being no objection, the petition was referred to the Committee on Temperance,

Mr. Sharpe presented the following petition:

We the undersigned, citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota, to take no action to enact measures looking to the resubmission of Article 20 of the Constitution to a vote of the people.

O. A. GALLUP,  
(And 30 others.)

There being no objection the petition was referred to the Committee on Temperance.

#### MOTIONS AND RESOLUTIONS.

Mr. Tyler moved

That House Bill No. 65,

A Bill for an act to provide for the establishment, construction and maintenance of drains in this State, be called from the Committee on Highways, Bridges and Ferries and referred to the Committee on Judiciary,

Which motion prevailed, and

House Bill No. 65 was so referred.

The Committee on Engrossed Bills made the following report:

**MR. SPEAKER:**

Your Committee on Engrossed Bills have examined  
House Bill No. 24,

A Bill for an act to amend Section 162 of Chapter 62 of the Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

House Bill No. 101,

A Bill for an act to provide for licensing of public warehouses, And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Korsmo introduced

House Bill No. 110,

A Bill for an act to protect farm laborers and giving them lien upon crops as security for their wages.

Which was read the first and second times, and Referred to the Committee on Judiciary.

Mr. Twichell introduced

House Bill No. 111,

A Bill for an act entitled "an act for the preservation and propagation and protection of the game and fish of the State of North Dakota,"

Which was read the first and second times, and Referred to the Committee on State Affairs.

## THIRD READING OF HOUSE BILLS.

House Bill No. 4,

A Bill for an act to amend subdivision 11 of Section 1, Chapter 100, Laws of 1891.

The question being on the final passage of the bill

Mr. Nuerling moved

That further consideration of House Bill No. 4 be postponed until Tuesday, Feb. 5, 1895, at 4 p. m., and be made a special order at such time.

Which motion prevailed.

And the further consideration of House Bill No. 4 was so deferred.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Feb. 2, 1895. }

MR. SPEAKER:

I have the honor to return herewith Senate Bill No. 18, which the House has transmitted to the Senate with certain recommendations, and your respectful consideration of said bill is hereby requested.

FRED FALLEY,  
Secretary.

House Bill No. 24,

A Bill for an act to amend Section 162 of Chapter 62 of the Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 49, nays none, not voting 13.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Richards,
Blacklock,	Hodgson,	Rinde,
Brainard,	Jennings,	Sargent,
Brown,	Kellogg,	Sharpe,
Colby,	Kroeger,	Simpson,
Colosky,	Korsmo,	Smith,
Cooper,	Lerom,	Spangberg,
Cryan,	Lindstrom,	Stafne,
Dwyer,	Logan,	Swenson,
Edwards,	McLachlan,	Tofsrud,
Eyolfson,	McDonald,	Twichell,
Flack,	Myers,	Tyler,
Fleming,	Nelson,	Walker,
Gilbertson,	Nierling,	Wallen,
Guinan,	Porter,	Wineman,
Gunderson,	Ray,	Mr. Speaker.
Hancock,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Gleason,	Murphy,	Roberts,
Hanna,	Prosser,	Rod,
Herbrandson,	Purdon,	Svensrud,
Holritz,	Rasmussen,	Wood.
Horgan,		

Messrs. Gleason, Hanna, Herbrandson, Rasmussen, Holritz, Prosser, Purdon, Roberts, Rod and Wood being excused.

So the bill passed and the title was agreed to.

House Bill No. 101,

A Bill for an act entitled "an act to provide for licensing of public warehouses,"

Was read the third time.

Mr. Logan moved

That further consideration of House Bill No. 101 be postponed, and that the bill be made a special order for February 4, at 3 o'clock p. m.,

Which motion prevailed.

House Bill No. 64,

A Bill for an act entitled "an act compelling railroad companies to provide a certain number of men to man trains and prescribing penalties for neglect thereof,"

Was placed upon its final passage.

Mr. Twichell moved

That further consideration of House Bill No. 64 be postponed, and that the bill be made a special order on Wednesday, February 6, at 3 o'clock p. m.,

Which motion prevailed.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined House Bill No. 64,

A Bill for an act entitled "an act compelling railroad companies to provide a certain number of men to man trains, and prescribing penalties for neglect thereof,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Speaker called Mr. Tofsrud to the Chair.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Feb. 2, 1895. }

MR. SPEAKER:

I have the honor to return herewith

Concurrent Resolution to memorialize the Legislative Assemblies of the States of South Dakota, Minnesota and Nebraska, for co-operation in laws to destroy the Russian Cactus and prevent the spread of the same,

Which the Senate has concurred in.

FRED FALLEY,  
Secretary.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 2, 1895. }

Mr. SPEAKER:

The Senate respectfully requests that the House return to the Senate Senate Bill No. 18,

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Nierling moved

That the requests of the Senate be granted,

Which motion prevailed, and

Senate Bill No. 18 was ordered to be returned to the Senate.

The Speaker called Mr. Sargent to the Chair.

House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota,

Was placed upon its third reading.

The reading of House Bill No. 109 being in progress.

Mr. Gill moved

That when the House adjourn it adjourn to meet at 10 o'clock

Monday morning,

Which motion prevailed.

Mr. Dwyer moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

TWENTY-EIGHTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 4, 1895.

The House assembled at 10 o'clock a. m., pursuant to adjournment,

The Speaker presiding.

Prayer by Rev. W. L. VanHorn of Fargo.

Mr. Wallen moved

That the calling of the roll be dispensed with

Which motion prevailed, and

The calling of the roll was dispensed with.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Stafne presented the following petition:

In behalf of the citizens of Richland county, we, your petitioners, most earnestly entreat you as our representatives, to do your utmost in the support and continuance of our prohibitory law. We ask this in the name of our citizens, our children and our homes.

While we have a right to expect that Richland county will not dishonor herself and our State in the crisis that is now upon us, yet there is so much at stake that we urge upon you the great importance of standing by our prohibitory law, and while we expect our representatives to do this, we pledge ourselves to do what we can to sustain our lawmakers in maintaining and retaining our prohibitory law.

[Professors and Students of Red River Valley University, Every One Present, 61.]

M. V. B. Knox.

WAMPETON, Jan. 19, 1895.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Tofsrud presented the following petition:

RUGBY, N. D., Feb. 1, 1895.

*To the Joint Committee on Russian Cactus:*

As we in the last year have done all we can and our taxable property of said Pierce County will not meet our needs in this matter, we ask through our Representative (O. L. Tofsrud) for assistance to combat with the pest. We are surrounded with the pest and it will soon overrun us unless we can find some way to control it, and we are unable to do so without help from some source. The people came here without much means, and failure of crops and now this pest will soon drive them out if nothing is done for us.

GEO. W. SPAUN,  
Chairman County Board.

There being no objection, the petition was referred to the Joint Committee on Cactus.

Mr. Cooper presented the following communication:

COOPERSTOWN, N. D., Feb. 1, 1895.

*To the Hous. Cooper and Swenson:*

We, the undersigned, do hereby petition you to use all honorable means to defeat the Twichell Insurance Bill, making the amount of policy *prima facie* evidence in case of total loss, as we consider it directly against the interest of the honest insurer and in favor of the dishonest man, and the companies will have to charge a greater rate to cover the losses.

T. E. WARNER,  
(And 10 others.)

There being no objection, the petition was referred to the Committee on Insurance.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined:

House Bill No. 29,

A Bill for an act to provide free and uniform school text books throughout the several counties of the State,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

UNFINISHED BUSINESS.

The third reading of House Bills was continued, and House Bill No. 109.

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota,

Was read at length the third time.

The Speaker called Mr. Ray to the Chair.

Mr. Rinde moved

That the House take a recess until 2 o'clock p. m.,

Which motion prevailed, and  
The House took such recess.

The House reassembled.

The question being upon the final passage of  
House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the  
State of North Dakota,

The roll being called there were ayes 46, nays none, not voting 16.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Hanna,

Messrs—

Herbrandson,  
Hill,  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Porter,  
Rasmussen,  
Ray,

Messrs—

Rinde,  
Roberts,  
Sargent,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twitchell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

Guinan,  
Gunderson,  
Hancock,  
Hodgson,  
Horgan,  
Jennings,

Messrs—

McLachlan,  
Murphy,  
Nierling,  
Prosser,  
Purdon.

Messrs—

Richards,  
Rod,  
Sharpe,  
Simpson,  
Wood,

Who were excused.

So the bill passed and the title was agreed to.

Mr. Blacklock moved

That the vote by which House Bill No. 109 was passed be re-  
considered, and that the motion to reconsider be laid upon the  
table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

Mr. Brown requested that Mr. Gunderson be excused.

Mr. Flack requested that Mr. Jennings be excused.

Mr. Gleason requested that Mr. Nierling be excused.

Mr. Walker requested that Mr. Prosser be excused.

Mr. Spangberg requested that Mr. Richards be excused.

Mr. Fleming requested that Mr. Rod be excused.

Mr. Colosky requested that Mr. Wood be excused.

Mr. Porter requested that Mr. McLachlan be excused.

Mr. Stafne requested that Mr. Purdon be excused.

Mr. Blacklock requested that Messrs. Horgan and Guinan be excused.

Mr. Speaker requested that Mr. Hancock be excused.

There being no objection, Messrs. Gunderson, Jennings, Nierling, Prosser, Richards, Rod, Wood, McLachlan, Purdon, Horgan, Guinan and Hancock were excused.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Colby introduced

House Bill No. 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers, or any article or instrument of immoral use, and prescribing the punishment therefor,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Gleason introduced

House Bill No. 113,

A Bill for an act relating to liability of railroad corporations to employes for personal injuries,

Which was read the first and second times, and  
Referred to the Committee on Railroads.

Mr. Edwards moved

That all absent members be excused for the day,

Which motion prevailed, and

The absent members were so excused.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 29,

A Bill for an act entitled "an act to provide free and uniform school text books throughout the several counties of the State,"

Was read the third time.

Mr. Tyler requested unanimous consent to introduce an amendment to House Bill No. 29,

There being no objection, Mr. Tyler moved to amend Section 7 by striking out the words "prescribe and adopt a series of" where the same appears in line 7 of the printed bill, and insert in lieu thereof the words "furnish free of charge."

Mr. Brainard moved

That the amendment be adopted,

Which motion prevailed, and

The amendment was adopted.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 38, nays 6, not voting 18

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Hanna,  
Herbrandson,

Messrs—

Hill,  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Nelson,  
Rasmussen,  
Ray,  
Rinde,

Messrs—

Roberts,  
Sargent,  
Smith,  
Stafne,  
Swensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Armstrong,  
Blacklock,

Messrs—

Edwards,  
Eyolfson,

Messrs—

Spangberg,  
Twichell.

Absent and not voting:

Messrs—

Guinan,  
Gunderson,  
Hancock,  
Hodgson,  
Horgan,  
Jennings,

Messrs—

McLachlan,  
Murphy,  
Myers,  
Nierling,  
Porter,  
Prosser,

Messrs—

Purdon,  
Richards,  
Rod,  
Sharpe,  
Simpson,  
Wood.

Messrs. Guinan, Gunderson, Hancock, Hodgson, Horgan, Jennings, McLachlan, Murphy, Nierling, Porter, Prosser, Purdon, Richards, Rod, Sharpe, Simpson and Wood being excused.

So the bill as amended passed and the title was agreed to.

Mr. Logan moved

That the vote by which House Bill No. 29 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

House Bill No. 57,

A Bill for an act providing for the authentication of the records in the office of the registers of deeds within the State, and defining certain duties of the registers in relation thereto,

Was read the third time.

Mr. Roberts by unanimous consent offered the following amendment:

That said bill be amended by inserting after the word "office" in line 10, Section 1, the words "excepting the tract or numerical indexes."

And by inserting the words, "register of deeds" in place of "county commissioners" in line 1, Section 2.

And by adding the following, which shall be Section 5:

SECTION 5. For such numbering and entry as aforesaid, the register of deeds shall be entitled to a fee of ten (10) cents for each instrument or paper numbered and entered in addition to the fee for recording or filing, heretofore prescribed by law.

Mr. Tyler by unanimous consent offered the following substitute for Mr. Roberts' amendment, and moved its adoption:

Amend Section 1 of House Bill No. 57 by striking out all of that portion which in the printed bill appears between the words "document" in line 9, and the word "and" in line 10.

Mr. Roberts accepted the substitute offered by Mr. Tyler.

The question being on the motion of Mr. Tyler on the adoption of the substitute the motion prevailed, and the substitute was adopted.

The question recurring on the original motion as amended, The motion prevailed, and the original motion as amended by the substitute was adopted.

By unanimous consent Mr. Hanna offered the following amendment:

Amend line 6, Section 1, immediately after the word "number" add the words "provided the fees for recording shall have been paid."

Mr. Tyler moved

That House Bill No. 57, together with the amendments, be referred to the Joint Committee to consider the report of the Revision Commission,

Which motion prevailed, and

House Bill No. 57 was so referred.

House Bill No. 101,

A Bill for an act to provide for the licensing of public warehouses,

Was read the third time and placed upon its final passage,

The roll being called there were ayes 38, nays 6, not voting 18.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,

Messrs—

Herbrandson,  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McDonald,

Messrs—

Sargent,  
Smith,  
Spanberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,

Messrs—	Messrs—	Messrs—
Dwyer,	Myers,	Tyler,
Eyolfson,	Nelson,	Wallen,
Flack,	Rasmussen,	Wineman,
Fleming,	Ray,	Mr. Speaker.
Gilbertson,	Rinde,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Edwards,	Hanna.	Lindstrom,
Gleason,	Hill,	Roberts.

Absent and not voting:

Guinan,	MtLachlan,	Richards,
Gunderson,	Murphy,	Rod,
Hancock,	Nierling,	Sharpe,
Hodgson,	Porter,	Simpson,
Horgan,	Prosser,	Walker,
Jennings,	Purdon,	Wood.

Messrs. Guinan, Gunderson, Hancock, Hodgson, Horgan, Jennings, McLachlan, Murphy, Nierling, Porter, Prosser, Purdon, Richards, Rod, Sharpe, Simpson and Wood being excused.

So the bill passed and the title was agreed to.

FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 47,

A Bill for an act to amend Section 332 of Chapter 13 of the Code of Civil Procedure, being Section 5127 of the Compiled Laws relating to property not exempt from execution,

Was read the first and second times, and Referred to the Committee on Judiciary.

Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction; fixing the terms of court; compensation of judges and clerks and their duties.

Was read the first and second times, and Referred to the Committee on Judiciary.

THIRD READING OF SENATE BILLS.

Senate Bill No. 13,

A Bill for an act entitled "an act providing for and regulating the re-districting of counties into commissioner districts,"

Was read the third time, and placed upon its final passage.

The roll being called there were ayes 41, nays none, not voting 21.

Those who voted in the affirmative were—

Messrs—	Messrs—	Messrs—
Armstrong,	Hanna.	Sargent,
Blacklock,	Herbrandson,	Smith.
Brainard,	Hill,	Spangberg,
Brown,	Holritz,	Stafne,

Messrs—

Colby,  
Colosky,  
Cooper,  
Cryan,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,

Messrs—

Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
McDonald,  
Myers,  
Ray,  
Rinde,  
Roberts,

Messrs—

Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting—

Messrs—

Dwyer,  
Guinan,  
Gunderson,  
Hancock,  
Hodgson,  
Horgan,  
Jennings,

Messrs—

Logan,  
McLachlan,  
Murphy,  
Nelson,  
Nierling,  
Porter,  
Prosser,

Messrs—

Purdon,  
Rasmussen,  
Richards,  
Rod,  
Sharpe,  
Simpson,  
Wood,

Messrs. Guinan, Gunderson, Hancock, Hodgson, Horgan, Jennings, McLachlan, Murphy, Nierling, Prosser, Purdon, Porter, Richards, Rod, Sharpe, Simpson and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved that the House members of the Joint Committee to consider the report of the Compilation Commission be excused from attendance at all morning sessions held by the House of Representatives,  
Which motion prevailed.

## CONSIDERATION OF GENERAL ORDERS.

Mr. Wineman moved  
That the House resolve itself into a Committee of the Whole,  
and that Mr. Edwards be called to the Chair,  
Which motion prevailed.

The Speaker called Mr. Edwards to the Chair,  
And the House resolved itself into a Committee of the Whole  
for the consideration of General Orders.

When the Committee arose the following report was presented:

MR. SPEAKER:

Your Committee of the Whole have had under consideration  
House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of  
veterinary science in the State of North Dakota,"

And recommend that the amendments recommended in the re-  
port of the Committee on State Affairs on said bill be adopted,  
and when so amended that the bill do pass.

Also,

House Bill No. 42,

A Bill for an act entitled "an act to amend Chapter 46 of the Laws of 1890, by inserting therein Section 6 and for amending its title."

And recommend that further consideration of House Bill No. 42 be indefinitely postponed.

Also,

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries,

And recommend that the amendment reported by the Committee on Corporations other than Municipal, be adopted.

Also,

To further amend in Section 2, line 27, by striking out the word "80" and substituting "100" therefor,

And as so amended that the bill do pass.

Also,

House Bill No. 81,

A Bill for an act entitled "an act making it lawful for certain stock to run at large during a portion of each year, and for prohibiting stallions and vicious stock from running at large, and providing penalties, and to repeal Chapter 89, Laws of 1890,"

And recommend that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 55,

A Bill for an act entitled "an act providing for the registration of the legal voters of the State outside of the cities containing more than three thousand people, to be made from data and other means to be furnished by the local assessor,"

And recommend that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 92,

A Bill for an act entitled "an act to encourage the culture of sugar beets in the State of North Dakota and their manufacture into sugar,"

And recommend that the bill remain in General Orders.

Also,

Senate Bill No. 7,

A Bill for an act to amend Section 1 of Chapter 9 of the Laws of 1891, providing clerk hire for the various State officers and making an appropriation therefor,

And recommend that the bill remain in General Orders.

A. W. EDWARDS,

Chairman.

Mr. Hanna moved

That the report of the Committee of the Whole be adopted,  
Which motion prevailed, and  
The report of the Committee of the Whole was adopted.

Mr. Hanna moved

That the House do now adjourn,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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TWENTY-NINTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 5, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

All members present excepting Messrs. Guinan, Gunderson, Hancock, Hill, Hodgson, Horgan, Jennings, Murphy, Prosser and Sharpe.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

Mr. Fleming requested that Mr. Hill be excused for the day.

Mr. Blacklock requested that Messrs. Guinan and Horgan be excused for the day.

Mr. Flack requested that Mr. Jennings be excused for the day.

Mr. Walker requested that Mr. Prosser be excused for the day.

There being no objection, Messrs. Hill, Guinan, Horgan, Jennings and Prosser were so excused.

## REVISION OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER :

Your Committee on the Revision and Correction of the Journal have carefully examined the Journal of the twenty-sixth day, find it correct and recommend that it be approved.

GEO. HILL,  
Chairman.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Blacklock presented the following petition:

*To the Honorable the Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of the First M. E. church of Bathgate, North Dakota, held at Bathgate, North Dakota, on the 27th day of January, A. D. 1895, the following resolution was unanimously adopted:

*Resolved,* That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota, now in session, be requested by this meeting not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article 20 of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors.

*Resolved, further,* That the Legislative Assembly of this State now in session be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of intoxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

The above resolutions were unanimously adopted by the M. E. church congregation assembled at Hamilton, North Dakota, and also the congregation of Carlisle, North Dakota, on the date mentioned above—January 27, 1895. Signed in behalf of the above congregations.

H. C. JEPHEOTT,  
Pastor.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Fleming presented the following petition:

*To the Honorable Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of the Evangelist Lutheran church of Vesta, Walsh county, North Dakota, held at Vesta, North Dakota, on the 27th day of January, A. D. 1895, the following resolution was unanimously adopted:

*Resolved,* That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota now in session, be requested by this meeting not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article 20 of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors;

*Resolved, further,* That the Legislative Assembly of this State, now in session, be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of in-

toxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

JORGEN SONSTELIE,  
Secretary.

TH. N. LARSEN,  
Chairman.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Gilbertson presented the following petition:

NORMAN, Cass County, N. D., Jan. 29, 1895.

*To the Honorable Members of the House of Representatives of the State of North Dakota:*

GREETING—We, the undersigned legal voters and residents of the State of North Dakota, do hereby petition your honorable body against the enactment of House Bill No. 65, being a bill for an act to provide for the establishment, construction and maintenance of drains in this State.

ELLING SEVERSON,  
(And 27 Others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Brown asked that the courtesies of the floor be extended to Colonel Tuller, of Fargo.

There being no objection, the courtesies of the floor were so extended.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Woman Suffrage made the following report:

MR. SPEAKER:

Your Committee on Woman Suffrage to whom was referred House Bill No. 2,

A Bill for an act to extend the elective franchise to female persons,

Have had the same under consideration and recommend that the accompanying substitute bill do pass.

#### SUBSTITUTE FOR HOUSE BILL No. 9.

##### A BILL

For an Act to Extend the Elective Franchise to Female Persons.

SECTION 1. At the general election to be held on the first Tuesday after the first Monday in November, 1896, the question of granting the right of suffrage to female persons shall be submitted to the qualified voters of the State of North Dakota, as provided in Article 5, Section 122 of the Constitution.

SEC. 2. All electors at said election who are in favor of extending the right of suffrage to females, shall have written or printed on their ballots the words, "For Female Suffrage," and all electors opposed to extending the right of suffrage to females shall have written or printed on their ballots, "Against Female Suffrage."

SEC. 3 Judges of election and returning boards shall canvas the votes and announce and return the result in the usual manner.

SEC. 4. If it is found that a majority of all the votes cast at such election is in favor of female suffrage, then female persons shall be entitled to all the rights, benefits and privileges of qualified electors enjoyed by the male persons, and shall be subject to all the laws, restrictions and penalties governing the same.

F. L. DWYER,  
Chairman.

Mr. Edwards moved

That 100 extra copies of the Substitute for House Bill No. 2, as reported by the Committee on Woman Suffrage, be printed, and that the Substitute Bill be referred to General Orders, and that it be made a special order for Thursday, Feb. 14, at 3 p. m.,

Which motion prevailed, and

The Substitute Bill was so referred and made a special order for Thursday, Feb. 14, at 3 p. m.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 58,

A Bill for an act entitled "an act for the destruction of noxious weeds, providing penalties for the violation of the same and for the repeal of an act to prevent the spread of noxious weeds in the Territory of Dakota,"

Have had the same under consideration and recommend that the same be referred to the Committee on Russian Cactus.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 58 was referred to the Joint Committee on Cactus.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 59,

A Bill for an act entitling and authorizing the counties in the State of North Dakota to raise and expend a fund for the destruction of gophers,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 59 was referred to the Committee on Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 66,

A Bill for an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine and appurtenances and to employ the inmates of the penitentiary in mining coal and the disposition of any coal so mined,

Have had the same under consideration and recommend that the same be amended as follows:

On page 1, Section 1, line 3 of the printed bill, after the word "mine" insert the words "or mines,"

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 66 was referred to General Orders.

The Committee on Ways and Means made the following report:

MR. SPEAKER:

Your Committee on Ways and Means to whom was referred House Bill No. 75,

A Bill for an act to amend Section 1 of Chapter 50 of the Session Laws of 1890, entitled "an act to fix the compensation of the judges of the county courts and provide a fund to reimburse the county for the same,"

Have had the same under consideration and recommend that the Substitute Bill herewith submitted do pass.

#### SUBSTITUTE FOR HOUSE BILL No. 75.

#### A BILL

For an Act to Amend Section One of Chapter 50 of the Session Laws of 1890, Entitled "An Act to Fix the Compensation of the Judges of the County Courts and Provide a Fund to Reimburse the County for the Same."

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

SECTION 1. That Section one be amended to read as follows:

THAT JUDGES SALARY FIXED BY POPULATION OF COUNTY.] As compensation for their services there shall be paid to the judges of the county courts in all counties an annual salary, based upon the population thereof as follows, viz: For the first 2,000 inhabitants or fraction thereof two hundred dollars per annum; over 2,000 inhabitants and not exceeding 6,000 the sum of 100 dollars for each 1,000 inhabitants or major fraction thereof; over 6,000 inhabitants and not exceeding 8,000 the sum of 700 dollars; over 8,000 inhabitants and not exceeding 10,000 the sum of 800 dollars; over 10,000 inhabitants and not exceeding 13,000 the sum of 900 dollars; over 13,000 inhabitants and not exceeding 18,000 the sum of 1,000 dollars; over 18,000 inhabitants and not exceeding 22,000 the sum of 1,100 dollars; over 22,000 inhabitants the sum of 1,200 dollars, to be paid by the treasurer of the county upon the warrants of the county auditor or clerk, and in all counties whenever the county courts shall have civil and criminal jurisdiction the judges of such county courts as compensation for such additional services in addition to that hereinbefore provided shall be paid one-half as much more; *Provided always*, that the salary of the county judge in any county shall not exceed the sum of fifteen hundred dollars; *Provided further*, that the judges of the county courts may

receive such fees as are allowed by law in taking acknowledgments of deeds or other instruments, and other acts other than in the settlement of the estates of decedents of wards, the guardianship of infants and the adjudication of civil and criminal actions, and that all causes in probate commenced prior to the taking effect of this act shall not be effected thereby.

SECTION 2. PROVISION FOR CLERK HIRE.] In all counties having a population of 15,000 inhabitants or over there shall be allowed and paid to the judge of the county court as clerk hire such sum as the county commissioners in their judgment may deem necessary for the proper transaction of the business of such county court, the sum to be paid in the same manner as the salary of the county judge.

SECTION 3. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

C. L. LINDSTROM,  
Chairman.

There being no objection, Substitute for House Bill No. 75 was referred to General Orders.

The Committee on Highways, Bridges and Ferries made the following report:

MR. SPEAKER:

Your Committee on Highways, Bridges and Ferries to whom was referred

House Bill No. 93,

A Bill for an act relating to public highways,

Have had the same under consideration and recommend that the same do not pass.

A. H. KELLOGG,  
Chairman.

Mr. Edwards moved

That House Bill No. 93 be referred to General Orders,

Which motion prevailed, and

House Bill No. 93 was so referred.

The Committee on Ways and Means made the following report:

MR. SPEAKER:

Your Committee on Ways and Means to whom was referred

House Bill No. 108,

A Bill for an act requiring county treasurers to report to town clerks amounts of township funds on hand and amount drawn by town treasurers and requiring town clerks to keep accounts of township funds,

Have had the same under consideration and recommend that the same do pass.

C. L. LINDSTROM,  
Chairman.

There being no objection House Bill No. 108 was referred to Committee on Engrossment.

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs, to whom was referred  
House Bill No. 105,

A Bill for an act to amend Section 18 of Chapter 60 of the Laws of 1893, entitled "an act to amend Sections 1, 2, 4, 5, 16, 17, 18 and 24 of Chapter 66 of the Laws of 1891, known as the Australian Ballot Law and to amend Section 20 of Chapter 66 of the Laws of 1891, providing for printing and distributing ballots at public expense and to regulate voting at all general elections except municipal, town or school elections,"

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 105 was referred to Committee on Engrossment.

#### MOTIONS AND RESOLUTIONS.

Mr. Edwards moved

That House Bill No. 67 be recalled from the Committee on Appropriations and placed upon its third reading and final passage.

Which motion prevailed, and  
House Bill No. 67 was so recalled.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
February 5, 1895. )

**MR. SPEAKER:**

I have the honor to transmit herewith  
House Bill No. 77,

A Bill for an act to appropriate money to pay postage of Revision Commission,

Which the Senate has passed.

FRED FALLEY,  
Secretary.

The Speaker announced that he was about the sign  
Senate Bill No. 23,

A Bill for an act to prohibit managers, officers and employes of State institutions from being interested in contracts, purchases or sales for or on account of said institutions,

## INTRODUCTION OF BILLS AND MEMORIALS.

The Joint Committee to consider the report of the Revision Commission made the following report:

MR. SPEAKER:

Your Joint Committee to consider the report of the Revision Commission have carefully examined the provisions of the Probate Code as submitted by the Commission, have amended the same and respectfully report:

A Bill for an act to establish a Probate Code for the State of North Dakota.

The favorable consideration of the House is requested.

Respectfully,

C. E. GREGORY,  
Chairman.

Mr. Ray arose to a question of privilege and replied to the statement of Mr. Wineman, made Feb. 4, in regard to the amount of donations made by Grand Forks county for the benefit of Nelson county.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Murphy introduced

House Bill No. 114,

A Bill for an act to provide for the taxation of property situated in the unorganized counties of the State,

Which was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

## SPECIAL ORDERS.

The hour having arrived for the consideration of House Bill No. 12, it having been made a special order for this day at 2:30 p. m.

Mr. Twichell moved

That further consideration of House Bill No. 12 be postponed until tomorrow and that it be made a special order for Wednesday, Feb. 6, at 2:30 p. m.,

Which motion prevailed, and

Further consideration of House Bill No. 12 was so deferred, and

House Bill No. 12 was made a special order for Wednesday, Feb. 6 at 2:30 p. m.

Mr. Kellogg introduced

House Bill No. 115,

A Bill for an act to provide for the treatment and care of inebriates and persons addicted to the excessive use of drugs and other narcotics,

Was read the first and second times, and  
Referred to the Committee on Temperance.

Mr. Edwards introduced  
House Bill No. 116,

A Bill for an act to amend Section 2, Article 13 of Chapter 73, Laws of 1887, being Section 945, Compiled Laws of 1887; and Section 3, Article 13 of Chapter 73, Laws of 1887, being Section 946, Compiled Laws of 1887.

Which was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

Mr. Logan introduced  
House Bill No. 117,

A Bill for an act to amend Section 51 of Chapter 118 of the Laws of 1893, in relation to the appraisal for lease of school and public lands.

Which was read the first and second times, and  
Referred to the Committee on School and Public Lands.

Mr. Wallen introduced  
House Bill No. 118,

A Bill for an act fixing the period of residence of pupils within the school districts of this State to acquire school privileges and regulating their admission to the schools thereof,

Which was read the first and second times, and  
Referred to the Committee on Education.

The Joint Committee to consider the report of the Revision Commission introduced

House Bill No. 119,

A Bill for an act to establish a Probate Code for the State of North Dakota,

Which was read the first and second times, and  
Referred to its third reading.

Mr. Nierling requested that the courtesies of the floor be extended to Mr. B. S. Russell, of Jamestown.

Mr. Flack requested that the courtesies of the floor be extended to Mr. D. H. McMillan, of Langdon, Cavalier county.

There being no objection the courtesies of the floor were extended to Messrs. Russell and McMillan.

The Speaker called Mr. Rinde to the Chair.

The Speaker announced that he was about to sign  
House Bill No. 77,

A Bill for an act to appropriate money to pay postage,

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 5, 1895. }

MR. SPEAKER:

I transmit herewith a Concurrent Resolution approving a resolution of the Legislative Assembly of the State of North Dakota relative to Russian cactus, which the Senate has adopted, and your adoption of the same is respectfully requested.

FRED FALLEY,  
Secretary.

CONCURRENT RESOLUTION.

*Be it Resolved by the Senate, the House Concurring:*

That we concur in and approve of the resolution passed by the Legislative Assembly of the State of Minnesota for the appointment of Commissioners from the States of Minnesota, Wisconsin, Iowa, Nebraska, and North and South Dakota, to devise means for concerted action for the extermination of the Russian thistle, and the Governor of the State of North Dakota is hereby requested to appoint three persons to act as such commissioners, one of which shall be a member of the Senate and one of the House.

Mr. Gill moved

That the House concur in the Concurrent Resolution received from the Senate in relation to the extermination of Russian cactus,

Which motion prevailed, and

The Concurrent Resolution was concurred in.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 77,

A Bill for an act to appropriate money to pay postage required by the Joint Committee to consider the report of the Revision Commission,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 5, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 85,

A Bill for an act to establish a Civil Code for the State of North Dakota,

Which the Senate has passed and your favorable consideration of the same is respectfully requested.

FRED FALLEY,  
Secretary.

## COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., Feb. 5, 1895. }

*To the House of Representatives:*

GENTLEMEN:

I have the honor to inform you, that I have this day approved House Bill No. 77,

A Bill for an act entitled "an act to appropriate money to pay postage required by the Joint Committee to consider the report of the Revision Committee."

I have the honor to be

Yours respectfully,  
ROGER ALLIN,  
Governor.

## REVISION OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have examined the Journal of the twenty-eighth day and recommend that the same be approved.

JOHN LOGAN,  
Chairman *pro tem.*

Mr. Purdon moved

That the report of the Committee to revise and correct the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the twenty-eighth day was approved.

## THIRD READING OF HOUSE BILLS.

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 39, nays 7, not voting 16.

Those who voted in the affirmative were—

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Hanna,

Messrs—

Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
McLachlan,  
Myers,  
Purdon,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,

Messrs—

Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were—

Messrs—

Dwyer,  
Edwards,  
Herbrandson,

Messrs—

Lerom,  
McDonald,

Messrs—

Nelson,  
Nierling.

Absent and not voting—

Messrs—

Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hill,  
Hodgson,

Messrs—

Horgan,  
Jennings,  
Logan,  
Murphy,  
Porter,

Messrs—

Prosser,  
Rasmussen,  
Sargent,  
Sharpe,  
Twichell.

Messrs, Guinan, Hancock, Hill, Hodgson, Horgan, Jennings, Murphy, Prosser and Sharpe being excused.

So the bill passed and the title was agreed to.

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of veterinary science in the State of North Dakota,"

Was read the third time.

The question being upon the final passage of the bill.

The roll being called there were ayes 33, nays 11, not voting 18.

Those who voted in the affirmative were—

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Hanna,

Messrs—

Holritz,  
Kellogg,  
Korsmo,  
McLachlan,  
McDonald,  
Myers,  
Nierling,  
Purdon,  
Richards,  
Rinde,  
Roberts,

Messrs—

Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Swenson,  
Tofsrud,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those voting in the negative were—

Messrs—  
Colby,  
Cryan,  
Gilbertson,  
Herbrandson,

Messrs—  
Kroeger,  
Lindstrom,  
Nelson,  
Rasmussen,

Messrs—  
Stafne,  
Svensrud,  
Tyler.

Absent and not voting—

Messrs—  
Edwards,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hill,

Messrs—  
Hodgson,  
Horgan,  
Jennings,  
Lerom,  
Logan,  
Murphy,

Messrs—  
Porter,  
Prosser,  
Ray,  
Sharpe,  
Twichell,  
Wallen.

Messrs. Guinan, Hancock, Hill, Hodgson, Horgan, Jennings  
Murphy, Prosser and Sharpe being excused.

So the bill passed and the title was agreed to.

FIRST READING OF SENATE BILLS.

Senate Bill No. 85,

A Bill for an act to establish a Civil Code for the State of  
North Dakota,

Was read the first and second times, and  
Referred to its third reading.

Mr. Sargent moved

That when the House adjourn, it adjourn to meet at 10 o'clock  
a. m. tomorrow, for the purpose of reading the codes,

Which motion prevailed.

Mr. Svensrud moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

THIRTIETH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 6, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Walker moved

That the roll call be dispensed with,

Which motion prevailed.

THIRD READING OF HOUSE BILLS.

Senate Bill No. 85,

A Bill for an act to establish a Civil Code for the State of North Dakota,

Was placed upon its third reading.

The Speaker called Mr. Purdon to the Chair,

The reading of Senate Bill No. 85 being in progress.

Mr. Gill moved

That Senate Bill No. 61 and the substitute therefor submitted as a minority report by the Judiciary Committee, be recalled from General Orders, and be referred to the Judiciary Committee,

Which motion prevailed.

The House took an informal recess for ten minutes.  
 The House reassembled.  
 The third reading of Senate Bill No. 85 was continued.  
 The Speaker called Mr. Blacklock to the Chair.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
 February 6, 1895. }

Mr. SPEAKER:

I have the honor to transmit herewith a Concurrent Resolution and Memorial to Congress, relating to Russian cactus, which the Senate has passed, and the concurrence of the House is respectfully requested.

Respectfully,  
 FRED FALLEY,  
 Secretary.

## CONCURRENT RESOLUTION

Of the Legislative Assembly of the State of North Dakota to the Congress of the United States, memorializing Congress.

*To the Senate and House of Representatives in Congress Assembled:*

The Legislative Assembly of North Dakota most respectfully prays the National Congress to receive and consider the following facts and to grant the petitions presented in this memorial.

A certain kind of noxious weed, commonly known as *Russian Thistle*, now exists and for a short series of years has existed and flourished in certain localities in the United States.

Its pernicious character and unparalleled powers of dissemination have been ascertained and established beyond dispute by the experience of the multitude who have found it necessary to combat it, and confirmed by scientific investigation, by many botanical experts, made under National and State authority.

Although of recent introduction to this continent and starting at a single point, it is now found in at least five different States, in each of which it is recognized as an encroachment upon and a threat to the continued prosecution of agriculture.

In various localities, among them a certain part of North Dakota, this weed has taken possession of numerous farms, compelling their abandonment, to the ruin of homes, even to the extent of depopulation of neighborhoods. Its ravages have not only ruined many men financially, but have been extremely detrimental to the well-being of the commonwealth.

Moreover, such abandoned farms have been left as arsenals of destruction—hot beds for the propagation of the evil which has seized upon them. They distribute infection not only to adjoining and nearby farms, but, as if endowed with malicious intelligence, insidiously send out their seeds wherever from the infected localities traffic goes.

The emergency existing, it has become necessary that this Legislative Assembly adopt means and appropriate money for the systematic abatement of this evil.

But, at the outset we encounter great obstacles which the National Government should remove, existing as they do outside the jurisdiction of the State which your memorialists represent and solely within that of the United States.

We most earnestly ask the Honorable Congress not to ignore these obstacles.

Large bodies of public lands, the property of the United States (including certain untaxed homesteads) lie contiguous to and in the midst of the regions in North Dakota to which reference is had. Also some hundreds square miles of railroad sections for indemnity purposes, the title of which still rests in the United States. Also the Sisseton and Whapeton Indian reservation, the lands on which reservation have been allotted in severalty to the Indians whose farms have become greatly infested with said weed.

These public lands, homesteads not proved up, indemnity lands and said reservation are fruitful sources of propagation of said thistles, sufficient to render futile efforts to exterminate them.

Unless all such lands be included in the proposed systematic abatement of the evil, it will be impossible to arrest the contagion which from them will spread far and wide.

To include such public lands, homesteads, indemnity lands, and that part of said reservation which lies in North Dakota, in the destruction of the Russian Thistle, the State of North Dakota would incur a very large expense, while yet these public lands, homesteads, indemnity lands and the lands on said reservation are beyond the reach of taxation by the State.

Now, therefore, the Legislative Assembly of North Dakota, in the name of and for the aid and protection of the people whom it represents, by this memorial most respectfully, but with great earnestness, prays the National Congress to extend to the State of North Dakota all needed powers to enter upon said public and indemnity lands, and, so far as it lies within the limits of North Dakota, upon said Sisseton and Whapeton reservations, in order that it may destroy the Russian Thistle thereon; and to appropriate a sum not less than thirty thousand dollars to pay the expenses of such destruction, such sum to be appropriated to be expended under the direction and at the discretion of the Governor of the State of North Dakota.

*Be it Resolved by the Senate, the House of Representatives Concurring:*

That copies of the following memorial, signed by the President of the Senate and Speaker of the House of Representatives and attested by the Secretary of the Senate and Chief Clerk of the House of Representatives, be transmitted to the Senators and Representatives of the State of North Dakota in the Congress of the United States, and that they be requested to present such memorial in their respective Houses and to urge such legislation by Congress as by such memorial is prayed for.

Mr. Smith moved

That the House adopt the memorial,

Which motion prevailed, and

The memorial was adopted.

Mr. Edwards moved

That the reading of Senate Bill No. 85 be suspended and that the regular order of business be taken up,

Which motion prevailed.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal

have carefully examined the Journal of the twenty-ninth day, find it correct and recommend that it be approved.

GEORGE HILL,  
Chairman.

Mr. Svensrud moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted,

And the Journal of the twenty-ninth day was approved.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Gilbertson presented the following petitions by request:

*To the Honorable, the Legislative Assembly:*

We, the undersigned citizens and taxpayers of Cass county, having read House Bill No. 65, providing for the establishment of drains in this State, respectfully protest against the enactment of the same as a law. We object to the bill for the following reasons:

1. The enterprise is an experiment. It is impossible to say whether with our soil and the high winds that prevail the proposed drains will not fill up every year, so as to make an annual expense for their reopening almost equal to their construction. It is certain that the drains will fill with snow and ice during the winter, and with the very slight slope to valley lands, such drains will operate to retard the outflow of water rather than expedite it. But it is not necessary to rest this important matter on theory. The State of Minnesota, with the aid of the railroads, has just entered upon an extensive system of drainage for the Red River Valley. The system will soon be in operation and this State can then determine by the test of experience whether the plan is feasible and of sufficient advantage to justify the large expense which it will necessitate.

2. We are just starting as a new State and the necessary burdens of taxation are very heavy. We do not think that at the present time these burdens should be added to so enormously as they will be by the system of internal improvement contemplated by this bill. Other States have deferred such enterprise until later in their history. We refer to Michigan, Indiana, Wisconsin and our neighboring State of Minnesota, which is just now setting about the work.

3. We submit that in no case should a drain be constructed except upon the petition of a majority of the property owners to be charged with the expense thereof. They are much better judges of what they want than any drainage commission can be.

JOHN O. BYE,  
(And 54 others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Also,

CASS COUNTY, NORTH DAKOTA, February 2, 1895.

*To the Honorable Members of the House of Representatives of the State of North Dakota:*

We, the undersigned legal voters and residents and taxpayers of the State of North Dakota, do hereby petition your honorable body against the enactment of House Bill No. 65, being a bill for an act to provide for the establishment, construction and maintenance of drains in this State.

A. M. PETERSON,  
(And 27 others)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Colby presented the following petition by request:

*To the Honorable, the Legislative Assembly:*

We, the undersigned, citizens and taxpayers of Cass county, having read House Bill No. 65, providing for the establishment of drains in this State, respectfully protest against the enactment of the same as a law. We object to the bill for the following reasons:

1. The enterprise is an experiment. It is impossible to say whether with our soil and the high winds that prevail the proposed drains will not fill up every year, so as to make annual expense for their re-opening almost equal to their construction. It is certain that the drains will fill with snow and ice during the winter, and with the very slight slope to valley lands such drains will operate to retard the outflow of water rather than expedite it. But it is not necessary to rest this important matter on theory. The State of Minnesota, with the aid of the railroads, has just entered upon an extensive system of drainage for the Red River Valley. The system will soon be in operation, and this State can then determine by the test of experience whether the plan is feasible, and of sufficient advantage to justify the large expense which it will necessitate.

2. We are just starting as a new State, and the necessary burdens of taxation are very heavy. We do not think that at the present time these burdens should be added to so enormously as they will be by the system of internal improvement contemplated by this bill.

Other States have deferred such enterprises until later in their history. We refer to Michigan, Indiana, Wisconsin and our neighboring State of Minnesota, which is just now settling about the work.

3. We submit that in no case should a drain be constructed except upon the petition of a majority of the property owners to be charged with the expense thereof. They are much better judges of what they want than any drainage commission can be.

ANDERS OLERN, D.,  
(And 80 others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Myers presented the following petition:

GILBY, N. D., Jan. 29, 1895.

*Mr. Jos. Myers, Representative of the Fifth District:*

We, the undersigned members of Gilby Lodge No. 31, I. O. G. T., here petition you to vote against and use your influence against resubmission.

MARY M. FINLAYSON,  
(And 25 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Speaker presented the following petition:

FARGO, N. D., February 2, 1895.

*Hon. J. C. Gill, Speaker:*

DEAR SIR—As a voter and a taxpayer, a farmer who has a large road tax, I wish to protest against the passage of House Bill No. 9.

This law is not adapted to the existing conditions of our new State. Taxes, consequent upon the development of a new country, are necessarily high. The developers of this State are poor and heavy borrowers. The road work is done by machinery, in many cases owned by the townships. The farmers are enabled to work out their taxes at that season of the year when

there is little or no work to be done on the farms, and consequently the burden is light.

In the east, where taxes are less, where labor is cheaper, where the work is done mostly by hand, where farmers own but few teams, and employ but a small number of men, where the majority of the farmers are money lenders instead of borrowers, the law under House Bill No. 9 may work satisfactorily, but we are not yet ready for it. With us individual necessity for having good roads, often as it has done in my case, induces the farmers to work out two or three times the amount of their road tax each year, and to work it where it is most needed.

The township system makes an avenue for localizing the work in places commensurate with political influence.

I tried for two years to get the town board to apply road tax on an important highway leading into Fargo, and should be waiting for it now under the plan of House Bill No. 9; whereas, under the present system, by working out my own tax I have constructed a fairly good road at practically little or no extra expense.

The passage of House Bill No. 9 will work great hardship to farmers, and I trust, upon due consideration of the subject, you will use your utmost influence to defeat its passage. Very truly,

EMERSON H. SMITH.

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Engrossed Bills made the following report:  
MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 29,

A Bill for an act to provide free and uniform school text books throughout the several counties of the State.

Also,

House Bill No. 67,

A Bill for an act providing for the appointment of the Governor as superintendent of census and to carry out the Constitutional provision regarding the taking of a State census in 1895 and an appropriation therefor.

Also,

House Bill No. 105,

A Bill for an act to amend Section 18 of Chapter 60 of the Laws of 1893, entitled "an act to amend Sections 1, 2, 4, 5, 16, 17, 18 and 24 of Chapter 66 of the Laws of 1891, known as the Australian Ballot Law, and to amend Section 20 of Chapter 66 of the Laws of 1891, providing for printing and distributing ballots at public expense and to regulate voting at all general elections except municipal, town or school elections."

Also,

House Bill No. 59,

A Bill for an act entitling and authorizing the counties in the State of North Dakota to raise and expend a fund for the destruction of gophers.

Also,

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries.

Also,

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of veterinary science in the State of North Dakota."

Also,

House Bill No. 108,

A Bill for an act requiring county treasurers to report to town clerks amounts of township funds on hand and amounts drawn by town treasurers and requiring town clerks to keep accounts of township funds.

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### MOTIONS AND RESOLUTIONS.

Mr. Nierling offered the following resolution, and moved its adoption,

Which motion was lost.

*Resolved*, That House Bills Nos. 48 and 111, relating to game, be recalled from the Committee on State Affairs and be referred to the Joint Committee to consider the report of the Revision Commission,

Mr. Edwards offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

*Resolved*, That Senate Bill No. 79, defining practice in county courts having increased jurisdiction, be recalled from the Judiciary Committee and referred to the Joint Committee to consider the report of the Compilation Commission.

Mr. Cooper requested that the courtesies of the floor be extended to Mr. Jackson, of Cooperstown.

Mr. Kellogg requested that the courtesies of the floor be extended to E. Smith Peterson, of Park River.

There being no objection, the courtesies of the floor were so extended.

#### UNFINISHED BUSINESS.

House Bill No. 4,

A Bill for an act to amend Subdivision 11 of Section 1, Chapter 100, Laws of 1891.

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 31. nays 22, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Gilbertson,  
Gleason,  
Gunderson,  
Hanna,  
Holritz,

Messrs—

Kroeger,  
Lindstrom,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Ray,  
Richards,  
Rinde,  
Roberts,

Messrs—

Sargent,  
Simpson,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Dwyer,  
Edwards,  
Eyolfson,  
Fleming,  
Guinan,  
Herbrandson,  
Hill,

Messrs—

Kellogg,  
Korsmo,  
Lerom,  
Logan,  
McDonald,  
Myers,  
Prosser,

Messrs—

Rasmussen,  
Rod,  
Smith,  
Twichell,  
Walker,  
Wineman,  
Wood.

Absent and not voting:

Messrs—

Brown,  
Flack,  
Hancock,

Messrs—

Hodgson,  
Horgan,  
Jennings,

Messrs—

McLachlan,  
Murphy,  
Sharpe.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill was lost, a majority-elect not voting in the affirmative.

Mr. Simpson gave notice that he would move to reconsider the vote by which House Bill No. 4 was lost.

Mr. Wineman rose to a point of order in that the motion proposed by Mr. Simpson would be out of order.

Mr. Speaker declared that the point of order was well taken.

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 47, nays 6, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,

Messrs—

Hill,  
Holritz,  
Kellogg,

Messrs—

Roberts,  
Rod,  
Simpson,

Messrs—	Messrs—	Messrs—
Colby,	Kroeger,	Smith,
Colosky,	Korsmo,	Stafne,
Cooper,	Lerom,	Svensrud,
Cryan,	Lindstrom,	Swenson,
Dwyer,	Logan,	Tofsrud,
Edwards,	McDonald,	Twichell,
Eyolfson,	Myers,	Tyler,
Flack,	Nelson,	Walker,
Fleming,	Porter,	Wallen,
Gilbertson,	Prosser,	Wineman,
Gleason,	Purdon,	Wood,
Guinan,	Ray,	Mr. Speaker.
Gunderson,	Rinde,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Hanna,	Rasmussen,	Sargent,
Nierling,	Richards,	Spangberg

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Hodgson,	McLachlan,
Hancock,	Horgan,	Murphy,
Herbrandson,	Jennings,	Sharpe.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill passed and the title was agreed to.

The Joint Committee to consider the report of the Revision Commission made the following report:

**MR. SPEAKER:**

The Joint Committee to consider the report of the Revision Commission have now under consideration that portion of the Penal Code relating to the protection of game, and desire to incorporate into the Penal Code such changes as are desired by the members of the House, and to that end invite members interested in the game law to present their views at a meeting of this Committee to be held at 7:30 tonight at the United States Court rooms.

C. E. GREGORY,  
Chairman.

House Bill No. 28,

A Bill for an act entitled "an act making Labor Day a legal holiday,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 20, nays 33, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hill,	Rinde,
Brainard,	Lindstrom,	Rod,
Dwyer,	McDonald,	Simpson,

Messrs—  
Edwards,  
Fleming,  
Gilbertson,  
Guinan,

Messrs—  
Myers,  
Nierling,  
Prosser,  
Purdon,

Messrs—  
Smith,  
Tofsrud,  
Wineman.

Those who voted in the negative were:

Messrs—  
Armstrong,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Eyolfson,  
Flack,  
Gleason,  
Gunderson,  
Hanna,  
Herbrandson,

Messrs—  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
Nelson,  
Rasmussen,  
Ray,  
Richards,  
Roberts,

Messrs—  
Sargent,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—  
Brown,  
Hancock,  
Hodgson,

Messrs—  
Horgan,  
Jennings,  
McLachlan,

Messrs—  
Murphy,  
Porter,  
Sharpe.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill was lost.

#### SPECIAL ORDERS.

The hour having arrived for the consideration of House Bill No. 12, which was made a special order for 2:30 o'clock p. m., February 6,

House Bill No. 12,

A Bill for an act "entitled an act to provide for the uniform policy of fire insurance to be made and issued in this State by all insurance companies taking risks on property within this State,"

Was read the third time.

The Speaker announced that House Bill No. 12 had not been properly engrossed.

Mr. Twichell moved

That the rules be suspended and that House Bill No. 12 be placed upon its final passage without engrossment,

Which motion prevailed.

The question being upon the final passage of the bill,

The roll being called, there were ayes 24, nays 29, not voting 9.

Those who voted in the affirmative were:

Messrs—  
Armstrong,  
Blacklock,  
Brainard,  
Cryan,

Messrs—  
Lerom,  
Logan,  
McDonald,  
Prosser,

Messrs—  
Simpson,  
Smith,  
Spangberg,  
Stafne,

Messrs—  
Dwyer,  
Edwards,  
Herbrandson,  
Holritz,

Messrs—  
Purdon,  
Rasmussen,  
Rinde,  
Rod,

Messrs—  
Tofsrud,  
Twichell,  
Walker,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—  
Colby,  
Colosky,  
Cooper,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs—  
Hill,  
Hanna,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Myers,  
Nelson,  
Nierling,  
Ray,

Messrs—  
Richards,  
Roberts,  
Sargent,  
Svensrud,  
Swenson,  
Tyler,  
Wallen,  
Wineman,  
Wood.

Absent and not voting:

Messrs—  
Brown,  
Hancock,  
Hodgson,

Messrs—  
Horgan,  
Jennings,  
McLachlan,

Messrs—  
Murphy,  
Porter,  
Sharpe

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill was lost, a majority of the members-elect not voting in the affirmative.

Mr. Nierling moved

That the vote by which House Bill No. 12 was lost be reconsidered, and that the motion to reconsider be laid upon the table, Which motion was lost.

House Bill No. 64,

A Bill for an act compelling railroad companies to provide a certain number of men to man trains, and prescribing penalties for neglect thereof,

Which was made a special order for 3 p. m., February 6,  
Was read the third time.

The question being upon the final passage of the bill,  
The roll being called, there were ayes 44, nays 7, not voting 11.

Those who voted in the affirmative were:

Messrs—  
Armstrong,  
Blacklock,  
Brainard,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,

Messrs—  
Hill,  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
Myers,  
Nelson,  
Nierling,

Messrs—  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,

Guinan,  
Gunderson,  
Hanna,  
Herbrandson,

Prosser,  
Rasmussen,  
Ray,  
Richards,

Walker,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—  
Colby,  
Edwards,  
Gilbertson,

Messrs—  
McDonald,  
Purdon,

Messrs—  
Tyler,  
Wallen.

Absent and not voting:

Messrs—  
Brown,  
Hancock,  
Hodgson,  
Horgan,

Messrs—  
Jennings,  
McLachlan,  
Murphy,  
Porter,

Messrs—  
Sharpe,  
Svensrud,  
Wineman.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill passed and the title was agreed to.

The Speaker called Mr. Wineman to the Chair.

Mr. Edwards requested unanimous consent for House Bill No. 67 being placed upon its third reading and final passage.

There being no objection,  
House Bill No. 67,

A Bill for an act entitled "an act providing for the appointment of the Governor as superintendent of census and to carry out the Constitutional provisions regarding the taking of a State census in 1895 and an appropriation therefor,

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 45, nays 7, not voting 10.

Those who voted in the affirmative were:

Messrs.  
Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs.  
Hanna,  
Herbrandson,  
Hill,  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
McDonald,  
Myers,  
Nelson,  
Porter,  
Prosser,  
Purdon,

Messrs—  
Rasmussen,  
Richards,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—  
Logan,  
Ray,  
Rinde,

Messrs—  
Twichell,  
Tyler,

Messrs—  
Walker,  
Wallen.

Absent and not voting:

Messrs—

Brainard,  
Browu,  
Hancock,  
Hodgson,

Messrs—

Horgan,  
Jennings,  
McLachlan,

Messrs—

Murphy,  
Nierling,  
Sharpe.

Messrs. Hancock, Hodgson, Murphy, and Sharpe being excused.

So the bill passed and the title was agreed to.

Mr. Twichell by unanimous consent offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

WHEREAS, Section 176 of the Constitution provides that "the Legislative Assembly may by law provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all State, county, township and school taxes," under which provision the Legislative Assembly of 1890 passed the act known as the Gross Earnings Law, and

WHEREAS, Section 179 of the Constitution provides that "the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in the State shall be assessed by the State Board of Equalization at their actual value," under which the Legislative Assembly passed laws in 1890, providing for the assessment of railroads, and

WHEREAS, Section 176 of the Constitution provides that "whenever and so long as such law providing for the payment of a per centum on earnings that shall be in force, that part of Section 179 of this article (meaning Section 179 of the Constitution) relating to assessment of railroad property, shall cease to be in force," and

WHEREAS, The question has been raised as to the power of the Legislative Assembly to enact a law for the assessment of railroads under a gross earnings system, and also a law assessing railroads under Section 179 of the Constitution at the same time; therefore

*Resolved*, That the opinion of the Attorney General be and it is hereby asked as to the Constitutional right of this Legislative Assembly to tax railroads under two different systems and whether or not this Legislative Assembly has a Constitutional right to provide by law for the assessment of railroads under Section 179 of the Constitution, while a law exists taxing railroads on gross earnings under Section 176 of the Constitution, and what effect the words "so long as such law providing for the payment of a per centum on gross earnings shall be in force, that part of Section 179 of this article relating to the assessment of railroard property shall cease to be in force" has on Section 179, while a law is in force under 176 of the Constitution.

*Resolved*, That the Attorney General be requested to furnish such opinion at his earliest convenience.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., Feb. 6, 1895. }

*To the House of Representatives:*

GENTLEMEN: I have the honor to inform you that I have appointed the following named persons to constitute a Commission

to confer with a like Commission, appointed at the request of His Excellency, D. M. Clough, Governor of Minnesota, on "extermination of the Russian cactus," the same having been approved by both Houses:

From the Senate, Charles M. Valentine.

From the House, Frank W. Brainard.

And A. H. Laughlin, Commissioner of Agriculture and Labor.  
I have the honor to remain,

Yours respectfully,

ROGER ALLIN,  
Governor.

Mr. Gill moved

That the House approve of the appointments made by the Governor,

Which motion prevailed.

Mr. Gill moved

That the consideration of unfinished business be suspended, and that the House return to the regular order of business,

Which motion prevailed.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Richards introduced

House Bill No. 120,

A Bill for an act to authorize and regulate within this State the business of commercial agencies, credit companies and guarantee associations,

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 105.

A Bill for an act entitled "an act to amend Section 18 of Chapter 60 of the Laws of 1893, entitled 'an act to amend Sections 1, 2, 4, 5, 16, 17, 18 and 24, of Chapter 66, of the Laws of 1891, known as the Australian Ballot Law,' and to amend Section 20, of Chapter 66, of the Laws of 1891, providing for printing and distributing ballots at public expense and to regulate voting at all general elections except municipal, town or school elections,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,

Messrs.

Holritz,  
Kellogg,

Messrs—

Rinde,  
Roberts,

Messrs—

Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Brainard,  
Brown,  
Hancock,  
Hodgson,

Horgan,  
Jennings,  
McLachlan,

Murphy,  
Sharpe,  
Twichell.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill passed and the title was agreed to.

House Bill No. 108,

A Bill for an act entitled "an act requiring county treasurers to report to town clerks amounts of township funds on hand and amounts drawn by town treasurers and requiring town clerks to keep accounts of township funds,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 52, nays none, not voting 10

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brainard,  
Brown,  
Hancock,  
Hodgson,

Messrs—

Horgan,  
Jennings,  
McLachlan,

Messrs—

Murphy,  
Sharpe,  
Twichell.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill passed and the title was agreed to.

House Bill No. 59,

A Bill for an act entitled "an act entitling and authorizing the counties in the State of North Dakota to raise and expend a fund for the destruction of gophers,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 30, nays 22, not voting 10.

Those who voted in the affirmative were:

Messrs—

Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Gilbertson,  
Gleason,  
Gunderson,  
Hanna,  
Kellogg,

Messrs—

Korsmo,  
Lerom,  
Logan,  
Myers,  
Nierling,  
Porter,  
Prosser,  
Rasmussen,  
Ray,  
Rinde,

Messrs—

Sargent,  
Smith,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Armstrong,  
Blacklock,  
Cryan,  
Eyolfson,  
Flack,  
Fleming,  
Guinan,  
Herbrandson,

Messrs—

Hill,  
Holritz,  
Kroeger,  
Lindstrom,  
McDonald,  
Nelson,  
Purdon,

Messrs—

Richards,  
Roberts,  
Rod,  
Simpson,  
Spangberg,  
Stafne,  
Wallen.

Absent and not voting:

Messrs—

Brainard,  
Brown,  
Hancock,  
Hodgson,

Messrs—

Horgan,  
Jennings,  
McLachlan,

Messrs—

Murphy,  
Sharpe,  
Twichell.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill was lost.

Mr. Gill moved

That the House return to the order of unfinished business,

Which motion prevailed.

Mr. Svensrud requested unanimous consent for the House to return to the seventh order of business,

Which motion prevailed, and

The House returned to the seventh order of business.

MOTIONS AND RESOLUTIONS.

Mr. Herbrandson moved

That the vote by which House Bill No. 4 was lost be reconsidered,

Which motion prevailed.

Mr. Svensrud moved

That further consideration of House Bill No. 4 be deferred until February 7,

Which motion prevailed.

The third reading of Senate Bill No. 85 was continued.

Mr. Wineman moved

That the further reading of Senate Bill No. 85 be made a special order for tomorrow morning at 10 o'clock,

Which motion prevailed.

Mr. Hanna moved

That the House do now adjourn,

To meet tomorrow morning at 10 o'clock,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## THIRTY-FIRST DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 7, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Wallen moved

That the calling of the roll be dispensed with,  
Which motion prevailed.

## SPECIAL ORDERS.

The reading of Senate Bill No. 85 having been made a special order for 10 o'clock a. m. of this day,

The third reading of Senate Bill No. 85 was continued.

The Speaker called Mr. Kellogg to the Chair.

The third reading of Senate Bill No. 85 being in progress.

The Speaker called Mr. Gilbertson to the Chair.

Mr. Gilbertson called Mr. Lindstrom to the Chair.

Upon the request of Mr. Tyler, the House granted the courtesies of the floor to Col. J. B. Power, L. B. Pritchard, A. E. Jones and Geo. F. Fuller, of Fargo.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
February 7, 1895. (

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota,

Which the Senate has amended as follows by adding to Section 57:

*Provided*, That six months after the taking effect of this act shall be allowed in which to commence an action upon any instrument affected thereby.

Respectfully,  
FRED FALLEY,  
Secretary.

The Speaker announced that he was about to sign  
Senate Bill No. 13,

A Bill for an act providing for and regulating the redistricting of counties into commissioner districts.

Also,

A Concurrent Resolution approving resolution of the Legislative Assembly of the State of Minnesota.

The reading of Senate Bill No. 85 being in progress,

Mr. Smith by unanimous consent offered the following amendment:

Amend Section 5, Chapter 104 of the Laws of 1893 by striking out the following words: "And the sale by any person of such ticket or the unused portion of any such ticket or coupon or coupons, otherwise than by the presentation of the same for redemption as hereinbefore provided, shall be deemed to be a violation of the provisions of this act, and any person guilty of such violation shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500), or by imprisonment not exceeding one year, or either, or both, in the discretion of the court in which such offender may be convicted."

## SENATE AMENDMENTS ACCOMPANYING SENATE BILL NO. 85.

Amend Section 2068, (page 65, appendix of 22d day) by striking out proviso at end of section.

Amend Section 2014 by striking out in the fifth line the word "thirty" and inserting the word "ninety."

Amend Section 573, line 5, by inserting between the words "station and without" the words "or siding."

Amend Section 578 by inserting in line 5, between the words "station" and "designated," the words "or siding."

In Section 536, line 19, by striking out the word "fifteen" and inserting the word "twelve."

Mr. Prosser moved

That further consideration of  
Senate Bill No. 85,

A Bill for an act to establish a Civil Code for the State of  
North Dakota,

Be deferred until tomorrow,

Which motion prevailed, and

Further consideration of Senate Bill No. 85 was so deferred.

Mr. Simpson moved

That the House ask an opinion of the Attorney General as to whether it is necessary to enroll the different bills as presented by the Compilation Committee, or whether they can use the type-written bills as presented by the Committee and declare them enrolled.

Which motion prevailed,

Mr. Myers moved

That the vote by which House Bill No. 12 was lost be reconsidered,

Which motion prevailed.

The question being upon the final passage of  
House Bill No. 12,

A Bill for an act to amend an act entitled "an act to provide for the uniform policy of fire insurance companies to be made and issued in this State by all insurance companies taking risks on property within this State."

The roll being called there were ayes 31, nays 26, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Rinde,
Blacklock,	Kellogg,	Roberts,
Brainard,	Kroeger,	Rod,
Cryan,	Lindstrom,	Simpson,
Dwyer,	Logan,	Smith,
Edwards,	McDonald,	Stafne,
Fleming,	Myers,	Tofsrud,
Gilbertson,	Prosser,	Twichell,
Gunderson,	Purdon,	Walker,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hill,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brown,	Horgan,	Sargent,
Colby,	Korsmo,	Spangberg,
Colosky,	Lerom,	Swensrud,
Cooper,	McLachlan,	Swenson,

Messrs—  
Eyolfson,  
Flack,  
Gleason,  
Guinan,  
Hanna,

Messrs—  
Nelson,  
Nierling,  
Porter,  
Ray,  
Richards,

Messrs—  
Tyler,  
Wallen,  
Wineman,  
Wood.

Absent and not voting:

Messrs—  
Hancock,  
Hodgson,

Messrs—  
Jennings,  
Murphy,

Messrs—  
Sharpe.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill was lost.

Mr. Edwards moved

That the House do now take up the regular order of business,  
Which motion prevailed.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the thirtieth day, and recommend that it be amended as follows:

Page 1, line 1, "The House assembled at 2 o'clock p. m.," be amended to read "The House assembled at 10 o'clock a. m."

Also,

In line 15, page 7, before the words "O. S. Wallen, Chairman," insert the words "and find the same correctly engrossed,"

And when so amended that the Journal be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Cooper presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Sixteenth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your ehsent session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

LORING WHITE,  
(And 65 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Tyler presented the following communication:

MR. SPEAKER:—On behalf of the Literary Tea Cup of Fargo, I am authorized to extend an invitation to the State officials, the members of the House and Senate and attaches thereof, to be the guests of the Club on Thursday evening, Feb. 14, at a fancy dress ball at A. O. U. W. Hall, Fargo.

Respectfully,  
EVAN S. TYLER.

Mr. Tyler moved

That the House accept the invitation of the Literary Tea Cup society,

Which motion prevailed.

Mr. Smith presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-fifth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

B. W. TIBBETS,  
(And 38 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Nelson presented the following petition:

*To the Honorable Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of St. John's Evangelical Lutheran church of Hatton, North Dakota, held at Hatton, North Dakota, on the 3d day of February, A. D. 1895, the following resolution was unanimously adopted:

*Resolved*, That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota, now in session, be requested by this meeting not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article 20 of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors;

*Resolved, further*, That the Legislative Assembly of this State, now in session, be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of intoxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

T. E. TUFTE, Secretary.

C. J. M. GRONLID,  
Chairman.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Tofsrud presented the following petition:

BARTON, Feb. 4, 1895.

*Joint Committee on Russian Cactus:*

DEAR SIRS: I think the State should make an appropriation to help our

new counties exterminate the Russian cactus as so much of the land is Government land yet, and a good many will leave it rather than pay the whole cost. Owing to poor crops they are very hard up. These stock counties should be made to do their part. They are in favor of letting it spread and drive the grain raisers out. McHenry county done nothing last season, and they join us on the west. Their cactus is blowing over us in every direction this winter. Hoping you will help us out, I remain

Respectfully yours,

ARTHUR MOFFET,  
County Commissioner, Pierce County.

There being no objection the petition was referred to the Special Joint Committee on Cactus.

Mr. Edwards presented the following petition:

TRADES, LABOR AND PROTECTIVE UNION No 1. }  
FARGO, N. D., February 5, 1895. }

*Hon. A. W. Edwards, Bismarck, N. D.:*

DEAR SIR:—The Trades, Labor and Protective Union No. 1, of Fargo, at a meeting held January 31, decided to respectfully request your honor to submit to the House the following as our objections to your House Bill No. 66:

1. We think the bill too loosely drawn. Under its provisions the board of trustees can reject a never so advantageous offer near home and accept a disadvantageous offer from some remote corner of the State, providing they can influence the Governor, by misrepresentation or otherwise, to approve of their action, while the bill provides no redress for the people.

2. There is no provision for limiting the amount of coal that may be mined, no matter whether there is any demand for it or not. The board of trustees can keep right on mining and the mine owner can keep right on drawing his royalty and the people must bear it with such patience as they have.

3. Arrangements for the safe keeping and protection of convicts while being transported to and from the mine, as well as their protection and accommodation while at such mine, as provided by the bill, opens wide the door for corruption and extravagance. The board of trustees can make just as lavish preparations as they may choose; hire as many assistants as they choose, and use just as much money as they choose, and a long suffering people have absolutely no redress.

4. In computing the cost of mining the coal, they may compute convicts' wages as low as 50 cents per day in selling to me and in selling to another they can compute the same at \$5 per day, if they so elect and thus deprive them of the benefits of the bill.

5. We do not believe it would lessen the price of coal to the people, but instead, we believe it would increase the expense of maintaining the penitentiary.

6. We object to the bill upon the principle that "all men are created free and equal," and each and every citizen should be willing to voluntarily bear his just proportion of the burdens of maintaining the welfare of the State.

The penitentiary is intended as a place where those viciously inclined can be restrained from preying upon society, the necessary expense of which is supposed to be provided for by a tax levied equally upon the wealth of the State—the justice of which is beyond dispute. Now, every time a convict earns a dollar for the State in any industry where free labor is employed it is just one dollar less to be collected from wealth of the State and proportions ally that much less to be paid by those who do not labor, while at the same time it is one dollar more that labor is deprived of the privilege of earning.

Therefore we consider the bringing of convict labor in any way in compe-

tion with free labor as unjust discriminating and a direct attempt of capital to shift the burdens of taxation from themselves to the laboring, wealth producing classes.

J. C. PINNEY,  
W. W. HARVEY,  
WM. B. MORGAN,  
Committee.

There being no objection, the petition was referred to General Orders.

REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 65,

A Bill for an act to provide for the establishment, construction and maintenance of drains in this State,

Have had the same under consideration and recommend that the same be reported back to the House with the recommendation that it be referred back to the Revision Committee to pass upon its constitutionality.

L. A. SIMPSON,  
Chairman.

Mr. Tyler moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 40,

A Bill for an act to provide for the licensing and registration of attorneys at law, and fixing penalties for the violation thereof,

Have had the same under consideration and recommend that the same be reported back to the House with the recommendation that it be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

Mr. Gunderson moved

That House Bill No. 40 be referred to the Committee on State Affairs,

Which motion was lost.

Mr. Simpson moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 44,

A Bill for an act to provide for the licensing and registration of physicians, surgeons and dentists, and fixing penalties for the violation thereof,

Have had the same under consideration and recommend that the same be reported back to the House with the recommendation that it be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

Mr. Purdon moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
House Bill No. 44 was indefinitely postponed.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 70,

A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers,

Have had the same under consideration and recommend that the word "suspiciously" in line 6 of Section 1 be stricken out and the word "surrepticiously" inserted in its stead,

And when so corrected be reported back to the House with the recommendation that the same do pass when so amended.

L. A. SIMPSON,  
Chairman.

There being no objection House Bill No. 70 was referred to General Orders.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 78,

A Bill for an act to amend Section 448, Article 5, Chapter 8, of the Compiled Laws of the State of North Dakota,

Have had the same under consideration and recommend that the same be reported back to the House with the recommendation that it be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

There being no objection House Bill No. 78 was referred to General Orders.

Mr. Gleason moved

That House Bill No. 78 be referred to General Orders,  
Which motion prevailed, and  
House Bill No. 78 was so referred.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction, fixing the terms of court, compensation of judges and clerks and their duties.

Have had the same under consideration and recommend that the same be reported back to the Revision Committee for necessary changes.

L. A. SIMPSON,  
Chairman.

Mr. Hanna moved

That the report of the Committee be adopted,  
Which motion prevailed, and

The report of the Committee on Judiciary was adopted.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivisions 4 and 5 of Section 2144 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor,"

Have had the same under consideration and recommend that the same be amended as follows:

By striking out on page 1, line 6, of the printed bill the word "three" and inserting in lieu thereof the word "one," and on page 2, line 6 of the printed bill, by striking out the word "three" and inserting in lieu thereof the word "one."

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 82 was referred to General Orders.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary, to whom was referred  
House Bill No. 99,

A Bill for an act to promote speedy justice, and a prompt hearing of cases appealed to the Supreme Court,

Have had the same under consideration and recommend that

the same be reported back to the House with the recommendation that it do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 99 was referred to the Committee on Engrossment.

The Committee on Banking made the following report:

MR. SPEAKER:

Your Committee on Banking, to whom was referred House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks,"

Have had the same under consideration and recommend that the same be amended as follows:

In line 20 of Section 6, strike out the word "five" and insert in lieu thereof the word "four,"

And when so amended recommend that the same do pass.

EVAN S. TYLER,  
Acting Chairman.

Mr. Tyler moved

That the report of the Committee on Banking be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted.

The Committee on Supplies and Expenditures made the following report:

MR. SPEAKER:

Your Committee on Supplies and Expenditures, now engaged in checking the public printing vouchers in the State Auditor's office, find that it is absolutely necessary to have the services of a special clerk for a period of four or five days, who is familiar with printing contracts, and respectfully request that such a one be assigned them at once.

E. F. PORTER,  
Chairman.

Mr. Rod moved

That the report of the Committee on Supplies and Expenditures be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted.

#### MOTIONS AND RESOLUTIONS.

Mr. Gunderson moved

That House Bill No. 92 be recalled from General Orders and placed upon its final passage.

Which motion prevailed.

Mr. Purdon moved  
That further consideration of House Bill No. 92 be postponed until engrossed,

Which motion prevailed,  
And the bill was referred to the Committee on Engrossment.

The Speaker called Mr. Svensrud to the Chair.

Mr. Gill moved  
That the vote by which House Bill No. 28 was lost be reconsidered,

Which motion prevailed.

The question being on the final passage of  
House Bill No. 28,

A Bill for an act entitled "an act making Labor Day a legal holiday."

The roll being called there were ayes 48, nays 9, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Richards,
Blacklock,	Holritz,	Rinde,
Brainard,	Horgan,	Roberts,
Brown,	Kellogg,	Rod,
Colosky,	Korsmo,	Sargent,
Cooper,	Lerom,	Simpson,
Cryan,	Lindstrom,	Smith,
Dwyer,	McLachlan,	Svensrud,
Edwards,	McDonald,	Swenson,
Flack,	Myers,	Tofsrud,
Fleming,	Nelson,	Twichell,
Gilbertson,	Nierling,	Tyler,
Gleason,	Porter,	Walker,
Guinan,	Prosser,	Wineman,
Gunderson,	Purdon,	Wood,
Hanna.	Ray,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colby,	Kroeger,	Spanberg,
Eyolfson,	Logan,	Stafne,
Herbrandson,	Rasmussen,	Wallen.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Hancock,	Jennings,	Sharpe.
Hodgson,	Murphy,	

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill passed and the title was agreed to.

## UNFINISHED BUSINESS.

House Bill No 4,

A Bill for an act entitled "an act to amend Subdivision 11 of Section 1 of Chapter 100, Laws of 1891."

Mr. Prosser moved

That House Bill No. 4 be referred to General Orders for amendment.

Mr. Svensrud offered as an amendment that the bill be placed at once on its final passage,

Which amendment was declared to be out of order.

The question recurring on the motion to refer House Bill No. 4 to General Orders,

Which motion was lost.

Mr. Wineman asked for unanimous consent to offer an amendment,

Objection was made.

The question being upon the final passage of the bill,

The roll being called there were ayes 38, nays 17, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hanna,

Messrs—

Hill,  
Holritz.  
Horgan,  
Kroeger,  
Lindstrom,  
McLachlan,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Ray,  
Richards,  
Rinde,

Messrs—

Roberts,  
Sargent,  
Simpson,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Totsrud,  
Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Edwards,  
Eyolfson,  
Guinan,  
Herbrandson,  
Kellogg,

Messrs—

Korsmo,  
Lerom,  
Logan,  
McDonald,  
Myers,  
Prosser,

Messrs—

Rasmussen,  
Smith,  
Twitchell,  
Wineman,  
Wood.

Absent and not voting:

Messrs—

Dwyer,  
Hancock,  
Hodgson,

Messrs—

Jennings,  
Murphy,

Messrs—

Rod,  
Sharpe.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

So the bill passed and the title was agreed to.

Mr. Svensrud moved  
 That the vote by which House Bill No. 4 was passed be reconsidered, and that the motion to reconsider be laid upon the table,  
 Which motion prevailed,  
 And the motion to reconsider was laid upon the table.

INTRODUCTION OF BILLS AND MEMORIALS.

Mr. McLachlan introduced  
 House Bill No. 121,  
 A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled "an act to provide a Military Code for the State of North Dakota, and to provide a Board of Control for the State Encampment Grounds,"  
 Which was read the first and second times, and  
 Referred to the Committee on Military Affairs.

Mr. Sargent introduced  
 House Bill No. 122,  
 A Bill for an act entitled "an act to protect dairy interests of the State of North Dakota, and to prevent fraud in dairy products, and to regulate the traffic in adulterated butter and cheese,"  
 Was read the first and second times, and  
 Referred to the Committee on State Affairs.

Mr. Colby introduced  
 House Bill No. 123,  
 A Bill for an act to amend Section 6 of Chapter 110 of the Laws of 1890, and defining what is intoxicating liquor,  
 Was read the first and second times, and  
 Referred to the Committee on Temperance.

Mr. Edwards introduced  
 House Bill No. 124,  
 A Bill for an act creating a Military State Board and prescribing the duties thereof and appropriating money,  
 Which was read the first and second times, and  
 Referred to the Committee on Military Affairs.

Mr. Herbrandson introduced  
 House Bill No. 125,  
 A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers and providing for the preservation of coroner's records,  
 Which was read the first and second times, and  
 Referred to the Committee on Judiciary.

Mr. Prosser requested that the courtesies of the floor be extended to Messrs. John Barton and George Else, of Ramsey county.

## REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following majority report:

MR. SPEAKER:

A majority of your Committee on Judiciary to whom was referred

House Bill No. 10,

A Bill for an act to amend Section 2578 Compiled Laws of 1887 relating to divorce.

Have had the same under consideration and recommend that the same be reported back to the House with the recommendation that the same do pass.

J. B. WINEMAN,  
Acting Chairman.

A minority of the Committee on Judiciary made the following report:

MR. SPEAKER:

Your Minority Committee on Judiciary to whom was referred House Bill No. 10,

A Bill for an act to amend Section 2578, Compiled Laws of 1887, relating to divorce,

Have had the same under consideration and recommend that the same do not pass.

A. B. McDONALD,  
L. A. SIMPSON,  
L. B. HANNA,  
A. W. EDWARDS,  
H. A. ARMSTRONG.

Mr. Prosser moved

That the majority report of the Committee on Judiciary be adopted.

Mr. Tyler moved

As a substitute that Senate Bill No. 10 be made a special order for Wednesday, Feb. 13, 1894,

Which motion prevailed.

The Speaker announced the appointment of Messrs. Wineman, Twichell and Prosser as House members of the Joint Committee to confer with the Minnesota State Legislature in securing lower freight rates on grain and coal.

The Speaker called Mr. Tofsrud to the Chair.

## THIRD READING OF HOUSE BILLS.

House Bill No. 119,

A Bill for an act entitled "an act to establish a Probate Code for the State of North Dakota,"

Was placed upon its third reading.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Feb. 7, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the Senate has concurred in the House Concurrent Resolution,

That in the judgment of the Legislative Assembly no State fair should be held for the ensuing two years.

Respectfully.

FRED FALLEY,  
Secretary.

## CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the Fourth Legislative Assembly, the Senate Concurring:*

That in the judgment of the Fourth Legislative Assembly no State fair should be held for the ensuing two years, and that the appropriations for the payment of premiums should not be drawn upon until such time as the State has paid its outstanding indebtedness, and is relieved from financial embarrassment.

Mr. Wineman moved a call of the House.

Eleven members seconded the call.

Mr. Wineman called to the Chair.

Roll called.

All members present excepting Messrs. Cryan, Gleason, Hancock, Herbrandson, Hodgson, Jennings, Murphy, Porter, Prosser, Sharpe, Simpson, Spangberg, Svensrud and Wood.

Messrs. Hancock, Hodgson, Murphy and Sharpe being excused.

Mr. Horgan moved

That further proceedings under the call of the House be dispensed with,

Which motion was lost.

Mr. Gill moved

That further proceedings under the call of the House be dispensed with,

Which motion prevailed, and

The call of the House was raised.

The Speaker called Mr. Logan to the Chair.

The reading of House Bill No. 119 being in progress.

Mr. Sargent moved

That the House adjourn until 10 o'clock tomorrow morning,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

THIRTY-SECOND DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 8, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Walker moved

That the calling of the roll be dispensed with,  
Which motion prevailed.

SPECIAL ORDERS.

House Bill No. 119,

A Bill for an act entitled "an act to establish a Probate Code for the State of North Dakota,"

Having been made a special order for 10 o'clock a. m. of this day,

The third reading of House Bill No. 119 was concluded.

Mr. Hodgson moved

That the House take a recess until 2 o'clock p. m.,  
Which motion prevailed, and  
The House took such recess.

The House reassembled.

The Speaker appointed W. F. Cushing as assistant enrolling and engrossing clerk, and assigned him to assist the Committee on Supplies and Expenditures.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

**MR. SPEAKER:**

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the thirty-first day, and recommend that it be amended as follows:

On page 9 strike out the words "House Bill No. 29" and insert in lieu thereof the words "Senate Bill No. 79,"

And when so amended recommend that the Journal be approved.

GEORGE HILL,  
Chairman.

Mr. Nelson moved

That on page 5 of the printed Journal the name T. E. Tuttle be changed to read T. E. Tuffe.

There being no objection, the change was so ordered.

Mr. Rod moved

That the report of the Committee on Revision and Correction of the Journal as amended be adopted,

Which motion prevailed, and

The report of the Committee as amended was adopted, and  
The Journal of the thirty-first day was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. McLachlan presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-second Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

WILLIAM WOODWARD,  
(And 46 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Sharpe presented the following petition:

We, the undersigned, citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota to take no action to enact measures looking to the resubmission of Article 20 of the State Constitution to a vote of the people.

T. L. WILLIAMS,  
(And 31 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Also,

We, the undersigned, citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota to take no action to enact measures looking toward the resubmission of Article 20 of the State Constitution to a vote of the people.

L. A. UELAND,  
(And 4 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Also,

We, the undersigned, citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota to enact such measures as will result in the resubmission of Article 20 of the State Constitution to a vote of the people.

H. L. KELLY,  
(And 28 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Also,

We, the undersigned, citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota, to take no action to enact measures looking to the resubmission of Article 20 of the Constitution to a vote of the people.

A. D. GRIFFIN,  
(And 22 others.)

There being no objection, the petition was referred to the Committee on Temperance.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Municipal Corporations made the following report:

MR. SPEAKER:

Your Committee on Municipal Corporations to whom was referred

House Bill No. 98,

A Bill for an act amending Section 28 of Chapter 24 of the Political Code, being Section 1049 of the Compiled Laws of 1887, relating to the qualification of officers of incorporated towns,

Have had the same under consideration and recommend that the same be amended as follows:

After the word "shall" in line 2, Section 1049, page 1, printed bill, insert the words "within ten days after receiving notice of their election or appointment and,"

And when so amended recommend that the same do pass.

JAMES PURDON,  
Chairman.

There being no objection, House Bill No. 98 was referred to General Orders.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 99,

A Bill for an act to promote speedy justice and a prompt hearing of cases appealed to the supreme court.

Also,

House Bill No. 92,

A Bill for an act to encourage the culture of sugar beets in the State and their manufacture into sugar,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### MOTIONS AND RESOLUTIONS.

Mr. Cooper moved

That Col. J. B. Power, President of the Agricultural College of Fargo, be granted the privileges of the floor of the House, and that he be invited to address the House,

Which motion prevailed.

The Speaker appointed Mr. Cooper to escort Col. J. B. Power to the Speaker's desk.

The Speaker introduced Col. J. B. Power, President of the Agricultural College to the House.

Col. J. B. Power addressed the House in regard to the Agricultural College.

Mr. Spangberg moved

That House Bill No. 66 be withdrawn from General Orders and be referred to the Committee on Coal Lands and Mining,

Which motion was lost.

#### UNFINISHED BUSINESS.

Consideration of the Civil Code, being Senate Bill No. 85,

A Bill for an act to establish a Civil Code for the State of North Dakota.

The question being upon the final passage of the bill,

The roll being called there were ayes 43, nays none, not voting 19.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
McDonald,  
Murphy,  
Nelson,  
Nierling,

Messrs—

Purdon,  
Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Smith,  
Spangberg,  
Stafne,  
Tofsrud,  
Walker,  
Wallen,  
Mr. Speaker.

Absent and not voting:

Messrs—

Blacklock,  
Dwyer,  
Fleming,  
Hill,  
Horgan,  
Logan,  
McLachlan,

Messrs—

Myers,  
Porter,  
Prosser,  
Sargent,  
Sharpe,  
Simpson,

Messrs—

Svensrud,  
Swenson,  
Twichell,  
Tyler,  
Wineman,  
Wood.

Messrs. Sargent, McLachlan, Porter and Swenson being excused.

So the bill passed and the title was agreed to.

Mr. Nierling moved

That the vote by which Senate Bill No. 85 was passed be reconsidered and that the motion to reconsider be laid upon the table,  
Which motion prevailed

The motion to reconsider was laid upon the table.

Mr. Hanna moved

That the House concur in the Senate amendments to House Bill No. 109,

Which motion prevailed,

The question recurring on the final passage of House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota, as amended.

The roll being called there were ayes 44, nays none, not voting 18.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Nelson,  
Nierling,

Messrs—

Purdon,  
Rasmussen,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Smith,  
Spangberg,  
Stafne,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Absent and not voting:

Messrs—

Blacklock,  
Dwyer,  
Fleming,  
Hill,  
Horgan,  
McLachlan,

Messrs—

Myers,  
Porter,  
Prosser,  
Ray,  
Sargent,  
Sharpe,

Messrs—

Simpson,  
Svensrud,  
Swenson,  
Twichell,  
Wineman,  
Wood.

Messrs. McLachlan, Porter, Sargent and Swenson being excused.

So the bill passed and the title was agreed to.

Mr. Nierling moved

That the vote by which House Bill No. 109 was passed be reconsidered and that the motion to reconsider be laid upon the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

House Bill No. 119,

A Bill for an act entitled "an act to establish a Probate Code for the State of North Dakota,"

Was placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 42, nays none, not voting 20.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Edwards,  
Eyolfson,  
Flack,

Messrs—

Hancock,  
Hanna,  
Herbrandson,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,

Messrs—

Nierling,  
Purdon,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Smith,  
Spangberg,  
Stafne,  
Tofsrud,

Messrs—

Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs—

Lindstrom,  
Logan,  
McDonald,  
Murphy,

Messrs—

Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Absent and not voting:

Messrs—

Blacklock,  
Dwyer,  
Fleming,  
Hill,  
Horgan,  
McLachlan,  
Myers,

Messrs—

Nelson,  
Porter,  
Prosser,  
Rasmussen,  
Ray,  
Sargent,  
Sharpe,

Messrs—

Simpson,  
Svensrud,  
Swenson,  
Twichell,  
Wineman,  
Wood.

Messrs. McLachlan, Porter, Sargent and Swenson being excused.

So the bill passed and the title was agreed to.

Mr. Wallen moved

That the vote by which House Bill No. 119 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

Mr. Wallen moved

That the House take a recess of ten minutes,

Which motion prevailed, and

The House took such recess.

The House reassembled.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Kroeger introduced

House Bill No. 126,

A Bill for an act requiring county commissioners to furnish an official bond to his county,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Murphy introduced

House Bill No. 127,

A Bill for an act to reimburse Dr. F. R. Smyth for stamping diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Hanna introduced

House Bill No. 128,

A Bill for an act to prevent the destruction of farm buildings in the State of North Dakota,

Which was read the first and second times, and

Referred to the Committee on Judiciary.

Mr. Kellogg introduced  
House Bill No. 129,

A Bill for an act to amend Section 1744, Civil Code, Revised Statutes 1877, being Section 4379 of the Compiled Laws of 1887, relating to filing chattel mortgages or personal property,

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

MESSAGES FROM THE SENATE.

The following messages were received from the Senate:

SENATE CHAMBER, }  
Feb. 8, 1895. }

MR. SPEAKER:

I would report to the House that a slight error was made in my message of yesterday, in reporting back the House Concurrent Resolution relating to the subject of the State Fair.

The Senate amended the resolution by striking out all of the resolution after the word "years." When so amended the resolution will read as follows:

That in the judgment of the Fourth Legislative Assembly no State Fair should be held for the ensuing two years.

The Senate would respectfully ask the concurrence of the House in the amendment.

Also,

I have the honor to transmit herewith

Senate Bill No. 5,

A Concurrent Resolution relating to resubmission,

Which the Senate has passed, and your favorable consideration of the same is respectfully requested.

Also,

I have the honor to transmit herewith

House Bill No. 39,

A Bill for an act entitled "an act prohibiting the sale of cigarettes,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Armstrong introduced

House Bill No. 130,

A Bill for an act entitled "an act to appropriate money to reimburse Emmons county, North Dakota, for expenses incurred in delivering a refractory boy to the South Dakota Reformatory School, at Plankinton, S. D.,

Which was read the first and second times, and  
Referred to the Committee on Appropriations.

Mr. Wineman introduced

House Bill No. 131,

A Bill for an act entitled "an act to fix the compensation of the clerks of the district courts and provide a fund to reimburse the county for the same,

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

By unanimous consent Mr. Svensrud introduced

House Bill No. 132,

A Bill for an act to appropriate the sum of two hundred dollars to Troop "B," First Battalion Cavalry North Dakota National Guard for balance due for services attending the encampment held at Jamestown, North Dakota, in July, 1894,

Which was read the first and second times, and  
Referred to the Committee on Appropriations.

Also,

House Bill No. 133,

A Bill for an act to amend Sections 122 and 161 of Chapter 62, Laws of 1890,

Which was read the first and second times, and  
Referred to the Committee on Education.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith the following:

Senate Bill No. 50,

A Bill for an act for the consolidation and organization of contiguous unorganized counties.

Also,

Senate Bill No. 44,

A Bill for an act to provide for a geological and natural history survey of the State of North Dakota,

Which the Senate has passed and your favorable consideration of the same is respectfully requested.

FRED FALLEY,  
Secretary.

Mr. Nierling by unanimous consent introduced

House Bill No. 134,

A Bill for an act to provide funds for defraying the expenses of insane persons confined in the North Dakota Hospital for the Insane,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

The Speaker presented to the House the report of the Joint Committee to consider the report of the Revision Commission together with the Penal Code, as reported by the Revision Commission.

The Joint Committee to consider the report of the Revision Commission made the following report:

**MR. SPEAKER:**

Your Joint Committee to consider the report of the Revision Commission have had under consideration the Penal Code as prepared by the Commission, and after carefully examining the same and making such changes as in the judgment of the Committee would best subserve the interests of the State, respectfully report:

A Bill to establish a Penal Code for the State of North Dakota,

The favorable consideration of the House is requested.

Respectfully,

C. E. GREGORY,  
Chairman.

House Bill No. 135,

A Bill to establish a Penal Code for the State of North Dakota,  
Was read the first and second times, and  
Referred to its third reading.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 92,

A Bill for an act entitled "an act to encourage the culture of sugar beets in the State of North Dakota and their manufacture into sugar,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 40, nays 11, not voting 11

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gleason,  
Gunderson,

Messrs—

Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Nierling,

Messrs—

Ray,  
Richards,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud.

## Messrs—

Hancock,  
Hanna,  
Hill,  
Hodgson,

## Messrs—

Porter,  
Purdon,  
Rasmussen,

## Messrs—

Tyler.  
Walker,  
Mr. Speaker.

Those who voted in the negative were:

## Messrs—

Arinstrong,  
Blacklock,  
Colosky,  
Cryan,

## Messrs—

Flack,  
Guinan,  
Horgan,  
Jennings,

## Messrs—

Prosser,  
Roberts,  
Wallen,

Absent and not voting:

## Messrs—

Fleming,  
Herbrandson,  
Lerom,  
Myers,

## Messrs—

Nelson,  
Rinde,  
Rod,  
Sargent,

## Messrs—

Twichell,  
Wineman,  
Wood.

Messrs. McLachlan and Sargent being excused.

So the bill passed and the title was agreed to.

House Bill No. 99,

A Bill for an act to promote speedy justice and a prompt hearing of cases appealed to the supreme court,

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 56, nays none, not voting 6.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,

## Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,

## Messrs—

Rasmussen,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sharpe,  
Simpson,  
Smith,  
Spangberg  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

## Messrs—

Fleming,  
Herbrandson,

## Messrs—

Ray,  
Sargent,

## Messrs—

Twichell,  
Wood.

Mr. Sargent being excused.

So the bill passed and the title was agreed to.

## GENERAL ORDERS.

Mr. Edwards moved

That the House resolve itself into the Committee of the Whole for the consideration of General Orders, and that the Committee take under consideration House Bill No. 66,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole.

The Speaker called Mr. Murphy to the Chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 66,

A Bill for an act entitled "an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine,"

And recommend that further consideration of the bill be indefinitely postponed.

J. S. MURPHY,  
Chairman.

Mr. Holritz moved

That the report of the Committee of the Whole be adopted.

Mr. Edwards offered a substitute motion that House Bill No. 66 be referred to its third reading and final passage.

Roll call demanded.

Roll call seconded.

The question being on the substitute motion,

The roll being called, there were ayes 42, nays 15, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs—

Hancock,  
Hanna,  
Hill,  
Hodgson,  
Horgan,  
Jennings,  
Kellogg,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Myers,  
Nierling,  
Porter,

Messrs—

Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Rinde,  
Roberts,  
Rod,  
Simpson,  
Stafne,  
Svensrud,  
Swenson,  
Tyler,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Cryan,  
Flack,  
Herbrandson,  
Holritz,

Messrs—

Kroeger,  
McLachlan,  
Murphy,  
Nelson,  
Richards,

Messrs—

Sharpe,  
Spangberg,  
Smith,  
Tofsrud,  
Walker.

Absent and not voting:

Messrs—

Korsmo,  
Sargent,

Messrs—

Twichell,  
Wineman,

Messrs—

Wood.

So the motion prevailed.

The question recurred on the original motion of Mr. Holritz as amended,

Which motion prevailed, and

The report of the Committee of the Whole as amended was adopted.

Mr. Rod moved

That the consideration of House Bill No. 66 be made a special order for Wednesday, February 13, at 2:30 p. m.,

Which motion prevailed.

Mr. Brainard moved

That the House adjourn to meet tomorrow morning at 10 o'clock for the purpose of reading the Code,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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### THIRTY-THIRD DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 9, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Mr. Wallen moved

That the roll call be dispensed with,

Which motion prevailed.

#### SPECIAL ORDERS.

The consideration of

House Bill No. 135,

A Bill to establish a Penal Code for the State of North Dakota, Having been made a special order for 10 o'clock a. m. of this day,

The bill was placed upon its third reading.

The following are the remarks of Mr. Edwards, offered February 8, in support of

## House Bill No. 66,

A Bill for an act entitled "an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine.

I desire to state to the members of this House that careful consideration has been given to this question by myself, and I have consulted with others in regard to it. It having been stated by the gentlemen who represents the Associated Press here that I have been in the penitentiary of Illinois. I feel that I have some right to speak upon this question from experience. I have had something to do with convict labor in the past, and possibly may again, but the question that seems to me to be paramount to all others and the one for us to consider, is not from a local standpoint. Every time the Legislature convenes in Bismarck we are called upon to appropriate from \$60,000 to \$120,000 for the support of criminals in the penitentiary here. This is made a direct tax upon the people of the State of North Dakota. Now the question is, have they suffered; and while they suffer and while the miners suffer to a limited extent, I ask whose interests are most to be considered by the voters of this State. I am of the opinion that if the convicts in the penitentiary are placed in the mines under the provisions of this bill, they will become self-supporting and the taxpayers of this State will be relieved from paying the sum they now do toward the support of these men. I am informed that there are less than 200 miners in this State, and I am informed by the gentleman in the other House from the Minot District, that they have plenty of miners there that come over the Canadian line in the season in vast numbers, to work in the mines at Minot, but I do not think we should be so extremely careful to protect the interests of non-residents of the State. The first duty of this Legislature is to look after the interests of the people of this State.

Another view I take of this question is in regard to the question of immigration. When we are advising people to come to this State, we are met by the remark that it is so cold here and it costs so much to procure fuel during the long cold winters that people are afraid to come. Now, if we could furnish coal at the same rate that it can be had in other States, and it is thought we can furnish coal at \$2.40 or \$2.50 a ton, we could meet the argument against the cold climate by furnishing the people of this State coal at cost, and at the same time meet the request of the people to reduce taxation now necessary for keeping these convicts in idleness. Every State in the Union has this question of convict labor before it, and it is a serious question, especially in the older and well settled States. In 1872 the Joliet penitentiary in Illinois held some 1,600 convicts, and this penitentiary was costing the State from \$160,000 to \$250,000. These convicts were placed in a stone quarry adjacent to the penitentiary, and from the time that they so worked, they were self-supporting, and the first report made by myself as warden, showed a balance on the credit side of some \$25,000, and many of the buildings of Chicago were erected from the stone turned out by the Joliet penitentiary—right after the Chicago fire this was.

The same question is up in New York, and I would ask the clerk to read the following clipping from the Minneapolis Journal, of February 6th, on this question.

I am here for the purpose of advocating this bill in opposition to the wishes and the best judgment of the other members of this House, but there is a grave proposition before the people of this State, and every year it will become more pertinent, and I think now is the time to settle it. There is certainly no commonwealth in this Union, that is more in need of economical legislation, than the State of North Dakota. One proposition that has been made or suggested to me is, "Why not take one of the State sections that had coal on it and open up a mine of our own." I answer, that will probably be the result if this project is a success. Our proposition in this bill is that

the Board of Penitentiary Trustees shall lease a coal mine subject to the approval of the Governor, and not pay to exceed twenty cents a ton royalty for the coal to the parties who furnish all the tools and appurtenances, and it absolutely costs the State nothing to try and see what they can do in this direction, and my theory is that in two years hence if it is a success, the State will open a coal mine of its own. Whether that would be a detriment to the other coal mines in the State is a matter for the gentlemen here to decide, and whether it is best to let these coal mines remain idle, or to benefit every fireside and home in the State of North Dakota, by furnishing cheap coal, or to pay the taxes to support these men in idleness, is also for you to decide.

I have a letter from a gentleman who is one of the proprietors of a large coal mine in this State, and he says:

"I regret that we must differ on the expediency of House Bill No. 66, but you must admit that this measure would ruin us if we did not get the lease, as it would certainly bankrupt every other mine if ours succeeded."

I have presented the petition of the Trades and Labor Union and other labor organizations that have been sent in, although they come from the opposite side, and I ask the members of the House to consider this bill entirely upon its merits. The bill provides that the coal mined by convicts shall be furnished to the State institutions, and I am told that there is some 8,000 tons required for this purpose alone. I think that the bill provides every guaranty possible for the protection of the convicts, and for the protection of other industries in the State.

One of the arguments advanced is that it would be a good idea for the State to secure a farm in the vicinity of the penitentiary, and put the convicts to farming. That would do away with all competition with Trade Unions and Labor Organizations, except the farmers, and they, of course, don't amount to much. We don't care much about them anyhow.

The Senator from the Fourteenth District tells me that if they can secure coal at \$2 5/8 per ton, they will erect a 400-barrel flour mill in Lisbon before the next crop is harvested. All they need to secure a mill is cheap fuel, and they will be satisfied with that rate.

I have a letter from the General Traffic Manager of the Northern Pacific Railroad, in reply to one of mine sent to him in regard to this matter. I will ask the clerk to read it.

I do not know that I have anything further to say in explanation of my position upon this bill, unless some of the gentlemen desire to ask me some question, which I hope I will be able to answer satisfactorily.

I would ask the clerk to read a letter from me to the Trades, Labor and Protective Union, as follows:

**GENTLEMEN:** Acknowledging your favor covering resolutions of the Trades, Labor and Protective Union in relation to convict labor, I beg to say that the same has been by me presented to the House, read and referred to the Committee on Labor.

Agreeing with you that every safeguard should be urged to protect the yeomanry and artisan of our land, I beg to submit:

1. The State should consider the people as a whole. The integral part in the case under consideration—is not to exceed 200 coal miners of North Dakota.

2. As the author of House Bill No. 66 I urge the attention of your association to the fact that over 200,000 citizens are users of coal from five to seven months in the year. Fuel is one of the greatest factors in household economy. Being able to secure the same at actual cost, is a boon to every citizen—man, woman and child.

To do this we affect less than 200 mine-workers and in fact our people are deprived of native coal because of the inability of coal mine operators to secure miners. The demand is far in excess of supply.

3. If we can benefit so many taxpayers with the minimum effect on the miners I submit if it is not complying with the well established doctrine of

the liberty-loving people, "the greatest good for the greatest number." It is generally conceded that it is necessary to keep the criminals at work for their own good—and as it costs the State some \$75,000 a year to maintain the Penitentiary, is it more than justice to the people who have to pay taxes—that the inmates be made to earn their way—at the least possible detriment to the classes it affects?

4. If the convicts farm, their production affects the farmer, if they make harness they affect free labor, but if they mine coal, while affecting a few citizens, they benefit every resident of the State.

Now, I submit, if the convicts can be made to earn their way, should we not make an effort in that direction?

There has been such a persistent tendency in certain quarters to misrepresent the scope of House Bill No. 66 in regard to convict labor, that I herewith enclose you a copy, that you may see what is intended.

In a letter to another I use the following:

"There is considerable opposition to using convicts for manufacturing in competition with free labor. Petitions have been filed in the House by harness makers, shoe makers and others.

"It is conceded by all that convict labor should be utilized—but the question is—how to do it with the least friction?

"I am told the coal miners of the State have never been able to secure sufficient help. I take it therefore that this class of labor would be least affected.

"The furnishing of coal at cost to the consumers of the State favorably affects every household, as fuel is one of the most expensive necessities in the economy of living.

"Add to this the fact that the convicts will be made to pay their way and thus relieve the taxpayers of an appropriation of some \$75,000 or \$100,000 a year—seems to be another unanswerable argument against the proposition.

"I have an idea that this bill will give you and me coal at Fargo at from \$2.25 to \$2.50 per ton—you and me and every other citizen.

"A number of Fargo people can club together and order in carload lots and secure fuel at cost."

Mining of coal by convicts will not affect local miners to any great extent. If the Dickinson mine is leased, freight rates would protect the Minot mines and *vice versa*.

The bill is only experimental, two years from now the Legislature can authorize its concession or open a new mine on its own land, within twenty-five miles from Bismarck.

I beg of your association to consider the suggestion and shall be pleased to hear from you further.

Respectfully,

A. W. EDWARDS.

The gentleman from Burleigh has sought to make a point in regard to the cost of transportation and keeping the men at the mines and the number of guards it would require. I was not impressed with his remarks on that subject, or any other particularly. I was not of the opinion that it would require so many guards at the mine, and as for guarding the convicts, speaking of one mine in particular, not because I favor that mine but because I happen to know of it, that is the Lehigh mine at Dickinson, there is an opening in the side of a butte probably 25 feet wide by 15 feet high, and I am told that the best building stone in the State is to be found right at the mouth of this mine. Now, in one week's time these convicts could erect a barracks of stone that would only require a few guards to watch and it would be impossible for a number of convicts to get loose and overcome the guard.

I hardly expected the gentleman from Burleigh to object to the number of employes that would be necessary to carry out this project if it becomes a law, as I understand that Burleigh County people hold a large share of the

positions paid for by this State, and the real sentiment of Burleigh County, I think, as expressed to me by one of the members, is that it would ruin the majority of the practical farmers of Burleigh County, because the only way they farm it here, is to get that coal out on Government land and haul it in and sell it to the Bismarck people, and, of course, if it is a question of that kind, and we are going to interfere with the agricultural interests of Burleigh County, I don't want any one to vote for this project on the supposition that I am in favor of reducing the income of the practical farmer.

Really, Mr. Chairman, the arguments advanced against this bill by the gentleman from Dickey are very good ones, and, as I have said before, I am only advocating this measure because I think it the most practical measure that has been advanced so far. I will be glad to support any better one proposed. The gentleman from Dickey remarked or suggested that the State printing be done by convicts. I will say, if that was intended for me, that I would vote for such a proposition. I would favor any kind of labor that those men could be put at that will detract the least from free labor. I hold that it is a necessity that these convicts be employed, and as General Sherman once remarked during the war, "War is made to hurt people," and so it is in this case, somebody must be affected by the working convicts. How can we do that to the least injury and the greatest benefit to all the people of the State? In my judgment you interfere less with the *bona fide* taxpayers and settlers of this State by mining coal than anything else.

In regard to the matter of binding twine, Minnesota has tried it, and the warden of the Minnesota Penitentiary, who I first introduced to penitentiary life, as a guard at Joliet, and with whom I am intimately acquainted, told me that we would require \$200,000 a year capital to keep it going. You have to make your contracts a year ahead and you have to carry a vast amount of the twine on hand. It is an utter impossibility for this State to furnish the funds to do it. It would require \$25,000 or \$30,000 to put in the machinery to make this twine. I have consulted with a great many in regard to tanneries. I talked with a tanner in Fargo and find that he is doing good work. I have placed some specimens of his work in the Executive office down stairs. He tells me that he can work ten men at once, and thinks that in the course of time there would be sufficient business in this State and Montana to keep fifty men employed. I would be in favor of doing this, as the expense would only be about \$300, and the raw material would come in and the convicts could place their labor upon it and turn it out a finished product and the State would have the benefit of it; but there is not enough business of this kind to keep the convicts in work nor would there be for several years. As I said before, I think this coal mining is an experiment. I am told by a gentleman who has as good a coal mine as any that can be found in the State, that 20 per cent will be a sufficient royalty for the tools and coal mined, and he is willing to lease his coal mine for that. There will not be a dollar's worth of expense to the State, and if we undertake this experiment and it is a success, the next Legislature can take it up and open up their own mine or they can abandon it.

The Speaker announced that he was about to sign  
House Bill No. 39,

A Bill for an act entitled "an act prohibiting the selling of cigarettes."

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 9, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election on the question of such abolishment, and to establish a fence law in such counties,

Which the Senate has passed and your favorable consideration of the same is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

The reading of House Bill No. 135 being in progress.

Mr. Fleming moved

That further reading of House Bill No. 135 be postponed and that the House proceed with the regular order of business,

Which motion prevailed.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Gilbertson presented the following petition:

*Hon. E. Gilbertson, Bismarck, North Dakota:*

Being informed of a bill introduced by Mr. Tyler, entitled "for an act to provide for the establishment, construction and maintenance of drains in this State," and known as House Bill No. 65, we, the undersigned citizens of Cass County, residing in and immediately around Kindred and Norman postoffices, hereby petition you to use every honorable means in your power to defeat said bill becoming a law, thereby, in our judgment, serving best the interests of your constituents as well as the people of the State at large.

C. J. FUNDLAND,  
(And 42 others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

The Attorney General presented the following communication:

BISMARCK, N. D., Feb. 9, 1895.

*To the Honorable House of Representatives:*

I have the honor to acknowledge receipt of your communication of recent date asking for my opinion "as to whether it is necessary to enroll the different bills as presented by the Compilation Committee or whether they can use the typewritten bills as presented by the Committee and declare them enrolled?"

In reply, I beg leave to say, it is my opinion that the bills referred to need not be enrolled. The enrollment of bills is regulated and controlled by your own rules and not by any requirements in the Constitution. If you have a rule making it necessary to enroll bills such rule may be suspended. You can declare the bills as read the enrolled bills or send them to the Committee on Enrollment with a recommendation that they report them as

properly enrolled. As these bills will become the law when filed in the office of the Secretary of State, in case you should pursue such course, I would suggest that they be made perfect in form and free from all possibilities for doubt by reason of amendments, erasures or interlineations.

Respectfully yours,  
JOHN F. COWAN,  
Attorney General.

Mr. Sharpe presented the following petitions:

We, the undersigned citizens of LaMoure county, desire to petition the Legislative Assembly of the State of North Dakota to take no action to enact measures looking to the resubmission of Article 20 of the Constitution to a vote of the people.

HANS J. HANSON,  
(And 6 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Also,

We, the undersigned, citizens of LaMoure County, desire to petition the Legislative Assembly of the State of North Dakota to enact such measures as will result in the resubmission of Article 20 of the State Constitution to a vote of the people.

OTTO DERSE,  
(And 42 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Roberts presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-Sixth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

J. W. WALKER,  
(And 21 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Cooper presented the following petition:

*To the Honorable the Senate and House of Representatives of the State of North Dakota now in session at Bismarck, the Capital;*

The undersigned citizens of North Dakota, and others resident thereof, do hereby respectfully protest against the passage of any measure looking to a resubmission of the prohibition amendment to our Constitution and the laws connected therewith. And your petitioners will ever pray.

H. H. McNAIR, Mayor of Portland,  
(and 258 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Colby presented the following petition:

We, the inhabitants of the town of Reed, County of Cass, believing that the conditions of our State are not far enough advanced to warrant the adoption of the methods provided for in House Bill No. 9, providing for the contract system of building roads, hereby petition our Senators and Representatives from Cass County to do all, they can against the passage of said measure.

JOHN O. QUAM,  
(And 37 others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Herbrandson presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Eighth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

L. W. HOUGHTON,  
(And 63 others.)

There being no objection, the petition was referred to the Committee on Temperance.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Sheep and Sheep Husbandry made the following report:

MR. SPEAKER:

Your Committee on Sheep Husbandry to whom was referred House Bill No. 36,

Make the following report, that the same be amended as follows:

In Section 2, line 2, printed bill, the words "two dollars" be changed to "one dollar."

Section 3, line 2, the words "peace officer" be stricken out and insert therein "justice of the peace;" and in line 6 the words "peace officers" be stricken out and insert the words, "the justices of the peace."

Section 4, line 3, strike out words "peace officer" and insert word "constable."

Section 5, line 3, the words "peace officer" be stricken out and insert the word "constable."

Section 7, line 3, the words "peace officer or assessor" be stricken out and insert the words "justice of the peace," and in line 6 the words "for which purpose be shall have power to administer oaths" be stricken out; also, in line 7 the words "peace officer" and insert therein the words "justice of the peace;" that after the word "injured," line 11, there be added: "Any justice of the peace before whom such application is made, shall receive for hearing and certifying the same, the sum of one (1) dollar, and the witnesses, not exceeding three, shall be allowed fifty (50) cents each. All fees given for services under this act shall be paid out of the fund created by this act."

That Section 9 there be added: "Each claim made to board of county

commissioners shall be filed and numbered in their order by the county auditor or clerk of board, and so paid when allowed, and it shall also be the duty of the county auditor to furnish the different assessors the necessary supplies, the same as other supplies are furnished assessors for the carrying out of the provisions of this act."

That in Section 14, line 2, the words "peace officers" be stricken out and insert the word "constable,"

And when so amended recommend the passage of the bill.

GEORGE S. ROBERTS,  
Chairman.

Mr. Hanna moved

That the report of the Committee on Sheep and Sheep Husbandry be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

House Bill No. 36 was referred to the Committee on Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred House Bill No. 60,

A Bill for an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and other purposes relating thereto as amended by Chapter 100 of the Session Laws of 1891,"

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 60 was referred to the Committee on Engrossment.

Also,

Senate Bill No. 69,

A Bill for an act making boards of trustees commissioners, directors, person or persons liable for amounts expended in excess of appropriations, and providing for emergency expenditures,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, Senate Bill No. 69 was referred to the Committee on Engrossment.

The Committee on Railroads made the following majority report:

MR. SPEAKER:

A majority Committee on Railroads, to whom was referred

House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers, to define the duties of commissioners of railroads, and to provide for the control of railroads, bridge corporations and ferry companies within the State,"

Have had the same under consideration and recommend that the same do pass.

ROLLIN C. COOPER,  
Chairman.

Mr. Nierling announced to the House that a minority of the Committee on Railroads intended to submit a report on House Bill No. 79, but had not had time to prepare it.

Mr. Cooper moved

That the majority report of the Committee on Railroads on House Bill No. 79 be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on State Affairs made the following reports:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred House Bill No. 84,

A Bill for an act to amend Section 4 of Chapter 100 of the Session Laws of 1891, being an amendment to Section 46 of Chapter 132 of the Session Laws of 1890, relating to the State Board of Equalization; how constituted, meetings, and rules for equalization,

Have had the same under consideration and recommend that the same be amended as follows:

Strike out the word "two (2) dollars," and insert in lieu thereof "one and a half (1½) dollars,"

And when so amended recommend that the same do pass.

There being no objection, House Bill No. 84 was referred to General Orders.

Also,

House Bill No. 87,

A Bill for an act entitled "an act relating to steam threshing machines, saw mills and steam traction engines, and their passage on the public highway,

Have had the same under consideration and recommend that the same be amended as follows:

Strike out all of Section 1.

In Section 2, lines 12 and 15 of printed bill strike out the words "at a distance of one hundred yards from the place of halting on said highway," and that the sections be renumbered,

And when so amended recommend that the same do pass.

There being no objection, House Bill No. 87 was referred to General Orders.

Also,

House Bill No. 96,

A Bill for an act repealing Chapter 127 of the Session Laws of 1893, entitled "an act to establish a weather and crop service for the collection and dissemination of crop statistics and meteorological data,"

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 96 was referred to the Committee on Engrossment.

Also,

House Bill No. 102,

A Bill for an act to authorize the Secretary of the State of North Dakota to receive, preserve and turn over to his successor in office the portraits of State officials and Members of Congress,

Have had the same under consideration and recommend that the same be amended as follows:

In Section 1, line 6 of printed bill strike out the words "House of Representatives" and insert in lieu thereof the words "Legislative Assembly,"

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 102 was referred to General Orders.

The Committee on School and Public Lands made the following report:

MR. SPEAKER:

Your Committee on School and Public Lands, to whom was referred

House Bill No. 117,

A Bill for an act to amend Section 51 of Chapter 118 of the Laws of 1893, in relation to the appraisal for lease of school and public lands,

Have had the same under consideration, and recommend that the same do pass.

JOS. COLOSKY  
Chairman.

There being no objection, House Bill No. 117 was referred to Committee on Engrossment.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 39,

A Bill for an act entitled "an act prohibiting the sale of cigarettes,"

And find the same correctly enrolled,

L. B. HANNA,  
Chairman.

The Committee on Railroads made the following minority report:

MR. SPEAKER:

A minority of your Committee on Railroads to whom was referred

House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers to define the duties of Commissioners of Railroads, and to provide for the control of railroads, bridges, corporations and ferry companies within the State,"

Have had the same under consideration and recommend that the same do not pass.

J. J. NIEBLING,  
FRED HOLRITZ,  
THOS. RICHARDS,  
A. W. EDWARDS,  
GEO. S. ROBERTS,  
Minority.

Mr. Wineman moved

That the vote by which the majority report of the Committee on Railroads on House Bill No. 79 was adopted be reconsidered, Which motion prevailed.

The question recurring on the motion to adopt the majority report of the Committee on Railroads on House Bill No. 79.

Mr. Wineman offered as a substitute motion that the bill be referred to General Orders.

The substitute motion prevailed, and  
House Bill No. 79 was referred to General Orders.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Simpson introduced

House Bill No. 136,

A Bill for an act to appropriate for the support of organized companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing

Chapter 53 of the Session Laws of 1887 of the Territory of Dakota and Chapter 66 of the Session Laws of the State of North Dakota,  
Which was read the first and second times, and  
Referred to the Committee on Ways and Means.

Mr. Twichell introduced  
House Bill No. 137,

A Bill for an act to encourage the manufacture and production of the long line spinning fibers, either flax or hemp, and spinning tows, grown in the State of North Dakota,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Prosser introduced  
House Bill No. 138,

A Bill for an act to amend Sections six (6) and fourteen (14), Chapter one hundred and twenty-three (123), Session Laws of 1893, entitled "an act to amend Sections one (1), six (6), eight (8), thirteen (13) and fourteen (14) of Chapter one hundred and sixty-one (161) of Session Laws of 1890, entitled 'an act to create an institute for the education of the deaf and dumb of North Dakota. and providing for its support and management,'"

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

#### CONSIDERATION OF MESSAGES FROM THE SENATE.

Mr. Hanna moved

That the House concur in the Senate amendments to the House Concurrent Resolution relating to the subject of the State Fair,

Which motion prevailed, and

The Senate amendments were concurred in.

Mr. Cooper moved

That the further consideration of  
Senate Bill No. 5,

A Concurrent Resolution to amend the Constitution,  
Be indefinitely postponed.

Mr. Simpson moved

That as a substitute motion, Senate Bill No. 5 be referred to the Committee on Temperance.

Mr. Hodgson moved

That the substitute motion be laid upon the table,

Which motion prevailed.

The question recurred on the motion to indefinitely postpone further consideration of Senate Bill No. 5.

Mr. Wineman moved

A call of the House,  
Call seconded.

The roll being called, the following members responded to their names:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Holritz,	Richards,
Brainard,	Horgan,	Rinde,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Cooper,	Kroeger,	Sharpe.
Cryan,	Korsmo,	Simpson,
Dwyer,	Lerom,	Smith,
Edwards,	Lindstrom,	Stafne,
Eyolfson,	Logan,	Svensrud,
Flack.	McDonald,	Swenson,
Fleming,	Murphy,	Tofsrud,
Gilbertson,	Myers,	Twichell,
Gleason,	Nelson,	Tyler,
Guinan,	Nierling,	Walker,
Gunderson,	Prosser,	Wallen.
Hancock,	Purdon,	Wood,
Hanna.	Rasmussen,	Mr. Speaker.
Herbrandson,		

Those absent were:

Messrs—	Messrs—	Messrs—
Colosky,	McLachlan,	Sargent,
Hill,	Porter,	Spanberg,

All absentees being excused.

Mr. Svensrud moved

That further proceedings under the call be dispensed with.

Mr. Hodgson rose to a point of order that inasmuch as all absentees were excused, further proceedings under the call were out of order.

The Speaker ruled that the roll call was in order.

The question being on the motion to dispense with further proceedings under the call of the House.

The roll being called, there were ayes 34, nays 22, absent and not voting 6.

Those who voted in the affirmative were:

Messrs.	Messrs.	Messrs—
Blacklock,	Herbrandson,	Rinde,
Brainard,	Hodgson,	Sharpe,
Brown,	Kellogg,	Smith,
Colby,	Korsmo,	Stafne,
Cooper,	Lerom,	Svensrud,
Cryan,	Lindstrom,	Swenson,
Dwyer,	Logan,	Tofsrud,
Edwards,	Myers,	Twichell,
Eyolfson,	Nelson,	Walker,
Gilbertson,	Purdon,	Wallen.
Gunderson,	Rasmussen,	Mr. Speaker.
Hanna,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Jennings,	Ray,
Flack,	Kroeger,	Richards,
Fleming,	McDonald,	Roberts,
Gleason,	Murphy,	Rod,
Guinan,	Wood,	Simpson,
Hancock,	Nierling,	Tyler,
Holritz,	Prosser,	Wineman.
Horgan,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colosky,	McLachlan,	Sargent,
Hill,	Porter,	Spangberg.

So the motion prevailed, and

Further proceedings under the call were dispensed with.

The question being on the motion that further consideration of Senate Bill No. 5 be indefinitely postponed.

Mr. Simpson rose to a point of order that the substitute motion being laid upon the table, the Concurrant Resolution went with it, and was now on the table.

The Speaker declared the point of order not well taken.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., Feb. 9, 1895. }

*To the House of Representatives:*

GENTLEMEN:

I have the honor to inform you, that I have this day approved House Bill No. 39,

A Bill for an act entitled "an act prohibiting the sale of cigarettes,"

Yours respectfully,  
ROGER ALLIN,  
Governor.

Mr. Brainard moved  
The previous question,  
Which motion received no second.

Mr. Horgan moved  
That the House do now adjourn.  
Roll call demanded.

The roll being called theré were ayes 23, nays 33, not voting 6.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Holritz,  
Horgan,

## Messrs—

Jennings,  
Kroeger,  
McDonald,  
Murphy,  
Nierling,  
Prosser,  
Ray,  
Richards,

## Messrs—

Roberts,  
Rod,  
Simpson,  
Svensrud,  
Tyler,  
Wineman,  
Wood.

Those who voted in the negative were:

## Messrs—

Blacklock,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gunderson,

## Messrs—

Hanna,  
Herbrandson,  
Hodgson,  
Kellogg,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
Myers,  
Nelson,  
Purdon,

## Messrs—

Rasmussen,  
Rinde,  
Sharpe,  
Smith,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Mr. Speaker.

Absent and not voting:

## Messrs—

Colosky,  
Hill,

## Messrs—

McLachlan,  
Porter,

## Messrs—

Sargent,  
Spangberg.

All absentees being excused.

So the motion to adjourn was lost.

Mr. Simpson moved

That the House take a recess.

Roll call demanded.

The roll being called there were ayes 24, nays 32, not voting 6.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Edwards,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Holritz,  
Horgan,

## Messrs—

Horgan,  
Jennings,  
Kroeger,  
McDonald,  
Murphy,  
Nierling,  
Prosser,  
Ray,

## Messrs—

Richards,  
Roberts,  
Rod,  
Simpson,  
Svensrud,  
Tyler,  
Wineman,  
Wood.

Those who voted in the negative were:

## Messrs—

Blacklock,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,

## Messrs—

Herbrandson,  
Hodgson,  
Kellogg,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,

## Messrs—

Rinde,  
Sharpe,  
Smith,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell.

Messrs— Eyolfson, Gilbertson, Gunderson, Hanna,	Messrs— Myers, Nelson, Purdon, Rasmussen,	Messrs— Walker, Wallen, Mr. Speaker.
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Absent and not voting:

Messrs— Colosky, Hill,	Messrs— McLachlan, Porter,	Messrs— Sargent, Spangberg.
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All absentees being excused.

So the motion was lost.

Mr. Hodgson moved  
The previous question,  
Which motion prevailed.

The question recurring on the motion to indefinitely postpone further consideration of Senate Bill No. 5,

Roll call demanded.

Roll call seconded.

The roll being called, there were ayes 32, nays 24, not voting 6

Those who voted in the affirmative were:

Messrs— Brainard, Brown, Colby, Cooper, Cryan, Dwyer, Edwards, Eyolfson, Gilbertson, Gunderson, Hanna,	Messrs— Herbrandson, Hodgson, Kellogg, Korsmo, Lerom, Logan, Myers, Nelson, Purdon, Rasmussen, Rinde,	Messrs— Sharpe, Smith, Stafne, Svensrud, Swenson, Tofsrud, Twichell, Walker, Wallen, Mr. Speaker.
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Those who voted in the negative were:

Messrs— Armstrong, Blacklock, Flack, Fleming, Gleason, Guinan, Hancock, Holritz,	Messrs— Horgan, Jennings, Kroeger, Lindstrom, McDonald, Murphy, Nierling, Prosser,	Messrs— Ray, Richards, Roberts, Rod, Simpson, Tyler, Wineman, Wood.
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Absent and not voting:

Messrs— Colosky, Hill,	Messrs— McLachlan, Porter,	Messrs— Sargent, Spangberg.
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All absentees being excused.

So the motion prevailed, and

Further consideration of

Senate Bill No. 5,

A Concurrent Resolution to amend the Constitution, was indefinitely postponed.

Mr. Hodgson moved

That the vote by which Senate Bill No. 5 was indefinitely postponed, be reconsidered, and that the motion to reconsider be laid upon the table.

Roll call demanded.

Roll call seconded.

The roll being called there were ayes 32, nays 24, absent and not voting 6.

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gunderson,  
Hanna,

Messrs—

Herbrandson,  
Hodgson,  
Kellogg,  
Korsmo,  
Lerom,  
Logan,  
Myers,  
Nelson,  
Purdon,  
Rasmussen,  
Kinde,

Messrs—

Sharpe,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Mr. Speaker.

Those voting in the negative were:

Messrs—

Armstrong,  
Blacklock,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Holritz,

Messrs—

Horgan,  
Jennings,  
Kroeger,  
Lindstrom,  
McDonald,  
Murphy,  
Nierling,  
Prosser,

Messrs—

Ray,  
Richards,  
Roberts,  
Rod,  
Simpson,  
Tyler,  
Wineman,  
Wood.

Absent and not voting:

Messrs—

Colosky,  
Hill,

Messrs—

McLachlan,  
Porter,

Messrs—

Sargent,  
Spangberg,

The absentees being excused.

So the motion prevailed, and the motion to reconsider was laid upon the table.

Mr. Simpson asked unanimous consent to introduce a bill.

Mr. Hodgson objected.

Mr. Hodgson moved

That the House do now adjourn,

Which motion was lost.

Mr. Wineman moved

That Mr. Simpson be allowed to introduce a bill.

Mr. Hanna moved

That the rules be suspended and that Mr. Simpson be allowed to introduce a bill,

Which motion prevailed.

Mr. Simpson introduced

House Bill No. 139,

Being a Concurrent Resolution to amend the Constitution,

Which was read the first and second times.

Mr. Hodgson moved

That further consideration of House Bill 139 be indefinitely postponed,

Which motion was ruled out of order.

Mr. Simpson moved

That House Bill No. 139 be referred to the Committee on Judiciary.

Mr. Lindstrom moved

That House Bill No. 139 be referred to the Committee on Temperance.

Mr. Logan offered a substitute motion, that further consideration of House Bill No. 139 be indefinitely postponed,

Which motion was declared to be out of order.

The question being on the motion to refer House Bill No. 139 to the Committee on Judiciary,

Mr. Wallin moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## THIRTY-FIFTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 11, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present.

Mr. Hanna requested that the courtesies of the floor be extended to F. H. Dickinson, of Ayr, Cass county, and H. L. Stafford, of Buffalo, Cass county.

There being no objection, the courtesies of the floor were so extended.

## REPORTS OF STANDING COMMITTEES.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision of the Journal respectfully

report that they have carefully examined the Journal of the thirty-second day and find it correct, and recommend that the Journal of the thirty-second day be approved.

GEORGE HILL,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the thirty-second day was approved.

The Committee on Revision and Correction of the Journal made the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal for the thirty-third day have examined the same and find it correct, and recommend that it be approved.

GEORGE HILL,  
Chairman.

Mr. Nierling moved

That the Journal of the thirty-third day be amended by having the list of General Orders for February 11 include House Bill No. 79,

Which motion prevailed, and

The amendment was ordered.

Mr. Hodgson moved

That the report of the Committee to Revise and Correct the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the thirty-third day as amended was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Horgan presented the following petition:

*To the Honorable, the Legislative Assembly of the State of North Dakota:*

We, the undersigned, residents of the County of Pembina and State of North Dakota, respectfully pray that your honorable body enact the following law, namely: That the prohibition law now in force in the State of North Dakota shall be resubmitted to a vote of the people of said State at the next general election.

DANIEL J. LAXDAL,  
(And 184 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. McDonald presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Nineteenth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

E. A. MARKEL,  
(And 53 others.)

There being no objection, the petition was referred to the Committee on Temperance.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
Feb. 11, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 65,

A Bill for an act to secure the safe keeping of all funds coming into the hands of county treasurers by prescribing and regulating the deposit thereof,

Which the Senate has passed, and your favorable consideration of the same is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

REPORTS OF STANDING COMMITTEES.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 60,

A Bill for an act entitled "an act to amend Chapter 132 of the Laws of 1893, being an act entitled 'an act prescribing the mode of making assessments and levy and collection of taxes and for other purposes relative thereto as amended by Chapter 100 of the Session Laws of 1891.'"

Also,

House Bill No. 66,

A Bill for an act entitled "an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine and appurtenances and to employ the inmates of the penitentiary in mining coal and the disposition of any coal so mined."

Also,

House Bill No. 96,

A Bill for an act entitled "an act repealing Chapter 127 of the Session Laws of 1893 entitled an 'act to establish a weather and crop service for the collection and dissemination of crop statistics and meteorological data.'"

Also,

House Bill No. 117,

A Bill for an act to amend Section 51 of Chapter 118 of the Laws of 1893 in relation to the appraisalment for lease of school and public lands,

And find the same correctly engrossed.

O. S. WALLLEN,  
Chairman.

Mr. Twichell moved

That House Bill No. 96 be referred to the Committee on State Affairs,

Which motion prevailed, and

House Bill No. 96 was so referred.

The Committee on Municipal Corporations made the following majority report:

MR. SPEAKER:

A majority of your Committee on Municipal Corporations to whom was referred

House Bill No. 116,

A Bill for an act to amend Section 2, Article 13 of Chapter 73, Laws of 1887, being Section 945, Compiled Laws of 1887, and Section 3, Article 13 of Chapter 73, Laws of 1887, being Section 946, Compiled Laws of 1887,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out the word "and" in line 10, page 3, of printed bill; also, by inserting after the word "county," in same line 10, the words "or municipal,"

And when so amended recommend that the same do pass.

JAMES PURDON,  
Chairman.

The Committee on Municipal Corporations made the following minority report:

MR. SPEAKER:

A minority of your Committee on Municipal Corporations to whom was referred

House Bill No. 116,

A Bill for an act to amend Section 2, Article 13 of Chapter 73, Laws of 1887, being Section 945, Compiled Laws of 1887, and Section 3, Article 13 of Chapter 73, Laws of 1887, being Section 946, Compiled Laws of 1887,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out the word "and" in line 10, page 3, printed bill; also, by inserting after the word "county," in same line 10, the words "or municipal."

Also, by adding after the word "vote" in line 12, page 3, the following provision:

*Provided*, That no elector shall be entitled to vote for any alderman in any ward until he has been a resident of said ward at least twenty days prior to any city election,

And when so amended recommend that the same do pass.

C. L. LINDSTROM,  
JAMES PURDON,  
Minority.

There being no objection, House Bill No. 116 was referred to General Orders.

#### MOTIONS AND RESOLUTIONS.

Mr. Simpson moved

That House Bill No. 136 be recalled from the Committee on Ways and Means and be referred to the Committee on Judiciary, Which motion prevailed, and House Bill No. 136 was so referred.

Mr. Hanna offered the following Concurrent Resolution, and Moved its adoption:

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

WHEREAS, the Attorney General has rendered the following opinion: "It is my opinion that the bills referred to need not be enrolled. The enrollment of bills is regulated and controlled by your own rules and not by any requirements in the Constitution. If you have a rule making it necessary to enroll bills, such rule may be suspended. You can declare the bills as read the enrolled bills, or send them to the Committee on Enrollment with a recommendation that they report them as properly enrolled. As these bills will become the law when filed in the office of the Secretary of State, in case you should pursue such course, I would suggest that they be made perfect in form and free from all possibilities for doubt by reason of amendments, erasures or interlineations." Therefore be it

*Resolved*, By the House of Representatives, the Senate concurring, that the several Codes presented by the Compilation Committee (having been carefully read and examined by the Joint Committee on Revision of the Code and recommended for passage) be referred to the Enrolling Committee with instructions to enroll the amendments in their proper places, and to then report back the said bills as properly enrolled.

Which motion prevailed, and  
The Concurrent Resolution was adopted.

Mr. Hanna moved

That the vote by which the Concurrent Resolution was adopted be reconsidered and that the motion to reconsider be laid upon the table,

Which motion prevailed, and  
The motion to reconsider was laid upon the table.

UNFINISHED BUSINESS.

House Bill No. 139,  
Being a Concurrent Resolution to amend the Constitution.

Mr. Hodgson raised a point of order, that the entire matter in the Concurrent Resolution had been considered and disposed of by the House.

Mr. Wineman raised a point of order, that Mr. Hodgson had raised the same point of order and that the Speaker had ruled him out of order.

Mr. Logan stated that he was the one that had raised the point of order, but was not recognized.

The Speaker stated that any matter once definitely decided upon by the House cannot again be taken up without a reconsideration and consequently he sustained the point of order of the gentleman from Sargent (Mr. Hodgson) and declared the point well taken.

Mr. Wineman appealed from the decision of the Chair.

The question being shall the ruling of the Chair be sustained..

Roll call demanded.

Roll call seconded.

The roll being called there were ayes 30, nays 31.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Kellogg,	Ray,
Brown,	Korsmo,	Rinde,
Colby,	Lerom,	Sargent,
Cooper,	Lindstrom,	Sharpe,
Cryan,	Logan,	Smith,
Dwyer,	Murphy,	Stafne,
Eyolfson,	Myers,	Swenson,
Gilbertson,	Nelson,	Tofsrud,
Gunderson,	Purdon,	Walker,
Hodgson,	Rasmussen,	Wallen.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Richards,
Blacklock,	Holritz,	Roberts,
Colosky,	Horgan,	Rod,
Edwards,	Jennings,	Simpson,
Flack,	Kroeger,	Spangberg,
Fleming,	McLachlan,	Svensrud,
Gleason,	McDonald,	Twichell,
Guinan,	Nierling,	Tyler,
Hancock,	Porter,	Wineman,
Hanna,	Prosser,	Wood.
Herbrandson,		

So the decision of the Chair was not sustained.

Mr. Edwards moved

That House Bill No. 139 be referred to the Committee on Temperance,

Which motion prevailed, and

House Bill No. 139 was so referred.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. McDonald introduced

House Bill No. 140,

A Bill for an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioner of Railroads,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Rinde introduced

House Bill No. 141,

A Bill for an act fixing the salaries of the county auditor, register of deeds and county treasurer, and for the repeal of Sections 1 and 3 of Chapter 52, and Section 1, Chapter 53, of the Session Laws of 1891,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Cryan introduced

House Bill No. 142,

A Bill for an act declaring certain mills in this State public custom mills and defining the duties of the Railroad Commissioners in relation to examining and investigating the business of said mills and empowering them to perform the same, for the purpose of fixing a maximum price and a maximum rate of toll and exchange to be charged or taken for public custom work, and providing a penalty for violation of the provisions thereof,

Which was read the first and second times, and

Referred to the Committee on Warehouses, Grain Grading and Dealing.

Mr. McLachlan requested that the courtesies of the floor be extended to Dr. Quarry, of Grand Forks.

There being no objections the courtesies of the floor were so extended.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 117,

A Bill for an act entitled "an act to amend Section 51 of Chapter 118 of the Laws of 1893 in relation to the appraisement of or lease of school and public lands,"

Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 53, nays none, not voting 9  
 Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Rasmussen,
Blacklock,	Hodgson,	Ray,
Brainard,	Holritz,	Richards,
Colby,	Horgan,	Rinde,
Colosky,	Jennings,	Roberts,
Cooper,	Kellogg,	Rod,
Cryan,	Kroeger,	Sargent,
Dwyer,	Korsmo,	Simpson,
Eyolfson,	Lerom,	Smith,
Flack,	Lindstrom,	Spangberg,
Fleming,	Logan,	Svensrud,
Gilbertson,	McDonald,	Swenson,
Gleason,	Murphy,	Tofsrud,
Guinan,	Myers,	Tyler,
Gunderson,	Nelson,	Walker,
Hancock,	Nierling,	Wallen,
Hanna,	Porter,	Mr. Speaker.
Herbrandson,	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Prosser,	Twitchell,
Edwards,	Sharpe,	Wineman,
McLachlan,	Stafne,	Wood.

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, {  
 February 11, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
 Senate Bill No. 103,

A Bill for an act to amend Section 8, Chapter 79, of the Laws  
 of 1891, changing the place of holding district court in Wells  
 county.

Also,

Senate Bill No. 67,

A Bill for an act to amend Subdivision 30 of Section 73 of the  
 Laws of 1887.

Also,

Senate Bill No. 58,

A Bill for an act entitled "an act to provide for State deposi-  
 tories and to regulate the deposit of public monies therein, and  
 the interest thereon, and prescribing the means thereof."

Also,  
Senate Bill No. 108,

A Bill for an act repealing Chapter 20 of the Special Laws of Dakota Territory for the year 1885, being an act entitled "an act prescribing the duties and regulating the salaries of the county treasurer and register of deeds for Grand Forks county, D. T."

Also,  
Concurrent Resolution proposing amendment to the Constitution in relation to the debt limit.

Also,  
Senate Bill No. 114,  
A Bill for an act to establish a Justice' Code for the State of North Dakota.

Which bills the Senate have passed and your favorable consideration of the same is respectfully requested.

FRED FALLEY,  
Secretary.

House Bill No. 60,

A Bill for an act entitled "an act to amend Chapter 132 of the Laws of 1893, being an act entitled 'an act prescribing the mode of making assessments and levy and collection of taxes and for other purposes relative thereto as amended by Chapter 100 of the Session Laws of 1893,' "

Was placed upon its third reading.

Mr. Cooper requested that further consideration of House Bill No. 60 be postponed.

There being no objection, the consideration of House Bill No. 60 was postponed.

The third reading of  
House Bill No. 135,

A Bill to establish a Penal Code for the State of North Dakota,

Was concluded.

The question being on the final passage of the bill,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,

Messrs.

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,

Messrs—

Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,

Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Herbrandson,

McLachlan,  
McDonald,  
Myers,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Fleming,  
Hanna,  
Hill,

Messrs—

Lindstrom,  
Murphy,  
Nelson,

Messrs—

Prosser,  
Simpson,  
Twichell.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 135 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

Informal recess for ten minutes.

The House reassembled.

Mr. Wood moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

Respectfully,

J. M. DEVINE,  
Chief Clerk.

## THIRTY-SIXTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 12, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER :

Your Committee on the Revision and Correction of the Journal have carefully examined the Journal of the thirty-fifth day, find it correct and recommend that it be approved.

GEO. HILL,  
• Chairman.

Mr. Rod moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the thirty-fifth day was approved.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Rinde requested that the courtesies of the floor be extended to Mr. G. N. Wingardner, of Walsh County.

Mr. Hodgson requested that the courtesies of the floor be extended to President Webster Merrifield, of the State University.

There being no objection, the courtesies of the floor were so extended.

Messrs. Edwards and Tyler presented the following petition:

*Hon. A. W. Edwards and Evan S. Tyler, Representatives Ninth District, Bismarck, N. D.:*

GENTLEMEN—Rumor asserting that there is some question touching your votes on the subject of resubmission, we would respectfully represent to you that if you care anything about our wishes in the premises you will vote for resubmission.

A. M. ANDERSON,  
(And 27 others.)

There being no objection, the petition was referred to the Committee on Temperance.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 12, 1895. }

Mr. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 98,

A Bill for an act authorizing the counties in the State of North Dakota to raise and expend a fund for the purchase of poison for the destruction of gophers, and repealing Chapter 144 of the Session Laws of 1890,

Which the Senate has passed, and the favorable consideration by the House is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Wallen presented the following petition:

*To the Honorable Senate and House of Representatives of the State of North Dakota:*

We, the subscribed freeholders and citizens of Mayville and surrounding

country, in the County of Traill, respectfully petition and pray the members of the Senate and House not to repeal or change the prohibitory liquor law, now in existence, in any form or manner.

T. C. COPSENEY,  
(And 32 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Lerom presented the following petition:

*To the Honorable Senate and House of Representatives of the State of North Dakota:*

We, the subscribed freeholders and citizens of Cummings and surrounding country, in the County of Traill, respectfully petition and pray the members of the Senate and House not to repeal or change the prohibitory liquor law, now in existence, in any form or manner.

MONS JOHNSON,  
(And 60 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Messrs. Edwards and Tyler presented the following petition:

*Hon. A. W. Edwards and Evan S. Tyler, Representatives Ninth District, Bismarck, N. D.:*

GENTLEMEN: Rumor asserting that there is some question touching your vote on the subject of resubmission, we would respectfully represent to you that if you care anything about our wishes in the premises, you will vote for resubmission.

Yours respectfully,  
H. F. MILLER,  
(And 513 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Murphy presented the following petition:

BISMARCK, N. D., Feb. 11, 1895.

The following resolutions were unanimously adopted by Bismarck Typographical Union No. 140 at their regular monthly meeting held February 10, 1895:

*To the Legislative Assembly of the State of North Dakota:*

GENTLEMEN:—We, the signers of this petition, ask your support of measures whereby the free labor of North Dakota may be saved from competition with convict labor. We believe that the present system under which convict labor can be and is sold to private contractors in this State, is unjust in principle, disadvantageous to the State, and ruinous to free labor. We believe such a system is not in accord with the progressive ideas of the times, and point to the almost universal condemnatory sentiment in the foremost States of the Union against the private contract system.

We believe the State can and should utilize the labor of its convicts, in public works. New York State has amended its Constitution prohibiting the selling of convict labor to private parties, and in the face of all the pressure that interested capital could bring to prevent it.

North Dakota is a young State. The abuse has not yet taken deep root. Later, when extensive interest may be involved, justice to free labor will be more difficult to secure. Now is the time for action, while the evil threatens

but can be controlled. North Dakota's industrial enterprises need the fostering protection of the State rather than that its powerful aid should league with private monopolies to depress industries and drive skilled labor from the State.

We therefore ask your support, and through you, that of the honorable bodies of which you are members, of such measures as will reform the present system of convict labor.

HARRY LEE, Secretary.

M. B. MACCARTNEY,  
President.  
(And 23 others.)

There being no objection, the petition was referred to the Committee on Labor.

Mr. Colby presented the following petition:

GRANDIN, NORTH DAKOTA, February, 1895.

*To the Honorable Members of the House of Representatives of the State of North Dakota, Greeting:*

We, the undersigned legal voters and resident taxpayers of the Tenth Legislative District of North Dakota, do hereby petition your honorable body against the enactment of House Bill No. 65, being bill for an act to provide for the establishing and constructing and maintenance of drains in this State.

R. E. MILLER,  
(And 14 others.)

There being no objection, the petition was referred to the Committee on Judiciary.

Mr. Rinde presented the following petition:

HOOPLE, WALSH COUNTY, N. D., February 4, 1895.

*To the Members of the House and Senate of the Legislative Assembly at Bismarck, North Dakota, Greeting:*

We, the citizens and taxpayers of Walsh County do hereby formally protest against any scheme or plan looking to the division of the First Judicial District for the following reasons:

First—We consider such an act entirely unnecessary, as the district is at present and has been ably managed by Judge Templeton.

Second—We are unalterably opposed to adding additional taxes and expense at the present condition of our State, for no better reasons than that of making judgeships to satisfy standing candidates for that position. More reasons could easily be given, but above will suffice, and to which we attach our names and commend same to your careful consideration.

L. T. BERDAHL,  
(And 28 others.)

There being no objection, the petition was referred to the Committee on Judiciary.

Mr. Jennings presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Eighteenth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

E. B. ROBESON,  
(And 118 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Tyler presented the following petition:

*To the Honorable the Members of the Legislature in Bismarck Assembled:*

We, the undersigned voters and property holders in Cass County, N. D., respectfully request you to use every honorable means in your power to secure the passage of "House Bill No. 65," *i. e.*, the drainage bill.

There is imperative necessity for the passage of this or a similar bill. It means the reclaiming of from seventy-five to one hundred and twenty-five thousand acres of land. Land which, if suitably drained, will become cultivable and the most valuable land in the Red River valley.

P. P. CHACEY,  
(And 434 others.)

There being no objection, the petition was referred to the Committee on Judiciary.

Mr. Nelson presented the following petition:

*To Traill County Members of House and Senate, and Others:*

We, the undersigned citizens and voters of Clifford and vicinity, Traill county, do hereby petition and pray our members of the House and Senate to vote for and use their influence for the passage of House Bill No. seventy-nine (79), entitled "an act to regulate common carriers, to define the duties of Commissioners of Railroads, etc."

A. T. KRAABEL,  
(And 32 others.)

There being no objection, the petition was referred to the Committee on Railroads.

Mr. Sargent presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Eleventh Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

REV. HENRY GRAM,  
(And 31 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Brown presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Fourteenth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

Endorsed by the First Presbyterian Church of Lisbon, N. D.; J. M. Waddle, Pastor; A. F. Norton, Clerk of Session; R. S. Adams, Chairman of Congregational Meeting; F. L. Foulks, Secretary.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Gleason presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-third Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

JOHN PENDRY,  
(And 71 Others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Stafne offered the following resolution:

WHEREAS, The work is accumulating so rapidly that the Journal clerk cannot keep up with it unless an assistant is appointed. Therefore, be it  
*Resolved*, That Mr. C. G. Myhre be appointed assistant Journal clerk.

Mr. Svensrud moved

That the resolution be adopted.

Mr. Rinde offered as a substitute that the resolution be referred to the Committee on Clerk Hire,

Which substitute motion prevailed, and

The resolution was so referred.

Mr. Edwards rose to a question of privilege, and requested that an editorial from the Fargo Argus of this day be read,

Which editorial was read.

I rise to a question of privilege. A petition presented this forenoon from the Ninth District in regard to the question of re-submission, containing the names of many prominent citizens of Fargo, and as it seems to apply equally as well to the senior member as myself, and in order that he may suffer no injustice, I desire to have the clerk read the following editorial from this morning's Fargo Argus, February 12:

There is probably no crime on the calendar that receives as severe condemnation as that of treachery.

The individual, whose name heads this article, has been guilty of much and has been forgiven much. It is not necessary to take up the past, which is covered with a list of his misdoings. He has always been a bad citizen. He has defrauded his creditors, evaded his taxes, slandered his neighbors and dodged his responsibilities. He has been mean and vile ever since he fled from outraged justice in another State, to seek an asylum in a new country—but to all these offenses against the public he has added another—treachery.

His course as a legislator has been most disreputable. He has supported cinche bills and leg-pullers; has attempted blackmail in its several forms; has been shown up as an enemy of labor, and an enemy of the people.

And yet there are those who made excuse for him. "The old man has always been a friend of Fargo," they said. "He will do nothing against the interests of the city."

Those who thus excused him were mistaken. He has never been a friend

of Fargo. He has always been a leech, a blood-sucker upon the body politic, a charge and a disgrace to the community. And they were mistaken when they supposed that he would be true to the interests of Fargo. He has deceived, disappointed and disgusted even these few supporters who made excuse for him.

Nothing was more vital to the interests of Fargo than the resubmission resolution of Senator Haggart, and, but for Edwards' treachery to his friends, this resolution would have passed the House, of which he is, by accident and to the sorrow of Fargo, a disgraceful member.

Edwards did what he might have been supposed to do, he left off his scheming, cinching and boodling long enough to labor for the destruction of the resolution and to vote against the bill in the people's interests.

Branded as a traitor, despised on every hand, will this old reprobate take the hint which will be giveu him upon his return and vamoose to a clime more congenial?

He need not be surprised if he sees hanging from the nearest lamp post, as he descends from the train which brings him back to Fargo, a fat, bloated misshapen and ugly monstrosity, a thing of patches, tatters and straw, beating about in the wind and laughed at by the small boy, who will see that the outraged people have hung the old man in effigy.

As I said before I sent this editorial to the clerk to be read so that any criticism that might have seemed to reflect upon the senior member from the Ninth District, such reflection might be placed where it was due. The gentlemen of the House, (32 I believe), who voted for the measure, are placed in the category of having been led around by the nose, as it were, by me, which of course is more complimentary than I could ask. I am perfectly willing to assume the responsibility that my vote carried with it.

I only desire to say, that as most of us know, that the editor of the Argus is on the floor of the House, and I wish to apologize for him and say he had nothing to do with the writing of that monstrosity, and there is truth in the maxim that "when the cat's away the mice will play." I wish the House to understand that the gentleman who represents that paper here on the floor is, in my opinion, entirely free from responsibility. I am willing to accept the judgment of the people as far as my vote is concerned, and that editorial has no pangs for me.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Railroads made the following report:

**MR. SPEAKER:**

Your Committee on Railroads, to whom was referred  
House Bill No. 25,

A Bill for an act entitled "an act to regulate the liability of corporations."

Also,

House Bill No. 113,

A Bill for an act relating to liability of railroad corporations to employes for personal injuries,

Have had the same under consideration and recommend that the same be referred to the Compilation Committee.

ROLLIN C. COOPER,  
Chairman.

Mr. Cooper moved

That the report of the Committee on Railroads be adopted,  
Which motion prevailed, and  
The report was adopted.

The Committee on Highways, Bridges and Ferries made the following report:

MR. SPEAKER:

Your Committee on Highways, Bridges and Ferries to whom was referred

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways.

Have had the same under consideration and recommend that the same be amended as follows:

Page 1, Section 2, line 1 of printed bill, after the word "shall" insert the following words: "On being petitioned by a majority of the legal voters of said township, as shown by the votes cast at the last annual township meeting, shall at the next annual meeting cause a vote to be taken by ballot on which shall be written or printed 'for contract system,' 'against contract system,' and if the canvass of votes show that for contract system has prevailed, then the township board shall."

On page 2, Section 4, line 2, strike out the word "general" and insert "special."

And when so amended recommend that the same do pass.

A. H. KELLOGG,  
Chairman.

There being no objection, House Bill No. 9 was referred to General Orders.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads to whom was referred

House Bill No. 50,

A Bill for an act to amend Section 2 (a) of Chapter 122 of the General Laws of 1890, entitled "an act to regulate common carriers, and defining the duties of the Commissioners of Railroads in relation thereto in the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 50 was referred to the Committee on Engrossment.

Also,

House Bill No. 88,

A Bill for an act to prohibit the giving, granting, accepting or using of free passes or tickets at a discount to certain officials in this State by transportation companies, their officers and agents, and imposing penalties in relation thereto,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 88 was referred to General Orders.

Also,

House Bill No. 100,

A Bill for an act requiring railway corporations to provide bulletin boards at stations, and providing penalties,

Have had the same under consideration and recommend that the same be amended as follows:

In line 5 of Section 1 of printed bill strike out the words "at least four feet in length and two feet in width."

In line 9, Section 1, after the word "late" insert the word "about."

In line 7, Section 1, insert after the word "of all trains carrying passengers" and strike out the words "each passenger train."

And when so amended recommend that the same do pass.

ROLLIN C. COOPER,  
Chairman.

There being no objection, House Bill No. 100 was referred to General Orders.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

House Bill No. 103,

A Bill for an act to create the Seventh Judicial District of the State of North Dakota, and defining the boundaries of the First and Seventh Judicial Districts, and providing for the terms of court in the Seventh Judicial District,

Have had the same under consideration and recommend that the same be reported back to the House, and

Recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 103 was referred to the Committee on Engrossment.

The Committee on Temperance made the following majority report:

MR. SPEAKER:

A majority of your Committee on Temperance to whom was referred

House Bill No. 139,

A Bill for Concurrent Resolution. Be it Resolved by the House of Representatives of the State of North Dakota, the Senate concurring,

Have had the same under consideration and recommend that it do not pass.

E. C. SARGENT,  
F. W. DWYER,  
J. A. LOGAN,  
P. N. KORSMO,  
N. A. COLBY,

Majority.

The Committee on Temperance made the following minority report:

MR. SPEAKER:

A minority of your Committee on Temperance to whom was referred

House Bill No. 139,

A Bill for a Concurrent Resolution. Be it Resolved by the House of Representatives of the State of North Dakota, the Senate concurring,

Have had the same under consideration, and recommend that it do pass.

J. B. WINEMAN,  
FRANK PROSSER,  
E. J. GLEASON,  
E. S. TYLER,

Minority.

Mr. Cooper moved

That the majority report of the Committee on Temperance be adopted.

Mr. Blacklock moved

As a substitute motion that House Bill No. 139 be made a special order for 2:30 p. m. next Saturday.

Mr. Hodgson moved

An amendment to the substitute motion that it be made a special order for tomorrow at 2:30 p. m.

Mr. Simpson arose to a point of order that it is out of order to move to amend a substitute motion.

The Chair ruled the point of order not well taken.

The question being on the amendment to the substitute motion.

Roll call demanded.

Roll call seconded.

The roll being called there were ayes 31, nays 31.

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,

Messrs—

Kellogg,  
Korsmo,  
Lerom,

Messrs—

Sharpe,  
Smith,  
Stafne,

Messrs—	Messrs—	Messrs—
Cooper,	Logan,	Swensrud,
Dwyer,	Myers,	Swenson,
Edwards,	Nelson,	Tofsrud,
Gilbertson,	Purdon,	Twichell,
Gunderson,	Rasmussen,	Walker,
Hanna,	Ray,	Wallen,
Herbrandson,	Sargent,	Mr. Speaker.
Hodgson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Prosser,
Blacklock,	Horgan,	Richards,
Colosky,	Jennings,	Rinde,
Cryan,	Kroeger,	Roberts,
Eyolfson,	Lindstrom,	Rod,
Flack,	McLachlan,	Simpson,
Fleming,	McDonald,	Spangberg,
Gleason,	Murphy,	Tyler,
Guinan,	Nierling,	Wineman,
Hancock,	Porter,	Wood.
Hill,		

So the motion to amend did not prevail.

The question being on the substitute motion, that the bill be made a special order for next Saturday at 2:30 p. m.

Roll call demanded.

Roll call seconded.

The roll being called, there were ayes 31, nays 31.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Prosser,
Blacklock,	Holritz,	Richards,
Colosky,	Horgan,	Rinde,
Cryan,	Jennings,	Roberts,
Eyolfson,	Kroeger,	Rod,
Flack,	McLachlan,	Simpson,
Fleming,	McDonald,	Spangberg,
Gleason,	Murphy,	Tyler,
Guinan,	Nierling,	Wineman,
Hancock,	Porter,	Wood.
Herbrandson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Sharpe,
Brown,	Lerom,	Smith,
Colby,	Lindstrom,	Stafne,
Cooper,	Logan,	Svensrud,
Dwyer,	Myers,	Swenson,
Edwards,	Nelson,	Tofsrud,
Gilbertson,	Purdon,	Twichell,
Gunderson,	Rasmussen,	Walker,
Hanna,	Ray,	Wallen,
Hodgson,	Sargent,	Mr. Speaker.
Kellogg,		

So the substitute motion did not prevail.

The question recurring on the original motion of Mr Cooper to adopt the majority report of the Committee on Temperance.

Roll call demanded.

Roll call seconded.

The roll being called, there were ayes 37, nays 25.

Those who voted in the affirmative were:

Messrs.	Messrs.	Messrs—
Blacklock,	Hodgson,	Rinde,
Brainard,	Horgan,	Sargent,
Brown,	Kellogg,	Sharpe,
Colby,	Korsmo,	Smith,
Cooper,	Lerom,	Stafne,
Cryan,	Lindstrom,	Svensrud,
Dwyer,	Logan,	Swenson,
Edwards,	Myers,	Tofsrud,
Eyolfson,	Nelson,	Twichell,
Gilbertson,	Purdon,	Walker,
Gunderson,	Rasmussen,	Wallen,
Hanna,	Ray,	Mr. Speaker.
Herbrandson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Jennings,	Richards,
Colosky,	Kroeger,	Roberts,
Flack,	McLachlan,	Rod,
Fleming,	McDonald,	Simpson,
Gleason,	Murphy,	Spangberg.
Guinan,	Nierling,	Tyler,
Hancock,	Porter,	Wineman,
Hill,	Prosser,	Wood.
Holritz,		

So the original motion prevailed, and

The majority report of the Committee on Temperance was adopted.

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs to whom was referred House Bill No. 6,

A Bill for an act repealing an act entitled "an act creating the office of State Superintendent of Irrigation and Forestry and prescribing the duties thereof,"

Have had the same under consideration and recommend that the same be reported back without recommendation.

**T. TWICHELL,**  
Chairman.

There being no objection, House Bill No. 6 was referred to General Orders.

## MOTIONS AND RESOLUTIONS.

Mr. Tyler offered the following resolution and moved its adoption:

That House Bill No. 65 be recalled from the Committee on Highways, Bridges and Ferries and referred to the Committee on Judiciary.

I do this for this reason: there was a law passed during the last session upon that question. It was declared unconstitutional by the Supreme Court. All the discussion and argument referred to its unconstitutionality more than anything else. I think it appropriate that the bill should be brought before the Judiciary Committee and that question discussed before we act upon the merits of the bill.

Mr. Korsmo introduced

House Bill No. 143,

A Bill for an act providing for the appointment of a board of boiler inspectors and engineer instructors, and defining their duties.

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Informal recess.

The House reassembled.

Mr. Nierling introduced

House Bill No. 144,

A Bill for an act to amend Section ninety-seven of Chapter one hundred thirty-two of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments, and the levy and collection of taxes, and for other purposes relative thereto."

Which was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

Mr. Hanna introduced

House Bill No. 145,

A Bill for an act entitled "an act to establish a garnishment law for the State of North Dakota,"

Which was read the first and second times, and

Referred to the Committee on Judiciary.

The Speaker announced the appointment of Mr. Simpson as an additional member of the Joint Committee on Railroad Rates.

Mr. Rinde introduced

House Bill No. 146,

A Bill for an act to prescribe penalties for the unlawful manufacture, sale and keeping for sale of illuminating oils manufactured from petroleum or coal oils, and to repeal Chapter 107 of the Laws of 1890, and Chapter 77 of the Laws of 1893,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Simpson introduced

House Bill No. 147,

A Bill for an act to amend Section 10 of Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws,  
Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Mr. Nierling, by unanimous consent, offered the following Concurrent Resolution, and  
Moved its adoption,  
Which motion prevailed, and  
The Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

WHEREAS, The following uncalled for and disloyal lesson was given in one of our State educational institutions, as we observe from the columns of one of our reputable newspapers of this State, viz:

A professor in one of our State educational institutions gave his class a few days ago this item of unwritten history: "Abraham Lincoln was nothing but a vagabond and a wretch, and there is no use to try to cover it up, for that was all he was; that he was not genteel, that squibs had been found written by him simply disgraceful." Send him to Timbucto; therefore, be it

*Resolved*, That a committee of three be appointed, one from the Senate and two from the House, to investigate this matter.

Mr. Murphy, by unanimous consent, offered the following resolution, and

Moved that it be referred to the Special Committee on Clerk Hire,

Which motion prevailed, and  
The resolution was so referred.

#### BESOLUTION.

WHEREAS, It is necessary that another assistant enrolling and engrossing clerk should be appointed; therefore be it

*Resolved*, That T. N. Onim, of Ransom County, be appointed as said assistant.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 36,

A Bill for an act entitled "an act to provide for the licensing of dogs and the indemnifying of owners of sheep and other stock in case of damage by dogs and creating a fund to pay for the same by a dog license,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 25, nays 35, not voting 2.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Colosky,

Messrs—

Hanna,  
Hodgson,  
Jennings,

Messrs—

Sargent,  
Simpson,  
Smith,

## Messrs—

Cooper,  
Edwards,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,

## Messrs—

Logan,  
Murphy,  
Myers,  
Rasmussen,  
Roberts,

## Messrs—

Stafne,  
Twichell,  
Tyler,  
Wineman,  
Mr. Speaker.

Those who voted in the negative were:

## Messrs—

Blacklock,  
Brown,  
Colby,  
Cryan,  
Dwyer,  
Eyolfson,  
Fleming,  
Hancock,  
Herbrandson,  
Hill,  
Holritz,  
Kellogg,

## Messrs—

Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
McLachlan,  
McDonald,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,

## Messrs—

Richards,  
Rinde,  
Rod,  
Sharpe,  
Spangberg,  
Svensrud,  
Swenson,  
Tofsrud,  
Walker,  
Wallen,  
Wood.

Absent and not voting: Messrs. Gleason and Horgan.

So the bill was lost.

## CONSIDERATION OF MESSAGES FROM THE SENATE.

Concurrent Resolution proposing amendment to the Constitution in relation to the debt limit,

Was read the first time, and

Referred to the Committee on Judiciary.

## FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 98,

A Bill for an act authorizing counties in the State of North Dakota to raise and expend a fund for the purchase of poison for the destruction of gophers, and repealing Chapter 144 of the Laws of 1890,

Was read the first and second times, and

Referred to the Committee on State Affairs.

Senate Bill No. 50,

A Bill for an act for the consolidation and organization of contiguous unorganized counties,

Was read the first and second times, and

Referred to the Committee on Counties and County Boundaries.

Senate Bill No. 58,

A Bill for an act to provide for State depositories and to regulate the deposit of public moneys therein, and the interest thereon, and prescribing the means thereof.

Was read the first and second times, and

Referred to the Committee on State Affairs.

Senate Bill No. 65,

A Bill for an act to secure safe keeping of all funds coming into the hands of county treasurers by prescribing and regulating the deposit thereof,

Was read the first and second times, and

Referred to the Committee on State Affairs.

Senate Bill No. 103,

A Bill for an act to amend Section 8, Chapter 79 of the Laws of 1891, changing the place of holding district court in Wells county,

Was read the first and second times, and

Referred to the Committee on Judiciary.

Senate Bill No. 67,

A Bill for an act to amend Subdivision 30 of Section 73 of the Laws of 1887,

Which was read the first and second times, and

Referred to the Committee on Temperance.

Senate Bill No. 44,

A Bill for an act to provide for a geological and natural history survey of the State of North Dakota,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties,

Was read the first and second times, and

Referred to the Committee on Counties and County Boundaries.

Senate Bill No. 108,

A Bill for an act repealing Chapter 20 of the Special Laws of Dakota Territory for the year 1885, being an act entitled "an act prescribing the duties and regulating the salaries of the county treasurer and register of deeds for Grand Forks county, D. T.,

Was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

#### THIRD READING OF SENATE BILLS.

Senate Bill No. 69,

A Bill for an act making boards of trustees commissioners, directors, person or persons liable for amounts expended in excess of appropriations, and providing for emergency expenditures,

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 58, nays none, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Ray,
Blacklock,	Horgan,	Richards,
Brainard,	Jennings,	Rinde,
Brown,	Kellogg,	Roberts,
Colby,	Kroeger,	Rod,
Colosky,	Korsmo,	Sargent,
Cooper,	Lerom,	Sharpe,
Cryan,	Lindstrom,	Smith,
Dwyer,	Logan,	Spangberg,
Eyolfson,	McLachlan,	Stafne,
Fläck,	McDonald,	Svensrud,
Fleming,	Murphy,	Swenson,
Gilbertson,	Myers,	Tofsrud,
Guinan,	Nelson,	Twichell,
Gunderson,	Nierling,	Tyler,
Hancock,	Porter,	Walker,
Hanna,	Prosser,	Wineman,
Herbrandson,	Purdon,	Wood,
Hill,	Rasmussen,	Mr. Speaker.
Hodgson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Simpson,	Wallen.
Gleason,		

So the bill passed and the title was agreed to.

Mr. Hanna requested unanimous consent for the House to return to the seventh order of business,

Which consent was granted.

#### MOTIONS AND RESOLUTIONS.

Mr. Hanna moved

That Senate Bill No. 7 be taken from General Orders and be considered,

Which motion prevailed.

Senate Bill No. 7,

A Bill for an act to amend Section one (1) of Chapter nine (9), of the Laws of 1891, providing clerk hire for the various State officers and making an appropriation therefor,

Was read the third time.

Mr. Svensrud moved

That the amendments as reported by the Committee on Appropriations be incorporated in the bill,

Which motion prevailed, and

The amendments were adopted.

Amendment to Senate Bill No. 7,

A Bill for an act to amend Section 1 of Chapter 9 of the Laws

of 1891, providing clerk hire for the various State officers and making an appropriation therefor,

By striking out the words "eighteen hundred" in line 6 of page 1, and the words "three thousand" be inserted in lieu thereof.

By striking out the word "nine" in line 4, page 2, of the original bill, and inserting the word "fifteen" in lieu thereof.

The question being on the final passage of the bill,

The roll being called there were ayes 41, nays 20, not voting 1.

Those who voted in the affirmative were:

Messrs—

Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Fleming,  
Gilbertson,  
Gunderson,  
Hancock,  
Hanna,  
Hill,  
Horgan,  
Kellogg,

Messrs—

Kroeger,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,  
Richards,

Messrs—

Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Spangberg.  
Stafne,  
Svensrud,  
Swenson,  
Twichell,  
Tyler,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Cryan,  
Eyolfson,  
Flack,  
Guinan,

Messrs—

Herbrandson,  
Hodgson,  
Holritz,  
Jennings,  
Korsmo,  
Lerom,  
Rasmussen,

Messrs—

Rinde,  
Rod,  
Smith,  
Tofsrud,  
Walker,  
Wallen.

Absent and not voting, Mr. Gleason.

So the bill as amended passed and the title was agreed to.

Mr. Tyler moved

That the vote by which Senate Bill No. 7 was passed be reconsidered, and the motion to reconsider be laid upon the table,

Which motion prevailed.

Mr. Edwards moved

That the House adjourn to meet at 10 o'clock tomorrow.

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## THIRTY-SEVENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 13, 1895.

The House assembled at 10 o'clock a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Walker moved  
That the roll call be dispensed with,  
Which motion prevailed.

## SPECIAL ORDERS.

The consideration of  
Senate Bill No. 114,

A Bill for an act to establish a Justice's Code for the State of North Dakota,

Having been made a special order for 10 o'clock a. m. of this day, it was placed upon its first reading.

The reading of Senate Bill No. 114 being in progress.

The Speaker called Mr. Rod to the Chair.

Senate Bill No. 114,

A Bill to establish a Justice's Code for the State of North Dakota,

Was read the first and second times, and

Referred to its third reading.

The House took a recess for ten minutes.

The House reassembled.

The Speaker announced that if there were no objections the House would take a recess until 2 o'clock p. m.

There being no objection, the House took such recess.

House reassembled.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER :

Your Committee on the Revision and Correction of the Journal have carefully examined the Journal of the thirty-sixth day, find it correct and recommend that it be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the thirty-sixth day was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Hanna presented the following petition:

*To the Honorable House of Representatives of the Fourth Legislative Assembly of the State of North Dakota:*

We, the undersigned residents of the townships of Page and Rochester in Cass county, North Dakota, would respectfully request that you do not pass House Bill No. 9, an act requiring road work to be done by contract.

We are farmers and taxpayers and at the time the road work is done we can work out our road tax, as at that time we have nothing for ourselves or teams to do.

Further, we and all of our neighboring townships have bought road graders at a heavy expense, which, if the work was let by contract, would be practically money thrown away.

Trusting you will not pass this law, which if passed will deprive us of a chance to work our road tax and compel us to pay it in money, we remain

Respectfully yours,

ALBERT SMITH,  
(And 55 others.)

There being no objection, the petition was referred to the Committee on Highways, Bridges and Ferries.

Mr. Nierling presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Stutsman County Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

CHAS. L. JUDD,  
(And 16 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. McLachlan presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-second Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

J. M. TAYLOR,  
(And 27 others.)

There being no objection, the petition was referred to the Committee on Temperance.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 13, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the Senate has concurred in the House resolution that a Joint Committee be appointed to investigate the alleged utterances of a member of the faculty of a State educational institution.

Senator Benedict has been named as a Senate member of such committee.

Respectfully,

FRED FALLEY,  
Secretary.

The Speaker announced the appointment of Messrs. Nierling and Cooper as members of the Joint Committee to investigate action in one of the State educational institutions in regard to remarks about Abraham Lincoln.

Mr. Ray presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Seventeenth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass

at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

J. B. BALLMAN,  
(And 22 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Fleming requested that the courtesies of the floor be extended to Mr. Delaney, of Walsh county.

There being no objection, the courtesies of the floor were so extended.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 114,

A Bill for an act entitled "an act to provide for the taxation of property situated in the unorganized counties of the State."

Have had the same under consideration and recommend that the same be amended as follows:

By striking out in line 5 of Section 2 of printed bill, the words "ten thousand" and inserting in lieu thereof the words "five thousand."

And, by striking out in line 4, Section 3, of printed bill, the words "two thousand five hundred" and inserting in lieu thereof the words "one thousand,"

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 114 was referred to General Orders.

Mr. Kellogg requested that the courtesies of the floor be extended to Prof. Stockwell, of Grafton.

There being no objection, the courtesies of the floor were so extended.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred House Bill No. 111,

A Bill for an act entitled "an act for the preservation, propagation and protection of the game and fish of the State of North Dakota."

Have had the same under consideration and recommend that the same be amended as follows:

On page 1, Section 1, line 3, of printed bill, strike out the word "five," and in line 4 strike out the word "five."

On page 1, Section 1, line 8, of printed bill, strike out the word "two" and insert in lieu thereof the word "members."

On page 2, Section 2, line 1, of printed bill, strike out the word "March" and insert in lieu thereof the word "April," and in line 2 of same section strike out the word "March" and insert in lieu thereof the word "April."

On page 5, Section 5, line 24, of printed bill, strike out the word "ten" and insert in lieu thereof the word "twenty."

On page 10, Section 12, line 6, of printed bill, strike out the word "five" and insert in lieu thereof the word "twenty."

On page 11, Section 15, line 15, of printed bill, after the word "dollars" add "after or in lieu thereof deposit with the clerk the sum of two hundred and fifty dollars in money;" and in the same section add the following: "Provided, further, that nothing in this law shall prevent a resident from hunting on his own premises."

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 111 was referred to General Orders.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

Have had the same under consideration and recommend that the same be amended as follows:

By inserting after the word "incorporate" in line 5 of Section 1 of printed bill the words "or incorporated," and after the word "town" in same line the words "with at least eight hundred inhabitants."

And that whenever the words "five years" appear in said printed bill they be stricken out and the words "ten years" be inserted in lieu thereof.

And that there be inserted after the word "exempt" in line 4, in Section 2, of printed bill, the words "after fifty years of age."

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 16 was referred to General Orders.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined House Bill No. 50,

A Bill for an act entitled "an act to amend Section 2 (a) of Chapter 122 of the General Laws of 1890 entitled 'an act to regulate common carriers and defining the duties of the Commission-

ers of Railroads in relation thereto in the State of North Dakota.'”

Also,

House Bill No. 139,

A Bill for a Concurrent Resolution to amend the Constitution of the State of North Dakota by striking out Article 20, being Section 217 thereof.

Also,

House Bill No. 103,

A Bill for an act to create the seventh judicial district of the State of North Dakota, and defining the boundaries of the first and seventh judicial districts, and providing for terms of court in the seventh judicial district,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Appropriations made the following report:

**MR. SPEAKER:**

Your Committee on Appropriations to whom was referred

House Bill No. 69,

A Bill for an act entitled “an act to encourage the culture of the sugar beet in the State of North Dakota and the manufacture of sugar from the same and to appropriate three hundred dollars or so much as may be necessary to defray the expenses thereof;”

Have had the same under consideration and recommend that said bill do pass.

There being no objection, House Bill No. 69 was referred to the Committee on Engrossment.

Also,

House Bill No. 56,

A Bill for an act to amend Section 1 of Chapter 9 of the Laws of 1891, providing clerk hire for the various State officers and making an appropriation therefor,

Have had the same under consideration, and recommend that the same be indefinitely postponed for the reason that a similar bill has already been passed by the House.

FRANK H. PROSSER,  
Chairman.

Mr. Hanna moved

That the report of the Committee on Appropriations on House Bill No. 56 be adopted,

Which motion prevailed, and

House Bill No. 56 was indefinitely postponed.

Mr. Lindstrom moved

That the vote by which House Bill No. 36 was lost be reconsidered,

Which motion prevailed.

Mr. Hanna moved

House Bill No. 36 be referred to the Committee on Sheep Husbandry,

Which motion prevailed, and

House Bill No. 36 was so referred.

Mr. Cooper offered the following Concurrent Resolution, and moved its adoption,

Which motion was lost.

#### CONCURRENT RESOLUTION.

WHEREAS, Chapter 29 of the Laws of 1893 created a Board of Capitol Commissioners consisting of the Governor, Secretary of State and State Auditor for the purpose of building an addition to the State capitol at Bismarck; and,

WHEREAS, Said Capitol Commission having completed their labors and discharged their duties in a manner creditable to themselves and satisfactory to the Legislative Assembly; and,

WHEREAS, Said commission report an unexpended balance of \$704 68, remaining in said Capitol Extension Fund; therefore, be it

*Resolved by the House of Representatives, the Senate Concurring,* That the said unexpended balance of said Capitol Extension Fund, being the sum of \$704 68, be equally divided between the members of said Commission, to-wit: E. C. D. Shortridge, C. M. Dahl and A. W. Porter, as compensation in full for services rendered as Commissioners aforesaid and the Auditor of the State be hereby authorized to issue his warrant accordingly.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Prosser introduced

House Bill No. 148,

A Bill for an act to amend Section 71 of Chapter 118 of the Laws of 1893, being an act to provide for the control and management of university and school lands, and making an appropriation therefor,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Richards introduced

House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of this State to employ the inmates of the penitentiary in manufacturing of brick and constructing of public improvements,

Which was read the first and second times, and

Referred to the Committee on Labor.

#### GENERAL ORDERS.

Mr. Wineman moved

That the House resolve itself into a Committee of the Whole for the purpose of considering House Bill No. 10,

Which motion prevailed, and  
The House resolved itself into a Committee of the Whole.  
The Speaker called Mr. Edwards to the Chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration  
House Bill No. 10,

A Bill for an act to amend Section 2578, Compiled Laws of 1887,  
relating to divorce,

And report the bill back without recommendation.

A. W. EDWARDS,  
Chairman.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 13, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith a Concurrent Resolution  
memorializing Congress to restore the tariff on wool,

Which the Senate has passed and the concurrence of the House  
is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

CONCURRENT RESOLUTION.

WHEREAS, The low price of wheat and the increased labor incident to its  
production on account of the Russian cactus, combining to make the grow-  
ing of wheat and other small grains precarious and unremunerative, thereby  
necessitating mixed or diversified farming; and

WHEREAS, It has been demonstrated that sheep are natural weed destroy-  
ers, and that the climate and all other conditions of this State are eminently  
favorable to the growth of wool and flocks; and

WHEREAS, Prior to the repeal of the tariff on wool and the consequent de-  
pression in the price of that product, wholly eliminating the element of profit  
from what was rapidly becoming the paramount industry of the State and  
destroying the farmers' and the flock-masters' sure source of revenue; and

WHEREAS, It is impossible for the American farmer to compete with the  
low-priced labor and milder climate of the southern wool growing nations,  
therefore, be it

*Resolved*, That this Legislative Assembly memorialize Congress to restore  
the tariff on wool, and protect this great American industry for Americans,  
until our waste lands are filled with flocks and our own countrymen be  
allowed to supply American mills with American wool.

Mr. Hodgson moved

That the report of the Committee of the Whole be adopted,  
Which motion was lost.

Mr. Wineman moved

That House Bill No. 10 be placed upon its third reading and final passage.

Mr. Simpson rose to a point of order, that inasmuch as the Civil Code provides for the matter in House Bill No. 10, and as both House and Senate have passed the Civil Code, the House cannot again act on the matter contained in House Bill No. 10.

The Speaker stated that on account of a recent decision of the House, he could not sustain the point of order.

The Speaker ruled the motion of Mr. Wineman out of order.

Mr. Wineman moved

That House Bill No. 10 be recalled from General Orders and be placed upon its third reading and final passage.

Mr. Edwards stated that the motion of Mr. Wineman contained two propositions, and asked that the motion be divided.

The question being on the first proposition in Mr. Wineman's motion,

The motion prevailed, and

House Bill No. 10 was recalled from General Orders.

The question being on the second proposition in Mr. Wineman's motion,

The motion prevailed, and

House Bill No. 10,

A Bill for an act entitled "an act to amend Section 2578, Compiled Laws of 1887, relating to divorce,

Was read the third time.

Mr. Simpson rose to a point of order, that House Bill No. 10 is a subject that has already been passed upon by this Legislative Assembly once during this session.

Both the House and Senate have adopted the Civil Code, and the Civil Code prescribes the law as ninety days, and under the ruling of the Chair on the resubmission matter a day or two ago no further action can be had upon this question.

The Chair held that no matter that had been decided in the House could be re-introduced, and the House ruled against the decision of the Chair, so that as the Chair understands the House it is in a position under its own rulings to admit any matter, no matter how often it has been decided upon.

Mr. Simpson arose to a point of order, that the bill was not engrossed and therefore could not be placed upon its final passage.

The Speaker decided the point of order well taken.

Mr. Wineman moved

That the rules be suspended and that House Bill No. 10 be placed upon its final passage without engrossment,  
Which motion was lost.

## THIRD READING OF HOUSE BILLS.

House Bill No. 139,  
Being a Concurrent Resolution,  
Was placed upon its third reading.

Mr. Simpson arose to a point of order, that as House Bill No. 139 was not on the printed orders of the day it could not be considered.

The point of order was declared well taken.

Mr. Edwards arose to a point of order, that the resolution providing for the printing of the daily list of orders of the day provided for bills only and not resolutions, consequently the consideration of the Concurrent Resolution was in order.

The Speaker decided the point of order well taken.

Mr. Simpson moved  
That the House do now adjourn.

Roll call demanded.

The roll being called there were ayes 27, nays 34, not voting 1.

Those who voted in the affirmative were:

Messrs—	Messrs.	Messrs—
Armstrong,	Hill,	Prosser,
Blacklock,	Holritz,	Richards,
Colosky,	Horgan,	Roberts,
Cryan,	Jennings,	Rod,
Flack,	Kroeger,	Simpson,
Fleming,	McLachlan,	Spangberg,
Gleason,	McDonald,	Tyler,
Guinan,	Nierling,	Wineman,
Hancock,	Porter,	Wood,

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brown,	Korsmo,	Sargent,
Colby,	Lerom,	Sharpe,
Cooper,	Lindstrom,	Smith,
Dwyer,	Logan,	Stafne,
Edwards,	Murphy,	Svensrud,
Eyolfson,	Myers,	Swenson,
Gilbertson,	Nelson,	Tofsrud,
Gunderson,	Purdon,	Twichell.
Hanna,	Rasmussen,	Walker,
Herbrandson,	Ray,	Wallen,
Hodgson,	Rinde,	Mr. Speaker.
Kellogg,		

Absent and not voting: Mr. Brainard, who was excused.  
So the motion to adjourn was lost.

House Bill No. 139,  
Being a Concurrent Resolution,  
Was read the third time.

Mr. Simpson moved  
That House Bill No. 139 be made a special order for next Saturday at 3 p. m.

Roll call demanded.

The roll being called there were ayes 26, nays 35, not voting 1.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Richards,
Blacklock,	Horgan,	Roberts,
Colosky,	Jennings,	Rod,
Flack,	Kroeger,	Simpson,
Fleming,	McLachlan,	Spangberg,
Gleason,	McDonald,	Tyler,
Guinan,	Nierling,	Wineman,
Hancock,	Porter,	Wood.
Hill,	Prosser,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Hodgson,	Rinde,
Brown,	Kellogg,	Sargent,
Colby,	Korsmo,	Sharpe,
Cooper,	Lerom,	Smith,
Cryan,	Lindstrom,	Stafne,
Dwyer,	Logan,	Svensrud,
Edwards,	Murphy,	Swenson,
Eyolfson,	Myers,	Tofsrud,
Gilbertson,	Nelson,	Twitchell,
Gunderson,	Purdon,	Walker,
Hanna,	Rasmussen,	Wallen,
Herbrandson,	Ray,	Mr. Speaker.

Absent and not voting, Mr. Brainard, who was excused.

So the motion was lost.

Mr. Fleming moved  
That the House do now adjourn,  
Which motion was lost.

Mr. Wineman addressed the House in support of his views in regard to the Concurrent Resolution.

Time called by the Speaker.

Mr. Edwards moved  
That Mr. Wineman be given additional time,  
Which motion was lost.

The question being on the final passage of House Bill No. 139, being a Concurrent Resolution to amend the Constitution,

The roll being called, there were ayes 26, nays 35, not voting 1.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Richards,
Colosky,	Jennings,	Roberts,
Flack,	Kroeger,	Rod,
Fleming,	McLachlan,	Simpson,
Gleason,	McDonald,	Spangberg,
Guinan,	Murphy,	Tyler,
Hancock,	Nierling,	Wineman,
Hill,	Porter,	Wood.
Holritz,	Prosser,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hodgson,	Sargent,
Brown,	Kellogg,	Sharpe,
Colby,	Korsmo,	Smith,
Cooper,	Lerom,	Stafne,
Cryan,	Lindstrom,	Svensrud,
Dwyer,	Logan,	Swenson,
Edwards,	Myers,	Tofsrud,
Eyolfson,	Nelson,	Twichell,
Gilbertson,	Purdon,	Walker,
Gunderson,	Rasmussen,	Wallen,
Hanna,	Ray,	Mr. Speaker.
Herbrandson,	Rinde,	

Absent and not voting, Mr. Brainard, who was excused.

So the bill was lost.

Mr. Sargent moved

That the vote by which House Bill No. 139, being a Concurrent Resolution, was lost be reconsidered and that the motion to reconsider be laid upon the table,

Which motion prevailed, and

The motion to reconsider was laid upon the table.

Mr. Simpson moved

That the House take a recess for ten minutes,

Which motion prevailed, and

The House took such recess.

The House reassembled.

Mr. Wineman moved

That the House adjourn to meet at 10 o'clock a. m. tomorrow,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## THIRTY-EIGHTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 14, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Cooper moved

That the calling of the roll be dispensed with,

Which motion prevailed, and

The calling of the roll was dispensed with.

## SPECIAL ORDERS.

Senate Bill No. 114,

A Bill for an act to establish a Justices' Code for the State of North Dakota,

Having been made a special order for 10 o'clock a. m. of this day was placed upon its third reading.

The Speaker called Mr. Cooper to the Chair.

The third reading of Senate Bill No. 114 was concluded.

Informal recess.

The House reassembled.

The Joint Committee to consider the report of the Revision Commission made the following report:

MR. SPEAKER:

The Joint Committee to consider the report of the Revision Commission have carefully examined the Code of Criminal Procedure submitted by the Commission; have amended the report in such a manner as in their judgment the interests of the State demanded, and now submit for the consideration of the House, a Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota, and respectfully request its favorable consideration by the House.

Respectfully,  
C. E. GREGORY,  
Chairman.

Mr. Tyler moved

That the report of the Joint Committee be adopted,  
Which motion prevailed.

House Bill No. 150,

A Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota,

Which was read the first and second times, and  
Referred to its third reading.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the thirty-seventh day, and recommend that it be amended as follows:

On page 11, line 35, insert the words "so the motion was lost,"  
And when so amended that the Journal be approved.

GEO. HILL,  
Chairman.

Mr. Rinde moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the thirty-seventh day was approved.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Wineman presented the following petition:

*To the Honorable, the Legislative Assembly of the State of North Dakota:*

The undersigned, citizens and taxpayers of the city of Grand Forks and State of North Dakota, represent to your honorable body that the present laws of the State of North Dakota regulating the licensing of peddlers is a hardship on those engaged in the business of peddling, and we do most respectfully petition your honorable body to enact laws regulating the issuance of license to peddlers similar to those in force in the States of Minnesota and Wisconsin, whereby a license can be procured from the State good in all portions of the State, and thereby avoid the necessity of procuring a license in each county.

TRACY R. BANGS,  
(And 44 others.)

There being no objection, the petition was referred to the Joint Committee to consider the report of the Revision Commission.

Messrs. Flack and Jennings presented the following petition:

*To Hon. T. W. Plain, Senator, and Hon. John Flack and Hon. James Jennings, Members of the Legislature of the State of North Dakota, of Cavalier County, N. D.:*

GENTLEMEN—We, the undersigned, members of the bar of Cavalier County and others of said county, respectfully protest against the division of the First Judiciary District, composed of the counties of Grand Forks, Nelson, Walsh, Pembina and Cavalier, of which Hon. Charles F. Templeton is judge. We request that you use your votes and influence against the bill now before the Legislature for that purpose.

H. B. DOUGHERTY,  
(And 114 others.)

There being no objection, the petition was referred to the Committee on Judiciary.

Mr. Rinde presented the following petition:

*To the Honorable the Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of Park Centre congregation, Walsh county, North Dakota, held on the 10th day of February, A. D. 1895, the following resolution was unanimously adopted:

*Resolved*, That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota, now in session, be requested by this meeting not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article 20 of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors;

*Resolved, further*, That the Legislative Assembly of this State, now in session, be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of intoxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

[All present voted for, none against.]

N. G. RUSTGAARD, Secretary.

H. P. BARGE,  
Chairman.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Twichell presented the following petition:

We, the undersigned residents of Cass county, pray your honors that the word "resident" and "all pertaining thereto" be stricken out of House Bill No. 48.

Respectfully submitted,

J. J. GOODRICH,  
(And 53 others.)

There being no objection, the petition was referred to the Committee on State Affairs.

Mr. Smith presented the following petition:

*To the Legislative Assembly of the State of North Dakota:*

The petition of the undersigned represents that they are citizens of the Twenty-fifth Legislative District of the State of North Dakota; that in their opinion it would be contrary to the best interests of the State to pass at your present session a resolution for the purpose of resubmitting the question of prohibition. We therefore respectfully petition that such resolution be not passed.

B. A. GREENWOOD,  
(And 45 others.)

There being no objection, the petition was referred to the Committee on Temperance.

#### REPORTS OF STANDING COMMITTEES.

The Joint Committee to consider the report of the Revision Commission made the following report:

MR. SPEAKER:

Your Joint Committee to consider the report of the Revision Commission have had under consideration  
House Bill No. 65,

A Bill for an act to provide for the establishment, construction and maintenance of drains in this State,  
And recommend that it be amended

By striking out all of Sections 7 and 8 of the original bill and inserting the following sections in lieu thereof:

Section 7. Upon the assessment by the jury, court or referee of the amount of damages to which the respective owners of the right of way to be used for the construction of any proposed drain are entitled the Board of Drain Commissioners shall assess the per cent of the cost of acquiring the right of way in the manner provided in Section 9 of this act, make a return to the county auditor, containing all that is required in Section 10 of this act, except an order establishing the drain and make, serve and file the list provided for in Section 14 of this act. Thereupon the Board of Drain Commissioners may issue warrants in a sum sufficient to pay the damages assessed for right of way, drawn upon the proper county treasurer and payable out of any funds in the hands of the treasurer for the construction of the drain for which such right of way is sought to be obtained and shall negotiate the same at not less than the par value thereof and pay into court for the benefit of the owners of the right of way the amount to which each is entitled according to the assessment of damages, paying the surplus, if any, to the county treasurer, who shall place the same to the credit of the proper drain fund. If warrants are not issued, or if issued, cannot be negotiated, no further proceedings shall be taken until the special tax levied to pay for the right of way is col-

lected and paid into the court for the benefit of the owners of the right of way.

Section 8. Every assessment of benefits provided for in this act shall be subject to review and ten days' notice of the time and place when and where such assessment will be reviewed by the Drain Commissioners shall be given in the manner provided in Section 11 of this act. At the time and place appointed the Drain Commissioners shall proceed to hear all complaints relative to such assessment and correct or confirm the same.

And when so amended recommend the passage of the bill.

The Committee further report that after a careful examination of the bill, they find it so drawn as to avoid the unconstitutional features in the original Drainage Law as construed by the Supreme Court, and that the amended bill now presented appears to provide legal measures to accomplish the drainage desired.

Respectfully,

C. A. GREGORY,  
Chairman.

Mr. Hanna moved

That the report of the Committee to consider the report of the Revision Commission be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

House Bill No. 65, with the amendments, was referred to the Committee on Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred House Bill No. 146,

A Bill for an act to prescribe penalties for the unlawful manufacture, sale and keeping for sale of illuminating oils manufactured from petroleum or coal oils, and to repeal Chapter 107 of the Laws of 1890, and Chapter 77 of the Laws of 1893,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 146 was referred to the Committee on Engrossment.

Also,

House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890 and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State and the management of the fund arising therefrom and making an appropriation therefor,"

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 89 was referred to the Committee on Engrossment.

Also,

House Bill No. 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers, or any article or instrument of immoral use, and prescribing the punishment therefor,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 112 was referred to the Committee on Engrossment.

Also,

Senate Bill No. 44,

A Bill for an act to provide for a geological and natural history survey of the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, Senate Bill No. 44 was referred to the Committee on Engrossment.

The Committee on Public Health made the following report:

MR. SPEAKER:

Your Committee on Public Health, to whom was referred House Bill No. 49,

A Bill for an act to prohibit the use and maintenance of slaughter houses and deposit of filth and unhealthy matter upon the banks of flowing streams in this State, and to provide penalties for its violation,

Have had the same under consideration and recommend that the same be referred to the Compilation Commission.

W. B. WOOD,  
Chairman.

Mr. Hill moved that the report of the Committee on Public Health be adopted,

Which motion prevailed, and

House Bill No. 49 was referred to the Joint Committee to consider the report of the Revision Commission.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 69,

A Bill for an act to encourage the culture of the sugar beet in the State of North Dakota, and the manufacture of sugar from the same, and to appropriate three hundred dollars or so much as may be necessary to defray the expenses therefor.

Also,

House Bill No. 10,

A Bill for an act entitled "an act to amend Section 2578, Compiled Laws of 1887, relating to divorce."

Also,

House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers, to define the duties of Commissioners of Railroads, and to provide for the control of railroads, bridges, corporations and ferry companies within the State,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Simpson moved

That House Bill No. 10 be referred to the Joint Committee to consider the report of the Revision Commission; to report as to its constitutionality, and whether the House can enact such legislation, and that the Committee be requested to report tomorrow,

Which motion was lost.

#### MOTIONS AND RESOLUTIONS.

Mr. Wallen moved

That the courtesies of the floor be extended to Prof. J. G. Holland, of Hillsboro.

There being no objections the courtesies of the floor were so extended.

Mr. Twichell offered the following resolution:

*Mr. Speaker and Members of the House of Representatives:*

WHEREAS, Chapter 136 of the Session Laws of 1890, entitled "an act to license express companies is, so far as I can ascertain, still in force; and

WHEREAS, The law provides that every express company doing business in this State shall procure annually a license to do business from the State Auditor; that such companies shall furnish the auditor a list of all towns in which they do business, and the amount of such license shall depend on the number and population of such towns; and

WHEREAS, The express companies, auditors and attorney generals seem to have failed to comply with each and every provision of this act, thus depriving the State of all taxes from express companies since the enactment of this law in 1890; and

WHEREAS, As Section 137 of the Session Laws of 1890, a similar law relating to licensing of sleeping cars has likewise been disregarded; therefore be it,

*Resolved,* That the Speaker appoint a Committee of five to investigate the matter and report to this House as speedily as possible—

1. Any reason why license should have not been taken out.
2. If there be any blame wherein it rests.
3. If there is not some way to recover amounts of such licenses failed to have been taken out.
4. If there be any defect in said laws to report such defects.
5. That the attorney general be requested to pass his opinion on laws mentioned, and give same to committee as to their constitutionality.

Mr. Nierling moved

That the resolution be adopted,  
Which motion prevailed, and  
The resolution was adopted.

Mr. Horgan moved

That the vote by which Concurrent Resolution No. 11 was lost be reconsidered,  
Which motion was lost.

Mr. McLachlan moved

That House Bill No. 91 be recalled from the Committee on State Affairs, and that it be placed in the hands of the author of the bill,  
Which motion prevailed, and  
House Bill No. 91 was so referred.

Mr. Smith offered the following resolution, and  
Moved its adoption.

*Resolved*, That the State Treasurer be requested to furnish the House with a detailed statement of any school district bonds belonging to the permanent school fund of this State, upon which any default in interest has occurred, or upon which interest coupons are past due, together with whatever information he may have upon the subject where such default exists.

Which motion prevailed, and  
The resolution was adopted.

Mr. Wallen offered the following Concurrent Resolution, and  
Moved its adoption.

#### CONCURRENT RESOLUTION.

WHEREAS, The Constitution of North Dakota and Chapter 110 of the Session Laws, enacted by the Legislative Assembly of 1890 pursuant thereto, expressly declare the sale of intoxicating liquors as a beverage to be unlawful, and,

WHEREAS, It is a matter of common notoriety that this provision of constitutional and statutory law is openly and flagrantly violated within the city of Bismarck, the capital of this State, and at divers other towns in this State; and,

WHEREAS, Such violating of law is calculated to bring the good name of the State into disrepute, and denies to the citizens of North Dakota that immunity from the evil of the liquor traffic that the people of this State have sought and desire to secure by the enactment of constitutional and statutory provision; and

WHEREAS, The people of this State have delegated to the officers whom they have chosen the administration of the laws of the State; and

WHEREAS, The executive officers of this State are sworn to support the Constitution and to enforce the laws of the State; therefore, be it

*Resolved*, That the House of Representatives of the Fourth Legislative

Assembly, the Senate concurring, hereby condemn the violation of the Constitution and the statutes of the State in the city of Bismarck and elsewhere, and earnestly prays the Executive officer of the State to see that the Constitution and the laws are duly observed and enforced to the end that the citizens of North Dakota may enjoy that protection from the evils of the liquor traffic that is guaranteed to them by the Constitution and the laws.

Mr. Simpson offered as a substitute motion that the Concurrent Resolution be laid upon the table.

Which substitute motion was lost.

The question recurring on the original motion to adopt the Concurrent Resolution,

The motion was lost.

#### SPECIAL ORDERS.

The hour arrived for the consideration of  
House Bill No. 66,

A Bill for an act entitled "an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine and appurtenances and to employ the inmates of the penitentiary in mining coal and the disposition of any coal so mined,"

As a Special Order.

#### GENERAL ORDERS.

Mr. Hodgson moved

That the House resolve itself into a Committee of the Whole for the consideration of the Special Order,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole for the consideration of the Special Order.

The Speaker called Mr. Hodgson to the Chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration  
House Bill No. 66,

A Bill for an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine and appurtenances, and to employ the inmates of the penitentiary in mining coal and the disposition of any coal so mined,

And recommend that further consideration of the bill be indefinitely postponed.

JNO. E. HODGSON,  
Chairman.

Mr. Hodgson moved

That the report of the Committee of the Whole be adopted,  
Which motion prevailed, and

The report of the Committee was adopted.

Mr. McLachlan requested that the courtesies of the floor be extended to Mr. Willis, of Eddy county.

Mr. Edwards requested that the courtesies of the floor be extended to Mr. DeGroat, of Traill county.

Mr. Wineman requested that the courtesies of the floor be extended to Judge Morgan, of Ramsey county.

There being no objection, the courtesies of the floor were so extended.

UNFINISHED BUSINESS.

Senate Bill No. 114,

A Bill for an act to establish a Justice' Code for the State of North Dakota,

Was placed upon its final passage.

The question being on the final passage of the bill,

The roll being called there were ayes 57, nays none, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Richards,
Brown,	Holritz,	Rinde,
Colby,	Horgan,	Roberts,
Colosky,	Jennings,	Rod,
Cooper,	Kellogg,	Sargent,
Cryan,	Kroeger,	Sharpe.
Dwyer,	Lerom,	Simpson,
Edwards,	Lindstrom,	Smith,
Eyolfson,	Logan,	Spanberg,
Flack,	McLachlan,	Stafne,
Fleming,	Murphy,	Swenson,
Gilbertson,	Myers,	Tofsrud,
Gill,	Nelson,	Twichell,
Gleason,	Nierling,	Tyler,
Guinan,	Porter,	Walker,
Gunderson,	Prosser,	Wallen,
Hancock,	Purdon,	Wineman,
Herbrandson,	Rasmussen,	Wood.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Svensrud,
Hanna.	McDonald,	

Mr. Brainard being excused.

So the bill passed and the title was agreed to.

Mr. Simpson moved

That the vote by which Senate Bill No. 114 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

## SPECIAL ORDERS.

The hour having arrived for the consideration of substitute for House Bill No. 2,

A Bill for an act to extend the elective franchise to female persons,

Mr. Simpson moved

That the further consideration of Substitute for House Bill No. 2 be postponed, and that the consideration of the bill be made a special order for next Wednesday at 3 o'clock p. m.

Mr. Wineman offered as a substitute motion that further consideration of Substitute for House Bill No. 2 be indefinitely postponed,

Which motion was lost.

The question recurred on the original motion,

Which motion was lost.

Mr. Wineman moved

That the consideration of Substitute for House Bill No. 2 be made a special order for February 23, at 3 p. m.,

Which motion prevailed.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Wineman moved

That the House take a recess for ten minutes.

There being no objection, the House took such recess.

The House reassembled.

Mr. Cooper introduced

House Bill No. 151,

A Bill for an act making an appropriation to pay certain expenses incurred by the Fourth Legislative Assembly of the State of North Dakota,

Which was read the first and second times, and

Referred to the Committee on Appropriations.

Mr. Cryan introduced

House Bill No. 152,

A Bill for an act to amend Section 33 of Chapter 56, Laws of 1891, being an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof,"

Which was read the first and second times, and

Referred to the Committee on Education.

Mr. Nierling introduced

## House Bill No. 153,

A Bill for an act to provide for the service of notice by officers on non-residents,

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

## THIRD READING OF HOUSE BILLS.

## House Bill No. 50,

A Bill for an act entitled "an act to amend Section 2 (a) of Chapter 122 of the General Laws of 1890 entitled 'an act to regulate common carriers and defining the duties of the Commissioners of Railroads in relation thereto in the State of North Dakota,'"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,

## Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

## Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

## Messrs—

Brainard,  
Gleason,  
Hancock,

## Messrs—

McDonald,  
Murphy,

## Messrs—

Svensrud,  
Wineman.

Mr. Brainard being excused.

So the bill passed and the title was agreed to.

Mr. Blacklock moved

That the consideration of  
House Bill No. 103,

A Bill for an act entitled "an act to create the seventh judicial district of the State of North Dakota, and defining the boundaries of the first and seventh judicial districts, and providing the terms of court in the seventh judicial district,"

Be postponed until tomorrow,  
Which motion prevailed, and  
The consideration of House Bill No. 103 was so postponed.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 14, 1895. }

Mr. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 39,

A Bill for an act to amend an act entitled "an act prescribing the mode of assessment and the levy and collection of taxes, and for other purposes relative thereto,"

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

FRED FALLEY,  
Secretary.

House Bill No. 69,

A Bill for an act to encourage the culture of the sugar beet in the State of North Dakota, and the manufacture of sugar from the same, and to appropriate three hundred dollars or so much as may be necessary to defray the expenses thereof,

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 52, nays 1, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twitchell,  
Tyler,  
Walker,  
Wood,  
Mr. Speaker.

Mr. Wallen voting in the negative.

Absent and not voting:

Messrs—

Brainard,  
Gleason,  
Hancock,

Messrs—

Hodgson,  
McDonald,  
Murphy,

Messrs—

Rod,  
Svensrud,  
Wineman.

Mr. Brainard being excused.

So the bill passed and the title was agreed to.

Mr. Simpson moved

That further consideration of House Bill No. 10,

A Bill for an act entitled "an act to amend Section 2578, Compiled Laws of 1887, relating to divorce,"

Be postponed until tomorrow,

Which motion prevailed, and

Further consideration of House Bill No. 10 was postponed until tomorrow.

GENERAL ORDERS.

Mr. Edwards moved

That the House resolve itself into a Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Edwards to the Chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration, House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

And recommend that further consideration of House Bill No. 7 be deferred.

Also,

House Bill No. 27,

A Bill for an act requiring the Board of Railroad Commissioners to ascertain the value of No. 1 hard wheat in Duluth or West Superior, based on the Liverpool market price, and providing for the publication thereof,

And recommend that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the

General Laws of 1893, entitled "an act to provide for the organization and government of State banks,"

And report the bill back with the recommendation that the bill be amended as follows:

In line 20 of Section 6, strike out the word "five" and insert in lieu thereof the word "four,"

And as so amended, that the bill do pass.

Also,

Substitute for House Bill No. 75,

A Bill for an act entitled "an act to amend Section 1 of Chapter 50 of the Session Laws of 1890, entitled an 'act to fix the compensation of the judges of the county courts and provide a fund to reimburse the county for the same.'"

And recommend that the bill be sent to the Compilation Committee.

A. W. EDWARDS,  
Chairman.

Mr. Hodgson moved

That the report of the Committee of the Whole be adopted,

Which motion prevailed, and

The report of the Committee of the Whole was adopted.

#### CONSIDERATION OF MESSAGES FROM THE SENATE.

#### CONCURRENT RESOLUTION.

WHEREAS, The low price of wheat and the increased labor incident to its production on account of the Russian cactus, combining to make the growing of wheat and other small grains precarious and unremunerative, thereby necessitating mixed or diversified farming; and

WHEREAS, It has been demonstrated that sheep are natural weed destroyers, and that the climate and all other conditions of the State are eminently favorable to the growth of wool and flocks; and

WHEREAS, Prior to the repeal of the tariff on wool and the consequent depression in the price of that product, wholly eliminating the element of profit from what was rapidly becoming the paramount industry of the State and destroying the farmers' and the flock-masters' sure source of revenue; and

WHEREAS, It is impossible for the American farmer to compete with the low-priced labor and milder climate of the southern wool growing nations, therefore, be it

*Resolved*, That this Legislative Assembly memorialize Congress to restore the tariff on wool, and protect this great American industry for Americans, until our waste lands are filled with flocks and our own countrymen be allowed to supply American mills with American wool.

Mr. Hanna moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 14, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

A Concurrent Resolution, empowering the Joint Committee appointed to investigate the alleged utterances of a member of the faculty of a North Dakota educational institution "at its discretion to visit said institution, or to send for persons and papers,"

Which the Senate has passed, and your favorable consideration of the same is respectfully requested.

## CONCURRENT RESOLUTION.

*Be it Resolved by the Senate of the Fourth Legislative Assembly of the State of North Dakota, the House Concurring:*

That the Joint Committee appointed pursuant to the Concurrent Resolution adopted February 12, 1895, to investigate certain alleged aspersions cast upon the memory of Abraham Lincoln by a professor in one of our State institutions, be empowered, at its discretion, to visit said institution and to send for persons and papers.

Respectfully,  
FRED FALLEY,  
Secretary.

Also,

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto,"

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Hanna moved

That the House do now adjourn to meet at 10 a. m. tomorrow,  
Which motion prevailed, and  
The House adjourned.

Respectfully,  
J. M. DEVINE,  
Chief Clerk.

## THIRTY-NINTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 15, 1895.

The House assembled at 10 o'clock a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Rasmussen moved

That the roll call be dispensed with,

Which motion prevailed, and

The roll call was dispensed with.

## SPECIAL ORDERS.

House Bill No. 150,

A Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota,

Having been made a Special Order for 10 o'clock a. m., of this day, the bill was placed upon its third reading.

The third reading of House Bill No. 150 being in progress.

The Speaker called Mr. Purdon to the Chair.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the thirty-eighth day and recommend that it be amended as follows:

On page 2, line 20, strike out the word "criminal" and insert after the word Code "of Criminal Procedure."

Also, on page 17, line 1, strike out "Special Orders for February 15" and insert "bills for third reading for February 15,"

And when so amended that the Journal be approved.

GEORGE HILL,  
Chairman.

Mr. Tyler moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the thirty-eighth day as amended was approved.

Mr. Hanna requested that the courtesies of the floor be extended to Messrs. Joseph A. Lean and J. F. Elwell, of Gill, Cass county.

Mr. Wineman requested that the courtesies of the floor be extended to Tracy R. Bangs, of Grand Forks.

There being no objection, the courtesies of the floor were so extended.\*

## PETITIONS AND COMMUNICATIONS.

Mr. Wineman presented the following petition:

*To the Honorable Body of Senators and Representatives of the Legislature of the State of North Dakota:*

We, as citizens, manufacturers and tradesmen, petition your honorable body for the repeal of the law in which the use of convict labor is used or permitted in the manufacture of harness. We, as manufacturers of harness, deem it unjust to us, inasmuch as we are taxpayers in the State and contribute to the support of the penitentiary as well as other institutions, while the use of convict labor is brought in direct competition with skilled labor in the manufacture of our products. While we as manufacturers and mechanics are compelled to suffer while every other institution escapes the competition of convict labor within the State of North Dakota; while we as tradesmen and mechanics, while most of us are taxpayers working in the different shops throughout the State, are compelled to place our labor in direct competition with that of convicts of the penitentiary, compelling our wives and children to suffer in many instances, it will be no surprise to us to see the number of convicts increased at our prisons if the use of convict labor is permitted, as tradesmen in our line will be compelled to labor for a compensation equal to convicts, or turn their attention to some other occupation to support those

dependent upon them, and in many cases it would be impossible for them to become accustomed to any other occupation. Therefore, we deem that the injustice done to us as manufacturers and tradesmen throughout the State is many times greater than the small earnings derived by the State from the labor performed by convicts.

Therefore, we, as citizens, manufacturers and tradesmen, pray your honorable body to repeal that part of the Constitution and Laws of our State, forever preventing the use of convict labor in competition with the manufacturers of goods in the State.

Trusting that our petition will receive your consideration is the prayer of your petitioners.

That the undersigned, citizens and taxpayers of the State of North Dakota, do hereby humbly petition your honorable body, the Legislature of the State of North Dakota, to enact such legislation as will effect the purpose of our petition, thereby securing to us full protection against convict labor under any and all circumstances, and your petitioners will ever humbly pray.

D. F. MILLARD,  
(And 33 others.)

There being no objection, the petition was referred to the Committee on Labor.

The following communication was received from the Attorney General:

BISMARCK, N. D., February 15, 1895.

*To the Honorable House of Representatives of the State of North Dakota:*

GENTLEMEN:—Referring to the question submitted to me for my opinion by your honorable body under the resolution introduced by Mr. Twichell and adopted February 6, 1895, I will say that in my opinion, first: That the Legislative Assembly has no constitutional right to tax railroads under two different systems. Second: That the Legislative Assembly has not the constitutional right to provide by law for the assessment of railroads under Section 179 of the Constitution, while a law exists taxing railroads on gross earnings under Section 176 of the Constitution. Third: That that part of Section 179 of the Constitution relating to the assessment of railroad property ceases to be in force during the period in which a law providing for the payment of a per centum on earnings of railroad companies, in lieu of all taxes under Section 176 of the Constitution, is in effect.

Yours truly,

JOHN F. COWAN,  
Attorney General.

#### REPORTS OF STANDING COMMITTEES.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs, to whom was referred Senate Bill No. 65,

A Bill for an act to secure the safe keeping of all funds coming into the hands of county treasurers by prescribing and regulating the deposit thereof,

Have had the same under consideration, and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, Senate Bill No. 65 was referred to its third reading.

The Committee on Military made the following report:

**MR. SPEAKER:**

Your Committee on Military to whom was referred  
House Bill No. 83,

A Bill for an act to amend Chapter 87 of the Session Laws of 1891, entitled "an act to provide for maintenance of the Military Department as provided in the Military Code of the State of North Dakota, so as to reduce the standing appropriation of \$11,000 per annum for said purpose, to \$5,000 per annum,"

Have had the same under consideration and recommend that the same do not pass.

C. McLACHLAN,  
Chairman.

There being no objection, House Bill No. 83 was referred to the Committee on Engrossment.

The Committee on Printing made the following report:

**MR. SPEAKER:**

Your Committee on Printing to whom was referred  
House Bill No. 90,

A Bill for an act to establish a State printing office and create the office of superintendent of State printing and make appropriations therefor,

Have had the same under consideration and recommend that the same be postponed as the Compilation Committee has the subject under consideration.

A. W. EDWARDS,  
Chairman.

Mr. Edwards moved

That the report of the Committee on Printing be adopted,  
Which motion prevailed, and

House Bill No. 90 was referred to the Joint Committee to consider the report of the Revision Committee.

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs to whom was referred  
Senate Bill No. 98,

A Bill for an act authorizing the counties in the State of North Dakota to raise and expend a fund for the purchase of poison for the destruction of gophers, and repealing Chapter 144 of the Session Laws of 1890,

Have had the same under consideration and recommend that the same be amended as follows:

On page 1, Section 1, line 3 of printed bill, after the word "one" insert the word "half."

On lines 3 and 4 of same section, strike out the words "real estate" and insert in lieu thereof the word "property."

On lines 8 and 9 of same section, strike out the words, "among the several township boards in the county applying for the same."

On line 10 of same section, strike out the word "supervisors" and insert in lieu thereof the word "commissioners."

On page 2, Section 1, line 12 of printed bill, strike out the word "township" and insert in lieu thereof the word "county,"

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection Senate Bill No. 98 was referred to General Orders.

The Committee on Military made the following report:

MR. SPEAKER:

Your Committee on Military to whom was referred  
House Bill No. 106,

A Bill for an act to amend Section 63; Chapter 86, Laws of 1891, entitled Military Code,

Have had the same under consideration and recommend that the same do not pass.

C. McLAHLAN,  
Chairman.

There being no objection House Bill No. 106 was referred to the Committee on Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 134,

A Bill for an act to provide funds for defraying the expenses of insane persons confined in the North Dakota Hospital for the Insane,

Have had the same under consideration and recommend that the same be reported back without recommendation.

Also,  
House Bill No. 137,

A Bill for an act to encourage the manufacture and production of the long line spinning fibers, either flax or hemp, and spinning tows, grown in the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 137 was referred to the Committee on Engrossment.

Also,

House Bill No. 141,

A Bill for an act fixing the salaries of the county auditor, register of deeds and county treasurer, and for the repeal of Sections 1 and 3 of Chapter 52, and Section 1, Chapter 53, of the Session Laws of 1891,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 141 was referred to the Committee on Engrossment.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred

House Bill No. 95,

A Bill for an act entitled "an act to amend Sections 3, 7 and 9 of Chapter 125 of the Laws of 1893,"

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

There being no objection, House Bill No. 95 was referred to the Committee on Engrossment.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 15, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 99,

A Bill for an act to provide for the treatment and cure of habitual drunkards,

Which the Senate have passed and your favorable consideration of the same is respectfully requested.

FRED FALLEY,  
Secretary.

Mr. Edwards requested that the courtesies of the floor be extended to Messrs. D. W. Shields, J. H. Bowers, W. D. Sweet and Allen Osborne.

There being no objection, the courtesies of the floor were so extended.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred House Bill No. 130,

A Bill for an act entitled "an act to appropriate money to reimburse Emmons county, North Dakota, for expenses incurred in delivering a refractory boy to the South Dakota Reform School, at Plankinton, S. D.,"

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. H. PROSSER,  
Chairman.

Mr. Armstrong offered the following letter in support of the passage of House Bill No. 130:

STATE OF NORTH DAKOTA, }  
EXECUTIVE OFFICE, }  
BISMARCK, June 22, 1891. }

*To the County Commissioners of Emmons County, Williamsport, North Dakota:*

GENTLEMEN:—This is to certify that I have arranged with Auditor E. T. Herrick and Sheriff Jas. S. McKee, of your county, for the State of North Dakota to become responsible for the tuition of the boy David Lindsay at the reform school of South Dakota, and that the County of Emmons is to advance to the expense of delivering the boy to the above named institution at Plankinton, South Dakota, and I will recommend the next Legislature of this State to reimburse both the State and the county for such expense.

Very respectfully,  
ANDREW H. BURKE,  
Governor.

Mr. Prosser moved

That the report of the Committee on Appropriations be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and House Bill No. 130 was indefinitely postponed.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred

House Bill No. 127,

A Bill for an act to reimburse Dr. F. R. Smyth for stamping diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor,

Have had the same under consideration and recommend that the same do pass.

F. H. PROSSER,  
Chairman.

There being no objection, House Bill No. 127 was referred to the Committee on Engrossment.

The Committee on Temperance made the following report:

MR. PRESIDENT:

Your Committee on Temperance to whom was referred  
House Bill No. 62,

A Bill for an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3, of Chapter 57 of the Penal Code entitled "offenses pertaining to sale of intoxicating liquors,"

Have had the same under consideration, and recommend that the same do pass.

E. C. SARGENT,  
Chairman.

There being no objection, House Bill No. 62 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 146,

A Bill for an act to prescribe penalties for the unlawful manufacture, sale and keeping for sale of illuminating oils manufactured from petroleum or coal oils, and to repeal Chapter 107 of the Laws of 1890, and Chapter 77 of the Laws of 1893.

Also,

House Bill No. 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers or any article or

instrument of immoral use and prescribing the punishment therefor,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Purdon requested that the courtesies of the floor be extended to Rev. Mr. Hall, of Wahpeton.

There being no objection the courtesies of the floor were so extended.

Mr. Simpson moved

That the vote by which Substitute for House Bill No. 2 was made a special order for February 23d be reconsidered.

Mr. Wineman moved

That the motion of Mr. Simpson be laid on the table,  
Which motion was lost.

The question recurred on the original motion,  
The motion prevailed, and the vote was reconsidered.

Mr. Simpson moved

That Substitute for House Bill No. 2 be made a special order for next Wednesday at 2:30 p. m.

Mr. Wineman moved

As an amendment that Substitute for House Bill No. 2 be made a special order for February 23d.

Mr. Armstrong moved

As an amendment to the amendment that Substitute for House Bill No. 2 be made a special order for tomorrow at 3 p. m.,  
Which motion was lost.

The question being on the amendment.

The amendment was lost.

The question recurring on the original motion,  
The motion prevailed, and  
Substitute for House Bill No. 2 was made a special order for next Wednesday at 2:30 p. m.

Mr. Murphy asked for unanimous consent for the House to return to the sixth order of business.

There being no objection, the House returned to the sixth order of business.

REPORTS OF SELECT COMMITTEES.

The Joint Committee to visit the State institutions submitted the following report:

*To the Senate and House of Representatives of the State of North Dakota:*

We the undersigned members of the committee appointed by the authority of a Concurrent Resolution of the Senate and House of Representatives of North Dakota report:

As we understand the purport of the resolution, our duty was to visit the State University at Grand Forks, the Agricultural College at Fargo and the State Normal Schools at Mayville and Valley City, a School for the Deaf at Devils Lake and report upon the following particulars, "conditions of all State buildings, condition of schools, employes, fuel, recommendations," all of which we have carefully performed.

We took up the work for which we were appointed at the State Normal School at Valley City and found the manner and quality of the construction, state of repair and sanitary condition of this institution fairly good. The number of students in actual attendance in the different departments at the time of our visit was as follows:

Total enrollment to date:	
Primary department.....	156
Practice department.....	72
<hr/>	
Total enrollment in all departments.....	228
Actual attendance in Normal department, January 31.....	153
Actual attendance in Practice department.....	70
<hr/>	
Total attendance in all departments.....	223
Number attending at the close of last term.....	140
Average age of students of the Normal department.....	19 $\frac{3}{4}$
Number who have taught or will teach soon.....	131
Per cent. of attendance:	
From outside of Valley City.....	87
Counties represented in the Normal department.....	22
Graduates in June, 1894.....	3
Number preparing to graduate in June, 1895.....	11
Total number of students enrolled since the organization of the school.....	343

The character of the work done is excellent; earnestness and thoroughness were marked features; good order prevailed and attendance is constantly and rapidly increasing. The aims of the school, as expressed in the laws providing for its establishment, are kept in view. It is designed "to prepare teachers in the science of education and the art of teaching." All students are instructed in the history and philosophy of education, and given a thorough course in the method of presenting the subject of instruction to the child mind by an abundant training, or drill in the practice of these methods, before the classes of the practice department. The practice school, one of observation, in which the students may see good work done before undertaking the work of instructing themselves. The faculty keep closely in touch with the common school of North Dakota, and so far as possible supply their needs, which is shown by their unselfish devotion to the interest of the institution and their work of their several departments. There is no question but the school is filling a want and the work done is commendable.

Number of persons composing the faculty.....	8
Average salary, exclusive of principal.....	\$ 765 00

The salary and work of each member of the faculty are as follows:

George A. MacFarland, M. S., principal.....	\$2,000 00
Teaches three hours and often four per day.	
Laura L. Perrine, A. B.....	1,000 00
Teaches five hours per day and the week following our visit will begin teaching six.	
Marcellus M. Barnes.....	900 00
Teaches six hours per day.	
Florence Woodward, salary.....	900 00
Employed at the school almost constantly from 8:30 a. m. till 6 p. m.	
Joseph Shafer, B. L., salary.....	800 00
Teaches five hours per day.	
Cora M. Rawlins, A. M., salary.....	700 00
Teaches five hours per day and part of the time six.	
Seth Harvey, B. S., salary.....	750 00
Teaches five hours per day.	
Myrtle A. Nesmith, salary.....	300 00
Teaches two hours per day, but is required to attend all general exercises.	

There are no other employes except a janitor at a salary of \$50.00 per month.

This institution uses North Dakota coal exclusively (the price paid is \$3.50 per ton.)

We recommend for the maintenance of this institution for the next biennial period the following amounts:

For fuel and lights.....	\$ 2,400 00
For incidentals.....	1,000 00
For janitor services.....	1,200 00
For furniture.....	500 00
For library and apparatus.....	500 00
For faculty.....	17,000 00
For improvements.....	1,500 00
For heating improvements and repairs.....	200 00

Total.....\$24,300 00

The school now occupies the building to its full capacity, and in fact needs additional room. Cloak room, janitor's quarters, and one large class room can be fitted up at a small cost in the basement. It is almost impossible to warm comfortably the rooms on the windward side of the building in cold weather. We feel sure that with storm windows a saving in fuel equal to their cost would be made in the next two years. For this purpose and for fitting up the basement rooms we have recommended under the head of improvements, the sum of \$1,500.00.

#### AGRICULTURAL COLLEGE.

1. The condition of buildings, "manner and quality of construction," and state of repair were found to be very satisfactory. The sanitary condition would be much improved by some needed drainage.

2. The condition of the school is very good. The number of students in actual attendance, 56; 14 in college department and 42 in preparatory department.

The total number enrolled in all departments during two years past is 83, as shown by last catalogue (see biennial report). The average age of students is 20 years. So far as we were able to judge the "quality and character" of the work done is thorough, and such as to compare favorably with that of like institutions in other States.

3. Instructors salaries, other employes and wages are as follows:

President.....	\$3,000 00
Professor of Chemistry.....	2,000 00

Professor of Mechanical Engineering.....	\$1,200 00
Professor of Botany and Zoology .....	1,500 00
Professor of Veterinary Science.....	1,600 00
Professor of Agriculture .....	1,300 00
Assistant in Agriculture .....	800 00
Professor of Horticulture and Forestry .....	1,500 00
Professor of Mathematics.....	1,000 00
Professor of Geology.....	1,000 00
Professor of Modern Languages.....	1,600 00
Professor of Domestic Science.....	800 00
Secretary and Accountant.....	1,000 00
Stenographer and Librarian.....	600 00
Farm Foreman (with board).....	500 00
Engineer and Blacksmith.....	660 00
Assistant and Watchman (eight months).....	300 00
Janitors.....	700 00

Other employes average about ten in number, at wages varying from \$35 per month to \$1 per day.

4. Some wood is used, some hard coal, but generally speaking lignite coal is the fuel used. Costs per annum for all kinds of fuel, about \$3,000.

5. We believe the State derives the greatest benefit from this institution in the scientific research and experiments there carried on in view of the following: First—The large sums received by the institution from the national government. Second—The considerable sums received from the sale of farm products. Third—The comparatively few of the youth of our State who avail themselves of the advantages offered. Fourth—The necessity on the part of the State of keeping the appropriations within the limits of its probable income. We are of the opinion and recommend that no more should be appropriated by the State for this institution than is necessary for making available the sums provided for by the National Congress under the "Hatch Act" of 1887, and the "Morrill Act" of 1890.

SCHOOL FOR THE DEAF.

1. The condition of the buildings—The building appears to be of poorer material and faulty construction. In some places the walls are not plumb, but, as in most, cases they lean toward the interior, they are perhaps sufficiently safe. It appears that the defects and faults above mentioned occurred under the management of a previous board or boards, and that the present board is in no way responsible for them.

2. Conditions of school:—

Number of pupils in attendance.....	36
Number in attendance at the close of last term.....	32
Average age of pupils, about.....	13 years

There are pupils in attendance from sixteen counties in the State. The work being done in this institution is of very excellent character.

3. Employes—Number of instructors, 4; number of classes taught by each, 4. Salaries:—

Prof. A. R. Spear, per annum.....	\$1,800 00
Mr. M. M. Taylor, per annum.....	600 00
Miss Clara Halverson, per annum.....	500 00
Miss Mary Whedon, per annum.....	300 00

Other employes—Matron, duties, general supervision of household, care of pupils, instruct girls in sewing and needlework, salary, \$300 per annum.

Janitor's duties—Besides the janitor work, has care of the stock belonging to the institution, and at present hauls water from the city for the use of the school, salary, \$240 per annum.

Night watchman—Besides his regular duties, the watchman works on the grounds and in the garden during the summer, salary, \$500 per annum.

One laundress, salary per annum.....	\$240 00
One cook, salary per annum.....	240 00
Three girls for general housework, each per annum.....	156 00

4. Fuel—Kind used, white oak; amount used, from 150 to 200 cords; price, from \$4.50 to \$5 per cord.

5. Recommendations—The buildings should be supplied with storm windows. The room in the attic should be fitted up and finished for the use of pupils. The teachers of the Deaf School work more hours per day and receive less salary than the teachers of any other State institution. Considering the quality and character of the work done, the committee is of the opinion that the teachers do not receive sufficient compensation for their services. Following is an estimate of the sums which, in the opinion of the Committee, will be necessary for the support of the institution for the next two years:

Maintenance.....	\$7,000 00
Salaries.....	7,000 00
Fuel and lights.....	2,000 00
Household supplies.....	200 00
Furniture.....	300 00
Books and school supplies.....	\$ 200 00
Drugs and medical attendance.....	300 00
Clothing for pupils.....	150 00
Farm machinery and stock.....	100 00
Repairs.....	1,000 00
Wages of employes.....	4,000 00
Incidentals.....	500 00
Food for stock.....	200 00
Water supply.....	200 00
Workshop and tools.....	400 00
Total.....	\$23,550 00

#### STATE UNIVERSITY AT GRAND FORKS.

The State University at Grand Forks was next in turn visited. This institution dates its beginning from an act of the Territorial Legislature dated February 20, 1883. The University was first opened in September, 1884. By the division of the Territory of Dakota and the admission of North Dakota as a State in 1889, the University became the State University of the new State. By the terms of the enabling act of Congress, under which the State was admitted, the University was granted 40,000 acres of public land, and the School of Mines located by the Constitution as a part of the University, was given a grant of 40,000 acres. University buildings consist of three in number. The main building is 50x150 feet, four stories high, including basement. All the work of instruction is carried on in this building. It also contains the laboratories, armory, recitation rooms, museum, assembly hall and library. This building is constructed of brick and stone, and is fair as to manner and quality of construction. The young ladies' hall is a well built, commodious structure, three stories high including the basement, and affords accommodations for upwards of one hundred students. This building is well constructed, special attention being paid to the sanitary arrangement. A dormitory for young men, built of brick and stone, was erected two years ago. This building is exceptionally well arranged, and has accommodations for about fifty students. All the buildings are in a good state of repair, heated with steam throughout and supplied with running water. So far as we could see the sanitary surroundings of all the buildings are good. The buildings are erected upon well selected, high ground, nicely laid out and enclosed by a good fence, about one and one-half miles from the city of Grand

Forks. The school is in an excellent condition in every department. Following find a list showing the actual number of students in the different departments now, and at the end of last term the average age of those below college, as well as those in college, the counties represented in the college and the number from each county. You will observe that there are twelve students from the State of Minnesota. There are 112 year students in the university.

COUNTIES REPRESENTED IN THE UNIVERSITY.

Benson .....	1
Cavalier .....	2
Cass .....	9
Dickey .....	1
Foster .....	1
Grand Forks county .....	33
Grand Forks city .....	30
Griggs .....	6
LaMoure .....	1
McHenry .....	2
McLean .....	2
Morton .....	1
Nelson .....	4
Pembina .....	18
Ramsey .....	8
Richland .....	2
Rolette .....	1
Towner .....	1
Trail .....	12
Walsh .....	12
Wells .....	1
Minnesota .....	12

At present total .....	160
At close of fall term .....	145

Average age of student below college, nineteen and one-half years.  
 Average age of students in college department, twenty-one years.

Number of students in preparatory department .....	63
Elementary normal students .....	39
Advanced normal students .....	8
College students (including advanced normals) .....	58

Below is a list showing the number of instructors, classes taught by each daily, salaries of each; all other employes, duties, wages paid and time employed:

Statistics in regard to instructors and professors at the University of North Dakota:

R. J. Bancroft, professor, five hours daily .....	\$ 2,000 00
A. F. Beachdolt, professor, four hours, rhetorical equivalent to five hours .....	2,000 00
M. A. Brannon, professor, five hours .....	2,000 00
L. Estes, professor, five hours .....	2,000 00
C. S. Townsend, professor, four hours and natural science, Federal Government pays for natural science .....	400 00
Mrs. Davis, instructor, three hours in duties as preceptress ..	1,000 00
J. Kennedy, professor, four hours registers work and classification of students in preparatory and Normal department .....	2,000 00
J. Macine, professor, five hours .....	2,000 00

W. Merrifield, professor, two hours and administrative and executive work as president.....	\$ 2,500 00
George T. Rygh, assistant professor, four hours.....	1,200 00
G. St. J. Perrott, instructor, four hours and clerical work of State high school examinations.....	900 00
H. B. Wooworth, professor, three hours and work of librarian	2,000 00
Geo. A. Breman, assistant librarian, (student).....	80 00
J. F. Douglass, assistant librarian, (student).....	80 00
E. B. Robbins, assistant in physical laboratory, (student)....	100 00
C. A. Engebretson, assistant in biological laboratory, (student)	100 00
W. C. Hawthorne, assistant in chemical laboratory, (student)	100 00
Dr. Cora Smith, Eton, director in physical culture.....	50 00
And assistant, Emma C. Crans.....	50 00
Joseph Guyot, janitor.....	1,300 00
Total.....	\$ 23,860 00

The president of the university is enthusiastic, thoroughly going, sincere and earnest and evidently the right man in the right place. He is assisted in the work by an excellent corps of instructors, each a specialist in the work assigned him. The character of the work done is thorough, modern and useful. With such a president and such a faculty the quality of work must be good.

5. The fuel used consists of elm, cottonwood and box-elder and poplar wood. About 800 cords are used yearly. This wood is grown for the most part in the State of Minnesota, just across the river and the average price for the past two years has been \$3.30 per cord. The mental, physical and moral welfare of the students are as well looked after as they are in the best universities of the country. You will observe that a large per cent of the students come from the City and County of Grand Forks, yet it must be borne in mind that Grand Forks city and county are the second largest city and county in the State. There are but ten students in the preparatory department from the City of Grand Forks. The assertion that this institution is local in its character is well founded. If this State had a graded system of high schools your Committee would be inclined to disapprove of so much work being done in preparatory and elementary and normal departments of the University, but under the present conditions the following facts must be borne in mind. If the normal course was dropped the same instructors except the professors of pedagogy would be necessary, the same buildings, library, laboratory and museum answer for both. The status of the preparatory and normal must not be misunderstood.

The instructional force is not increased or duplicated because of either of those departments. In the best colleges and universities in the land chairs of pedagogy are now being established, so that even this chair would have to be retained if the University intends to recognize the teaching profession and be progressive. The preparatory course of the University is practically a first class high school. Only four or five cities in the State offer a three years' high school course, hence, all pupils in other places, country and village, if they wish to get even a high school course, must go away from home to get it. If they go to those four or five cities they will be charged tuition. The remedy for this is the establishment and maintenance of high schools throughout the State. But it seems, in the absence of high schools, the State should make provisions for such pupils, and it does so in the preparatory department of the university and normal schools. The college professors do the teaching in the preparatory and elementary normal and the expense of the institution could not be materially reduced were the preparatory and normal departments dropped. Then the normal and preparatory students coming in contact with higher educational life is broadened and deepened thereby.

We recommend that the following appropriations be made for the University for ensuing biennial period:

Salaries .....	\$ 44,720 00
Department of chemistry and zoology .....	500 00
Department of biology .....	500 00
Department of physics and astronomy .....	500 00
Department of languages .....	300 00
School of Mines .....	1,500 00
Library .....	1,000 00
Repairs to buildings and grounds .....	1,500 00
Fuel and lights .....	8,000 00
Engineer and assistants .....	2,800 00
Incidental fund .....	3,000 00
Water supply .....	500 00
Salary of secretary of board .....	1,000 00
Commutation of quarters for military instructor .....	720 00
Military department .....	300 00
<b>Total .....</b>	<b>\$ 66,840 00</b>

THE REPORT OF THE STATE NORMAL SCHOOL, LOCATED AT MAYVILLE.

This building is the most substantially constructed and best finished of any building we visited; it is in good repair; the sanitary condition first class. Number of students in actual attendance on the day of our visit, February 7, 1895:

Gentlemen.....	63
Ladies.....	64
<b>Total .....</b>	<b>127</b>
Number whose homes are in the limits of Mayville.....	16
Number whose home postoffice is Mayville.....	47
Number from Traill County.....	53
Number who have taught before entrance to school.....	55
Number who are preparing to teach.....	117
Number who anticipate taking college later.....	84
Number who are wholly self-supporting.....	63
Number who are partly self-supporting.....	25
Sons and daughters of farmers.....	100

Average age of students, 20 years and 3 months.

At the end of last term there were 104 in attendance; at the same date last year there were an attendance as follows:

December 21, 1893.....	69
February 7, 1894.....	79

Average age of students as taken from their statements at time of enrollment, 19 years and 5 months.

We would say the work done in this school is first-class and a credit to the State. There are six instructors in the faculty including the president and exclusive of the critic teachers. By critic teachers we refer to the teachers of the three departments of the public school in which members of the senior class practice the art of teaching under criticism. The school at present pays \$400 for this privilege; this is much less expensive than would attend the operation of a practice school of their own. Salaries paid at present is as follows:

Principal, Louis B. Avery.....	\$2,000 00
L. C. Webster.....	1,300 00
J. S. Perigo.....	1,200 00

Mrs. M. V. Mustard.....	\$900 00 and home
Miss Electa A. Sylvester .....	650 00
Mr. Vinge .....	630 00
Practice School.....	400 00

The only other employes is a janitor who receives \$600 per year. He is an experienced mechanic and steam fitter, is reliable and should be retained if possible. He raised upon the school grounds during the summer vegetables enough to last the boarding department most of the year.

The number of classes taught by each daily: The principal has three recitations besides performing the work of the secretary of the institution additional to his other professional duties. Mr. Wooster has seven recitations in laboratory work. Mrs. Mustard has five recitations and has charge of the dormitory as preceptress. Mr. Perigo has four recitations and entire charge of the practice of the senior class.

Mrs. Sylvester has five recitations and charge of the text books, and the general library and reading room. Mr. Vinge has six recitations. The boarding department is on a separate basis, and is at present self-supporting. It pays the matron \$30 per month and home for the nine school months. Two servants are employed at the combined wages of \$33 per month. There are at present forty taking table board and twenty-six young ladies have rooms in the building. Three dollars per week is charged for board, room, heat and light. Table board costs \$2.50 per week. Kind of fuel used: they are at present using wood at the following rates: Oak and tamarack, \$3.80; basswood, \$3.30, per cord.

We recommend the appropriations for this institution to the sum of \$24,300, same being the amount recommended for the Normal School at Valley City. The work in general at these institutions of learning is most excellent. The members of the different faculties are able, conscientious and painstaking, the students are enthusiastic, obedient and teachable. The Normal Schools, together with the State University, are, in our judgment, doing much to create an educational spirit of high standard, and which will as a natural result make more efficient our system of education in the State. Were it not for the absolute necessity of rigid economy along all lines we would be pleased indeed to recommend liberal appropriations.

A. C. MCGILLIVRAY,  
 RICHARD McCARTEN,  
 On part of Senate.  
 J. S. MURPHY,  
 JOHN E. HODGSON,  
 J. B. SHARPE,  
 On part of House.

Mr. Horgan moved

That the reading of the report be deferred, and that it be referred to the Committee on Education.

Mr. Murphy moved

As a substitute motion that the reading of the report be dispensed with, and that the report be printed in the Journal,

Which substitute motion prevailed.

#### UNFINISHED BUSINESS.

Mr. Cooper moved

That the reading of the Code in unfinished business be deferred and that the House proceed with the regular order of business,

Which motion prevailed.

Mr. Nierling requested unanimous consent for the House to return to the seventh order of business.

There being no objection, the House returned to the seventh order of business.

#### MOTIONS AND RESOLUTIONS.

Mr. Nierling offered the following Concurrent Resolution:

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the following proposed amendment to the Constitution is hereby referred to the Fifth Legislative Assembly to be by them submitted to a vote of the people for its adoption or rejection, viz.:

Amend Article 20, Section 217 of the Constitution of the State of North Dakota so that it shall read as follows: "Section 217. No person, association or corporation shall within this State manufacture for sale or gift any intoxicating liquors, and no person, association or corporation shall import any of the same for sale or gift, or keep or sell or offer the same for sale or gift, barter or trade as a beverage; *Provided*, That in incorporated or unincorporated towns or cities of not less than 700 inhabitants the manufacture, importation and sale of such liquors may be authorized by law if a majority of the electors voting at any annual or general election shall so elect; *Provided*, *Further*, That no person shall be authorized to manufacture, import, sell or offer or expose for sale any intoxicating liquors unless he shall have paid into the general fund of the county town or city a sum not less than \$1,000 annually, and in such case a license shall be issued which shall be good for one year unless revoked for cause. The Legislative Assembly shall by law prescribe regulations for the enforcement of the provisions of this article and shall thereby provide suitable penalties for the violation thereof; *Provided*, That the penalty shall not be less than a fine of \$200 and imprisonment in the county jail not less than 90 days for the first offense and shall not be less than \$500 fine and six months in jail for each subsequent offense."

Mr. Nierling moved

The adoption of the Concurrent Resolution.

Mr. Edwards offered a substitute motion that the Concurrent Resolution be referred to General Orders,

Which substitute motion prevailed, and

The Concurrent Resolution was referred to General Orders.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Myers introduced

House Bill No. 154,

A Bill for an act to amend an act entitled "an act to protect stock-raisers and promote the breeding of improved live stock within the State of North Dakota, and provide a lien for the service of sires, being Chapter 117 of the Laws of 1891,"

Which was read the first and second times, and

Referred to the Committee on State Affairs.

The Speaker announced as members of the Committee to investigate matters pertaining to licensing express companies and sleeping car companies, Messrs. Twichell, Rasmussen, Hancock, Walker and McLachlan.

THIRD READING OF HOUSE BILLS.

House Bill No. 26,

A Bill for an act to repeal Chapter 101, Session Laws of 1893,  
Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 45, nays 6, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Purdon,
Blacklock,	Hill,	Rasmussen,
Colby,	Hodgson,	Ray,
Colosky,	Holritz,	Rinde,
Cooper,	Horgan,	Roberts,
Cryan,	Jennings,	Sargent,
Dwyer,	Kellogg,	Sharpe,
Edwards,	Kroeger,	Stafne,
Eyolfson,	Korsmo,	Svensrud,
Flack,	Lerom,	Swenson,
Gilbertson,	Murphy,	Twichell,
Guinan,	Myers,	Tyler,
Gunderson,	Nelson,	Wallen.
Hancock,	Nierling,	Wood,
Hanna.	Prosser,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Richards,	Simpson,	Tofsrud,
Rod,	Smith,	Walker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Lindstrom,	Porter,
Brown,	Logan,	Spangberg,
Fleming,	McLachlan,	Wineman.
Gleason,	McDonald,	

Messrs. Brainard, Brown, Gleason, Lindstrom, McDonald and Spangberg being excused.

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
February 15, 1895. }

MR. SPEAKER:

I have the honor to return herewith

## House Bill No. 13,

A Bill for an act entitled "an act to encourage the manufacture of potato starch in the State of North Dakota,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Tofsrud asked that Mr. Lindstrom be excused for the day.

Mr. Hill asked that Mr. McDonald be excused for the day.

Mr. Nierling asked that Mr. Gleason be excused for the day.

Mr. Richards asked that Mr. Spangberg be excused for the day.

Mr. Speaker asked that Mr. Brown be excused for the day.

There being no objection, the members named were so excused.

## House Bill No. 60,

A Bill for an act entitled "an act to amend Chapter 132 of the Laws of 1893, being an act entitled 'an act prescribing the mode of making assessments and levy and collection of taxes and for other purposes relative thereto as amended by Chapter 100 of the Session Laws of 1893,' "

Was placed upon its third reading.

Mr. Cooper asked that further consideration of House Bill No. 60 be temporarily deferred.

There being no objection, further consideration of House Bill No. 60 was temporarily postponed.

## House Bill No. 103,

A Bill for an act to create the seventh judicial district of the State of North Dakota, and defining the boundaries of the first and seventh judicial districts, and providing for the terms of court in the seventh judicial district,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 43, nays 8, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colby,  
Cooper,  
Edwards,  
Eyolfson,  
Fleming,  
Gilbertson,  
Guinan,

Messrs—

Kellogg,  
Kroeger,  
Lerom,  
Logan,  
McLachlan,  
Murphy,  
Nelson,  
Nierling,  
Porter,

Messrs—

Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,

Messrs—	Messrs—	Messrs—
Gunderson,	Prosser,	Tyler,
Hanna,	Rasmussen,	Walker,
Herbrandson,	Ray,	Wallen,
Hill,	Richards,	Wood,
Holritz,	Roberts,	Mr. Speaker.
Horgan,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Cryan,	Hodgson,	Rinde,
Dwyer,	Jennings,	Stafne.
Flack,	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Hancock,	Myers,
Brown,	Korsmo,	Spangberg,
Colosky,	Lindstrom,	Wineman.
Gleason,	McDonald,	

Messrs. Brainard, Brown, Gleason, Lindstrom, McDonald and Spangberg being excused.

So the bill passed and the title was agreed to.

Mr. Armstrong moved

That the vote by which House Bill No. 103 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

House Bill No. 146,

A Bill for an act to prescribe penalties for the unlawful manufacture, sale and keeping for sale of illuminating oils manufactured from petroleum or coal oils, and to repeal Chapter 107 of the Laws of 1890, and Chapter 77 of the Laws of 1893,

Was read the third time.

The question being on the final passage of the bill,

The roll being called, there were ayes 42, nays 12, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rod,
Blacklock,	Holritz,	Sargent,
Colby,	Horgan,	Simpson,
Colosky,	Jennings,	Smith,
Cooper,	Kroeger,	Stafne,
Cryan,	Korsmo,	Svensrud,
Dwyer,	Lerom,	Swenson,
Flack,	Logan,	Tofsrud,
Fleming,	Myers,	Twichell,
Gilbertson,	Nierling,	Tyler,

Messrs—	Messrs—	Messrs—
Guinan,	Rasmussen,	Walker,
Gunderson,	Richards,	Wallen,
Hanna,	Rinde,	Wood,
Herbrandson,	Roberts,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Edwards,	Kellogg,	Prosser,
Eyolfson,	McLachlan,	Purdon.
Hancock,	Murphy,	Ray,
Hill,	Nelson,	Wineman.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Lindstrom,	Sharpe,
Brown,	McDonald,	Spangberg.
Gleason,	Porter,	

Messrs. Brainard, Brown, Gleason, Lindstrom, McDonald and Spangberg being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the House now consider House Bill No. 10.

Mr. Edwards offered as a substitute motion that House Bill No. 10 be referred back to General Orders for amendment.

The substitute motion was lost.

The question recurring on the original motion,

The original motion prevailed, and

House Bill No. 10,

A Bill for an act entitled "an act to amend Section 2578, Compiled Laws of 1887, relating to divorce,"

Was read the third time.

Mr. Simpson asked that unanimous consent be granted to the gentleman from Cass (Mr. Edwards) to offer an amendment.

Objection raised.

The question being on the final passage of the bill,

The roll being called, there were ayes 43, nays 13, not voting 6.

Those who voted in the affirmative were:

Messrs.	Messrs.	Messrs—
Armstrong,	Hodgson,	Rasmussen,
Blacklock,	Holritz,	Rinde,
Colby,	Horgan,	Roberts,
Colosky,	Kellogg,	Rod,

Messrs—	Messrs—	Messrs—
Cooper,	Kroeger,	Sargent,
Cryan,	Korsmo,	Simpson,
Dwyer,	Lerom,	Smith,
Eyolfson,	Logan,	Stafne,
Fleming,	McLachlan,	Svensrud,
Gilbertson,	Myers,	Swenson,
Guinan,	Nelson,	Tofsrud,
Gunderson,	Porter,	Walker,
Hancock,	Prosser,	Wallen,
Herbrandson,	Purdon,	Wineman.
Hill,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Edwards,	Nierling,	Twichell,
Flack,	Ray,	Tyler,
Hanna,	Richards,	Wood.
Jennings,	Sharpe,	Mr. Speaker.
Murphy,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Gleason,	McDonald,
Brown,	Lindstrom,	Spangberg,

Who were excused.

So the bill passed and the title was agreed to.

Mr. Simpson gave notice that tomorrow he would move a re-consideration of the vote by which House Bill No. 10 was passed.

Mr. Smith moved

That the vote by which House Bill No. 10 was passed be reconsidered and that the motion to reconsider be laid on the table,  
Which motion prevailed.

Informal recess.

House reassembled.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 15, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the Senate has

agreed to the House amendments to Senate Bill No. 7, and passed the bill as amended.

Respectfully,  
 FRED FALLEY,  
 Secretary.

House Bill No. 112,

A Bill for an act entitled "an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away, or exposing to view, or showing, or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings, or papers, or any article, or instrument of immoral use, and prescribing the punishment therefor,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 50, nays 1, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Roberts,
Blacklock,	Jennings,	Rod,
Colby,	Kellogg,	Sargent,
Cooper,	Kroeger,	Sharpe,
Cryan,	Lerom,	Smith,
Dwyer,	Logan,	Stafne,
Edwards,	McLachlan,	Svensrud,
Eyolfson,	Murphy,	Swenson,
Flack,	Myers,	Tofsrud,
Gilbertson,	Nelson,	Twichell,
Guinan,	Nierling,	Tyler,
Gunderson,	Porter,	Walker,
Hancock,	Purdon,	Wallen,
Hanna,	Rasmussen,	Wineman,
Hill,	Ray,	Wood,
Hodgson,	Richards,	Mr. Speaker.
Holritz,	Rinde,	

Mr. Herbrandson voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Gleason,	Prosser,
Brown,	Korsmo,	Simpson,
Colosky,	Lindstrom,	Spangberg.
Fleming,	McDonald,	

Messrs. Brainard, Brown, Gleason, Lindstrom, McDonald and Spangberg being excused.

So the bill passed and the title was agreed to.

House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws

of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890 and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State and the management of the fund arising therefrom and making an appropriation therefor,"

Was read the third time.

Which motion prevailed.

That the House adjourn to meet at 1 o'clock p. m. tomorrow.

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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## FORTIETH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 16, 1895.

The House assembled at 1 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Walker moved

That the roll call be dispensed with,

Which motion prevailed.

### SPECIAL ORDERS.

House Bill No. 150,

A Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota.

Having been made a Special Order for 1 o'clock p. m. of this day, the third reading of House Bill No. 150 was concluded.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Stafne presented the following petitions:

BARRIE, N. D., Feb. 9, 1895.

*To the Honorable the Senate and House of Representatives of the State of North Dakota, in General Assembly met in Legislatures, convened at Bismarck, N. D.:*

We, the undersigned voters and taxpayers of Barrie township, Richland county, N. D., hereby request that you will use your utmost endeavors by both your votes in the Legislature and your influence amongst your fellow-members against any resubmission of the temperance law now in force.

G. O. WHITE,  
(And 21 others.)

There being no objection, the petition was referred to the Committee on Temperance.

Also,

*To the Honorable, the Senate and House of Representatives of the State of North Dakota, in General Assembly met in Legislatures convened at Bismarck, N. D.:*

We, the undersigned voters and taxpayers of the Twelfth Legislative District, hereby request that you will use your utmost endeavors by both your votes in the Legislature and your influence among your fellow-members against the enactment of House Bill No. 65, being a bill for an act to provide for drains and ditches and the maintenance of the same in this State.

G. O. WHITE,  
(And 15 others.)

## REPORTS OF STANDING COMMITTEES.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

House Bill No. 96,

A Bill for an act repealing Chapter 127 of the Session Laws of 1893, entitled "an act to establish a weather and crop service for the collection and dissemination of statistics and meteorological data,"

Have had the same under consideration and recommend that the same be referred back without recommendation.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 96 was referred to the Committee on Engrossment.

The Committee on Temperance made the following report:

MR. SPEAKER:

Your Committee on Temperance to whom was referred

Senate Bill No. 10,

A Bill for an act to amend Section 2 of Chapter 110 of Session Laws of 1890, entitled "an act to prescribe penalties for the un-

lawful manufacture, sale, barter and giving away of such liquors for medicinal, scientific and mechanical purposes,"

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

E. C. SARGENT,  
Chairman.

There being no objection, Senate Bill No. 10 was referred to its third reading.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 47,

A Bill for an act to amend Section 332 of Chapter 13 of the Code of Civil Procedure, being Section 5136 of the Compiled Laws relating to property not exempt from execution,

Have had the same under consideration and recommend that the same do pass.

There being no objection, Senate Bill No. 47 was referred to its third reading.

Also,

House Bill No. 73,

A Bill for an act to invest State's attorneys and courts of North Dakota with discretionary power to require security for costs in all criminal prosecutions that they may deem unmeritorious before they shall be instituted,

Have had the same under consideration and recommend that the same be indefinitely postponed on account of being covered by Compilation Committee.

There being no objection, House Bill No. 73 was referred to its third reading.

Mr. Hanna moved

That the report of the Judiciary Committee on House Bill No. 73 be adopted,

Which motion prevailed.

Also,

Senate Bill No. 74,

A Bill for an act to repeal Chapter 172 of the Session Laws of 1890, being an act entitled "an act providing for the purchase and distribution of the remaining reports of the Supreme Court of Dakota Territory,"

Have had the same under consideration and recommend that the same do pass.

There being no objection Senate Bill No. 74 was referred to its third reading.

Also,

Senate Bill No. 103,

A Bill for an act to amend Section 8, Chapter 79, Laws of 1891, changing the place of holding district court in Wells county,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection Senate Bill No. 103 was referred to its third reading.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred Senate Bill No. 108,

A Bill for an act repealing Chapter 20 of the Special Laws of Dakota Territory for the year 1885, being an act entitled "an act prescribing the duties and regulating the salaries of the county treasurer and register of deeds for Grand Forks county, D. T.,"

Have had the same under consideration and recommend that the same do pass.

There being no objection Senate Bill No. 108 was referred to its third reading.

Also,

House Bill No. 144,

A Bill for an act to amend Section Ninety-seven (97) of Chapter One Hundred Thirty-two (132) of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments, and the levy and collection of taxes, and for other purposes relative thereto,"

Have had the same under consideration and recommend that the same do pass.

N. SWENSON,  
Chairman.

There being no objection, House Bill No. 144 was referred to its third reading.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

House Bill No. 128,

A Bill for an act to prevent the destruction of farm buildings in the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 128 was referred to its third reading.

Also,

House Bill No. 131,

A Bill for an act entitled "an act to fix the compensation of the clerks of the district courts, and provide a fund to reimburse the county for the same,"

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 131 was referred to its third reading.

Also,

House Bill No. 136,

A Bill for an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota,

Have had the same under consideration and recommend that the same be amended as follows:

In line 12, Section 4, by inserting the word "such" immediately preceding the word "city."

Then by adding after the word "companies" in line 21, Section 4, the following, "approved by the city council, trustees or other governing body of such city, town, village or unincorporated town,"

And when so amended recommend that the same do pass.

There being no objection, House Bill No. 136 was referred to General Orders.

Also,

House Bill No. 147,

A Bill for an act to amend Section 10 of Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws.

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, House Bill No. 147 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 95,

A Bill for an act entitled "an act to amend Sections 3, 7 and 9 of Chapter 125 of the Laws of 1893.

Also,

House Bill No. 83,

A Bill for an act to amend Chapter 87 of the Session Laws of 1891, entitled "an act to provide for the maintenance of the Military Department as provided in the Military Code of the State of North Dakota, so as to reduce the standing appropriation of \$11,000 per annum for said purpose, to \$5,000 per annum."

Also,

House Bill No. 141,

A Bill for an act entitled "an act fixing the salaries of the county auditor, register of deeds and county treasurer, and for the repeal of Sections 1 and 3 of Chapter 52 and Section 1 of Chapter 53 of the Session Laws of 1891."

Also,

House Bill No. 65,

A Bill for an act to provide for the establishment, construction and maintenance of drains in this State.

Also,

House Bill No. 137,

A Bill for an act to encourage the manufacture and production of the long<sup>2</sup> line spinning fibers, either flax or hemp and spinning tows grown in the State of North Dakota.

Also,

House Bill No. 127,

A Bill for an act to reimburse Dr. F. R. Smyth for stamping diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor.

Also,

House Bill No. 106,

A Bill for an act to amend Section 63, Chapter 86, Laws of 1891, entitled Military Code.

Also,

House Bill No. 62,

A Bill for an act entitled "an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3 of Chapter 57 of the Penal Code entitled offenses pertaining to sale of intoxicating liquors."

Also,

House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws of 1893 entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State, and the

management of the fund arising therefrom, and making an appropriation therefor,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

MOTIONS AND RESOLUTIONS.

Mr. Smith moved

That the vote by which action on House Bill No. 79 was deferred be reconsidered,

Which motion prevailed.

Mr. Colby moved

That the vote by which House Bill No. 112 was passed be reconsidered and that the motion to reconsider be laid upon the table,

Which motion prevailed.

Mr. Wineman offered the following Concurrent Resolution:

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:*

That in the opinion of the Legislative Assembly the best interests of the State require that a Constitutional Convention be called at some future date for the purpose of revising the Constitution.

Therefore, It is hereby recommended to the electors of the State of North Dakota, that at the next general election to be held on the first Tuesday after the first Monday in November, 1896, that they vote for or against a convention to revise the Constitution of the State.

There being no objection, the petition was referred to the Committee on Judiciary.

The following communication was received from the State Treasurer:

*To the Honorable House of Representatives of the State of North Dakota:*

GENTLEMEN—In reply to the request made by your honorable body, I take pleasure in handing you a statement of the school districts that have defaulted in the payment of interest on their bonds belonging to the permanent school fund. I am unable to give you any other information in relation thereto, except that I have notified each district that payments must be made at once.

Respectfully,  
G. E. NICHOLS,  
Treasurer.

State Treasurer's report of delinquent coupons of school district bonds belonging to the permanent school fund:

District No.		
" 88	School district, Barnes county, due January 1, 1895....	\$ 12 00
" 50	School district, Barnes county, due January, 1894.....	399 00
" 65	Dazey school district, Barnes county, due July, 1894....	12 00
" 66	Dazey school district, Barnes county, due July, 1894...	30 00
" 89	Dazey school district, Barnes county, due January, 1895	22 50

District No.		
" 65	Dazey school district, Barnes county, due January, 1895	12 00
" 66	Williams school district, Barnes county, due January, 1895	30 00
" 9	Painted Woods, Burleigh county, due January, 1895	24 00
" 93	School district, Grand Forks county, due June, 1893	40 00
" 93	School district, Grand Forks county, due June, 1894	40 00
" 84	School district, Grand Forks county, due October, 1894	17 50
" 67	School district, Grand Forks county, due January, 1895	15 00
" 61	School district, Grand Forks county, due November, 1894	60 00
" 43	School district, Grand Forks county, due January, 1895	7 50
" 20	School district, Grand Forks county, due September, 1894	35 00
" 20	School district, Grand Forks county, due March 1894	35 00
" 20	School district, Grand Forks county, due September, 1893	35 00
" 20	School district, Grand Forks county, due January, 1895	15 00
"	Independent, City of Grand Forks, due January, 1895	300 00
" 82	School district, Grand Forks county, due July 30, 1893	28 00
" 82	School district, Grand Forks county, due June, 1894	64 00
" 82	School district, Grand Forks county, due July, 1894	28 00
" 82	School district, Grand Forks county, due January, 1895	28 00
"	Independent, City of Grand Forks, due January, 1895	750 00
" 43	School district, Pembina county, due February, 1894	175 00
" 68	School district, Pembina county, due December, 1894	17 50
" 70	School district, Pembina county, due June, 1894	48 00
" 70	School district, Pembina county, due June, 1892	48 00
" 26	Gordu school district, Pembina county, due January, 1895	18 00
" 43	Gordu school district, Pembina county, due August, 1894	175 00
" 33	Gordu school district, Pembina county, due January, 1895	30 00
"	Hope school district, Ramsey county, due March, 1894	14 00
"	Hope school district, Ramsey county, due September, 1894	14 00
"	City of Devils Lake, Ramsey county, due January, 1895	175 00
" 10	Webster school district, Ramsey county, due January, 1895	48 00
"	City of Devils Lake, Ramsey county, due January, 1895	600 00
" 30	School district, Walsh county, due December, 1894	12 00
" 42	Hoople school district, Walsh county, due July, 1894	30 00
" 104	Hoople school district, Walsh county, due June, 1894	80 00
" 104	Hoople school district, Walsh county, due June, 1893	80 00
" 16	Hoople school district, Walsh county, due January, 1895	24 00
" 30	Acton school district, Walsh county, due January, 1895	24 00
" 42	Hoople school district, Walsh county, due January, 1895	30 00
" 43	Riverside school district, Walsh county, due January, 1895	15 00
"	Pleasant Valley school district, Bottineau county, due July, 1895	19 25

District No.		
" 8	Peabody school district, Bottineau county, due January, 1895.....	\$ 12 00
	Pleasant Valley school district, Bottineau county, due January, 1894.....	33 00
	Minot special school district, Ward county, due January, 1895.....	70 00
	City of Minot school district, Ward county, due January, 1895.....	300 00
	Osago school district, Nelson county, due January, 1895	18 00
	Illinois school district, Nelson county, due January, 1895.....	51 00
	Kane school district, Nelson county, due December, 1894.....	90 00
" 1	South Bend school district, McHenry county, due January, 1895.....	21 00
	South Bend school district, McHenry county due July, 1894.....	10 50
" 1	Swede school district, LaMoure county, due December, 1894.....	14 00
" 1	Swede school district, LaMoure county, due July, 1894.	14 00
	Norway school district, LaMoure county, due June, 1894.....	42 00
	Norway school district, LaMoure county, due June, 1893.....	42 00
" 1	Eastman school district, Foster county, due July, 1894	9 00
" 1	Eastman school district, Foster county, due January, 1895.....	13 50
	Larabee school district, Foster county, due November, 1894.....	17 50
" 16	Larabee school district, Foster county, due January, 1895.....	6 00
" 5	Rosenthal school district, McIntosh county, due July, 1894.....	10 00
" 5	Rosenthal school district, McIntosh county, due January, 1895.....	54 00
" 29	Whitting school district, Wells county, due January, 1895.....	10 50
	Hamberg school district, Wells county, due December, 1894.....	21 00
	Bowman school district, Wells county, due November, 1894.....	14 00
	Helendale school district, Richland county, due July 1894.....	10 50
	Helendale school district, Richland county, due January, 1895.....	18 00
	Washington school district, Eddy county, due November, 1894.....	24 50
	Plainview school district, Eddy county, due June, 1894.	35 00
	Sargent school district, Sargent county, due July, 1894.	35 00
	Sargent school district, Sargent county, due January, 1895.....	35 00
" 2	Rutland school district, Sargent county, due January, 1895.....	15 00
	Denney school district, Stutsman county, due August, 1894.....	56 00
" 13	Beaver school district, Stutsman county, due January, 1895.....	21 00
	Coolin school district, Towner county, due January, 1894.	32 00

District No.	Coolin school district, Towner county, due June, 1894..\$	35 00
	Badger school district, Towner county, due December, 1894.....	40 00
" 5	Minnewaukan school district, Benson county, due January, 1895.....	120 00
	Bakker school district, Emmons county, due September, 1894.....	24 00
	Total.....	\$5,067 50

Mr. Roberts requested that the courtesies of the floor be extended to Messrs. J. W. Walker and H. S. Darlind, of Kidder county.

Mr. Nierling requested that the courtesies of the floor be extended to Messrs. H. C. Flint and F. L. Conklin, of Jamestown.

There being no objection, the courtesies of the floor were so extended.

Mr. Wineman moved

That the consideration of House Bill No. 79 be made a special order for February 26, at 3 o'clock p. m.,

Which motion was lost.

Mr. Hill requested that the courtesies of the floor be extended to Dr. Montgomery, of Walsh county.

Mr. Fleming requested that the courtesies of the floor be extended to Drs. Todd and Evans, of Walsh county.

Mr. Edwards requested that the courtesies of the floor be extended to Rev. O. N. Lindh, of Fargo; Rev. M. Thornquist, of Bismarck, and Rev. Mr. Sutherland, of Rutland.

Mr. Wallen requested that the courtesies of the floor be extended to Messrs. Gunder Howard, O. C. Sarls and C. E. Lisle, of Traill county.

There being no objection, the courtesies of the floor were so extended to the above named gentlemen.

The Speaker announced that he was about the sign

Senate Bill No. 7,

A Bill for an act to amend Section one (1) of Chapter nine (9) of the Laws of 1891, providing clerk hire for the various State officers and making an appropriation therefor.

Also,

Senate Bill No. 69,

A Bill for an act making boards of trustees, commissioners, directors, person or persons liable for amounts expended in excess of appropriations, and providing for emergency expenditures.

Mr. Nierling requested that Mr. Gleason be excused for the day.

Mr. Cryan requested that Mr. Rinde be excused for the day.

Mr. Gunderson requested that Mr. Brown be excused for the day.

Mr. Myers requested that Mr. Korsmo be excused for the day.

There being no objections, the above named members were excused for the day.

Mr. Lindstrom was excused for the day on account of sickness.

#### UNFINISHED BUSINESS.

House Bill No. 150,

A Bill for an act entitled "an act to establish a Code of Criminal Procedure for the State of North Dakota,"

Was placed on its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Richards,
Blacklock,	Horgan,	Roberts,
Colosky,	Jennings,	Rod,
Cooper,	Kellogg,	Sargent,
Cryan,	Kroeger,	Sharpe,
Dwyer,	Lerom,	Simpson,
Edwards,	Logan,	Smith,
Eyolfson,	McLachlan,	Stafne,
Flack,	McDonald,	Svensrud,
Fleming,	Murphy,	Swenson,
Gilbertson,	Myers,	Tofsrud,
Guinan,	Nelson,	Twichell,
Gunderson,	Nierling,	Tyler,
Hancock,	Porter,	Wallen,
Hanna,	Prosser,	Wineman,
Herbrandson,	Purdon,	Wood,
Hill,	Rasmussen,	Mr. Speaker.
Hodgson,	Ray,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Gleason,	Rinde,
Brown,	Korsmo,	Spangberg,
Colby,	Lindstrom,	Walker.

Messrs. Brainard, Brown, Gleason, Korsmo, Lindstrom, Rinde and Spangberg being excused.

So the bill passed and the title was agreed to.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Blacklock introduced

House Bill No. 155,

A Bill for an act to locate and provide for the government of a

State blind asylum at Bathgate, Pembina county, North Dakota,  
Which was read the first and second times, and  
Referred to the Committee on Judiciary.

Informal reces.

House reassembled.

THIRD READING OF HOUSE BILLS.

Mr. Cooper moved

That the vote by which House Bill No. 150 was passed be re-  
considered and that the motion to reconsider be laid upon the  
table,

Which motion prevailed.

Mr. Wineman moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FORTY-SECOND DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 18, 1895.

The House assembled at 2 o'clock p. m., pursuant to adjourn-  
ment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Brainard, Brown,  
Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Spangberg,  
Twichell and Wineman.

Messrs. Brainard, Prosser, Twichell and Wineman being ex-  
cused.

Mr. Gunderson requested that Mr. Brown be excused for the  
day.

Mr. Hodgson requested that Mr. Cooper be excused for the day.

Mr. Nierling requested that Mr. Gleason be excused for the day.

Mr. Fleming requested that Mr. Hill be excused for the day.

Mr. Myers requested that Mr. Korsmo be excused for the day

Mr. Cryan requested that Mr. Rinde be excused for the day.

Mr. Richards requested that Mr. Spangberg be excused for the day.

There being no objection, the members named were excused.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the thirty-ninth day and recommend that it be amended as follows:

On page 9, line 22, insert after the word "Substitute" House Bill No. 2."

Also, have House Bill No. 84 taken from third reading and placed in General Orders.

Also, have House Bill No. 83 taken from General Orders and placed in third reading,

And when so amended that the Journal be approved.

GEORGE HILL,  
Chairman.

Mr. Rod moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the thirty-ninth day as amended was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Tolfstrud presented the following petition:

*To the Honorable the Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of Antioch congregation of the United Lutheran Churches of Amenko, in town of Namania, Benson county, State of Dakota, on the 3d of February, 1895, the following resolution was unanimously adopted:

*Resolved,* That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota now in session, be requested by this meeting, not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article 20 of the Constitution of the State, of North Dakota, prohibiting the manufacture and sale of liquors.

*Resolved further,* That the Legislative Assembly of the State now in session, be requested not to appeal nor amend any of the existing penalties of the present law prohibiting the manufacture and sale of intoxicating liquors, but that they be requested to make any such amendments in said prohibitory law as may more effectually and faithfully enforce the law.

H. O. BLEGEN  
(and 73 others)

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Fleming presented the following petition:

*To the Legislature of North Dakota:*

We, the undersigned, having seen the good effects of the Morrell liquor cure, believe that it should not be discriminated against by any legislation, but that if the State is to assume the cure of inebriates, the Morrell cure should have an equal recognition.

JAMES McDONALD,  
(And 100 others.)

There being no objection, the petition was referred to the Committee on State Affairs.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 18, 1895. }

Mr. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 119,

A Bill for an act to establish a Probate Code for the State of North Dakota,

Which the Senate has amended and passed.

The amendments are as follows:

In Section 19 strike out the words "twenty-four" and insert "twenty-one."  
In Section 22 strike out the words "twenty-two and twenty-three" and insert "nineteen and twenty," also the words "thirty-two" and insert "twenty eight."

In Section 30 strike out "thirty-two" and insert "twenty-eight," strike out "twenty-three" and insert "nineteen," strike out "twenty-four" and insert "twenty."

In Section 46 strike out "thirty-nine" and insert "thirty-five."

In Section 69 strike out the words "sixty-nine" and insert "sixty-five."

In Section 78 strike out "sixty-nine" and insert "sixty-five."

In Section 99 strike out "ninety-eight" and insert "ninety-four."

In Section 111, line three, strike out "thirteen" and insert "nine."

In Section 117 strike out "eighty-three" and insert "seventy-nine."

In Section 130 strike out "sixty-six" and insert "sixty-two."

In Section 243, line 9, strike out the word "three."

In Section 248 strike out figures "256" and insert words "two hundred and fifty-two."

In Section 260, last line, strike out "fourth" and insert "fifth."

In Section 267 strike out in line 7, the words "the first and second sections of Chapter 6" and insert "Section two hundred and forty."

Strike out all of Section 343.

In Section 347 strike out the word "probate" and insert "county."

Respectfully,

FRED FALLEY,  
Secretary.

## REPORTS OF SELECT COMMITTEES.

The Committee on Clerks made the following report :

MR. SPEAKER:

Your Committee on Clerks, to whom was referred the resolutions of Mr. Murphy and Mr. Stafne,

Have had the same under consideration and recommend that three (3) additional clerks be appointed—one to assist the Journal clerk, one to take charge of General Orders and an additional enrolling and engrossing clerk.

We also recommend that your Committee on Clerks be discharged.

J. B. WINEMAN,  
T. TWICHELL,  
F. H. PROSSER.

Mr. McLachlan moved

That the report of the Committee on Clerks be adopted.

Mr. Edwards offered as a substitute motion that the report of the Committee be referred to General Orders,

Which motion prevailed, and

The report of the Committee was referred to General Orders.

The Committee on Warehouses and Grain Grading made the following report:

MR. SPEAKER:

Your Committee on Warehouses and Grain Grading to whom was referred

House Bill No. 142,

A Bill for an act declaring certain mills in this State public custom mills, and defining the duties of the Railroad Commissioners in relation to examining and investigating the business of said mills and empowering them to perform the same, for the purpose of fixing a maximum price and a maximum rate of toll and exchange to be charged or taken for public custom work, and providing a penalty for violation of the provisions hereof,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out the word "or" as it appears in the commencement of line 6 of Section 3 of the printed bill, and in same line after the word "manufacture" insert the words "or exchange,"

And when so amended recommend that the same do pass.

EVAN S. TYLER,  
Chairman.

There being no objection, House Bill No. 142 was referred to the Committee on Engrossment.

Mr. Cryan moved

That the report of the Committee on Warehouses and Grain Grading be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Military made the following report:

MR. SPEAKER:

Your Committee on Military to whom was referred  
House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled "an act to provide a Military Code for the State of North Dakota, and to provide a Board of Control for the State Encampment Grounds,"

Have had the same under consideration and recommend that the same be amended as follows:

Strike out in Section 1, line 9 the words "one hundred and fifty" and insert in lieu thereof "two hundred and fifty."

Strike out in Section 3, line 5, after the words "he is to be," and insert in lieu thereof the word "shall."

Strike out all of Section 4 and insert in lieu thereof:

SECTION 4. There shall be a Military Board, consisting of the inspector and judge advocate general *ex-officio* and two other members to be appointed by the commander-in-chief, who shall be commissioned officers of the North Dakota National Guard, one of whom shall belong to the cavalry battalion of said National Guard, and who shall *ex-officio*, be members of the military staff of the commander-in-chief, and hold their office for two years, or until their successors are appointed, unless sooner removed for cause.

The State Military Board will constitute an advisory body to the commander-in-chief on all military interests of the State.

They are hereby further authorized and empowered to prepare and to promulgate all articles, rules and regulations for the government of the North Dakota National Guard, not inconsistent with the laws of the United States or of this State, and which articles, rules and regulations, when approved by the commander-in-chief, shall be in force and by him filed in the office of the Secretary of State.

The State military board shall have full control and charge of the State encampment grounds on Rock Island, Ramsey county, North Dakota, and shall provide such disposition for laying out and improving same as they shall deem advisable, subject to the approval of the commander-in-chief.

SEC 5. COMPENSATION OF MEMBERS OF THE BOARD.] The compensation of members of the State military board, while going to and from, and when in actual attendance at meetings of the board, shall be such as prescribed by law for field duty and their actual subsistence and traveling expenses, and on the vouchers of these officers approved by the adjutant-general and Governor, the Auditor is hereby directed to draw a warrant on the Treasurer of the State to be paid from the General Fund.

Change Sections "5 and 6" to read "6 and 7."

And when so amended recommend that the same do pass.

C. McLACHLAN,  
Chairman.

There being no objection, House Bill No. 121 was referred to General Orders.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 48,

A Bill for an act to provide for the preservation and protection  
of fish and game,

Have had the same under consideration, and recommend that  
the same be indefinitely postponed for the reason that another  
bill covering the same matter has been before the same Com-  
mittee on State Affairs.

T. TWICHELL,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on State Affairs be adopted,  
Which motion prevailed, and

The report of the Committee was adopted, and House Bill No.  
48 was indefinitely postponed.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
Substitute for House Bill No. 91,

A Bill for an act to fix the number of officers and employes of  
the Legislative Assembly of the State of North Dakota, and to  
provide for the compensation and payment of the same,

Have had the same under consideration and recommend that  
the same do pass.

There being no objection, Substitute for House Bill No. 91 was  
referred to the Committee on Engrossment.

Also,

House Bill No. 122,

A Bill for an act entitled "an act to protect dairy interests of  
the State of North Dakota, and to prevent fraud in dairy  
products, and to regulate the traffic in adulterated butter and  
cheese,"

Have had the same under consideration and recommend that  
the same be amended as follows:

On page 2, Section 1, line 13, of printed bill after the word "twenty"  
insert the word "five."

After Sections 243-4—the penalty clause as appearing in first section shall  
be added.

Section 11 shall be, "all acts or parts of acts in conflict with this act are  
hereby repealed."

Section 11 of original bill shall be numbered Section 12.

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 122 was referred to the Committee on Engrossment.

Mr. Sargent moved

That the report of the Committee be adopted,

Which motion prevailed.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota School of Forestry, and making an appropriation therefor,

Have had the same under consideration and recommend that the same be indefinitely postponed.

There being no objection House Bill No. 68 was referred to General Orders.

Also,

House Bill No. 140,

A Bill for an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioners of Railroads,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 140 was referred to the Committee on Engrossment.

Also,

House Bill No. 151,

A Bill for an act making an appropriation to pay certain expenses incurred by the Fourth Legislative Assembly of the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

EVAN S. TYLER,  
Chairman.

There being no objection, House Bill No. 151 was referred to the Committee on Engrossment.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred House Bill No. 152,

A Bill for an act to amend Section 33 of Chapter 56, Laws, of 1891, being an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192, of Chapter 62, Laws of 1890, entitled "an act to provide for a uniform system of free pub-

lic schools throughout the State and to prescribe penalties for violation of the provisions hereof,"

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

There being no objection, House Bill No. 152 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks."

Also,

House Bill No. 147,

A Bill for an act to amend Section 10, Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws.

Also,

House Bill No. 73,

A Bill for an act to invest states' attorneys and courts of North Dakota with discretionary power to require security for costs in all criminal prosecutions that they deem unmeritorious before they shall be instituted.

Also,

House Bill No. 144,

A Bill for an act to amend Section ninety-seven of Chapter one hundred thirty-two (132) of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments, and the levy and collection of taxes, and for other purposes relative thereto."

Also,

House Bill No. 131,

A Bill for an act entitled "an act to fix the compensation of the clerks of the district courts and provide a fund to reimburse the county for the same.

Also,

House Bill No. 128,

A Bill for an act to prevent the destruction of farm buildings in the State of North Dakota.

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

## MOTIONS AND RESOLUTIONS.

Mr. Simpson requested that House Bill No. 136 be recalled from General Orders,

Which motion prevailed.

Mr. Simpson moved

That the report of the Committee on Judiciary be adopted,

Which motion prevailed, and

House Bill No. 136 was referred to its engrossment.

Mr. Horgan requested that the courtesies of the floor be extended to Mr. Kneeshaw, of Pembina.

Mr. Edwards requested that the courtesies of the floor be extended to Judge McConnell, of Fargo.

Mr. Hodgson requested that the courtesies of the floor be extended to Rev. Mr. Sutherland, of Sargent county.

Mr. Nierling requested that the courtesies of the floor be extended to B. S. Russell, of Jamestown.

There being no objection, the courtesies of the floor were extended to the gentlemen named.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Gunderson introduced

House Bill No. 156,

A Bill for an act to require railroad companies to erect, maintain and keep open suitable buildings for the accommodation of passengers wherever the tracks of one crosses that of the other more than two miles from a passenger depot,

Which was read the first and second times, and

Referred to the Committee on Railroads.

## THIRD READING OF HOUSE BILLS.

Mr. Smith moved

That consideration of House Bill No. 83 be postponed,

Which motion prevailed.

Mr. Armstrong moved

That House Bill No. 137 be referred to the Attorney General for his opinion as to its constitutionality,

Which motion prevailed, and

House Bill No. 137 was so referred.

House Bill No. 95,

A Bill for an act entitled "an act to amend Sections 3, 7 and 9 of Chapter 125 of the Laws of 1893,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 48, nays 2, not voting 12.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Purdon.
Blacklock,	Holritz,	Rasmussen,
Colby,	Horgan,	Ray,
Colosky,	Jennings,	Richards,
Cryan,	Kellogg,	Roberts,
Dwyer,	Kroeger,	Rod,
Edwards,	Korsmo,	Sargent,
Eyolfson,	Lerom,	Simpson,
Flack,	Lindstrom,	Smith,
Fleming,	Logan,	Stafne,
Gilbertson,	McLachlan,	Svensrud,
Guinan,	McDonald,	Swenson,
Gunderson,	Murphy,	Tofsrud,
Hancock,	Myers,	Walker,
Hanna,	Nelson,	Wood,
Herbrandson,	Porter,	Mr. Speaker.

Those who voted in the negative were Messrs. Nierling and Wallen.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Hill,	Spangberg,
Brown,	Prosser,	Twitchell,
Cooper,	Rinde,	Tyler,
Gleason,	Sharpe.	Wineman.

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Smith moved

That the vote by which House Bill No. 95 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

Mr. Hanna moved

That consideration of House Bills Nos. 65 and 104 be postponed,  
Which motion prevailed.

House Bill No. 127,

A Bill for an act entitled "an act to reimburse Dr. F. R. Smyth for stamping diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor,  
Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 44, nays none, not voting 18.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rasmussen,
Blacklock,	Holritz,	Ray,
Colby,	Horgan,	Richards,
Colosky,	Jennings,	Roberts,
Cryan,	Kellogg,	Sargent,
Dwyer,	Kroeger,	Simpson,
Edwards,	Lindstrom,	Smith,
Eyolfson,	Logan,	Stafne,
Flack,	McLachlan,	Svensrud,
Fleming,	McDonald,	Swenson,
Gilbertson,	Murphy,	Tofsrud,
Guinan,	Myers,	Walker,
Gunderson,	Nierling,	Wood,
Hancock,	Porter,	Mr. Speaker.
Hanna.	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Sharpe.
Brown,	Lerom,	Spanberg,
Cooper,	Nelson,	Twichell,
Gleason,	Prosser,	Tyler,
Herbraudson,	Rinde,	Wallen,
Hill,	Rod,	Wineman.

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Twichell, Spangberg and Wineman being excused.

So the bill passed and the title was agreed to.

House Bill No. 62,

A Bill for an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3, of Chapter 57 of the Penal Code entitled "offenses pertaining to sale of intoxicating liquors,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 46, nays 3, not voting 13.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Ray,
Blacklock,	Kellogg,	Richards,
Colby,	Kroeger,	Roberts,
Colosky,	Lerom,	Sargent,
Cryan,	Lindstrom,	Sharpe,
Dwyer,	Logan,	Simpson,
Eyolfson,	McLachlan,	Smith,
Flack,	McDonald,	Stafne,
Fleming,	Murphy,	Svensrud,
Gilbertson,	Myers,	Swenson,
Guinan,	Nelson,	Tofsrud,
Gunderson,	Nierling,	Walker,
Hancock,	Porter,	Wallen,
Hanna,	Purdon,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hodgson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Edwards,	Horgan,	Jennings,
Absent and not voting:		
Brainard,	Korsmo,	Spangberg,
Brown,	Prosser,	Twichell,
Cooper,	Rinde,	Tyler,
Gleason,	Rod,	Wineman,
Hill,		

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Hodgson moved

That the vote by which House Bill No. 62 was passed be reconsidered, and that the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Murphy, by unanimous consent, offered the following Concurrent Resolution and moved its adoption,

Which motion prevailed, and

The Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the Legislative Assembly of the State of North Dakota, the Senate Concurring:*

WHEREAS, There is a large area of land in this State that would be vastly benefited by a practicable system of irrigation, and,

WHEREAS, The House of Representatives of the United States has appropriated the sum of \$12,500 only for the measurements of streams and subterranean supply of water of the entire United States, and,

WHEREAS, The said sum is insufficient to cover the large area of arid and semi-arid States of the whole United States, and,

WHEREAS, The Sunday Civil Bill providing said appropriation is now in the hands of the United States Senate for final action; therefore, be it

*Resolved*, That the following telegram be sent this day to "Senators Hansbrough and Roach, Washington, D. C.: 'If possible have Sundry Civil appropriation of \$12,500 for measurement of streams and subterranean water supply in the arid and semi-arid States increased to at least \$50,000,' and the proper officers of the Legislative Assembly and Senate are hereby invited to sign the same.

Mr. Hanna moved

That the vote by which the Concurrent Resolution was adopted be reconsidered, and the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 147,

A Bill for an act entitled "an act to amend Section 10, Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 49, nays 2, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Richards,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wood,  
Mr. Speaker.

Those who voted in the negative were Messrs. Murphy and Wallen.

Absent and not voting:

Messrs—

Brainard,  
Brown,  
Cooper,  
Gleason,

Messrs—

Hill,  
Korsmo,  
Prosser,  
Rinde,

Messrs—

Spangberg,  
Twichell,  
Wineman.

Who were excused.

So the bill passed and the title was agreed to.

Mr. Simpson moved

That the vote by which House Bill No. 147 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 144,

A Bill for an act to amend Section ninety-seven of Chapter one hundred thirty-two of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments, and the levy and collection of taxes, and for other purposes relative thereto."

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 45, nays none, not voting 16.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Holritz,

## Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

## Messrs—

Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

## Absent and not voting:

## Messrs—

Blacklock,  
Brainard,  
Brown,  
Cooper,  
Fleming,  
Gleason,

## Messrs—

Hill,  
Hodgson,  
Horgan,  
Korsmo,  
McLachlan,  
Murphy,

## Messrs—

Prosser,  
Rinde,  
Spangberg,  
Twichell,  
Wineman.

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Nierling moved

That the vote by which House Bill No. 144 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

House Bill No. 128,

A Bill for an act entitled "an act to prevent the destruction of farm buildings in the State of North Dakota,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 47, nays none, not voting 15.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,

## Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,

## Messrs—

Richards,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,

Messrs—  
Hanna,  
Hodgson,  
Holritz,

Messrs—  
Purdon,  
Rasmussen,  
Ray,

Messrs—  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—  
Brainard,  
Brown,  
Cooper,  
Fleming,  
Gleason,

Messrs—  
Herbrandson,  
Hill,  
Horgan,  
Korsmo,  
Prosser,

Messrs—  
Rinde,  
Spangberg,  
Twichell,  
Wallen,  
Wineman.

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Hanna moved

That the vote by which House Bill No. 128 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

Informal recess.

House reassembled.

House Bill No. 96,

A Bill for an act entitled "an act repealing Chapter 127 of the Session Laws of 1893 entitled 'an act to establish a weather and crop service for the collection and dissemination of crop statistics and meteorological data,' "

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 11, nays 39, not voting 12

Those who voted in the affirmative were:

Messrs—  
Gilbertson,  
Herbrandson,  
Lerom,  
Lindstrom,

Messrs.  
Murphy,  
Nelson,  
Rod,  
Stafne,

Messrs—  
Tofsrud,  
Walker,  
Wallen.

Those who voted in the negative were:

Messrs—  
Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nierling,  
Porter,  
Purdon,

Messrs—  
Rasmussen,  
Ray,  
Richards,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Svensrud,  
Swenson,  
Tyler,  
Wood,  
Mr. Speaker.

## Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Gleason,	Rinde,
Brown,	Hill,	Spangberg,
Cooper,	Korsmo,	Twichell,
Fleming,	Prosser,	Wineman.

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Spangberg, Twichell and Wineman being excused.

So the bill was lost.

## House Bill No. 73,

A Bill for an act entitled "an act to invest states' attorneys and courts of North Dakota with discretionary power to require security for costs in all criminal prosecutions that they deem unmeritorious before they shall be instituted,"

Was placed upon its third reading.

Mr. Simpson moved

That further consideration of House Bill No. 73 be indefinitely postponed,

Which motion prevailed.

## House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 50, nays none, not voting 12.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Richards,
Blacklock,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Colosky,	Kroeger,	Sargent,
Cryan,	Lerom,	Sharpe,
Dwyer,	Lindstrom,	Simpson,
Edwards,	Logan,	Smith,
Eyolfson,	McLachlan,	Stafne,
Flack,	McDonald,	Svensrud,
Gilbertson,	Murphy,	Swenson,
Guinan,	Myers,	Tofsrud,
Gunderson,	Nelson,	Tyler,
Hancock,	Nierling,	Walker,
Hanna,	Porter,	Wallen,
Herbrandson,	Purdon,	Wood,
Hodgson,	Rasmussen,	Mr. Speaker.
Holritz,	Ray,	

Absent and not voting:

Messrs—

Brainard,  
Brown,  
Cooper,  
Fleming,

Messrs—

Gleason,  
Hill,  
Korsmo,  
Prosser,

Messrs—

Rinde,  
Spangberg,  
Twichell,  
Wineman.

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Prosser, Rinde, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Svensrud asked unanimous consent for the House to return to the seventh order of business.

There being no objection, the House returned to the seventh order of business.

#### MOTIONS AND RESOLUTIONS.

Mr. Svensrud moved

That House Bill No. 68 be recalled from General Orders and that the bill be referred to the Committee on State Affairs,

Which motion prevailed, and

House Bill No. 68 was referred to the Committee on State Affairs.

Mr. Hanna moved

That the House do now resolve itself into a Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Hodgson to the chair.

When the Committee arose they made the following report:

**MR. SPEAKER:**

Your Committee of the Whole have had under consideration House Bill No. 89,

A Bill for an act entitled "an act to amend Section 5 of Chapter 118 of the Laws of 1893, entitled 'an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and other public lands of this State, and the management of the fund arising therefrom, and making an appropriation therefor,'"

And recommend the following amendments :

Amend by striking out on page 2 of printed bill after the word "State" where the same appears on line 9 the word "and" and all parts thereafter to and including the word "sold" on line 11.

Also amend by striking out the words "bond of the United States" where they occur in line 7 of page 2 of the printed bill.

Also, amend by inserting in line 13, Section 5, after the word "person," the words "who shall be a resident of this State."

Also, in line 9, page 2, after the word "on" insert the word "cultivated,"

And recommend that as so amended the bill do pass.

Also,

House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

And recommend the same be amended as follows:

On line 2, Section 1, the word "February" be changed to "March;" line 4, Section 2, strike out the following word; after constitute: "And be first mortgagor" and on line 5, same section, strike out "and shall take procedure over all other mortgages or liens thereon whatsoever;" line 6, same section, strike out "February" and put in "March" instead; line 13, same section, commencing with the word "and" and strike out to the word "stating" in line 16, and inserting the following amendments: "And whenever the amount of said taxes to be collected by such distress shall be fifteen dollars or more, shall in addition thereto advertise the same in one newspaper, if there is one in the county."

And when so amended recommend the same do pass.

Also,

House Bill No. 70,

A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers.

And recommend that the word "suspiciously" in line 6, of Section 1, be stricken out and the word "surrepticiously" inserted in its stead,

And that the same do pass as so amended.

Also,

The following select committee's report:

The Committee on Clerks made the following report:

MR. SPEAKER:

Your Committee on Clerks to whom was referred the resolutions of Mr. Murphy and Mr. Stafne,

Have had the same under consideration and recommend that three (3) additional clerks be appointed, one to assist the Journal clerk, one to take charge of General Orders and an additional enrolling and engrossing clerk.

We also recommend that your Committee on Clerks be discharged.

J. B. WINEMAN,

T. TWICHELL,

F. H. PROSSER.

And recommend that the report of the Committee be adopted, particularly the latter part.

JOHN E. HODGSON,

Chairman.

Mr. Hodgson moved  
 That the report of the Committee of the Whole be adopted,  
 Which motion prevailed, and  
 The report of the Committee of the Whole was adopted.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
 February 18, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the Senate has concurred in the House resolution, urging Senators Hansbrough and Roach to use their influence to have the sundry civil appropriations of \$12,500 for measurement of streams, etc., increased.

Also,

I have the honor to transmit herewith  
 Substitute for House Bill No. 41,

A Bill for an act to amend Sections 4, 5, 6, 18, 23, 43, 57 and 61 of the Military Code, being Chapter 86 of the Session Laws of 1891, which the Senate has amended, by adding to Section 4, the following: "Or who by reason of wounds incurred in the service was sooner discharged,"

And passed.

Respectfully,

FRED FALLEY,  
 Secretary.

Mr. McLachlan moved

That the House concur in the Senate amendment to Substitute for House Bill No. 41,

Which motion prevailed.

The question being upon the final passage of  
 Substitute for House Bill No. 41, as amended,

A Bill for an act entitled "an act to amend Sections 5, 6, and 18 of the Military Code, being Chapter 86 of the Session Laws of 1891,"

The roll being called there were ayes 50, nays none, not voting 12.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
 Blacklock,  
 Colby,  
 Colosky,  
 Cryan,  
 Dwyer,  
 Edwards,  
 Eyolfson,  
 Flack,  
 Fleming,

Messrs—

Holritz,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Lerom,  
 Lindstrom,  
 Logan,  
 McLachlan,  
 McDonald,

Messrs—

Richards,  
 Roberts,  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Stafne,  
 Svensrud,  
 Swenson,

Messrs—	Messrs—	Messrs—
Gilbertson,	Myers,	Tofsrud,
Guinan,	Nelson,	Tyler,
Gunderson,	Nierling,	Walker,
Hancock,	Porter,	Wallen,
Hanna,	Purdon,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hodgson,	Ray,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Spangberg,
Brown,	Murphy,	Twichell,
Cooper,	Prosser,	Wineman.
Hill,	Rinde,	

Messrs. Brainard, Brown, Cooper, Gleason, Hill, Korsmo, Rinde, Spangberg, Twichell and Wineman being excused.

So the bill as amended passed and the title was agreed to.

Mr. Hanna moved

That the rules be suspended and that House Bill No. 89, as amended by the Committee of the Whole, be placed upon its third reading and final passage,

Which motion prevailed.

House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890 and Chapter 65 of the Laws of 1891 and to provide for the management, control and disposal of university, school and all other public lands of the State and the management of the fund arising therefrom and making an appropriation therefor,"

Was placed upon its third reading.

Mr. Svensrud moved

That the report of the Committee on Clerk Hire, as recommended in the adoption of the report of the Committee of the Whole, be adopted,

Which motion prevailed.

The Speaker appointed as assistant enrolling and engrossing clerks, C. G. Myhrs, T. N. Quinn and A. J. Larik.

Mr. Richards moved

That the House do now adjourn,

Which motion was lost.

The question being on the final passage of House Bill No. 89 as amended,

The roll being called there were ayes 45, nays 6, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Ray,
Blacklock,	Horgan,	Richards,
Colby,	Jennings,	Roberts,
Cryan,	Kellogg,	Sargent,
Dwyer,	Kroeger,	Sharpe,
Edwards,	Lindstrom,	Simpson,
Eyolfson,	Logan,	Smith,
Flack,	McLachlan,	Stafne,
Fleming,	McDonald,	Svensrud,
Guinau,	Murphy,	Swenson,
Gunderson,	Myers,	Tofsrud,
Hancock,	Nierling,	Tyler,
Hanna,	Porter,	Walker,
Herbrandson,	Purdon,	Wood,
Hodgson,	Rasmussen,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	Lerom,	Rod,
Gilbertson,	Nelson,	Wallen.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Hill,	Spangberg
Brown,	Korsmo,	Twichell,
Cooper,	Prosser,	Wineman,
Gleason,	Rinde,	

Who were excused.

So the bill as amended passed and the title was agreed to.

Mr. Hanna moved

That the vote by which House Bill No. 89 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Purdon moved

That the House adjourn, to meet tomorrow at 10 o'clock a. m.,

Which motion prevailed, and

The House adjourned.

Respectfully,

J. M. DEVINE,  
Chief Clerk.

## FORTY-THIRD DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 19, 1895.

The House assembled at 10 o'clock a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Cooper, Gleason, Hill, Holritz, Prosser, Spangberg, Twichell and Wineman.

Messrs. Cooper, Gleason, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

## REPORTS OF STANDING COMMITTEES.

The Committee on Supplies and Expenditures made the following report:

MR. SPEAKER:

Your Committee on Supplies and Expenditures who, under House Rule No. 62, are required to report by February 20, find

that they will not be through with their work by that date, and ask that they be granted an extension of one week.

E. F. PORTER,  
Chairman.

Mr. Rod moved

That the report of the Committee on Supplies and Expenditures be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 91,

A Bill for an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota and to provide for the compensation and payment of same.

Also,

House Bill No. 151,

A Bill for an act making an appropriation to pay certain expenses incurred by the Fourth Legislative Assembly of the State of North Dakota.

Also,

House Bill No. 152,

A Bill for an act to amend Section 33 of Chapter 56, Laws of 1891, being an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890 entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof."

Also,

House Bill No. 140,

A Bill for an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioners of Railroads,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Korsmo presented the following petition:

*To the Honorable H. F. Arnold, Senator, and the Honorable Peter N. Korsmo and the Honorable Joseph H. Myers, Representatives of the Fifth Legislative District of North Dakota, Greetings :*

We, the undersigned, voters and taxpayers, would respectfully pray you to

use your votes and influence against the passage of House Bill No. 65, a bill for an act for the construction and maintenance of drains in the State.

T. E. TUFTE,  
(And 45 others.)

Mr. Hodgson moved

That the rules be suspended and that the order of third reading of House Bills be passed.

Which motion prevailed.

FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 39,

A Bill for an act to amend an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto."

Was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

Senate Bill No. 99,

A Bill for an act to provide for the treatment and cure of habitual drunkards,

Was read the first and second times, and

Referred to the Committee on Temperance.

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Being a substitute for Senate Bill No. 15,

Was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 13,

A Bill for an act entitled "an act to encourage the manufacture of potato starch in the State of North Dakota,"

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

GENERAL ORDERS.

Mr. Hodgson moved

That the House resolve itself into a Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Svensrud to the Chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 78,

A Bill for an act entitled "an act to amend Section 448, Article 5, Chapter 8, of the Compiled Laws of the State of North Dakota,"

And recommend that the bill remain in General Orders.

Also,

House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivision four (4) and five (5) of Section 2144 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor,"

And recommend that the same be amended as follows:

By striking out on page 1, line 6, of the printed bill the word "three" and inserting in lieu thereof the word "one," and on page 2, line 6, of the printed bill, by striking out the word "three" and inserting in lieu thereof the word "one,"

And when so amended recommend that the same do pass.

Also,

House Bill No. 93,

A Bill for an act entitled "an act relating to public highways,"

And recommend that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 98,

A Bill for an act entitled "an act amending Section 28 of Chapter 24 of the Political Code, being Section 1049 of the Compiled Laws of 1887, relating to the qualification of officers of incorporated towns,"

And recommend that the same be amended as follows:

After the word "shall" in line 2, Section 1049, page 1, printed bill, insert the words "within ten days after receiving notice of their election or appointment, and."

And when so amended recommend that the same do pass.

Also,

House Bill No. 84,

A Bill for an act entitled "an act to amend Section 4 of Chapter 100 of the Session Laws of 1891, being an amendment to Section 46 of Chapter 132 of the Session Laws of 1890, relating to the State Board of Equalization—how constituted, meetings, rules for equalization,"

And recommend that further consideration of the bill be deferred.

Also,

House Bill No. 100,

A Bill for an act entitled "an act requiring railway commissioners to provide bulletin boards at stations, and providing penalties,"

And recommend that the same be amended as follows:

In line 5 of Section 1 of printed bill strike out the words "at least four feet in length and two feet in width."

In line 9, Section 1, after the word "late" insert the word "about."

In line 7, Section 1, insert after the words "of all trains carrying passengers" and strike out the words "each passenger train."

And when so amended recommend that the same do pass.

Also,

House Bill No. 102,

A Bill for an act entitled "an act to authorize the Secretary of the State of North Dakota to receive, preserve and turn over to his successor the portraits of State officials and Members of Congress,"

And recommend that the same be amended as follows:

In Section 1, line 6, of printed bill, strike out the words "House of Representatives" and insert in lieu thereof the words "Legislative Assembly,"

And when so amended recommend that the same do pass.

Also,

House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

And recommend that the bill be referred with the amendments thus far reported to the Committee on Taxes and Tax Laws.

Also,

House Bill No. 134,

A Bill for an act to provide funds for defraying the expenses of insane persons confined in the North Dakota Hospital for the Insane,

And recommend that the bill remain in General Orders for further consideration.

Also,

Senate Bill No. 98,

A Bill for an act authorizing the counties in the State of North Dakota to raise and expend a fund for the purchase of poison for the destruction of gophers, and repealing Chapter 144 of the Session Laws of 1890,

And recommend that the same be amended as follows:

On page 1, Section 1, line 3 of printed bill, after the word "one" insert the word "half."

On lines 3 and 4 of same section, strike out the words "real estate" and insert in lieu thereof the word "property."

On lines 8 and 9 of same section, strike out the words, "among the several township boards in the county applying for the same."

On line 10 of same section, strike out the word "supervisors" and insert in lieu thereof the word "commissioners."

On page 2, Section 1, line 12 of printed bill, strike out the word "township" and insert in lieu thereof the word "county."

And when so amended recommend that the same do pass.

A. SVENSRUD,  
Chairman.

Mr. Svensrud moved

That the report of the Committee of the Whole be adopted,  
Which motion prevailed.

Mr. Rod requested that the courtesies of the floor be extended to Mr. Geo. P. Harvey, of Minto.

There being no objection, the courtesies of the floor were so extended.

Mr. Richards, by unanimous consent, offered the following Concurrent Resolution :

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, the Senate Concurring:*

That owing to the fact that the last pay roll shows that there are nearly as many clerks as members of both Houses; and

Further, that owing to the fact that it is currently reported that there is not at any hour of the day a majority of the clerks engaged in their work in the rooms assigned them; and

Further, that it is currently reported that many of the clerks appointed at different times since the opening of the session have drawn pay covering the time prior to their appointment; and

Further, owing to the fact that the pay roll shows that the total payment of the Senate and House combined up to date amounts to \$18,290, while that of payment of employes shows \$12,459; and

Further, owing to the present depleted condition of our State treasury; Therefore, be it

*Resolved,* That a committee of five be appointed, consisting of three members of the House and two from the Senate, whose duties shall be as follows:

1. To have a roll call to-morrow (Wednesday) morning at 9 o'clock and report the number of clerks present at such roll call.

2. To satisfy themselves as to the regularity of their appointment as shown by the Journals of the Senate and of the House.

3. To satisfy themselves as to their efficiency and as to the regularity of their attendance at the post of duty.

4. To inquire into and ascertain the date of appointment of each clerk and see if the date corresponds with the amount of money drawn by each clerk as shown by the vouchers in the State Auditor's office.

5. To examine the work done by the enrolling and engrossing clerks and to determine through the chiefs of the staff of clerks how many of the clerks have done work which in their opinion would entitle such clerks to continuance in office.

6. To ascertain how many, if any, and which of the clerks, naming each, might be discharged without interfering with the work of both Houses.

7. To report back to the Senate and House on all of the above not later than Monday (February 25th) next. Be it further

8. *Resolved*, That a copy of this resolution be immediately transmitted to the Senate with a request that it receive prompt consideration.

Mr. Hodgson moved

That the Concurrent Resolution be adopted.

Mr. Svensrud offered the substitute motion, that the Concurrent Resolution be laid on the table,

Which substitute motion was lost.

Mr. Lindstrom offered the substitute motion that Mr. Richards be appointed as a committee of one to investigate the charges contained in the resolution, and report the result of the investigation to the House,

Which substitute motion was lost.

The question recurring on the original motion to adopt the Concurrent Resolution.

Roll call demanded.

Mr. Simpson moved a call of the House.

Call seconded.

Mr. Hodgson moved that further proceedings under the call be dispensed with.

Roll call demanded.

The roll being called there were ayes 31, nays 16, absent and not voting 15.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Colby,  
Colosky,  
Cryan,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Hancock,

Messrs—

Hanna,  
Hodgson,  
Jennings,  
Kroeger,  
Korsmo,  
Lerom,  
McLachlan,  
Murphy,  
Myers,  
Nelson,

Messrs—

Porter,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Smith,  
Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Brown,  
Dwyer,  
Gunderson,  
Herbrandson,  
Lindstrom,  
McDonald,

Nierling,  
Purdon,  
Ray,  
Sargent,  
Sharpe,

Simpson,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud.

Absent and not voting:

Messrs—

Cooper,  
Edwards,  
Fleming,  
Gleason,  
Hill,

Messrs—

Holritz,  
Horgan,  
Kellogg,  
Logan,  
Prosser,

Messrs—

Rasmussen,  
Spangberg,  
Twitchell,  
Wineman,  
Wood.

Messrs. E Cooper, Edwards, Gleason, Hill, Prosser, Spangberg, Twitchell and Wineman being excused.

So the motion prevailed and further proceedings under the call of the House were dispensed with.

Mr. Svensrud moved

That the House take a recess until 2 o'clock,  
Which motion was lost.

Mr. Simpson offered the following amendment to the original motion to adopt the Concurrent Resolution:

That this Committee investigate the mileage and per diem of the members of this Legislative Assembly; also as to any deals that may have been made by the Speaker in securing his election as Speaker of the House; any deals made by the Chief Clerk, and any promises that members of this House may have made to their constituency which they have failed to redeem.

Mr. Blacklock moved

That the amendment be laid upon the table,  
Which motion was lost.

The question recurring on Mr. Simpson's motion to amend,  
The amendment was lost.

Mr. Simpson moved

That the House take a recess until 2 o'clock p. m.,  
Which motion was lost.

Mr. McLachlan moved

The previous question,  
Which motion prevailed.

The question being on the original motion to adopt the Concurrent Resolution,

The roll being called, there were ayes 26, nays 19, not voting 17.

Those who voted in the affirmative were:

Messrs.

Armstrong,  
Blacklock,  
Brainard,  
Colby,  
Colosky,  
Cryan,  
Eyolfson,  
Flack,  
Gilbertson,

Messrs—

Guinan,  
Gunderson,  
Hanna,  
Hodgson,  
Jennings,  
Kroeger,  
Lerom,  
McLachlan,  
Nelson,

Messrs.

Porter,  
Richards,  
Roberts,  
Rod,  
Smith,  
Tyler,  
Walker,  
Wallen.

Those who voted in the negative were:

Messrs—

Brown,  
Dwyer,  
Hancock,  
Herbrandson,  
Korsmo,  
Lindstrom,  
McDonald,

Messrs—

Murphy,  
Myers,  
Nierling,  
Purdon,  
Ray,  
Sargent,

Messrs—

Sharpe,  
Simpson,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud.

Absent and not voting:

Messrs—

Cooper,  
Edwards,  
Fleming,  
Gleason,  
Hill,  
Holritz,

Messrs—

Horgan,  
Kellogg,  
Logan,  
Prosser,  
Rasmussen,

Messrs—

Rinde,  
Spangberg,  
Twichell,  
Wineman,  
Wood.

Messrs. Cooper, Edwards, Gleason, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

So the Concurrent Resolution was lost.

Mr. Hodgson moved

That the vote by which the Concurrent Resolution was lost be reconsidered, and that the motion to reconsider be laid on the table.

Mr. Svensrud offered the substitute motion, that the House take a recess until 2 o'clock p. m.,

Which motion was lost.

The question recurred on Mr. Hodgson's motion.

Mr. Simpson asked that the motion be divided.

The Speaker ruled the request out of order.

The question being on the adoption of Mr. Hodgson's motion, The motion prevailed.

Mr. Wallen moved

That the House take a recess until 2 o'clock p. m.,

Which motion prevailed, and

The House took a recess.

The House reassembled.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 152,

A Bill for an act to amend Section 53 of Chapter 56, Laws of 1891, being an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 49, nays none, not voting 13.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Horgan,	Richards,
Brainard,	Jennings,	Rinde,
Brown,	Kellogg,	Roberts,
Colby,	Kroeger,	Rod,
Colosky,	Korsmo,	Sargent,
Cryan,	Lerom,	Sharpe,
Dwyer,	Lindstrom,	Simpson,
Eyolfson,	Logan,	Smith,
Flack,	McDonald,	Stafne,
Fleming,	Murphy,	Tofsrud,
Gilbertson,	Nelson,	Tyler,
Guinan,	Nierling,	Walker,
Gunderson,	Porter,	Wallen,
Hancock,	Purdon,	Wood,
Hanna,	Rasmussen,	Mr. Speaker.
Herbrandson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	McLachlan,	Svensrud,
Edwards,	Myers,	Swenson,
Gleason,	Prosser,	Twihell,
Hill,	Spangberg,	Wineman.
Holritz,		

Messrs. Cooper, Edwards, Gleason, Hill, Prosser, Spangberg, Twihell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Murphy requested that the courtesies of the floor be extended to Col. Plummer, of Ward county.

Mr. Jennings requested that the courtesies of the floor be extended to T. H. Burke, of Langdon.

There being no objection, the courtesies of the floor were extended to the gentlemen named.

The Speaker announced he was about to sign

House Bill No. 13,

A Bill for an act entitled "an act to encourage the manufacture of potato starch in the State of North Dakota."

Mr. Cryan moved

That the vote by which House Bill No. 152 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Substitute for House Bill No. 91,

A Bill for an act to amend Sections 1, 2 and 3 of Chapter 97 of the Laws of 1893, being an act entitled "an act to amend Sections 1 and 3 of Chapter 86 of the Laws of 1890, entitled 'an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota and to provide for the compensation and payment of the same,'"

Was read the third time.

Mr. Simpson moved

That Substitute for House Bill No. 91 be referred to General Orders,

Which motion prevailed, and

The bill was so referred.

House Bill No. 136,

A Bill for an act entitled "an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Co'by,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Horgan,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brainard,  
Cooper,  
Gleason,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Prosser,

Messrs—

Spangberg,  
Twitchell,  
Wineman.

Messrs. Cooper, Gleason, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Simpson moved

That the vote by which House Bill No. 136 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 19, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

House Bill No. 135, entitled:

"A bill for an act to establish a Penal Code for the State of North Dakota,"

Which the Senate has passed with the following amendment:

Amend Section 347, second line, after the word "assault" add the words "or assault and battery."

Yours respectfully,

FRED FALLEY,  
Secretary.

Mr. Armstrong moved

That the House concur in the Senate amendment to House Bill No. 135,

Which motion prevailed, and

The Senate amendments were concurred in.

The question being on the final passage of

House Bill No. 135 as amended,

A Bill for an act to establish a Penal Code for the State of North Dakota,

The roll being called there were ayes 21, nays 6, not voting 4.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,

Messrs—

Hodgson,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Murphy,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,

Messrs—	Messrs—	Messrs—
Gilbertson,	Myers,	Tyler,
Guinan,	Nelson,	Walker,
Gunderson,	Nierling,	Wallen,
Hancock,	Porter,	Wood,
Hanna,	Purdon,	Mr. Speaker.
Herbrandson,		

Absent and not voting :

Messrs—	Messrs—	Messrs—
Blacklock,	McDonald,	Sharpe,
Cooper,	Prosser,	Spangberg,
Gleason,	Rod,	Twichell,
Hill,	Sargent,	Wineman.
Holritz,		

Messrs. Cooper, Gleason, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

So the bill as amended passed and the title was agreed to.

Mr Armstrong moved

That the vote by which House Bill No. 135 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

House Bill No. 140,

A Bill for an act entitled "an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioners of Railroads,"

Was read the the third time.

The question being upon the final passage of the bill.

The roll being called, there were ayes 35, nays 10, not voting 16.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hancock,	Ray,
Blacklock,	Hanna,	Richards,
Brown,	Herbrandson,	Roberts,
Colby,	Horgan,	Rod,
Dwyer,	Jennings,	Sargent,
Edwards,	Kellogg,	Sharpe,
Eyolfson,	Kroeger,	Simpson,
Flack,	McLachlan,	Stafne,
Fleming,	McDonald,	Tyler,
Gilbertson,	Nierling,	Walker,
Guinan,	Porter,	Wood,
Gunderson,	Purdon,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Rasmussen,	Svensrud,
Cryan,	Rinde,	Swenson,
Lindstrom,	Smith,	Tofsrud.
Logan,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colosky,	Korsmo,	Prosser,
Cooper,	Lerom,	Spangberg,
Gleason,	Murphy,	Twichell,
Hill,	Myers,	Wallen,
Hodgson,	Nelson,	Wineman.
Holritz,		

Messrs. Cooper, Gleason, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

THIRD READING OF SENATE BILLS.

Senate Bill No. 44,

A Bill for an act to provide for a geological and natural history survey of the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 45, nays 8, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Richards,
Blacklock,	Horgan,	Rinde,
Brainard,	Kellogg,	Roberts,
Brown,	Kroeger,	Rod,
Colby,	Korsmo,	Sargent,
Colosky,	Logan,	Sharpe,
Edwards,	McLachlan,	Simpson,
Eylofson,	McDonald,	Smith,
Flack,	Murphy,	Svensrud,
Fleming,	Myers,	Swenson,
Gilbertson,	Nierling,	Tofsrud,
Guinan,	Porter,	Tyler,
Gunderson,	Purdon,	Walker,
Hancock,	Rasmussen,	Wood,
Hanna,	Ray,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Cryan,	Lerom,	Stafne,
Dwyer,	Lindstrom,	Wallen.
Herbrandson,	Nelson,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	Holritz,	Spangberg.
Gleason,	Jennings,	Twichell,
Hill,	Prosser,	Wineman.

Messrs. Cooper, Gleason, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

## Senate Bill No. 10,

A Bill for an act to amend Section 2 of Chapter 110 of Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such liquors for medicinal, scientific and mechanical purposes,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 43, nays 7, not voting 12.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Rasmussen,
Blacklock,	Horgan,	Ray,
Brainard,	Jennings,	Richards,
Brown,	Kellogg,	Roberts,
Colosky,	Kroeger,	Rod,
Cryan,	Korsmo,	Sargent,
Edwards,	Lindstrom,	Sharpe,
Eyolfson,	Logan,	Simpson,
Flack,	McLachlan,	Smith,
Fleming,	McDonald,	Svensrud,
Gilbertson,	Murphy,	Swenson,
Guinan,	Myers,	Tyler,
Gunderson,	Nierling,	Wood,
Hancock,	Porter,	Mr. Speaker.
Hanna,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Dwyer,	Rinde,	Tofsrud,
Hodgson,	Stafne,	Walker.
Purdon,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colby,	Holritz,	Spangberg,
Cooper,	Lerom,	Twichell,
Gleason,	Nelson,	Wallen,
Hill,	Prosser,	Wineman.

Messrs. Cooper, Hill, Prosser, Spangberg, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Fleming moved

That the vote by which Senate Bill No. 10 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

Mr. Hanna moved

That the House adjourn to meet at 10 o'clock a. m. tomorrow.

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FORTY-FOURTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 20, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Cooper, Gleason, Hill, Prosser, Twichell and Wineman.

Messrs. Cooper, Hill, Prosser, Twichell and Wineman being excused.

Mr. Nierling requested that Mr. Gleason be excused for the day.

There being no objection, Mr. Gleason was so excused.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

**MR. SPEAKER:**

Your Committee on the Revision and Correction of the Journal have carefully examined the Journal of the forty-first day, find it correct and recommend that it be approved.

JOHN LOGAN,  
Acting Chairman.

Also,

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the forty-second day, find it correct and recommend that it be approved.

JOHN LOGAN,  
Acting Chairman.

Mr. Hodgson moved

That the reports of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The reports of the Committee were adopted, and

The Journals of the forty-first and forty-second days were approved.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Counties and County Boundaries made the following report:

**MR. SPEAKER:**

Your Committee on Counties and County Boundaries, to whom was referred

Senate Bill No. 50,

A Bill for an act for the consolidation and organization of contiguous unorganized counties,

Have had the same under consideration and recommend that the same do pass.

J. S. MURPHY,  
Chairman.

There being no objection, Senate Bill No. 50 was referred to the Committee on Engrossment.

The Committee on Counties and County Boundaries made the following report:

**MR. SPEAKER:**

Your Committee on Counties and County Boundaries to whom was referred

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of the provisions of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified elec-

tors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties,

Have had the same under consideration and recommend that the same be amended as follows:

Amend Section 2 to read, "all ballots used at any election held under the provisions of this act shall have written or printed on them the words to-wit: 'For the Herd Law' and 'Against the Herd Law,' which sentences respectively shall mean to sustain the provisions of Chapter 38 of the Code of Civil Procedure, and to abolish the same,"

And when so amended recommend that the same do pass.

J. S. MURPHY,  
Chairman.

There being no objection, Senate Bill No. 86 was referred to General Orders.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax,"

Have had the same under consideration and recommend that the same be amended as follows:

In printed bill, Section 2, line 3, the word "five" be stricken out and the word "ten" inserted.

Added on to Section 2 the following proviso: "*Provided*, That no part of this act shall be so construed as to make such fireman ineligible for jury duty.

Section 3, line 2, the word "five" stricken out and the word "ten" inserted in lieu thereof.

Section 4. "The provisions of the foregoing sections and the exemptions granted thereunder shall extend to and include members of regularly organized fire companies existing or hereafter formed in any town, either incorporated or not having a population of five hundred or over,"

And when so amended recommend that the same do pass.

There being no objection, House Bill No. 16 was referred to General Orders.

Also,

Senate Bill No. 39,

A Bill for an act to amend an act entitled "an act prescribing the mode of assessment and the levy and collection of taxes, and for other purposes relative thereto,"

Have had the same under consideration and recommend that the same do pass as the original bill amended by the Senate.

There being no objection, Senate Bill No. 39 was referred to its third reading.

Also,

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto,"

Have had the same under consideration and recommend that the same be amended as follows:

By inserting in line 22 of Section 1 of printed bill, after the words "Grand Army Post," the following words: All property and armory buildings owned by companies of the State militia, and by striking out all of line 49 in printed bill,

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

THIRD READING OF HOUSE BILLS.

House Bill No. 65,

A Bill for an act entitled "an act to provide for the establishment, construction and maintenance of drains in this State,

Was read the third time.

The Speaker called Mr. Armstrong to the Chair.

Mr. Hodgson moved that the House take a recess until 2 o'clock p. m.,

Which motion prevailed, and

The House took such recess.

House reassembled.

House Bill No. 102,

A Bill for an act entitled "an act to authorize the Secretary of State of North Dakota to receive, preserve and turn over to his successor, portraits of State officials and Members of Congress,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 52, nays 2, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,

Messrs—

Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,

Messrs—	Messrs—	Messrs—
Flack,	Murphy,	Svensrud,
Gilbertson,	Myers,	Swenson,
Guinan,	Nelson,	Tofsrud,
Gunderson,	Nierling,	Tyler,
Hancock,	Porter,	Walker,
Hanna,	Rasmussen,	Wood,
Herbrandson,	Ray,	Mr. Speaker.
Holritz,		

Those who voted in the negative were Messrs. Fleming and Wallen.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	Hodgson,	Twitchell,
Gleason,	Prosser,	Wineman.
Hill,	Purdon,	

Messrs. Cooper, Gleason, Hill, Hodgson, Prosser, Purdon, Twitchell and Wineman being excused,

So the bill passed and the title was agreed to.

Mr. Blacklock asked unanimous consent to return to the seventh order of business.

Unanimous consent given.

#### MOTIONS AND RESOLUTIONS.

Mr. Blacklock requested that the courtesies of the floor be extended to Mr. J. H. Vosburgh, of Grand Forks.

Mr. Swenson requested that the courtesies of the floor be extended to Julius Michaelson, of Mandan.

Mr. Armstrong requested that the courtesies of the floor be extended to Mr. Dugald Campbell, of Emmons county.

Mr. Logan requested that the courtesies of the floor be extended to John Russell, of Valley City.

Mr. Lindstrom requested that the courtesies of the floor be extended to O. D. Comstock, of Benson county.

Mr. Wood requested that the courtesies of the floor be extended to Judge J. M. Cochrane, of Grand Forks.

Mr. Edwards requested that the courtesies of the floor be extended to Mayor Ball, of Fargo.

Mr. Roberts requested that the courtesies of the floor be extended to Messrs. L. C. Pettibone, W. R. Nugent and J. A. Coulter, all from Kidder county.

Mr. Hanna requested that the courtesies of the floor be extended to Messrs. W. L. Gill and L. C. Carrier, of Cass county.

There being no objection, the courtesies of the floor were extended to the gentlemen named.

Mr. Simpson offered the following Concurrent Resolution and moved its adoption,

Which motion was lost.

WHEREAS, the session of the present Legislative Assembly is nearing an end and there is a large accumulation of bills pending in both branches; and,

WHEREAS, that the pending business may be expedited, it is necessary that a committee be appointed whose duty it shall be to examine all pending bills, as well as those hereafter to come before the Assembly, and report to the respective branches such as they deem especially necessary to urge; therefore, be it

*Resolved by the House of Representatives, the Senate Concurring,*

That a committee of five members, three from the House and two from the Senate, be appointed by the Speaker of the House and President of the Senate, respectively, which shall be designated as the "Steering Committee" and whose duty it shall be to inspect all pending bills and those hereafter to come before the respective bodies and make daily reports to each body of the condition of the same and such recommendations regarding the same as in their best judgment seems proper.

The Speaker announced that he was about to sign

House Bill No. 41,

A Bill for an act to amend Sections 4, 5, 6, 18, 22, 23, 43, 57 and 61 of the Military Code, being Chapter 86 of the Session Laws of 1891.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 41,

A Bill for an act to amend Sections 4, 5, 6, 18, 22, 23, 43, 57 and 61 of the Military Code, being Chapter 86 of the Session Laws of 1891,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 3,

A Bill for an act to repeal Chapter 45 of the Session Laws of 1893,

Have had the same under consideration and recommend that the same be referred to General Orders.

There being no objection, House Bill No. 3 was referred to General Orders.

Also,

House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers and providing for the preservation of coroners' records,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out in line 2 of the title the words "the State of North Dakota."

Also, striking out Section 2 of the bill and making Section 3 to read as Section 2,

And when so amended recommend that the same do pass.

There being no objection, House Bill No. 125 was referred to General Orders.

Also,

House Bill No. 155,

A Bill for an act to locate and provide for the government of a State blind asylum at Bathgate, Pembina county, N. D.,

Have had the same under consideration and recommend that the same be referred back to the House with the recommendation that it do pass.

There being no objection, House Bill No. 155 was referred to the Committee on Engrossment.

Also,

A Concurrent Resolution, introduced by Mr. Nierling,

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the following proposed amendment to the Constitution is hereby referred to the Fifth Legislative Assembly to be by them submitted to a vote of the people for its adoption or rejection,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out the words "of not less than 700 inhabitants,"

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

There being no objection, the Concurrent Resolution was referred to General Orders.

The Committee on Temperance made the following report:

MR. SPEAKER:

Your Committee on Temperance to whom was referred House Bill No. 115.

A Bill for an act to provide for the treatment and cure of in-

ebriates and persons addicted to the excessive use of drugs and other narcotics,

Have had the same under consideration and recommend that the same be indefinitely postponed for the reason that a similar bill is now in course of passage.

E. C. SARGENT,  
Chairman.

There being no objection, House Bill No. 115 was referred to General Orders.

The Committee on Labor made the following report:

MR. SPEAKER:

Your Committee on Labor to whom was referred  
House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of this State to employ the inmates of the penitentiary in manufacturing of brick and constructing public improvements,

Have had the same under consideration and recommend that the same be amended as follows:

In Section 1, line 4, of printed bill, after the word "which" insert the words "they are."

In Section 3, line 4, of printed bill, after the word "penitentiary" insert the words "State capitol, or other public institutions within the State."

In Section 4, line 3, strike out the words "Lieutenant Governor" and insert in lieu thereof "State Auditor,"

And when so amended recommend that the same do pass.

P. HERBRANDSON,  
Chairman.

There being no objection, House Bill No. 149 was referred to General Orders.

#### SPECIAL ORDERS.

The hour having arrived for the consideration of Substitute for House Bill No. 2 as a special order for 2:30 o'clock p. m. of this day.

Mr. Hodgson moved

That Mrs. DeVoe be invited to address the House in support of the passage of Substitute for House Bill No. 2,

Which motion prevailed.

The Speaker appointed Mr. Hodgson as a committee to escort Mrs. DeVoe to the Chair.

The Speaker introduced Mrs. DeVoe, of Chicago, to the House, and Mrs. DeVoe addressed the House in support of Woman Suffrage.

Mr. Murphy moved

That Col. Plummer, of Ward county, be invited to address the House in support of woman suffrage,

Which motion prevailed.

The Speaker appointed Mr. Murphy to escort Col. Plummer to the Chair.

The Speaker introduced Col. Plummer to the House.

Col. Plummer addressed the House in regard to woman suffrage.

Mr. Simpson moved

That Mr. Reeve, of Traill county, be invited to address the House in relation to woman suffrage,

Which motion prevailed.

The Speaker appointed Mr. Simpson as a committee to escort Mr. Reeve to the Chair.

The Speaker introduced Mr. Reeve, who addressed the House in relation to woman suffrage.

The question being upon the final passage of

Substitute for House Bill No. 2,

A Bill for an act to extend the elective franchise to females,

The roll being called there were ayes 25, nays 30, not voting 7.

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gunderson,  
Hodgson,

Messrs.

Kellogg,  
Korsmo,  
Logan,  
Murphy,  
Myers,  
Nelson,  
Rasmussen,  
Ray,

Messrs—

Rinde,  
Sargent,  
Smith,  
Stafne,  
Swenson,  
Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Armstrong,  
Blacklock,  
Colosky,  
Oryan,  
Flack,  
Fleming,  
Guinan,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kroeger,  
Lerom,  
Lindstrom,  
McLachlan,  
McDonald,  
Nierling,  
Porter,

Messrs—

Richards,  
Roberts,  
Rod,  
Sharpe,  
Simpson,  
Spangberg,  
Svensrud,  
Tofsrud,  
Tyler  
Wood.

Absent and not voting:

Messrs—

Cooper,  
Gleason,  
Hill,

Messrs—

Prosser,  
Purdon,

Messrs—

Twicheil,  
Wineman.

Messrs. Cooper, Gleason, Hill, Prosser, Twichell and Wineman being excused.

So the bill was lost.

Mr. Simpson gave notice that he would move to reconsider the vote by which Substitute for House Bill No. 2 was lost.

Mr. McLachlan moved

That the vote by which Substitute for House Bill No. 2 was lost be reconsidered, and that the motion to reconsider be laid on the table.

Mr. Simpson arose to a point of order that Mr. McLachlan had waived his right to offer his motion.

The Speaker declared the point of order not well taken.

The question being on the motion of Mr. McLachlan,  
Roll call was demanded.

The roll being called there were ayes 26, nays 29, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Ray,
Blacklock,	Horgan,	Richards,
Colosky,	Jennings,	Roberts,
Flack,	Kroeger,	Rod,
Fleming,	Lerom,	Sharpe,
Guinan,	McLachlan,	Spangberg,
Hancock,	McDonald,	Tyler,
Hanna,	Nierling,	Wood.
Herbrandson,	Porter,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Kellogg,	Simpson,
Brown,	Korsmo,	Smith,
Colby,	Lindstrom,	Stafne.
Cryan,	Logan,	Svensrud,
Dwyer,	Murphy,	Swenson,
Edwards,	Myers,	Tofsrud,
Eyolfson,	Nelson,	Walker,
Gilbertson,	Rasmussen,	Wallen,
Gunderson,	Rinde,	Mr. Speaker.
Hodgson,	Sargent,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	Prosser,	Twichell,
Gleason,	Purdon,	Wineman.
Hill,		

Messrs. Cooper, Gleason, Hill, Prosser, Twichell and Wineman being excused.

So the motion to reconsider was lost.

Mr. Simpson announced that by request he would move the

reconsideration of the vote by which Substitute for House Bill No. 2 was lost, and that it was not his intention to personally make the motion to reconsider.

## COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
February 20, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 13,

An act entitled "an act to encourage the manufacture of potato starch in the State of North Dakota."

I have the honor to be

Yours respectfully,  
ROGER ALLIN,  
Governor.

## REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

Senate Bill No. 16,

A Bill for an act providing for the establishment of boards of conciliation, and prescribing the mode of procedure of the same, and to repeal Chapter 45, of the Laws of 1893,

Have had the same under consideration and recommend that the same be referred to General Orders.

L. A. SIMPSON,  
Chairman.

There being no objection, Senate Bill No. 16 was referred to General Orders.

The Committee on Temperance made the following report:

MR. PRESIDENT:

Your Committee on Temperance to whom was referred

Senate Bill No. 99,

A Bill for an act to provide for the treatment and cure of habitual drunkards,

Have had the same under consideration, and recommend that the same be amended as follows:

In line 22, Section 2 of written bill, strike out the words "six months" and insert in lieu thereof the words "one year,"

And when so amended recommend that the same do pass.

E. C. SARGENT,  
Chairman.

Mr. Armstrong moved

That the amendments reported by the Committee be adopted.

Mr. Simpson offered as a substitute motion, that the bill be referred to General Orders,

Which substitute motion was lost.

The question recurring on the motion of Mr. Armstrong,

The motion was lost.

Mr. Fleming moved

That the rules be suspended, and that Senate Bill No. 99 be placed upon its third reading and final passage,

Which motion was lost.

Mr. Fleming moved

That Senate Bill No. 99 be made a special order for Thursday, February 28, at 2:30 p. m., .

Which motion prevailed, and

The bill was so referred.

#### JOINT REVISION COMMITTEE REPORT.

The Joint Committee on Revision made the following report:

MR. SPEAKER:

The Joint Committee on Revision to whom was referred

Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction, fixing the terms of court, compensation of judges and clerks, and their duties,

Have had the same under consideration, and recommend that Sections 2, 8, 10, 12, 15, 22, 23, 26, 27 and 30 be amended to read as follows:

SECTION 2. The regular term of the county court shall be held at the county seat, commencing at 9 o'clock a. m. on the first Tuesday of each calendar month for the trial of such civil and criminal actions as may be brought before such court.

SEC. 8. The county court shall have authority to grant new trials, affirm, modify or set aside judgments in actions tried in such court, upon a statement of cases prepared and settled in the manner provided in the Code of Civil Procedure.

SEC. 10. All writs, summons and other process may be executed and served as the case may require only in the county; *Provided*, That where there is more than one defendant, and one of such defendants has been served in the county, service may be made on the other defendants in any county in this State.

SEC. 12. The time for which any civil action may be adjourned shall be regulated by the county judge, in the exercise of a reasonable discretion; *Provided*, That such action cannot be adjourned over more than three regular terms of such court upon the application of either party without the consent of the other.

In criminal actions, if the defendant has been committed to jail, he must be tried at the first term of such court held after such commitment. If the defendant in a criminal action has given bail for his appearance, his trial

must not be postponed longer than until the third term after such bail is given.

Sec. 15. In any criminal action or proceeding for any criminal offense of which the county court has jurisdiction, any justice of the peace or other examining magistrate having jurisdiction must admit to bail, bind over or commit for trial the accused to the county court of such county, and the information shall be filed in such county court.

If any person accused of a criminal offense is so bailed, bound over or committed for trial to the county court for crime of which such court has not jurisdiction, such proceeding shall not abate and such county court shall not lose jurisdiction of such person and proceeding, but shall certify the same to the district court of such county and such proceedings shall thereupon be tried in the district court with the same force and effect as if such action or proceeding had been originally commenced therein. If any examining magistrate shall at any time bind over a defendant to the district court for an offense of which the county court has jurisdiction, or if it shall appear, by evidence or otherwise, at any time to the judge of the district court that the offense with which the defendant is or should be charged is triable in the county court, the judge of the district court may certify such cause, and all proceedings relative to any person accused of such offense, to the county court of such county for trial, determination and adjudication, and thereupon the same and all the papers and files therein shall be transferred by the clerk of the district court to the county court without any further order or certificate, and such cause shall thereupon be tried in the county court, with the same force and effect as if such cause had originally been commenced therein.

Sec. 16. Repealed.

Sec. 22. The summons shall require the defendant to file a copy of his pleadings with the clerk of the county court within ten days after the service of the summons, exclusive of the day of service.

Sec. 23. The complaint in any civil action, together with one copy for each defendant, must be filed with the clerk of the county court within five days after the issuance of the summons in such action, and any action in which the complaint shall not have been filed in accordance with the provisions of this section shall be dismissed on motion of the defendant. In no case shall the defendant or his attorney be entitled to have a copy of the complaint served upon him.

Sec. 26. Any person having a judgment rendered by the county court may cause an abstract thereof to be filed in the office of the clerk of the district court in any county in the State, and when such abstract is filed in the office of the clerk of the district court and docketed as a judgment, such judgment shall be a lien upon all real estate in the county belonging to any of the defendants against whom such judgment is rendered.

Execution on any judgment shall issue out of the county court attested in the name of the judge and sealed with the seal of the court.

Execution may be issued to any county where an abstract of such judgment shall have been docketed, but before such execution shall be levied it shall have indorsed thereon by the clerk of the district court of such county, the day and hour when such abstract was filed, and the amount due thereon.

Sec. 27. In all counties having county courts with civil and criminal jurisdiction, having a population of less than 18,000 inhabitants, the clerk of the district court shall be clerk of the county court in the same county, and shall have the care and custody of all books and papers belonging to such county court which relate to or have any connection with any actions or proceedings commenced in such court by reason of its having increased civil and criminal jurisdiction conferred upon it. Such clerks of the district court and their deputies shall perform all the duties of the clerks of such courts, in all actions and proceedings commenced in the county courts by virtue of its enlarged jurisdiction, in the same manner as they are required to perform the

duties of the clerks or deputy clerks of the district courts, so far as the provisions of law relating to that subject are applicable, and may demand and receive the same fees and compensation therefor, except that they shall be entitled to receive no per diem for attendance in court.

The judge of the county court, having increased jurisdiction, in counties having a population of 18,000 or more, shall have power to appoint a clerk of such court, whose duties and powers shall be as nearly as may be the same as those of clerks of district courts. Such clerk shall hold his office during the pleasure of the judge appointing him, and shall receive a salary of \$1,200 a year. He shall charge and receive for all acts performed by him the same fees and commissions as are allowed to clerks of the district courts. He shall keep a true account of all fees and commissions received by him in a book of record to be kept for that purpose and on the first of each calendar month shall pay the same to the treasurer of the county.

SEC. 27. SALARY OF JUDGE.] As compensation for their services under this act there shall be allowed and paid to the judges of county courts having civil and criminal jurisdiction, in all counties having a population of 18,000 inhabitants the sum of \$2,500 per annum, and in counties having less than 18,000 inhabitants the sum of \$2,000 per annum, payable monthly by such county.

SEC. 30. All writs and process in county court may be served by a constable as well as a sheriff, and when served by a constable he shall be entitled to the same fees as the sheriff receives for like service.

After Section 30 add the two following sections:

The judge of any county court having civil or criminal jurisdiction is authorized in his discretion to appoint a court stenographer of such court. Such stenographer shall qualify in the same manner and his duties and compensation shall be the same as the court stenographer of a district court; such compensation shall be paid in the same manner as that of court stenographers of the district court; *Provided*, That such court stenographer shall not be appointed in any county having less than 8 000 inhabitants, unless the board of county commissioners shall first authorize such appointment.

No judge of the county court having increased civil and criminal jurisdiction shall be permitted during his term of office to practice law in any courts of the State, or to be a partner of any person who is engaged in the practice of law in any of the courts of this State,

And when so amended recommend the same do pass.

C. E. GREGORY,  
Chairman.

Mr. Hodgson moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Joint Committee on Revision was adopted.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 122,

A Bill for an act entitled "an act to protect dairy interests of the State of North Dakota, and to prevent fraud in dairy products, and to regulate the traffic in adulterated butter and cheese."

Also,

House Bill No. 100,

A Bill for an act requiring railway corporations to provide bulletin boards at stations and providing penalties.

Also,

House Bill No. 98,

A Bill for an act amending Section 28 of Chapter 24 of the Political Code, being Section 1049 of the Compiled Laws of 1887 relating to the qualifications of officers of incorporated towns.

Also,

House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivisions 4 and 5 of Section 2144 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor."

Also,

House Bill No. 142,

A Bill for an act entitled "an act declaring certain mills in this State public custom mills, and defining the duties of the railroad commissioners in relation to examining and investigating the business of said mills, and empowering them to perform the same for the purpose of fixing a maximum price and a maximum rate of toll and exchange to be charged or taken for public custom work, and providing a penalty for violation of the provisions thereof."

Also,

House Bill No. 70,

A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers.

Also,

House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto."

Also,

House Bill No. 102,

A Bill to authorize the Secretary of the State of North Dakota to receive, preserve and turn over to his successor in office the portraits of State officials and Members of Congress.

Also,

House Bill No. 89,

A Bill for an act to amend Section 5 of Chapter 118 of the Laws

of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State and the management of the fund arising therefrom and making an appropriation therefor,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the forty-third day find it correct and recommend that it be approved.

JOHN LOGAN,  
Acting Chairman.

Mr. Svensrud moved

That the report of the Committee be amended to show that the Concurrent Resolution offered by Mr. Richards yesterday was lost,

And when so amended that the report of the Committee be adopted, and that the Journal of the forty-third day as corrected be approved,

Which motion prevailed, and

The report of the Committee as amended was adopted, and the Journal of the forty-third day as corrected was approved.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Walker presented the following petition:

FARGO, NORTH DAKOTA, February 12, 1895.

*Honorable Mayor, Devils Lake, N. D.:*

DEAR SIR:—Herewith find inclosed copy of a petition which is being very generally signed by our people, to the members of the State Legislature from this district, asking for the repeal of Section 982 of the present Compiled Laws, being Section 24 of Article 15, Chapter 73, Laws of 1887, which is a section imposing on property owners in incorporated cities liability for damages arising from defective sidewalks.

The result of my observation and experience in municipal matters is, that, while abutting real property should furnish the means for building sidewalks and keeping them in repair, yet the city itself should through its proper officers, have sole charge of the work, look after it, and accept the responsibility in so doing.

The operation of the present law in any city is, and must be, to frequently impose on individuals burdens which they are ill able to bear, to make

capital timid; to prevent or discourage outside investment, and to retard growth and improvement.

The sentiment of our people is almost, if not quite, unanimous on this matter, and in favor of the repeal; and if you and your people feel the same, or look at it in the same manner after investigation, if you have not already had it called to your attention, I think you would be aiding in the cause of municipal advancement if you would get up and forward co-operative petitions to your members.

Yours very respectfully,

W. F. BALL,  
Mayor.

Section 24 of Article 14 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws of the State of North Dakota, provides as follows:

"Any owner of real property who shall fail to keep in repair the sidewalk in front of or along such property if he reside thereon, or if he does not reside thereon, to repair the same forthwith when notified, shall be held liable to the city for any damage caused by such neglect."

We, the undersigned, voters and property owners of the City of Devils Lake, County of Ramsey and State of North Dakota, believe the above law to be unjust to all owners of real property in our cities and villages; that its tendency is to invite litigation, and make it unsafe to hold property in the cities of our State; that it will drive out capital, prevent investments and valuable improvements, and is a damage to our city and State.

We therefore respectfully petition the Hon. Day, Senator, and Hons. Walker and Prosser, Representatives, from the Twenty-first Legislative District, to use all honorable means to secure the repeal of said law at this present session of our State Legislative Assembly.

Dated February 16, 1895.

C. M. FISHER,  
(And 39 others.)

Mr. Edwards presented the following petition:

*Resolved*, That the Trades, Labor and Protective Union No 1, of Fargo, heartily endorse the action of Senator Haggart in presenting a bill entitled "an act to prohibit the selling or letting of the labor of convicts to private parties or corporations," and recommend that the same be amended by striking out all after the enacting clause, and substitute the following therefor:

SECTION 1. That from and after July 1, 1895, no person in any prison, penitentiary, jail or reformatory, shall be required or allowed to work while under sentence thereto at any trade, industry or occupation whereby such work or the product or profit of such work shall be farmed out, contracted, given or sold to any person, firm, association or corporation whatever:

SEC. 2. That nothing contained in this act shall be construed as abrogating any existing contracts entered into previous to the enactment hereof.

There being no objection, the petition was referred to the Committee on Labor.

Mr. Hanna, by unanimous consent, presented the following communication:

FARGO, NORTH DAKOTA, Feb. 16, 1895.

E. S. Tyler, Bismarck, N. D.:

DEAR SIR:--In regard to a bill for the protection to sheep and sheep-raisers. I have not, as yet, seen as there has been any bill passed the House to protect that industry. It seems to me it would be a great benefit to the county, as sheep-raising is one of the great industries of our county and one that should be protected.

You know Wm. Rea & Sons are now one of the largest dealers in the west, and I know what I am talking about. I am often through the county buying sheep, and when I make inquiries of the farmers why they do not keep sheep, their reply is: "We have tried it, but find it to be unprofitable, as they always get destroyed by dogs."

1 Wm. REA'S SHEEP LAW TO PROTECT SHEEP FROM DOGS. When the assessor is on duty, wherever he finds a dog or dogs, male or female, at anyone's residence, he must assess that owner or lessee, if he finds a dog or dogs around their premises. Now, if the assessor finds one dog, assess the owner of the dog \$1.00; if the assessor finds two dogs, assess the owner \$3.00; and if the assessor finds three dogs, assess the owner \$5.00, and so on, so that no resident is allowed to keep one dog unless he pays a tax of \$1.00; and that no resident or owner is allowed to keep more than one dog unless he pays a tax of \$2.00 a head over one.

2 All the money that shall be collected as tax on dogs, let it be a separate fund, kept in each separate county treasury to be paid to those who have had their sheep killed or damaged by dogs. Let every county commissioner have the power to appoint three men in each county to be appraisers of the damage done to the sheep by the dogs. Now anyone that has damage done to sheep by dogs, he must notify one of the appraisers within 24 hours of the damage. If the one that is damaged can not agree with the one appraised let them call in another one of the appraisers.

3. Now let it be known that every separate county shall keep its own tax that has been collected for that purpose. Now, whenever the county commissioners think that those funds are too large let them issue what surplus money they have to be given at the county fairs as prizes for fine and thoroughbred sheep.

4. Now in regard to dogs caught doing damage or in the act of doing damage or any sign of their having done damage to sheep. If the owner of that dog or dogs can be proven, the said owner must pay the damage. If it can be proven that any one has been harboring on his premises the said dog that has done the said damage he or she must pay the said damage, and when the owner of sheep finds dogs chasing or abusing sheep and that dog 300 feet from his owner, the dog can be killed and the owner of the dog cannot sue for damage for his or her dog.

This is subject to approval.

Yours Respectfully,  
WILLIAM REA & SON.

Mr. Hanna moved

That House Bill No. 36 be recalled from the Committee on Sheep Husbandry and with the letter just submitted be referred to the Joint Committee to consider the report of the Revision Commission,

Which motion prevailed, and  
House Bill No. 36 was so referred.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Murphy introduced

House Bill No. 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Fleming introduced

House Bill No. 158,

A Bill for an act to constitute certain public officers, fish and game commissioners and protectors, and also to amend Sections 1, 3 and 5 of Chapter 68 of the Session Laws of 1893, being an act entitled "an act constituting the superintendent of irrigation and forestry, the fish and game commissioner, and providing for the stocking and maintaining fish hatcheries, and for the protection of fish in North Dakota streams,"

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

Mr. Svensrud, by request, introduced  
House Bill No. 159,

A Bill for an act to amend Section 26 of Chapter 75 of Session Laws of 1892, entitled "an act to promote irrigation,"

Which was read the first and second times, and  
Referred to the Committee on Irrigation.

Mr. Logan introduced  
House Bill No. 160,

A Bill for an act to amend Section 103 of Chapter 132 of the Laws of 1890,

Which was read the first and second times, and  
Referred to the Committee on Taxes and Tax Laws.

Mr. Simpson introduced  
House Bill No. 161,

A Bill for an act to amend Section 1 of Chapter 70 of the Laws of 1893, being an act to amend Section 1 of Chapter 78 of the Laws of 1890, entitled "an act to amend Section 16 of the General Laws of 1885, and Section 10 of Chapter 69 of the General Laws of 1889, relating to the publication of insurance statements,"

Which was read the first and second times, and  
Referred to the Committee on Judiciary.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,        )  
February 20, 1895.    )

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 63,

A Concurrent Resolution amending the Constitution,  
Which resolution passed the Legislative Assembly of 1893, and  
which has passed this Senate.

Respectfully,

FRED FALLEY,  
Secretary.

## COMMUNICATION FROM THE ATTORNEY GENERAL.

The following communication was received from the Attorney General :

BISMARCK, Feb. 20, 1895.

*To the Honorable House of Representatives of the State of North Dakota:*

GENTLEMEN :—By a resolution adopted the 18th instant, House Bill No. 137 was referred to me for my opinion as to its constitutionality.

I have had the bill under consideration and do not find any objection to same on constitutional grounds. An examination of the bill with special reference to Section 185 of our Constitution, which prohibits the State from loaning or giving its credit or making donations to or in aid of any individual, association or corporation might, perhaps, raise the question of constitutionality on this point. But, in my opinion, the bill does not come within the prohibitions in said section. The constitutionality of similar measures in other jurisdictions with constitutional provisions substantially the same as our own, have not been doubted. Such legislation is considered as tending to advance the general well-being of society and prosperity of the people.

Respectfully yours,

JOHN F. COWAN,

Attorney General.

## THIRD READING OF HOUSE BILLS.

House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivisions 4 and 5 of Section 2144 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 47, nays 1, not voting 14.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gunderson,  
Hanna,  
Herbrandson,  
Hodgson,  
Holritz,

Messrs—

Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Porter,  
Rasmussen,  
Richards,  
Rinde,  
Roberts,

Messrs—

Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Mr. Jennings voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Hancock,	Purdon,
Brown,	Hill,	Ray,
Cooper,	Horgan,	Twichell,
Gleason,	Nelson,	Wineman.
Guinan,	Prosser,	

Messrs. Cooper, Gleason, Hill, Prosser, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

House Bill No. 100,

A Bill for an act entitled "an act requiring Railway Commissioners to provide bulletin boards at stations, and providing penalties,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 51, nays none, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Rinde,
Blacklock,	Horgan,	Roberts,
Brainard,	Jennings,	Rod,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cryan,	Korsmo,	Simpson,
Dwyer,	Lerom,	Smith,
Edwards,	Lindstrom,	Spangberg,
Eyolfson,	Logan,	Stafne,
Flack,	McLachlan,	Svensrud,
Fleming,	McDonald,	Swenson,
Gilbertson,	Murphy,	Tofsrud,
Guinan,	Myers,	Tyler,
Gunderson,	Nelson,	Walker,
Hanna,	Nierling,	Wallen,
Herbrandson,	Porter,	Wood,
Hodgson,	Rasmussen,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Hill,	Richards,
Cooper,	Prosser,	Twichell,
Gleason,	Purdon,	Wineman.
Hancock,	Ray,	

Messrs. Cooper, Gleason, Hill, Prosser, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Hanna moved

That House Bill No. 65 be made a special order for next Tuesday at 3 o'clock p. m.,

Which motion prevailed, and

House Bill No. 65 was so referred.

House Bill No. 122,

A Bill for an act entitled "an act to protect dairy interests of the State of North Dakota, and to prevent fraud in dairy products and to regulate the traffic in adulterated butter and cheese,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Richards,

Messrs—

Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Cooper,  
Fleming,  
Gleason,  
Hill,

Messrs—

McLachlan,  
Murphy,  
Prosser,

Messrs—

Ray,  
Twichell,  
Wineman.

Messrs. Cooper, Gleason, Hill, Prosser, Twichell and Wineman being excused.

So the bill passed and the title was agreed to.

Mr. Porter moved

That the House do now adjourn,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FORTY-FIFTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 21, 1895.

The House assembled at 2 o'clock p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe, Mr. Cooper being excused.

Mr. Jennings asked that Mr. Flack be excused for the day.

Mr. Brown asked that Mr. Gunderson be excused for the day.

Mr. Sargent asked that Mr. Hanna be excused for the day.

Mr. Wallen asked that Mr. Nelson be excused for the day.

Mr. McLachlan asked that Mr. Porter be excused for the day.

Mr. Simpson asked that Mr. Sharpe be excused for the day.

Mr. Rinde asked that Mr. Cryan be excused for the day.

There being no objection, the members named were so excused.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the forty-fourth day, and recommend that it be amended as follows:

On page 4 in line 18 insert House Bill No. 65,

And when so amended that the Journal be approved.

JOHN LOGAN,  
Acting Chairman.

Mr. Blacklock moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the forty-fourth day as amended was approved.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Simpson presented the following petition, with resolution attached:

DALLAS BOARD OF TRADE, }  
DALLAS, TEXAS, February 14, 1895. }

*To the Honorable Secretary of State, Bismarck, North Dakota:*

DEAR SIR:—We feel assured from our correspondence over the Union that prompt action will probably force the passage of the pending Bankruptcy Bill. This board feels that it cannot now afford to relax its efforts just as success seems attained. Hence we are moving heaven and earth to put on a final burst of speed and rush the bill through.

To the end that your most valued aid be had, we beg you to cause a suspension of the rules and press a passage of a Joint Resolution urging the Senate to pass a bill. If by reason of your Constitutional limitations upon new legislation such a resolution cannot now be passed, then we most urgently request you to wire your Senators to lend their immediate efforts to force favorable action, and to have your friends to also wire, urging prompt action.

This State, Minnesota and probably other States have taken decided action, and if your State will wheel into line, victory will be assured.

If the bill fails to pass the present Congress all work must be done over again, and it is questionable whether a disheartened people will make another effort.

The necessity of prompt action is obvious because when you shall have received this only about ten days of the session will remain in which to enact legislation.

Yours respectfully,  
LEO WOLFSON,  
Secretary.

(The Bankruptcy Bill that became a law in 1840 was passed on the last day of the session as did the bill that passed in 1869.)

### JOINT RESOLUTION.

Joint Resolution Requesting the Senate of the United States to pass a Bankruptcy Bill.

WHEREAS, The disastrous financial panic which has prevailed in the United States for some three years has visited bankruptcy and distress upon thousands of unfortunate debtors, and their hopelessly insolvent condition merits the consideration of the National Legislature, therefore

SECTION 1. Be it resolved by the Legislature of the State of Texas: That the Senate of the United States be earnestly and respectfully requested to pass at the present session a bankruptcy act that shall give relief to the large and daily increasing debtor class now existing throughout the country.

SEC. 2. That the senators from the State of Texas be requested to use every effort to speed the passage of the desired law.

SEC. 3. That the Secretary of the State of Texas transmit immediately upon its passage this Joint Resolution to the Senate of the United States.

DALLAS BOARD OF TRADE, }  
DALLAS, TEXAS, February 12, 1895. }

*To the Hon. Secretary of State for the State of North Dakota, Bismarck, North Dakota:*

DEAR SIR—This board of trade perceiving the deplorable effects all over the west and south resulting from the practical enslavement of thousands of our most energetic citizens, is exerting itself in attempting some measure for their relief and is daily receiving assurances of aid from our sister States.

Not only public policy, but the highest considerations of humanity and justice requires that those unfortunate and helpless debtors, many of whom have spent their fortunes in building our cities, opening our mines, erecting factories and works of public improvement, should have their indomitable energies released to the end that the country may again receive benefit from them.

It will be observed that in the great majority of cases the insolvency of the debtors has been occasioned by circumstances entirely beyond their control, and such as no human foresight could have guarded against.

The ruinous over-speculation in Argentina and Australia occasioned by the reckless improvidence of English investors, especially the Barings, reacted on England, and in turn visited their misfortunes on us. This co-operation with the vicious Congressional legislation which so fatally affected the mines and grain fields of the west and the cotton of the south has super-induced widespread loss, fearful depreciation in values and a deplorably hopeless and continuing insolvency.

It is almost criminal injustice to perpetuate the slavery of great masses of our fellow men, when a reasonable bankruptcy act would restore to them their commercial liberty and permit them to again commence the struggle of life.

We presume to write you, invoking your good offices and influence in bringing some pressure to bear upon the Senate of the United States looking to the speedy passage of the Bankruptcy Bill now pending before it, and we respectfully ask you to get some well known representative who may be in sympathy with such a measure to introduce a joint or Concurrent Resolution similar to the one we enclose herewith, which is a copy of a resolution that will be introduced in the Texas legislature today, and we have every reason to believe that it will pass by unanimous consent.

The Bankruptcy Bill practically has the right of way in the Senate calendar, and is liable to be taken up at any time. In view of this fact it is of the utmost importance that prompt action be had in the premises.

Sincerely hoping that your assistance may be had in this most beneficent measure, we remain

Yours respectfully,  
LEO WOLFSON,  
Secretary.

There being no objection, the petition was referred to the Judiciary Committee.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 21, 1895. }

Mr. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Session Laws of 1891, entitled "an act to provide for a uniform system of free public schools throughout the State, and prescribe penalties for the violation thereof."

Also,  
Senate Bill No. 68,

A Bill for an act to amend Article 2 of Chapter 13 of the Code of Civil Procedure, being Sections 5126 to Section 5140 inclusive, of the Compiled Laws,

Which the Senate has passed and your favorable consideration of the same is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Wineman presented the following communication with the request that it be printed in the Journal.

There being no objection, it was so ordered.

GRAND FORKS, N. D., Feb. 18, 1895.

*Hon. J. B. Wineman, Bismarck, N. D.:*

DEAR SIR: I enclose you herewith printed slip which I clipped this morning from the Bismarck correspondence to the Daily Herald of this city:

"Responding to the House resolution, the State Treasurer reported a large number of school district bonds in default. The total interest over \$5,000, of this, \$1,050 Grand Forks. \$675 Devils Lake, \$400 alleged fraudulent bonds, District No. 50, Barnes County."

According to this clipping, the State Treasurer in response to a resolution of the House, in reporting upon the number of school districts in default on interest, reported Independent School District of this city, as being in default for the sum of \$1,050.

This is absolutely untrue. Independent School District of Grand Forks has never defaulted in one single dollar, either principal or interest since the district was organized. This \$1,050 of interest was due January 1, 1895, and the interest coupons on this series of bonds were payable at the First National Bank of the City of Grand Forks. On the 31st of December, 1894,

the sum of \$1,050 was deposited in the First National Bank of this city to meet this interest, and has been there on deposit ever since, and is now there.

It seems very strange, that a State Treasurer, if he is custodian of these interest coupons would not examine these coupons and see where they are payable, and it is certainly a gross injustice to this district to report us as being in default in interest, when the State Treasurer has never even presented these interest coupons to the bank where they are payable. I would like this explanation given the same publicity as was the State Treasurer's report, showing us to be in default.

I remain, yours very truly,  
M. L. WILDER,

President Board of Education, Independent School District.

Mr. Rinde presented the following petition:

*To the Honorable the Legislative Assembly of the State of North Dakota:*

At a congregational meeting of the members of Zion church of Fertile township Walsh county, North Dakota, held at the church of said congregation on the 12th day of February, A. D. 1895, the following resolution was unanimously adopted:

*Resolved.* That it is the sense of this meeting that the Honorable Legislative Assembly of the State of North Dakota now in session, be requested by this meeting, not to resubmit to the next Legislative Assembly of this State nor to the people of this State, Article 20 of the Constitution of the State of North Dakota, prohibiting the manufacture and sale of intoxicating liquors.

*Resolved further,* That the Legislative Assembly of this State now in session, be requested not to repeal nor amend any of the existing penalties in the present law of this State prohibiting the manufacture and sale of intoxicating liquors; but that they be requested to make only such amendments to said prohibition law as may more effectually secure its faithful enforcement.

K. A. FJELLTEN, Pastor,  
Chairman.

T. A. FLATEN, Secretary.

There being no objection, the petition was referred to the Committee on Temperance.

Mr. Murphy requested that the courtesies of the floor be extended to Hon. Wm. L. Grady, of Atlanta, Georgia.

There being no objection, the courtesies of the floor were so extended.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Public Health made the following report:

MR. SPEAKER:

Your Committee on Public Health to whom was referred  
House Bill No. 86,

A Bill for an act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the State of North Dakota; and to define and punish the offense of practicing dentistry in this State contrary to the provisions thereof,

Have had the same under consideration and recommend that the same be attached to the accompanying recommendation and

that the whole be referred to the Revision Committee for their favorable consideration.

W. B. Wood,  
Chairman.

A BILL.

An Act to Regulate the Practice of Dentistry in the State of North Dakota, and to Repeal Chapter 58, Session Laws of 1890.

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

SECTION 1. From and after the passage of this act it shall be unlawful for any person to practice dentistry in this State unless he or she shall first have obtained a certificate of registration thereto.

SEC. 2. A board of examiners, to consist of five (5) resident practicing graduate dentists, is hereby created, whose duty it shall be to carry out the purpose and enforce the provisions of this act. All vacancies in said board shall be filled by appointment by the Governor. The term for which members of said board shall be appointed shall be five (5) years, except in the case of the first board; the members shall hold their office for the term of one, two, three, four and five years respectively, and until their successors shall be duly appointed. It is also hereby provided that no person shall serve to exceed two terms in succession.

SEC. 3. Said board shall choose at its first regular meeting, annually, one of its members president and one secretary thereof, who severally shall have power during their term of office to administer oaths and take affidavits, certifying thereto under their hand and the seal of the said board.

And after May 30, 1895, said board shall meet regularly at least twice in each year, to-wit: On the first Tuesday in June and October, and at such other times as may be deemed necessary by the board.

A majority of said board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to public inspection.

And it is furthermore provided in the event of any member of said board absenting himself from two of its meetings consecutively the board shall declare a vacancy to exist, which vacancy shall be filled by the means hereinbefore provided.

SEC. 4. It shall be the duty of the first board hereinbefore provided for, to meet in the City of Grand Forks in said State within ten days after their appointment and elect officers and transfer to a register to be provided by them for that purpose, the name, the residence and place of business of each and every person who at the time of the passage of this act, and pursuant to an act of the Legislature of the State of North Dakota, approved February 6, 1890, shall be qualified to practice dentistry in the State of North Dakota and who shall then be duly registered on the books of the board created by said act of February 6, 1890. It shall be the duty of the said secretary of the first board hereby created to send to each person so registered, prior to June 15, 1895, a certificate of his or her enregistration, signed by the president and secretary of such board of examiners.

SEC. 5. Any person or persons who shall desire to begin the practice of dentistry in the State of North Dakota on and after the passage of this act, shall file his name, or her name, together with an application for examination, with the secretary of the State board of dental examiners, and at the time of making such application shall pay to the secretary of said board a fee of ten dollars (\$10) which shall in no case be returned to such applicant and shall present himself or herself at the first regular meeting thereafter of said board to undergo examination before that body. In order to be eligible for such examination such person shall present to said board his or her diploma from some dental college in good standing and shall give satisfactory evidence of

his or her rightful possession of the same; *Provided also*, That the board may in its discretion admit to examination such other persons as shall give satisfactory evidence of having been engaged in the practice of dentistry ten years prior to the date of the passage of this act. If the applicant shall receive a license to practice he shall thereupon pay the further sum of five (\$5) dollars which shall entitle him to receive a certificate of registration as a practitioner of dentistry in this State for the current year in which such license shall be issued. Said board shall have the power to determine the good standing of any college or colleges from which diplomas may have been granted. The examination shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practice dentistry. All persons successfully passing such examination shall be registered as licensed dentists in the board register provided for in Section 4 and also receive a certificate of such registration, said certificate to be signed by the president and secretary of the board. The examination fee shall in no case be refunded.

SEC 6. All persons shall be said to be practicing dentistry within meaning of this act, who shall for a fee or salary or other reward, paid either to himself or to any other person, for operations or parts of operations of any kind, treat diseases or lesions of the human tooth or jaws, or correct malpositions thereof; but nothing in this act contained shall be taken to apply to acts of *bona fide* students of dentistry done in the pursuit of clinical advantages under the direct supervision of a preceptor or a licensed dentist in this State, during the period of their enrollment in a dental college and attending upon a regular uninterrupted course in such college.

SEC 7. Out of funds coming into the possession of the board, the members of said board may receive as compensation the sum of five (5) dollars for each day actually engaged in the duties of their office, and mileage at three (3) cents per mile for all distances necessarily traveled in going to and coming from meetings of the board. Said expenses shall be paid from the fees and assessments received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the State treasury. All monies received in excess of said per diem, allowances and mileage as above provided for shall be held by the secretary of said board as a special fund for meeting expenses of said board and carrying out the provisions of this act, he giving such bond as the board shall from time to time direct, and said board shall make an annual report of its proceedings to the Governor by the 15th of December of each year, which report shall contain an account of all monies received and disbursed by them pursuant to this act.

SEC 8. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction may be fined not less than fifty (50) dollars, nor more than two hundred (200) dollars, or to be confined not less than than thirty (30) days in the county jail, or both.

SEC 9. Any person who shall knowingly or falsely claim, or pretend to have or hold a certificate of registration, diploma or degree granted by a society, or by said board, or who shall falsely and with the intent to deceive the public, claim or pretend to be a graduate from any dental college, not being such graduate, shall be deemed guilty of a misdemeanor and shall be liable to the penalties provided in Section 8 of this act.

SEC 10. Justices of the peace and the respective municipal courts shall have jurisdiction over violations of this act. It shall be the duty of the respective states' attorneys to prosecute all violations of this act.

SEC 11. Any person who shall be licensed under the provisions of this act and who shall practice dentistry under a false name, with intent to deceive the public, shall be liable to have said license revoked upon twenty days' notice of such proposed revocation, and of the time and place of considering such revocation, by order of the state board of dental examiners, and any person who after revocation of his or her license, shall continue to practice

dentistry in the State of North Dakota shall be deemed guilty of a violation of the provisions of this act, and shall be subject to the penalties provided herein. Nor shall a certificate to such a person under one name be any defense to an action brought against him or her for practicing without a certificate under another unless it be shown that such practice under such other name was done without intent to defraud or deceive.

SEC. 12. Every registered dentist shall in each and every year pay to said board of examiners the sum of (\$2) two dollars as a license fee for such year. Such payment shall be made prior to May 30th, in each and every year, and in case of default in such payment of any person, his or her certificate may be revoked by the board of examiners upon twenty days' notice of the time and place of considering such revocation, but no license shall be revoked for such non-payment if the person so notified shall pay before or at such consideration his or her fee and such penalty as may be imposed by said board. *Provided*, That said board of examiners may collect such dues by suit, and said board may revoke or refuse a license for unprofessional or dishonorable conduct.

SEC. 13. The board of examiners created by this act may sue or be sued and in all actions brought by or against it, it shall be made a party under the name of the board of dental examiners of the State of North Dakota, and no suit shall abate by reason of any change of membership of said board.

SEC. 14. All acts and parts of acts in conflict with this act, and especially Chapter 58, Session Laws 1890, are hereby repealed.

SEC. 15. All moneys, effects and property whatsoever of the board of dental examiners created by said act of 1890 shall on the passage and approval of this act, be and become the property of the board of examiners created by this act, and said board hereby created is hereby declared to be the legal successors of the board created by said act of 1890.

SEC. 16. WHEREAS, An emergency exists in that it is important and necessary that this act shall take effect as soon as practicable, and at a date long prior to July 1, 1895; *Therefore*, This act shall take effect and be in force from and after its passage and approval.

#### COMMITTEE AMENDMENTS TO HOUSE BILL No. 86.

That line 7, page 2, printed bill, be amended by striking out the words "an amendment" and inserting in lieu thereof the words "a substitute." Also by striking out in same line the words "residing in North Dakota."

Also in line 9, Section 3, page 2, by inserting "and" after word "full."

Also in line 11, Section 4, page 4, strike out the word "thirtieth" and insert in lieu thereof "thirty-first."

Also amend line 7, Section 4, page 3, in similar manner.

Also amend line 4, Section 4, page 3, by striking out "an amendment" and inserting in lieu thereof "a substitute."

Mr. Wood moved

That the report of the Committee on Public Health be adopted,  
Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Public Health made the following report:

MR. SPEAKER:

Your Committee on Public Health to whom was referred  
House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 96 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota to license physicians, obstericians, and to punish persons violating the provisions of this act,

Have had the same under consideration and recommend that the same do not pass.

W. B. WOOD,  
Chairman.

There being no objection, House Bill No. 107 was referred to the Committee on Engrossment.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred  
House Bill No. 118,

A Bill for an act fixing the period of residence of pupils within the school districts of this State to acquire school privileges, and regulating their admission to the schools thereof,

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

There being no objection, House Bill No. 118 was referred to the Committee on Engrossment.

Mr. Edwards requested that the courtesies of the floor be extended to Dr. Rose, of Fargo,

There being no objection the courtesies of the floor were so extended.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 21, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 150,

A Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota.

Has passed unchanged.

Yours respectfully,  
FRED FALLEY,  
Secretary.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred  
House Bill No. 133,

A Bill for an act to amend Sections 122 and 161 of Chapter 62 of the Laws of 1890,

Have had the same under consideration and recommend th  
the same be reported back without recommendation.

JOHN LOGAN,  
Chairman.

There being no objection House Bill No. 133 was referred to the  
Committee on Engrossment.

The Committee on Temperance made the following report:

MR. SPEAKER:

Your Committee on Temperance to whom was referred  
Senate Bill No. 67,

A Bill for an act to amend Subdivision 30 of Section 73 of the  
Laws of 1887,

Have had the same under consideration, and recommend that  
the same do pass.

E. C. SARGENT,  
Chairman.

There being no objection, Senate Bill No. 67 was referred to  
its third reading.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads to whom was referred  
House Bill No. 156,

A Bill for an act to require railroad companies to erect, main-  
tain and keep open suitable buildings for the accommodation of  
passengers wherever the tracks of one crosses that of the other  
more than two (2) miles from a passenger depot,

Have had the same under consideration and recommend that  
the same be amended as follows:

In line 2, Section 1. printed bill, strike out all words after the word "com-  
pany" and in line 3 all words before the word "each" and in lieu thereof in-  
sert the words "at grade,"

And when so amended recommend that the same do pass.

L. B. RAY,  
Acting Chairman.

There being no objection, House Bill No. 156 was referred to  
General Orders.

The Committee on Temperance made the following report:

MR. SPEAKER:

Your Committee on Temperance to whom was referred  
House Bill No. 123,

A Bill for an act to amend Section 6 of Chapter 110 and defin-  
ing what is intoxicating liquor,

Have had the same under consideration and recommend that  
the same be amended as follows:

Section 6 on line 3 of printed bill after the word "liquid" insert "which is made, sold or offered for sale as a beverage and,"

And when so amended recommend that the same do pass.

E. C. SARGENT,  
Chairman.

There being no objection, House Bill No. 123 was referred to General Orders.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 136,

A Bill for an act entitled "an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota."

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Murphy arose to a question of privilege, and asked that the following, clipped from the Fargo Argus, be read by the clerk:

The expenses so far for clerks in the Legislature amount to \$12,459. This resulted in the introduction in the House on Tuesday of a resolution requiring an investigation. It was charged that some of the clerks had performed no duty; that some of them had dated back their vouchers so as to draw pay for several days before their appointment. The resolution was finally adopted in the House, though characterized by Mr. Simpson as the crankiest kind of a crank resolution. It is apparent that too much money has been paid for clerks. There are now eighty-five clerks in both branches. The membership is but ninety-three.

Mr. Murphy by request offered the following Concurrent Resolution, and moved its adoption,

Which motion prevailed, and

The Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

WHEREAS, It is charged in the public prints that a large force of clerks are under pay that are not at work, and believing such aspersion as far as this House is concerned is untrue; therefore, be it

*Resolved.* That the Clerk of the House furnish the House with a list of all employes, and amount paid each per day, and from what district.

#### MOTIONS AND RESOLUTIONS.

Mr. McLachlan moved

That the vote by which Substitute for House Bill No. 2 was lost be reconsidered.

Mr. Wallen moved

That the motion to reconsider be laid upon the table.

Roll call demanded.

The roll being called there were ayes 37, nays 16, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Jennings,	Rinde,
Blacklock,	Kroeger,	Roberts,
Colosky,	Korsmo,	Rod,
Dwyer,	Lerom,	Simpson,
Fleming,	Lindstrom,	Spangberg,
Gilbertson,	McLachlan,	Svensrud,
Gleason,	McDonald,	Tofsrud,
Guinan,	Myers,	Twichell,
Hancock,	Nierling,	Tyler,
Herbrandson,	Prosser,	Wallen.
Hill,	Ray,	Wineman,
Holritz,	Richards,	Wood.
Horgan,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Kellogg,	Smith,
Brown,	Logan,	Stafne,
Colby,	Murphy,	Swenson,
Edwards,	Rasmussen,	Walker,
Eyolfson,	Sargent,	Mr. Speaker.
Hodgson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	Gunderson,	Porter,
Cryan,	Hanna,	Purdon,
Flack,	Nelson,	Sharpe.

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the motion prevailed, and the motion to reconsider was laid upon the table.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER. }  
February 21, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 133,

A Bill for an act to provide for a uniform system of free public schools.

Also,

Senate Bill No. 3,

A Bill for an act to amend Section 121, Chapter 62, of the

Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violating the provisions thereof."

Also,

Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62, of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof."

Also,

Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, 21, 22 and 23 of Article 15 of Chapter 73 of the Laws of 1887.

Which the Senate has passed, and your favorable consideration thereof is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Nierling introduced

House Bill No. 162,

A Bill for an act to amend Section 72 of Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

Which was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

Mr. Prosser introduced

House Bill No. 163,

A Bill for an act to amend Section 29 of Chapter 100 of the General Laws of 1891,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 151,

A Bill for an act making an appropriation to pay certain expenses incurred by the Fourth Legislative Assembly of the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 48, nays none, not voting 14,

Those who voted in the affirmative were:

Messrs.	Messrs—	Messrs.
Armstrong,	Holritz,	Rinde,
Blacklock,	Horgan,	Roberts,
Brainard,	Jennings,	Rod,
Brown,	Kellogg,	Sargent,
Colby,	Kroeger,	Simpson,
Colosky,	Korsmo,	Spangberg,
Dwyer,	Lerom,	Stafne,
Edwards,	Lindstrom,	Svensrud,
Eyolfson,	Logan,	Swenson,
Fleming,	McDonald,	Tofsrud,
Gilbertson,	Murphy,	Twichell,
Gleason,	Nierling,	Tyler,
Guinan,	Prosser,	Walker,
Hancock,	Rasmussen,	Wallen,
Herbrandson,	Ray,	Wood,
Hodgson,	Richards,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	Hill,	Purdon,
Cryan,	McLachlan,	Sharpe,
Flack,	Myers,	Smith,
Gunderson,	Nelson,	Wineman.
Hanna,	Porter,	

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the bill passed and the title was agreed to.

House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890 entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Was placed upon its third reading.

Mr. Swenson moved

That House Bill No. 7 be referred to General Orders.

There being no objection, House Bill No. 7 was so referred.

House Bill No. 70,

A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 42, nays 6, not voting 14.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Rinde,
Colby,	Jennings,	Roberts,
Colosky,	Kellogg,	Rod,
Dwyer,	Kroeger,	Sargent,

Messrs—

Edwards,  
Eylofson,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Hancock,  
Herbrandson,  
Hill,  
Hodgson,

Messrs—

Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Prosser,  
Purdon,

Messrs—

Simpson,  
Spangberg,  
Stafne,  
Swenson,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Rasmussen,

Messrs—

Richards,  
Smith,

Messrs—

Tofsrud,  
Twichell.

Absent and not voting:

Messrs—

Blacklock,  
Brown,  
Cooper,  
Cryan,  
Flack,

Messrs—

Gunderson,  
Hanna,  
Horgan,  
McLachlan,  
Nelson,

Messrs—

Porter,  
Ray,  
Sharpe,  
Svensrud.

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the bill passed and the title was agreed to.

House Bill No. 98,

A Bill for an act entitled "an act amending Section 28 of Chapter 24 of the Political Code, being Section 1049 of the Compiled Laws of 1887, relating to the qualification of officers of incorporated towns,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 51, nays none, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Dwyer,  
Edwards,  
Eylofson,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Hancock,  
Herbrandson,  
Hodgson,  
Hoiritz,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twitchell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Cooper,  
Cryan,  
Flack,  
Gunderson,

Messrs—

Hanna,  
Hill,  
Horgan,  
Nelson,

Messrs—

Porter,  
Sharpe,  
Svensrud.

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the bill passed and the title was agreed to.

THIRD READING OF SENATE BILLS.

Mr. Svensrud moved

That the rules be suspended and that Senate Bill No. 39 be placed upon its third reading and final passage,

Which motion prevailed, and  
Senate Bill No. 39,

A Bill for an act to amend an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto."

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 45, nays 5, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Dwyer,  
Eyolfson,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Hancock,  
Hill,  
Hodgson,  
Horgan,  
Jennings,

Messrs.

Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,  
Rinde,

Messrs—

Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Colosky,  
Herbrandson,

Messrs—

Holritz,  
Lerom,

Messrs—

Wallen.

Absent and not voting:

Messrs—

Cooper,  
Cryan,  
Edwards,

Messrs—

Flack,  
Gunderson,  
Hanna,

Messrs—

Nelson,  
Porter,  
Sharpe.

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the bill passed and the title was agreed to.

INFORMAL RECESS.

House reassembled.

Mr. Svensrud moved

That the vote by which Senate Bill No. 39 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Wallen moved

That the vote by which House Bill No. 98 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Edwards moved

That the rules be suspended and that

Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction, fixing the term of court, compensation of judges and clerks and their duties,

Be placed upon its third reading and final passage,

Which motion prevailed, and

Senate Bill No. 79 as amended was read the third time.

The question being upon the final passage of the bill as amended,

The roll being called, there were ayes 49, nays 1, not voting 12

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Dwyer,  
Edwards,  
Eyolfson,  
Fleming,  
Gilbertson,  
Guinan,  
Hancock,  
Herbrandson,  
Hodgson,  
Holritz,  
Horgan,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rinde,  
Roberts,  
Rod,  
Sargent,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Twitchell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Mr. Tofsrud voting in the negative.

Absent and not voting:

Messrs—

Cooper,  
Cryan,  
Flack,  
Gleason,

Messrs—

Gunderson,  
Hanna,  
Hill,  
McLachlan,

Messrs—

Nelson,  
Porter,  
Sharpe,  
Simpson.

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the bill as amended passed and the title was agreed to.

Mr. Tyler moved

That the vote by which Senate Bill No. 79 was passed be reconsidered, and that the motion to reconsider be laid on the table, which motion prevailed.

Mr. Richards asked that unanimous consent be granted for taking House Bill No. 149 out of the regular order and placing the bill upon its third reading and final passage,

There being no objection

House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of this State to employ the inmates of the penitentiary in manufacturing of brick and constructing public improvements,

Was read the third time.

Mr. Holritz moved

That the amendments reported by the Committee on Labor be adopted.

#### AMENDMENTS.

In Section 1, line 4, of printed bill, after the word "which" insert the words "they are."

In Section 3, line 4, of printed bill, after the word "penitentiary" insert the words "State capitol, or other public institutions within the State."

In Section 4, line 3, strike out the words "Lieutenant Governor" and insert in lieu thereof "State Auditor,"

Which motion prevailed, and

The amendments were adopted.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 48, nays 3, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Edwards,  
Eyolfson,  
Fleming,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
Murphy,  
Nierling,

Messrs—

Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,

Messrs—

Gilbertson,  
Guinan,  
Hancock,  
Herbrandson,  
Hodgson,  
Holritz,  
Horgan,

Messrs—

Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,

Messrs—

Twihell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Dwyer,

Messrs—

McDonald,

Messrs—

Myers.

Absent and not voting:

Messrs—

Cooper,  
Cryan,  
Flack,  
Gleason,

Messrs—

Gunderson,  
Hanna,  
Hill,  
McLachlan,

Messrs—

Nelson,  
Porter,  
Sharpe.

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson, Porter and Sharpe being excused.

So the bill as amended passed.

Mr. Edwards moved

That the title be amended so as to read:

House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of the State to employ the inmates of the penitentiary in manufacturing brick and constructing public improvements and appointing a board to supervise the same and authorizing expenditures,

Which motion prevailed, and

The title was so amended.

Mr. Edwards moved

That the vote by which House Bill No. 149 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Wineman moved

That the House concur in the Senate amendments to House Bill No. 119,

Which motion prevailed, and

The amendments were adopted.

#### SENATE AMENDMENTS TO HOUSE BILL NO. 119.

In Section 19 strike out the words "twenty-four" and insert "twenty-one.

In Section 22 strike out the words "twenty-two and twenty three" and insert "nineteen and twenty," also the words "thirty-two" and insert "twenty-eight."

In Section 30 strike out "thirty-two" and insert "twenty-eight;" strike out "twenty-three" and insert "nineteen;" strike out "twenty-four" and insert "twenty."

In Section 46 strike out "thirty-nine" and insert "thirty-five."  
 In Section 69 strike out the words "sixty-nine" and insert "sixty-five."  
 In Section 78 strike out "sixty-nine" and insert "sixty-five."  
 In Section 99 strike out "ninety-eight" and insert "ninety-four."  
 In Section 111, line 3, strike out "thirteen" and insert "nine."  
 In Section 117 strike out "eighty-three" and insert "seventy-nine."  
 In Section 130 strike out "sixty-six" and insert "sixty-two."  
 In Section 243, line 9, strike out the word "three."  
 In Section 248 strike out figures "256" and insert words "two-hundred and fifty-two."  
 In Section 260, last line, strike out "fourth" and insert "fifth."  
 In Section 267 strike out in line 7 the words "the first and second sections of Chapter 6" and insert "Section two hundred and forty."  
 Strike out all of Section 343.  
 In Section 347 strike out the word "probate" and insert "county."

The question being on the final passage of  
 House Bill No. 119, ~~as amended,~~  
 A Bill for an act to establish a Probate Code for the State of  
 North Dakota,

The roll being called there were ayes 51, nays none, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Kellogg,	Roberts,
Brainard,	Kroeger,	Rod,
Brown,	Korsmo,	Sargent,
Colby,	Lerom,	Simpson,
Colosky,	Lindstrom,	Smith,
Dwyer,	Logan,	Spangberg,
Edwards,	McLachlan,	Stafne,
Eyolfson,	McDonald,	Svensrud,
Fleming,	Murphy,	Swenson,
Gilbertson,	Myers,	Tofsrud,
Guinan,	Nierling,	Twichell,
Hancock,	Prosser,	Tyler,
Herbrandson,	Purdon,	Walker,
Hodgson,	Rasmussen,	Wallen,
Holritz,	Ray,	Wineman,
Horgan,	Richards,	Wood,
Jennings,	Rinde,	Mr. Speaker.

Absent and not voting :

Messrs—	Messrs—	Messrs—
Armstrong,	Gleason,	Nelson,
Cooper,	Gunderson,	Porter,
Cryan,	Hanna,	Sharpe.
Flack,	Hill,	

Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson  
 Porter and Sharpe being excused.

So the bill as amended passed and the title was agreed to.

Mr. Rasmussen moved

That the House resolve itself into a Committee of the Whole to  
 consider House Bill No. 79 in General Orders,

Which motion was lost.

Mr. Lindstrom announced that he would move a reconsideration of the vote by which the Concurrent Resolution providing for a steering committee was lost yesterday.

Mr. Hodgson arose to a point of order, that the time for reconsideration of such vote should be for a day certain.

The Speaker decided the point of order not well taken.

Mr. Hodgson moved

That the vote by which the Concurrent Resolution providing for steering committees was lost yesterday be reconsidered, and that the vote to reconsider be laid upon the table.

Mr. Simpson arose for a question for information.

Mr. Wineman arose to a point of order, that a question to lay upon the table was not debatable.

The Speaker declared that a joint motion to reconsider and to lay upon the table was subject to debate.

The question being on the motion of Mr. Hodgson,  
The motion prevailed.

By unanimous consent Mr. Lindstrom moved

That House Bill No. 79 be placed upon its third reading and final passage as a special order next Tuesday at 3 o'clock p. m.,

Which motion prevailed, and

The bill was so referred.

Mr. Simpson requested unanimous consent for a roll call on the vote by which the motion to reconsider the vote by which the Concurrent Resolution providing for steering committees was lost yesterday, and the motion to reconsider be laid upon the table,

Prevailed.

Objection made.

Mr. Hancock moved

That the House adjourn, to meet at 2 o'clock p. m. next Monday.

Roll call demanded.

The roll being called, there were ayes 33, nays 18, not voting 11.

Those who voted in the affirmative were:

Messrs—

Blacklock,  
Brown,  
Colby,  
Colosky,  
Edwards,  
Eyolfson,  
Gilbertson,  
Guinan,

Messrs—

Horgan,  
Jennings,  
Kroeger,  
Lindstrom,  
McLachlan,  
Nierling,  
Prosser,  
Purdon,

Messrs—

Sargent,  
Simpson,  
Spangberg,  
Svensrud,  
Swenson,  
Twichell,  
Tyler,  
Walker,

Messrs—

Hancock,  
Herbrandson,  
Holritz,

Messrs—

Ray,  
Richards,  
Rod,

Messrs—

Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Armstrong,  
Brainard,  
Dwyer,  
Hodgson,  
Kellogg,  
Korsmo,

Messrs—

Lerom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Rasmussen,

Messrs—

Rinde,  
Roberts,  
Smith,  
Stafne,  
Tofsrud,  
Wallen.

Absent and not voting:

Messrs—

Cooper,  
Cryan,  
Flack,  
Fleming,

Messrs—

Gleason,  
Gunderson,  
Hanna,  
Hill,

Messrs—

Nelson,  
Porter,  
Sharpe.Messrs. Cooper, Cryan, Flack, Gunderson, Hanna, Nelson,  
Porter and Sharpe being excused.

So the motion to adjourn prevailed, and

The House adjourned until Monday, February 25 at 2 o'clock  
p. m.J. M. DEVINE,  
Chief Clerk.

FORTY-NINTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 25, 1895.

The House assembled at 2 o'clock, p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Messrs. Blacklock, Cooper, Cryan, Eyolfson, Flack, Fleming, Gilbertson, Gunderson, Holritz, Horgan, Korsmo, Lerom, Logan, Myers, Purdon, Rod, Spangberg, Svensrud and Swenson.

Mr. Jennings requested that Mr. Flack be excused for the day.

Mr. Guinan requested that Mr. Eyolfson be excused for the day.

Mr. Colby requested that Mr. Gilbertson be excused for the day.

Mr. Herbrandson requested that Mr. Lerom be excused for the day.

Mr. Rinde requested that Mr. Cryan be excused for the day.

Mr. Stafne requested that Mr. Purdon be excused for the day.

Mr. Kroeger requested that Mr. Holritz be excused for the day.

Mr. Hancock requested that Messrs. Myers and Korsmo be excused for the day.

Mr. Hill moved

That all absent members be excused for the day,

Which motion prevailed, and

All absent members were excused for the day.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER :

Your Committee on the Revision and Correction of the Journal have carefully examined the Journal of the forty-fifth day, and recommend that it be amended as follows:

On page 21, line 30, strike out the name "Mr. Brainard" and insert in lieu thereof the name "Mr. Hancock,"

And when so amended that the Journal be approved.

GEORGE HILL,  
Chairman.

Mr. Hanna moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the forty-fifth day was approved.

#### REPORTS OF STANDING COMMITTEES.

The Joint Committee to consider the report of the Revision Commission made the following report:

MR. SPEAKER:

Your Committee appointed to consider the report of the Revision Commission have had under consideration

House Bill No. 36,

A Bill for an act entitled "an act to provide for the licensing of dogs and the indemnifying of owners of sheep and other stock in case of damage by dogs and creating a fund to pay for the same by a dog license,"

And respectfully suggest to the House that the Constitution requires all property to be taxed by a uniform rule, and all

taxes from property must be credited to the township, district, city, county or State; that the laws of this State make dogs personal property, and hence the provisions of this proposed act are in conflict with the Constitution and the law, and we recommend that the bill be laid upon the table.

Respectfully,  
C. E. GREGORY,  
Chairman.

Mr. Hanna moved

That the report of the Joint Committee to consider the report of the Revision Commission be adopted.

Which motion prevailed, and

The report of the Committee was adopted, and  
House Bill No. 36 was laid upon the table.

Also the following report:

MR. SPEAKER :

Your Committee to consider the report of the Revision Commission have had under consideration

Substitute for House Bill No. 86,

A Bill for an act to regulate the practice of dentistry and to repeal Chapter 58, Session Laws of 1890,

And recommend that

Section two of the bill be amended so as to provide that three of the board shall be resident practicing graduating dentists.

That Section 5 of the bill should provide: "Having been engaged in the practice of dentistry five years prior to the date of the passage of this act,"

And when so amended, recommend that the bill do pass.

Respectfully,  
C. E. GREGORY,  
Chairman.

Mr. McLachlan moved

That the report of the Committee to consider the report of the Revision Commission be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

House Bill No. 19,

A Bill for an act to amend Section 1 of Chapter 131 of the Session Laws of 1890, entitled "an act to amend Chapter 48 of the Session Laws of 1889," entitled "an act to amend Section 103 of Chapter 28 of the Political Code," relating to publication of receipts and disbursements of county treasurers.

Also,

House Bill No. 80,

A Bill for an act to amend Section 97, Chapter 21 of the Political Code, Revised Statutes of 1877, being Section 689 of the Compiled Laws of 1887, relating to county surveyors and their duties,

Have had the same under consideration and recommend that further consideration of the same be indefinitely postponed, as the subjects therein treated have been recommended by the report of the Compilation Committee.

L. A. SIMPSON,  
Chairman.

Mr. Simpson moved

That the report of the Committee on Judiciary be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

Further consideration of House Bill No. 19 was indefinitely postponed.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 107,

A Bill for an act to amend Section 13 of Chapter 93 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota, to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act.

Also,

House Bill No. 133,

A Bill for an act to amend Sections 122 and 161 of Chapter 62, Laws of 1890.

Also,

House Bill No. 118,

A Bill for an act fixing the period of residence of pupils within the school districts of this State to acquire school privileges and regulating their admission to the schools thereof.

Also,

House Bill No. 155,

A Bill for an act to locate and provide for the government of a State blind asylum at Bathgate, Pembina county, N. D.,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 154,

A Bill for an act to amend an act entitled "an act to protect stock raisers and promote the breeding of live stock within the State of North Dakota, and to provide a lien for the service of sires," being Chapter 117 of the Laws of 1891,"

Have had the same under consideration and recommend that the same do pass.

H. A. ARMSTRONG,  
Acting Chairman.

REPORTS OF SELECT COMMITTEES.

The Joint Committee to consider the report of the Revision Commission made the following report :

MR. SPEAKER :

Your Committee to consider the report of the Revision Commission,

Have had under consideration the Political Code as prepared by the Commission and, after careful consideration, herewith report

A Bill for an act to establish a Political Code for the State of North Dakota,

And recommend that the bill do pass.

Respectfully,  
C. E. GREGORY,  
Chairman.

Pursuant to a resolution the Chief Clerk submitted the following report:

*To the Honorable House of Representatives of the State of North Dakota :*

In response to a resolution passed by this body Thursday, February 21, 1895, I have the honor to submit the following information regarding the clerical force and other employes of the House:

	District.	1st Payt.		2d Payt.		Per Diem.	Total Days	Total Amt.
		Days.	Amount.	Days.	Amount.			
Acting Chief Clerk, J. G. Hamilton.....	7	6	\$42			\$7	6	\$42
Chief Clerk, J. M. Devine.....	24	13	91	20	\$140	7	33	231
Journal Clerk, Chas. Buck.....	22	19	114	20	120	6	39	234
Stenographer, Bessie Waggoner.....	27	19	114	20	120	6	39	234
Sergeant at Arms, Fred Snore.....	20	19	95	20	100	5	39	195
Chaplain, A. Durrie.....	27	19	38	20	40	2	39	78
Assistant Clerk, H. E. Lavayea.....	5	19	114	20	120	6	39	234
Bill Clerk, Vivian Morgan.....	12	19	95	20	100	5	39	195
Chief Enrolling Clerk, Jorgen Howard..	8	19	114	20	120	6	39	234
Enr. and Eng. Clerk, H. H. Hamilton..	7	19	95	20	100	5	39	195
Enr. and Eng. Clerk, W. M. Aymar.....		12	60	20	100	5	32	160
Enr. and Eng. Clerk, Wm. Collins.....	6	12	60	20	100	5	32	160
Enr. and Eng. Clerk, W. J. Smith.....	30	12	60	20	100	5	32	160
Enr. and Eng. Clerk, S. Thompson.....	17	12	60	20	100	5	32	160
Enr. and Eng. Clerk, J. C. Shaver.....		12	60	20	100	5	32	160
Enr. and Eng. Clerk, E. G. Melby.....	7	11	55	20	100	5	34	155
Enr. and Eng. Clerk, A. H. Johnson.....	2	14	70	20	100	5	34	170
Enr. and Eng. Clerk, M. W. Johnson... 8	11	55	20	100	5	31	155	
Enr. and Eng. Clerk, A. Ellingson.....	5	12	60	20	100	5	32	160
Enr. and Eng. Clerk, Will H. Carlton..	16	12	60	20	100	5	32	160
Enr. and Eng. Clerk, D. C. Boyd.....	19	12	60	20	100	5	32	180
Postmaster, David Miller.....	28	19	76	20	80	4	39	156
Asst. Postmaster, T. W. Allshouse....	26	12	48	20	80	4	39	128
Doorkeeper, Herbert Barton.....	29	19	76	20	80	4	39	156
Doorkeeper, L. Brandt.....	3	12	48	20	80	4	32	128
Janitor, John Boardman.....	15	19	76	20	80	4	39	156
Com. Room Janitor, J. A. Jacobson....	21	12	48	20	80	4	32	128
Com. Room Janitor, Oly Bogstie.....	3	11	44	20	80	4	32	124
Messenger, O. A. Boynton.....	23	19	76	20	80	4	39	156
Watchman, Thos. Fannington.....	31	19	76	20	80	4	39	156
Page, Bert Allen.....	27	19	38	20	40	2	39	78
Page, Chas. R. Benedict.....	12	19	38	20	40	2	39	78
Page, Thos. Conroy.....	30	19	38	20	40	2	39	78
Page, John Peterson.....	27	19	38	20	40	2	39	78
Clerk Judiciary Committee M. Malloy.	7	2	10	20	100	5	22	110
Com. Room Janitor, Alfred Oressy....	27	12	48	20	80	4	32	128
Secretary Revis. Com., J. G. Hamilton..	7	17	102			6	17	102
Com. Room Janitor, A. S. Hopson.....		12	48	20	80	4	32	128
Enr. and Eng. Clerk, C. J. Allister.....	24		18		90	5	18	90
Enr. and Eng. Clerk, W. F. Cushing... 9			8		40	5	8	40
Enr. and Eng. Clerk, Edward Murphy. 21			15		75	5	15	75
Enr. and Eng. Clerk, F. W. Miller.....	4		19		95	6	19	95
Enr. and Eng. Clerk, T. N. Oium.....	14							
Enr. and Eng. Clerk, C. G. Myrhe....	12							
Enr. and Eng. Clerk, A. J. Lavrik.....	20							

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 1,322 \$5,999

Respectfully,

J. M. DEVINE,

Chief Clerk.

Mr. Prosser requested that the courtesies of the floor be extended to the Hon. Ruben Noble, of Ramsey county.

Mr. McDonald requested that the courtesies of the floor be extended to J. J. McCanna, of Towner county.

Mr. Roberts requested that the courtesies of the floor be extended to F. B. Lynch, of Kidder county.

Mr. Colby requested that the courtesies of the floor be extended to David Martin, of Grandin.

Mr. Sharpe requested that the courtesies of the floor be extended to John Root, of LaMoure county.

Mr. Kellogg requested that the courtesies of the floor be extended to Hon. C. A. Spencer, of Walsh county.

Mr. Wallen requested that the courtesies of the floor be extended to K. H. Brunsdale, of Steele county, and K. G. Springer, of Traill county.

There being no objection the courtesies of the floor were extended to the gentlemen named.

#### MOTIONS AND RESOLUTIONS.

Mr. Rasmussen offered the following Concurrent Resolution:

#### CONCURRENT RESOLUTION,

To amend Section 82 of Article 3 of the Constitution of the State of North Dakota.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

SECTION 1. That the following amendment to the Constitution of the State of North Dakota be and the same is hereby proposed and referred to the Fifth Legislative Assembly of the State of North Dakota, to be by said Legislative Assembly submitted to the people of this State for adoption or rejection, in accordance with the provisions of Section 202 of Article 15 of the Constitution of the State of North Dakota.

SEC. 2. That Section 82 of Article 3 of the Constitution of the State of North Dakota be amended so as to read as follows:

SECTION 82. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, an Attorney General and one Commissioner of Agriculture and Labor, who shall have attained the age of twenty-five years, shall be a citizen of the United States, and shall have the qualifications of State electors. They shall severally hold their offices at the seat of government for the term of two years, and until their successors are elected and duly qualified, but no person shall be eligible to the office of Treasurer for more than two consecutive terms.

There shall be chosen by the qualified electors of the State at the times and places of choosing other State officers three Commissioners of Railroads, who have attained the age of twenty-five years, and who are citizens of the United States, possessing the qualifications of State electors; the term of office of the Commissioners of Railroads, except in this section otherwise provided for, shall be six years, and they shall hold their office until their successors are duly qualified. The Commissioners of Railroads elected at the

time of the adoption of this amendment to the Constitution shall be classified by lot, so that one shall hold his office for the term of two years, and one for the term of four years, and one for the term of six years from the second Monday in January, A. D. 1898.

Biennially thereafter one Commissioner of Railroads shall be elected to succeed the retiring Commissioner of Railroads.

There being no objection, the Concurrent Resolution was referred to the Committee on State Affairs.

Mr. Logan offered the following Concurrent Resolution and moved its adoption :

#### CONCURRENT RESOLUTION.

WHEREAS, the Board of Equalization failed, for the years 1890, 1891, 1892, 1893 and 1894, to assess the Northern Pacific railroad bridge, known as the Bismarck bridge ; and

WHEREAS, Chapter 135 of the Session Laws of 1890 directs that all railroad property shall be assessed at its actual value ; therefore,

*Resolved*, That it is of the opinion of the House, the Senate concurring, that the Board of Equalization of 1895 and 1896 should assess said railroad bridge at its actual value in compliance with law.

Mr. Simpson offered as a substitute motion that the Concurrent Resolution be referred to the Committee on State Affairs.

The substitute motion prevailed,

And the Concurrent Resolution was referred to the Committee on State Affairs.

Mr. Nierling offered the following Concurrent Resolution:

#### CONCURRENT RESOLUTION.

To Reimburse Messengers of Senate and House.

*Be it Resolved by the Fourth Legislative Assembly of the State of North Dakota:*

That there is hereby appropriated out of any money, not otherwise appropriated, the sum of \$30 to O. A. Boynton, messenger of the House, and the sum of \$30 to George Strom, messenger of the Senate, to reimburse the said messengers for expenses incurred in transmitting House and Senate matter to and from the Capitol and printing office.

There being no objection the Concurrent Resolution was referred to the Committee on Appropriations.

The Speaker called Mr. Wineman to the Chair.

Mr. Gill offered the following resolution:

WHEREAS, There remain but eleven working days of this Legislative Session and many important measures have not been considered; and,

WHEREAS, The Political Code as prepared by the Revision Commission and considered by the Committee to report upon the work of the Revision Commission has been reported to the House; Therefore be it

*Resolved*, That when the House adjourns it adjourns to meet at 10 o'clock a. m. February 26, 1895, to read the Political Code and that such reading continue until 2 o'clock p. m., when the House shall proceed to the regular order of business and so continue until 4 o'clock p. m., when the reading of the Code shall be resumed and continued until 12 o'clock midnight, when the

House shall adjourn to meet at 12:30 p. m., and continue the reading of the Political Code until 2 o'clock p. m. of that day, when the House shall make such further order as the necessities of the case may require.

Mr. Gill moved  
That the resolution be adopted,  
Which motion prevailed, and  
The resolution was adopted.  
The Speaker resumed the Chair.

INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Korsmo introduced  
House Bill No. 164,

A Bill for an act to amend Section 81 of Chapter 56, Laws of 1891,

Which was read the first and second times, and  
Referred to the Committee on Education.

The Joint Committee to consider the report of the Revision Commission introduced

House Bill No. 164,

A Bill to establish a Political Code for the State of North Dakota,

Which was read the first and second times, and  
Referred to its third reading.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
February 25, 1895. )

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 124,

A Bill for an act amending Section 20 of Chapter 119 of the Session Laws of 1890, being an act providing for the public printing of the State,

Which has passed the Senate, and your respectful consideration of the same is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

THIRD READING OF HOUSE BILLS.

House Bill No. 83,

A Bill for an act to amend Chapter 87 of the Session Laws of 1891, entitled "an act to provide for the maintenance of the Military Department as provided in the Military Code of the State of North Dakota, so as to reduce the standing appropriation of \$11,000 per annum for said purpose, to \$5,000 per annum,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 29, nays 13 not voting 20.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Sargent,
Brainard,	Jennings,	Smith,
Brown,	Kellogg,	Spangberg,
Colby,	Kroeger,	Stafne,
Dwyer,	Lindstrom,	Tofsrud,
Edwards,	Murphy,	Tyler,
Guinan,	Nelson,	Walker,
Hancock,	Ray,	Wallen,
Hanna,	Rinde,	Mr. Speaker.
Herbrandson,	Roberts,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	Nierling,	Richards,
Gleason,	Porter,	Simpson,
Hill,	Rasmussen,	Svensrud,
Logan,	McLachlan,	Wood.
McDonald,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Blacklock,	Gunderson,	Purdon,
Cooper,	Holritz,	Rod,
Cryan,	Horgan,	Sharpe,
Eyolfson,	Korsmo,	Swenson,
Flack,	Lerom,	Twichell,
Fleming,	Myers,	Wineman.
Gilbertson,	Prosser,	

Messrs. Blacklock, Cooper, Cryan, Eyolfson, Flack, Fleming, Gilbertson, Gunderson, Holritz, Horgan, Korsmo, Lerom, Logan, Myers, Purdon, Rod, Spangberg, Svensrud and Swenson being excused.

So the bill was lost.

House Bill No. 106,

A Bill for an act to amend Section 63, Chapter 86, Laws of 1891, entitled Military Code,

Was read the third time.

Mr. Brown requested

That further consideration of the bill be deferred until tomorrow,

Which request was granted, and further consideration of House Bill No. 106 was so deferred.

#### GENERAL ORDERS.

Mr. Svensrud moved

That the House resolve itself into a Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and  
The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Edwards to the Chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 7,

A Bill for an act to amend Section 55 of Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

And report the bill back with the recommendation that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 88,

A Bill for an act entitled "an act to prohibit the giving, granting or accepting or using free passes or tickets at a discount to certain officials in this State by transportation companies, the officials and agents, and imposing penalties in relation thereto,"

And recommend that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 6,

A Bill for an act entitled "an act repealing an act entitled 'an act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof,'"

And recommend that the bill be referred to the Revision Committee.

Also,

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways,

And recommend that the same be amended as follows:

Page 1, Section 2, line 1 of printed bill, after the word "shall" insert the following words: "On being petitioned by a majority of the legal voters of said township, as shown by the votes cast at the last annual township meeting, shall at the next annual meeting cause a vote to be taken by ballot on which shall be written or printed 'for contract system,' 'against contract system,' and if the canvass of votes show that for contract system has prevailed, then the township board shall."

On page 2, Section 4, line 2, strike out the word "general" and insert "special."

And when so amended recommend that the same do pass.

Also,

House Bill No. 111,

A Bill for an act entitled "an act for the preservation, propaga-

tion and protection of the game and fish of the State of North Dakota,"

And recommend that the same be amended as follows:

On page 1, Section 1, line 3, of printed bill, strike out the word "five," and in line 4 strike out the word "five."

On page 1, Section 1, line 8, of printed bill, strike out the word "two" and insert in lieu thereof the word "members."

On page 2, Section 2, line 1, of printed bill, strike out the word "March" and insert in lieu thereof the word "April," and in line 2 of same section strike out the word "March" and insert in lieu thereof the word "April."

On page 5, Section 5, line 24, of printed bill, strike out the word "ten" and insert in lieu thereof the word "twenty."

On page 10, Section 12, line 6, of printed bill, strike out the word "five" and insert in lieu thereof the word "twenty."

On page 11, Section 15, line 15, of printed bill, after the word "dollars" add "after or in lieu thereof deposit with the clerk the sum of two hundred and fifty dollars in money;" and in the same section add the following: "Provided, further, That nothing in this law shall prevent a resident from hunting on his own premises."

And when so amended recommend that the same do pass.

Also,

House Bill No. 114,

A Bill for an act entitled "an act to provide for the taxation of property situated in the unorganized counties of the State,"

And recommend that the same be amended as follows:

By striking out line 5 of Section 2 of printed bill, the words "ten thousand" and insert in lieu thereof the words "five thousand"

And, by striking out in line 4, Section 3, of printed bill, the words "two thousand five hundred" and inserting in lieu thereof the words "one thousand."

And when so amended recommend that the same do pass.

Also,

House Bill No. 134,

A Bill for an act entitled "an act to provide funds for defraying the expenses of insane persons in the North Dakota Hospital for the Insane,"

And recommend that the bill remain in General Orders.

Also,

House Bill No. 121,

A Bill for an act entitled "an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled 'an act to provide a Military Code for the State of North Dakota,'" "

And recommend that the same be amended as follows:

Strike out in Section 1, line 9, the words "one hundred and fifty" and insert in lieu thereof "two hundred and fifty."

Strike out in Section 3, line 5, after the words "he is to be," and insert in lieu thereof the word "shall."

Strike out all of Section 4 and insert in lieu thereof:

SECTION 4. There shall be a Military Board, consisting of the inspector and judge advocate general *ex officio* and two other members to be appointed

by the commander-in-chief, who shall be commissioned officers of the North Dakota National Guard, one of whom shall belong to the cavalry battalion of said National Guard, and who shall, *ex officio*, be members of the military staff of the commander-in-chief, and hold their office for two years, or until their successors are appointed, unless sooner removed for cause.

The State Military Board will constitute an advisory body to the commander-in-chief on all military interests of the State.

They are hereby further authorized and empowered to prepare and to promulgate all articles, rules and regulations for the government of the North Dakota National Guard, not inconsistent with the laws of the United States or of this State, and which articles, rules and regulations, when approved by the commander-in-chief, shall be in force and by him filed in the office of the Secretary of State.

The State Military Board shall have full control and charge of the State encampment grounds on Rock Island, Ramsey county, North Dakota, and shall provide such disposition for laying out and improving same as they shall deem advisable, subject to the approval of the commander-in-chief.

SEC. 5. COMPENSATION OF MEMBERS OF THE BOARD.] The compensation of members of the State Military Board, while going to and from, and when in actual attendance at meetings of the board, shall be such as prescribed by law for field duty and their actual subsistence and traveling expenses, and on the vouchers of these officers approved by the adjutant general and Governor, the Auditor is hereby directed to draw a warrant on the Treasurer of the State, to be paid from the General Fund.

Change Sections "5 and 6" to read "6 and 7."

Amend Section 3, in line 16, page 3, by striking out "\$500" and insert in lieu thereof "\$300."

And strike out the words "general fund" wherever they occur in the printed bill and insert in lieu thereof the words "militia fund."

And when so amended recommend that the bill do pass.

Also,

House Bill No. 87,

A Bill for an act entitled "an act relating to steam threshing machines, saw mills and traction engines,"

And recommend that the same be amended as follows:

Strike out all of Section 1.

In Sect on 2, lines 12 and 15 of printed bill strike out the words "at a distance of one hundred yards from the place of halting on the highway," and that the sections be renumbered,

And when so amended recommend that the same do pass.

Also,

House Bill No. 116,

A Bill for an act to amend Section 2, Article 13 of Chapter 73, Laws of 1887, being Section 945, Compiled Laws of 1887, and to amend Section 3, Article 13 of Chapter 73, Laws of 1887, being Section 946, Compiled Laws of 1887.

And recommend that the same be amended as follows:

By striking out the word "and" in line 10, page 3, printed bill; also, by inserting after the word "county," in same line 10 the words "or municipal."

Also, by adding after the word "vote," in line 12, page 3, the following provision:

*Provided*, That no elector shall be entitled to vote for any alderman in any ward until he has been a resident of said ward at least twenty days prior to any city election,

And when so amended recommend that the same do pass.

Also,

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of the provisions of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties,

And recommend that the same be amended as follows:

Cut out Section 2 of the printed bill and insert in lieu thereof:

SEC. 2. The ballots to be used at such election shall be in the following form: "For the Herd Law" and "Against the Herd Law." In voting on the question, each voter must place to the left of the proposition he favors, the mark X,

And when so amended recommend that the same do pass.

A. W. EDWARDS,  
Chairman.

Mr. Hodgson moved

That the report of the Committee of the Whole be adopted,

Which motion prevailed, and

The report of the Committee of the Whole was adopted.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 25, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 91,

A Bill for an act to prohibit the selling or letting of the labor of convicts to private parties or corporations.

Also,

Senate Bill No. 120,

A Bill for an act regulating voting at primary elections.

Also,

Senate Bill No. 131,

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act to amend Articles 4, 9 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the incorporation of cities, and to repeal Section 1 of Chapter 97 of the Laws of 1890 in so far as the same relates to cities,"

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Also,

A Concurrent Resolution authorizing the Governor to accept

for the State a sum of money due the State from the National Government.

Respectfully,

FRED FALLEY,  
Secretary.

The Speaker announced that he was about to sign

Senate Bill No. 85,

A Bill for an act to establish a Civil Code for the State of North Dakota.

Also,

Senate Bill No. 44,

A Bill for an act to provide for a geological and natural history survey of the State of North Dakota.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., Feb. 23, 1895—2:45 P. M. }

*To the House of Representatives:*

GENTLEMEN: House Bill No. 41, A Bill for an act entitled "an act to amend Sections 4, 5, 6, 18, 22, 23, 43, 57 and 61 of the Military Code, being Chapter 86 of the Session Laws of 1891,"

Was received at the executive office at 3:10 p. m., February 20, 1895.

Under paragraph 5, Section 4 of Chapter 21 of the Laws of 1890, the Attorney General is required "to consult with and advise the Governor and give, when requested, written opinions upon all legal or constitutional questions, relating to the duties of such officers respectively."

Being thus authorized, I referred the provisions of House Bill No. 41 to the Honorable Attorney General for his opinion, and after due consideration he filed a written opinion, declaring the provisions of the bill in conflict with Section 192 of the Constitution of North Dakota, and therefore unconstitutional, in that it seeks to change the tenure of office, the terms for which are already fixed by the Constitution. I therefore return the bill to you without my signature.

I have the honor to be

Yours respectfully,

ROGER ALLIN,  
Governor.

Mr. Edwards moved

That the Governor's message, together with the bill be referred to the Judiciary Committee,

Which motion prevailed, and

The message and House Bill No. 41 was so referred.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Prosser, by unanimous consent, introduced  
House Bill No. 66,

A Bill for an act to amend Section 46. Chapter 132 of the Session Laws of the First Legislative Assembly of the State of North Dakota,

Which was read the first and second times, and  
Referred to the Committee on State Affairs.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 25, 1895. {

Mr. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 135,

A Bill for an act declaring the Carlisle tables of mortality to be competent evidence in certain cases.

Also,  
Senate Bill No. 104,

A Bill for an act to amend Section 161 of an act entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof of Chapter 62, Session Laws of 1890."

Also,  
Senate Bill No. 82,

A Bill for an act establishing an emergency commission, prescribing their duties and appropriating money for the expenses thereof.

Also,  
Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools,

Which the Senate has passed and your favorable consideration of the same is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

## FIRST READING OF SENATE BILLS. -

Senate Bill No. 131,

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act amending Articles 4, 9 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the

incorporation of cities," and also to repeal Section 1 of Chapter 97 of the Laws of 1890, in so far as the same relates to cities,

Was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

Senate Bill No. 120.

A Bill for an act regulating voting at primary elections,  
Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 91,

¶ A Bill for an act to prohibit the selling or letting of the labor of convicts to private parties or corporations,  
Was read the first and second times, and  
Referred to the Committee on State Affairs.

Senate Bill No. 124,

A Bill for an act amending Section 25 of Chapter 119, of the Session Laws of 1890, being an act providing for the Public Printing of the State,  
Was read the first and second times, and  
Referred to the Committee on Public Printing.

Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Session Laws of 1891, entitled "an act to provide for a uniform system for free public schools throughout the State and prescribe penalties for the violation thereof,"  
Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 68,

A Bill for an act to amend Article 2 of Chapter 13 of the Code of Civil Procedure, being Section 5126 to Section 5140 inclusive of the Compiled Laws,  
Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 133,

A Bill for an act to amend Section 63, Chapter 62, Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof,"  
Was read the first and second times, and  
Referred to the Committee on Education.

Substitute for Senate Bill No. 3,

A Bill for an act to amend Section 23, Chapter 56 of the Laws of 1891, being "an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136,

137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62, Laws of 1890, entitled 'an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violating the provisions thereof,'"

Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof,"

Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, 21, 22 and 23 of Article 15 of Chapter 73 of the Laws of 1887,

Was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

Senate Bill No. 135,

A Bill for an act declaring the Carlisle tables of mortality to be competent evidence in certain cases,

Was read the first and second times, and  
Referred to the Committee on Insurance.

Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools,

Was read the first and second times, and  
Referred to the Committee on Education.

#### MOTIONS AND RESOLUTIONS.

The following Senate Concurrent Resolution was read:

#### CONCURRENT RESOLUTION.

*Be it Resolved by the Senate, the House of Representatives Concurring:*

WHEREAS, Under an act of Congress, approved March 2, 1891, it was provided that all moneys collected under the direct tax levied by an act of Congress, approved August 5, 1861, should be credited and paid to the several States and Territories, and

WHEREAS, Under the provisions of this act the Territory of Dakota was entitled to its share of the money so levied and collected, and

WHEREAS, The amount credited to the Territory of Dakota is \$3,241.33, a portion of which the State of North Dakota is entitled to receive; therefore, be it

*Resolved by the Senate, the House of Representatives Concurring,* That the State of North Dakota does hereby accept the sum appropriated and the trust imposed by an act of Congress, entitled "An act to credit and pay to several States and Territories and the District of Columbia all moneys col-

lected under the direct tax levied by the act of Congress, approved August 5, 1861, in full satisfaction of claims against the United States on account of the levy and collection of said tax," and does hereby authorize the Governor to receive the said money for the use and purpose aforesaid and to receipt therefor.

Mr. Murphy moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

Mr. Wineman moved.

That the House adjourn to meet at 10 o'clock a. m. tomorrow.

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## FIFTIETH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 26, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Mr. Wallen moved

That the calling of the roll be dispensed with,

Which motion prevailed.

### SPECIAL ORDERS.

House Bill No. 165,

A Bill to establish a Political Code for the State of North Dakota,

Having been made a special order for 10 o'clock a. m. of this day, the bill was placed upon its third reading.

The third reading of House Bill No. 165 being in progress,

The House returned to the regular order of business.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the forty-ninth day and find it correct, and recommend it be approved.

GEO. HILL,  
Chairman.

Mr. Hill moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the forty-ninth day was approved.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Purdon presented the following communication:

LISBON, NORTH DAKOTA, February 25, 1895.

In a recent issue of the Fargo Forum appeared the following editorial: "A representative of the Forum was at Lisbon this week and learned that Ransom county has free school books. The measure has been thoroughly tried and is generally endorsed. A good illustration of its workings is shown in one school district, where there are but thirty children of school age, and still the taxpayers of that subdivision paid \$87 the past year for school books."

I find but one district in Ransom county having an enumeration approximating thirty, and this is No. 1, which has thirty-one pupils, and is the only district not using free text books. The returns to my office show that the total cost of all school books for 1038 school children, including the Lisbon high school during the year 1894 was \$537.40, an average of less than 52 cents per pupil; but for those outside the Lisbon schools the average was but 41 cents per pupil.

Possibly this representative (?) of the Forum has also been mistaken (?) in regard to the favor with which the system of free and uniform text books is received throughout our county. I will venture the assertion that nine out of every ten patrons of the schools are well satisfied with measures on the following grounds:

1. The cost to parents is less than one-third the former prices:
2. The books are better preserved.
3. All pupils have books the first day of school.
4. The schools are better graded.
5. No extra expense on moving to another district.
6. Pupils are not deprived of an education on account of lack of books.
7. The attendance has greatly improved.
8. The schools now are absolutely free.

Yours in the interest of the schools,

W. G. CROCKER,  
County Superintendent, Ransom County.

There being no objection, the petition was referred to the Committee on Education.

Mr. Twichell presented the following petition:

MAPLETON, N. D., Feb. 23, 1895.

*Hon. F. Twichell, Bismarck:*

We, the undersigned residents and land owners of the Tenth District do hereby petition you to vote and use your influence with the Honorable House of Representatives against the passage of the House Bill known as the Tyler Drainage Bill.

E. E. REDMON,  
(And 42 others.)

Mr. Lerom presented the following petition:

We, the undersigned, citizens and taxpayers of Traill County, North Dakota, having read House Bill No. 65, providing for system of drainage in this State, respectively protest against its enactment into law for the following reasons:

1. We are just starting as a new State and the burdens of taxation are necessarily very heavy. Older States have postponed constructing such systems of internal improvements until later in their history, until the burden incident to establishing a new State had ceased to exist.

2. The farmers of North Dakota have always suffered from want of sufficient moisture instead of from an excess. Wet lands are more valuable for meadow purposes than they could possibly be for wheat raising and can only be drained by the process intended to the damage and detriment of lands naturally dry.

3. It is probable that this State will soon have to enter upon a fight against the Russian cactus, and the expense of combatting that pest will have to be paid by special assessment, and any system of internal improvement that can be postponed should be postponed for the present until the necessary burden of taxation of meeting such emergencies as the Russian cactus has passed.

GEO. J. LONGFELLOW,  
(And 27 others.)

Mr. Hanna presented the following petition:

*To the Honorable Members of the House of Representatives of the State of North Dakota:*

We the undersigned citizens of Page and vicinity do hereby petition you in favor of House Bill No. 65, known as the Tyler Bill.

E. S. DAVIS,  
(And 35 others.)

Mr. Hanna requested that the courtesies of the floor be extended to P. P. Chacey, Claus A. Johnson and W. F. Redmon, of Cass county.

Mr. Simpson requested that the courtesies of the floor be extended to J. J. Burdetts, of Dickinson.

Mr. Wineman requested that the courtesies of the floor be extended to Geo. B. Winship, of Grand Forks.

Mr. Hancock requested that the courtesies of the floor be extended to Wm. Budge, of Grand Forks.

Mr. Edwards requested that the courtesies of the floor be extended to P. P. Chacey, of Cass county and A. A. Trovattan of Fargo.

Mr. Nelson requested that the courtesies of the floor be extended to Lewis B. Avery of Mayville.

There being no objection the courtesies of the floor were extended to the gentlemen named.

REPORTS OF STANDING COMMITTEES.

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs to whom was referred  
Senate Bill No. 91.

A Bill for an act to prohibit the selling or letting of the labor of convicts to private parties or corporations,

Have had the same under consideration and recommend that the same be reported back without recommendations.

There being no objection; Senate Bill No. 91 was referred to General Orders.

Also,

House Bill No. 68,

A Bill for an act to provide for the establishment and government of North Dakota School of Forestry, and making appropriations therefor,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 68 was referred to the Committee on Engrossment.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 145,

A Bill for an act to establish garnishment law,

Have had the same under consideration and recommend that the same do pass.

J. B. WINEMAN,  
Acting Chairman.

There being no objection House Bill No. 145 was referred to the Committee on Engrossment.

The Committee on Judiciary made the following majority report:

**MR. SPEAKER:**

A majority of your Committee on Judiciary to whom was referred

House Bill No. 110,

A Bill for an act to protect farm laborers,

Have had the same under consideration and offer Committee substitute which we recommend be indefinitely postponed.

The Committee on Judiciary made the following minority report:

**MR. SPEAKER:**

A minority of your Committee on Judiciary to whom was referred

House Bill No. 110,

A Bill for an act to protect farm laborers,

Have had the same under consideration and recommend that the substitute do pass.

J. B. WINEMAN,  
Acting Chairman.

There being no objection, House Bill No. 110 together with the majority and minority reports of the Committee was referred to General Orders.

The Committee on Judiciary made the following majority report:

**MR. SPEAKER:**

A majority of your Committee on Judiciary to whom was referred

House Bill No. 129,

A Bill for an act to amend law in regard to filing chattel mortgages,

Have had the same under consideration and recommend indefinite postponement.

The Committee on Judiciary made the following minority report:

**MR. SPEAKER:**

A minority of your Committee on Judiciary to whom was referred

House Bill No. 129,

A Bill for an act to regulate the filing of chattel mortgages,

And a minority of the Committee have had the same under consideration and recommend the enclosed substitute for the same do pass.

J. B. WINEMAN,  
Acting Chairman.

There being no objection, House Bill No. 129, together with the majority and minority reports of the Committee, was referred to General Orders.

The Committee on Judiciary made the following majority report:

MR. SPEAKER:

A majority of your Committee on Judiciary to whom was referred

House Bill No. 161,

A Bill for an act to amend Chapter 70, Laws of 1890, in relation to advertising insurance companies,

Have had the same under consideration and recommend that the same do pass.

The Committee on Judiciary made the following minority report:

MR. SPEAKER:

A minority of your Committee on Judiciary to whom was referred

House Bill No. 161,

A Bill for an act to compel insurance companies to pay legal rates for advertising statements,

And a minority have had the same under consideration and recommend that the same be indefinitely postponed.

J. B. WINEMAN,  
Acting Chairman.

There being no objections, House Bill No. 161, together with the majority and minority reports of the Committee was referred to General Orders.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

Concurrent Resolution No. 24,

Have had the same under consideration and recommend that the same do pass.

J. B. WINEMAN,  
Acting Chairman.

Mr. Wineman moved

That the report of the Committee on Judiciary on the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:*

That in the opinion of the Legislative Assembly the best interests of the State require that a Constitutional Convention be called at some future date for the purpose of revising the Constitution;

THEREFORE, It is hereby recommended to the electors of the State of North Dakota that at the next general election, to be held on the first Tues-

day after the first Monday in November, 1896, that they vote for or against a convention to revise the Constitution of the State.

The Committee on Public Printing made the following report:

MR. SPEAKER:

Your Committee on Public Printing to whom was referred Senate Bill No. 124,

A Bill for an act to regulate number of reports to be printed by public officers,

Have had the same under consideration and state that the subject matter therein has been covered by the Codification and Revision Committee, and recommend indefinite postponement.

A. W. EDWARDS,  
Chairman.

Mr. Hill moved

That the report of the Committee on Public Printing be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

House Bill No. 120,

A Bill for an act to regulate commercial agencies,

Have had the same under consideration and recommend that the same do pass.

There being no objection, House Bill No. 120 was referred to its Engrossment.

Also,

A Concurrent Resolution regarding increase debt limit in Constitution,

Have had the same under consideration and recommend that the same do pass.

J. B. WINEMAN,  
Acting Chairman.

There being no objection, the Concurrent Resolution was referred to its Engrossment.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the Senate, the House of Representatives Concurring:*

##### SECTION 1. PROPOSED CONSTITUTIONAL AMENDMENT.]

The following proposition to amend the Constitution of the State of North Dakota, is hereby submitted to the Fifth Session of the Legislative Assembly of the State of North Dakota, to be by them submitted to the qualified electors of the State for approval or rejection, namely: The Constitution of the State of North Dakota is hereby amended to read as follows: "The State

may, to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts; but such debts shall never in the aggregate exceed the sum of five (5) mills on the dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for the State and county purposes, exclusive of what may be the debt of North Dakota at the time of the adoption of this Constitution. Every such debt shall be authorized by law for certain purposes, to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the State in time of war, or to provide for public defense in case of threatened hostilities; but the issuing of new bonds to refund existing indebtedness shall not be construed to be any part or portion of said indebtedness.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 37,

A Bill for an act entitled "an act to regulate the fees of clerks of the district courts of the State of North Dakota,"

Have had the same under consideration and recommend that the same be postponed indefinitely as the same has been amended by the Revision Committee in the Code.

J. B. WINEMAN,  
Acting Chairman.

Mr. Wineman moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Judiciary made the following majority report:

MR. SPEAKER:

A majority of your Committee on Judiciary to whom was referred

House Bill No. 41,

A Bill for an act with the Governor's veto,

Have had the same under consideration and recommend that the veto be sustained.

J. B. WINEMAN,  
Acting Chairman.

The Committee on Judiciary made the following minority report:

MR. SPEAKER:

A minority of your Committee on Judiciary to whom was referred

House Bill No. 41,

A Bill for an act regulating militia, and the Governor's veto of same,

Have had the same under consideration and recommend that the veto be not sustained as there are no good reasons presented evidencing the unconstitutionality of said measure and therefore recommend said bill be passed, the veto to the contrary notwithstanding.

A. W. EDWARDS,  
Chairman of the Minority of the Judiciary.

Mr. Edwards moved

That House Bill No. 41, together with the Governor's message and veto, be made a special order for next Friday at 2:30 p. m.,

Which motion prevailed, and

House Bill No. 41 was made a special order for next Friday at 2:30 p. m.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways for organized townships, and also providing for the payment of expenses thereof by taxation.

Also,

Substitute for House Bill No. 86,

A Bill for an act to regulate the practice of dentistry in the State of North Dakota, and to repeal Chapter 58, Session Laws of 1890,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

Senate Bill No. 58,

A Bill for an act entitled "an act to provide for State depositories and to regulate the deposit of public monies therein, and the interest thereon, and prescribing the means thereof,"

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

Mr. Simpson moved

That Mr. Wineman be appointed a committee of one to investi-

gate the record of Senate Bill No. 58 and report to the House the result of the investigation.

Mr. Hodgson moved as a substitute motion

That the Chief Clerk transmit to the Senate a statement of the questions raised in regard to Senate Bill No. 58,

Which substitute motion prevailed.

The Speaker announced that he was about to sign

Senate Bill No. 10,

A Bill for an act to amend Section 2 of Chapter 110 of Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such liquors for medicinal, scientific and mechanical purposes."

Also,

Senate Bill No. 114,

A Bill for an act to establish a Justice' Code for the State of North Dakota.

Also,

Senate Bill No. 39,

A Bill for an act to amend an act entitled "an act prescribing the mode of assessment and the levy and collection of taxes, and for other purposes relative thereto."

#### SPECIAL ORDER.

The hour having arrived for the consideration of House Bill No. 65,

A Bill for an act entitled "an act to provide for the establishment, construction and maintenance of drains in this State,

As a special order.

Mr. Tyler, by unanimous consent, offered the following amendments:

Amend House Bill No. 65 as follows:

By striking out all of that portion of Section 4, from its commencement down to, and including the word "petition" as it appears in line 5 of the printed bill, and insert in lieu thereof the following:

A petition for the construction of a drain may be made in writing to the Board of Drain Commissioners if among the leading purposes of the proposed drain are benefits to the health, convenience or welfare of the people of any city or other municipality. The petition shall be signed by a sufficient number of the citizens of such municipality or municipalities to satisfy the Drain Commissioners that there is a public demand for such drain. If the chief purposes of such drain is the drainage of agricultural, meadow, grazing or other lands, the Drain Commissioners shall require that the petition be signed by the owners or legal representatives of such lands, as in the aggregate will, in the event of the construction of the drain, be liable to assessment for a major portion of the cost thereof, upon the presentation of a petition as hereinbefore provided, and filing of the same.

Also, in Section 5, line 3 of the printed bill, after the word "petition" insert the following:

"Or that the proposed drain would cost more than the amount of benefit to be derived therefrom, the Drain Commissioners shall deny the petition," and

Also, amend Section 32 by striking out all of that part after the word "repealed" as it appears in line 3 of the printed bill.

Mr. Tyler moved

That the amendments offered be adopted,

Which motion prevailed, and

The amendments were adopted.

Mr. Tyler moved

That the bill be considered as engrossed and that it be placed upon its final passage,

Which motion prevailed.

Mr. Colby presented the following clipping from the Chicago Inter Ocean of February 21, 1895,

Which was read by the Clerk.

SPRINGFIELD, Ill., Feb. 20.—Senator Willoughby today introduced a bill which provides for the organization of sanitary districts along rivers and streams subject to overflow. It emanates from Mayor Stevens, of East St. Louis, and a similar bill was introduced in the House by Mr. Snyder. The purpose of the bills is to provide against the overflow of lands along the Mississippi and other streams in the State by enabling voters to incorporate sanitary districts for the purpose of building levees or other works to prevent such overflow. The bill in substance is:

Three hundred legal voters residing within the limits of the territory to be organized may file a petition with the county clerk of the county having the greatest area of territory within such district, containing a description of the territory to be embraced, and asking that the question be submitted to a vote. The matter shall then be submitted to an election, and a majority of the votes cast shall determine the question of organizing the district. If carried, the county judge shall appoint not less than three or more than seven persons, who shall constitute a board of trustees, so appointed that the term of office of one member shall expire annually. They shall receive for their services the sum or \$5 per day and their necessary expenses.

The trustees are empowered to construct embankments, levees and other work necessary along rivers and streams to prevent their overflow, and all such work as may be auxiliary or incidental thereto to enlarge, straighten or otherwise improve any stream, and all things by them deemed necessary to prevent overflows within such district. When necessary such work may extend beyond the limits of such district, but no taxes or assessment may be levied on property outside such district. The board is empowered to contract or lease its levees where they can be used as highways for railroad purposes or otherwise upon such terms as may be for the best interest of the district. The trustees may also collect and levy taxes upon all taxable property within the territory of the sanitary district, but the amount, exclusive of the amount levied for payment of any bonded indebtedness, shall not exceed in any one year 2 per cent of the value of the taxable property. The board is empowered to defray the expense for any work or improvements, including cost of right of way, damages to property and incidental expenses, by general taxation or by assessment; but no property shall be assessed more than it shall be benefited by the improvement proposed. All contracts for work, the cost of which exceeds \$500, shall be let to the lowest responsible bidder therefor, upon not less than thirty days' notice of the terms upon which such contract is to be let.

Mr. Herbrandson moved

That the petitions received in relation to the bill be read,  
Which motion was lost.

The question being on the final passage of House Bill No. 65  
as amended,

The roll being called there were ayes 32, nays 26, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Roberts,
Blacklock,	Horgan,	Sargent,
Brown,	Jennings,	Sharpe,
Colosky,	Kellogg,	Simpson,
Edwards,	McLachlan,	Spangberg,
Eyolfson,	Murphy,	Twichell,
Flack,	Nierling,	Tyler,
Fleming,	Porter,	Wineman,
Gleason,	Prosser,	Wood,
Guinan,	Ray,	Mr. Speaker.
Hanna,	Richards,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Rod,
Colby,	Lindstrom,	Smith,
Cryan,	Logan,	Stafne,
Dwyer,	McDonald,	Svensrud,
Gilbertson,	Myers,	Swenson,
Hancock,	Nelson,	Tofsrud,
Hodgson,	Purdon,	Walker,
Holritz,	Rasmussen,	Wallen.
Kroeger,	Rinde,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cooper,	Hérbrandson,	Lerom.
Gunderson,		

Messrs. Cooper, Gunderson and Lerom being excused.

So the bill as amended passed and the title was agreed to.

Mr. Tyler moved

That the vote by which House Bill No. 65 was passed be re-  
considered, and that the motion to reconsider be laid on the  
table,

Which motion prevailed.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 26, 1895. }

MR. SPEAKER:

The Senate desires to recall

Senate Bill No. 58,

A Bill for an act entitled "an act to provide for State depos-

itories and to regulate the deposit of public moneys therein and the interest thereon and prescribing the means thereof,"

Which was transmitted to the House by mistake.

Yours respectfully,  
**FRED FALLEY,**  
 Secretary.

The Speaker announced that if there were no objections Senate Bill No. 58 would be returned to the Senate.

There being no objections the return of the bill was so ordered.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
 February 26, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has declined to concur in the House amendments to Senate Bill No. 79, and has appointed a Conference Committee to confer with a like committee from the House.

The President of the Senate has appointed as the Senate members of such Committee Messrs. Rourke, Burke and Tufts.

Also,

I have the honor to transmit herewith  
 Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota.

Also,

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120, Chapter 62, Laws of 1890, being an act providing for a uniform system of free public schools.

Also,

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants,

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Also,

I have the honor to transmit herewith

A Concurrent Resolution instructing the State Auditor to audit bills incurred by the Joint Investigating Committees:

## CONCURRENT RESOLUTION.

*Resolved by the Senate, the House of Representatives Concurring:*

That the State Auditor be instructed to audit bills for expenses incurred by the Joint and Investigating Committees that have been appointed by the Legislative Assembly, such bills to be indorsed as correct by the chairman of the aforesaid Committees before they are so audited by the State Auditor,

Which the Senate has passed, and the concurrence of the House therein is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

## SPECIAL ORDERS.

The hour arrived for the consideration of

House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers, to define the duties of commissioners of railroads, and to provide for the control of railroads, bridge corporations and ferry companies within the State,"

As a special order.

Mr. Edwards moved

That the House take a recess of ten minutes,

Which motion prevailed, and

The House took such recess.

House reassembled.

Mr. Edwards moved

That the House do now consider the message from the Senate in reference to Senate Bill No. 79.

Mr. Lindstrom objected, and

The Speaker ruled the motion of Mr. Edwards out of order.

Mr. Edwards moved

That the rules be suspended and the House consider the message from the Senate in reference to Senate Bill No. 79,

Which motion was lost, and

House Bill No. 79 was placed upon its third reading.

Mr. Richards arose to a point of order, that the time had now arrived for the third reading of the Political Code as a special order.

The Speaker declared the point of order well taken.

Mr. Lindstrom moved

That the reading of the Political Code be deferred until the consideration of House Bill No. 79 be finished,

Which motion prevailed, and

The third reading of House Bill No. 79 was continued.

The Speaker called Mr. Prosser to the Chair.

The third reading of House Bill No. 79 being in progress,  
Mr. Murphy requested the unanimous consent for the House  
to return to the seventh order of business.

Objection made.

Mr. Wineman moved

That the House take a recess for fifteen minutes,

Which motion was lost, and

The third reading of House Bill No. 79 was continued.

Mr. Richards moved a call of the House.

Call seconded.

Mr. Lindstrom moved

That further proceedings under the call be dispensed with.

Roll call demanded.

The question being that further proceedings under the call of  
the House be dispensed with,

The roll being called there were ayes 33, nays 22, not voting 7.

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Gilbertson,  
Hanna,  
Hodgson,  
Jennings,

Messrs—

Kellogg,  
Korsmo,  
Lindstrom,  
Logan,  
Myers,  
Nelson,  
Purdon,  
Rasmussen,  
Ray,  
Rinde,  
Sargent,

Messrs—

Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Armstrong,  
Blacklock,  
Colosky,  
Edwards,  
Hancock,  
Herbrandson,  
Hill,  
Holritz,

Messrs—

Horgan,  
Kroeger,  
McLachlan,  
McDonald,  
Murphy,  
Nierling,  
Porter,

Messrs—

Prosser,  
Richards,  
Roberts,  
Rod,  
Tyler,  
Wineman,  
Wood.

Absent and not voting:

Messrs—

Cooper,  
Fleming,  
Gleason,

Messrs—

Guinan,  
Gunderson,

Messrs—

Lerom,  
Simpson.

Messrs. Cooper, Gunderson and Lerom being excused.

So the motion prevailed, and further proceedings under the call were dispensed with.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 26, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 136,

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws, Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

The third reading of House Bill No. 79 was continued.

Mr. Wineman rose to a point of order in that the bill being read contained a provision relating to free passes, and that the House had already passed on free passes.

The Speaker decided the point of order not well taken.

The third reading of House Bill No. 79 was concluded.

The question being on the final passage of the bill, Mr. Hanna called for the report of the Special Joint Committee to confer with the like committee from the Minnesota Legislature in regard to House Bill No. 79.

Mr. Murphy moved that the report of the Committee be received.

Mr. Edwards offered as a substitute motion that the House take a recess until 7 o'clock p. m. to give the Committee time to prepare its report and that the Committee report at the hour named.

The substitute motion was lost.

The question recurring on the original motion to receive the Committee report,

The motion prevailed.

Mr. Prosser stated that the report was not fully prepared, but would be tomorrow.

Mr. Wineman moved

That the House resolve itself into a Committee of the Whole to consider House Bill No. 79 in General Orders.

Mr. Hodgson moved

That the motion of Mr. Wineman be laid upon the table,  
Which motion prevailed.

Mr. Wineman moved

That the House take a recess until 7 o'clock p. m.,  
Which motion was lost.

Mr. Wineman raised the point of order that the bill was on the  
table.

Mr. Speaker ruled that the point of order was not well taken.

Mr. Cryan moved

The previous question.

The Speaker ruled the motion out of order.

The Speaker called Mr. Wineman to the Chair.

The Speaker resumed the Chair.

Mr. Hanna moved

That House Bill No. 79 be referred to General Orders.

Roll call demanded.

The roll being called, there were ayes 33, nays 25, not voting 4.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brown,  
Colosky,  
Fleming,  
Gleason,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Holritz,  
Horgan,

Messrs—

Kellogg,  
Kroeger,  
McLachlan,  
McDonald,  
Murphy,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Richards,  
Roberts,

Messrs—

Rod,  
Sargent,  
Sharpe,  
Spangberg,  
Tofsrud,  
Twichell,  
Tyler,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Blacklock,  
Brainard,  
Colby,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,

Messrs—

Guinan,  
Hodgson,  
Jennings,  
Korsmo,  
Lindstrom,  
Logan,  
Myers,  
Prosser,

Messrs—

Rasmussen,  
Ray,  
Rinde,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Walker.

Absent and not voting:

Messrs—

Cooper,  
Gunderson,

Messrs—

Lerom,

Messrs—

Simpson.

Messrs. Cooper, Gunderson and Lerom being excused.

So the motion prevailed, and House Bill No. 79 was referred to General Orders.

Mr. Hodgson moved

That the House resolve itself into a Committee of the Whole to consider House Bill No. 79 in General Orders,

Which motion was lost.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Stafne, by unanimous consent, introduced House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota,

Which was read the first and second times, and Referred to the Committee on State Affairs.

Mr. Svensrud, by unanimous consent, introduced House Bill No. 168,

A Bill for an act to define the terms of office of staff officers in the North Dakota National Guard, and to provide for their appointment,

Was read the first and second times, and Referred to the Committee on Military Affairs.

Mr. Hanna, by unanimous consent, offered the following Concurrent Resolution, with memorandum attached, and moved the adoption of the Concurrent Resolution,

Which motion prevailed, and

The Concurrent Resolution was adopted.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the Governor, Attorney General and State Auditor are hereby appointed a commission whose duty it shall be to inquire, and so far as possible determine, whether the State of North Dakota is entitled to 5 per cent of the value of the lands situated in the State of North Dakota disposed of by grant to railroads, entries under the homestead or other public land acts prior to Statehood, and if it be found that the State is entitled to such percentage, to take whatever steps may be necessary to secure the recognition of those rights by the general government.

#### MEMORANDUM.

Special to Minneapolis Journal.]

WASHINGTON, Feb. 25.—There seems to be good ground for belief that a good many western States have claims against the United States government for lands that have been taken by settlers under the pre-emption and homestead acts; but it is rather doubtful if any claim could be maintained for areas set apart for the permanent reservations of the Indians within the State.

Under the bill by which most of the western States were admitted into the Union they were entitled to 5 per cent of the proceeds of the sale of all public lands within the limits of the State. For this reason several States

have set up the claim that they were entitled to 5 per cent of lands that were taken under the pre-emption and homestead acts and for the lands set apart for permanent Indian reservations. Attempts have been made to recover money for such claims in various ways. So far, however, but one State has had any success. This is the State of Kansas.

South Dakota has made various attempts in this direction, both in a legislative and a judicial way, but so far without any success. At least half a dozen bills have been introduced by South Dakota representatives to reimburse the State for lands sold on the Great Sioux and other reservations, but none of them have ever been reported to the House. Neither has the State been able to recover any money from the Interior Department on this account.

The State of Kansas has never attempted to recover any of this money through Congressional action, but has recovered nearly \$3,000,000 by claims prosecuted before the Interior Department. It cannot be ascertained, however, that any of this money was paid for lands set apart as permanent Indian reservations.

The greater part of this money was recovered by ex-Governor Crawford as attorney for the State, and he was given 10 per cent of all sums thus recovered as his fee. At the present time there is a Mr. Martin, of Fort Scott, Kansas, prosecuting claims for lands set apart as Indian reservations, but the Interior Department naturally will not state the status of the claims he has made.

There is no doubt that Minnesota and several other Northwestern States are entitled to considerable money on this account, but the prosecution of such claims is long and tedious and is always vigorously resisted by government officials. Should a claim be successfully maintained for lands set apart for permanent Indian reservations it would mean the disbursement of many millions by the government, and for this reason such claims would only be allowed after an interminable fight.

Mr. Murphy, by unanimous consent, offered the following resolution, and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

*Resolved.* That the report of the Clerk of the House on employes' pay roll be referred to a special committee of five to verify, and said committee be authorized to examine the records in the State offices regarding all employes, and report to the House such facts as may enlighten the members as to the number of employes of the General Assembly, and their compensation and duties, and in order to expedite the investigation, a clerk shall be assigned from those now employed to serve said Committee.

Mr. Lindstrom, by unanimous consent, moved that House Bill No. 79 be made a special order at 2:30 p. m. to-morrow, Which motion prevailed.

Mr. Twichell moved that the message from the Senate requesting the appointment of a Conference Committee to consider Senate Bill No. 79 be read, and that the House concur in the request made by the Senate,

Which motion prevailed, and

The House concurred in the request made by the Senate, and the Speaker appointed as House members of such Conference Committee, Messrs. Twichell, Edwards and Murphy.

The Speaker called Mr. Nierling to the chair.

The third reading of House Bill No. 165 was continued.

## EVENING SESSION.

The House reassembled at 7:30 p. m.

The reading of House mill No. 165 was resumed.

The Speaker called Mr. Sharp to the Chair.

Mr. Wineman moved

That the House do now adjourn to meet at 12:30 a. m. Wednesday, Feb. 27th,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

## FIFTY-FIRST DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 27, 1895.

The House assembled at 12:30 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Mr. Tyler moved

That the calling of the roll be dispensed with,  
Which motion prevailed.

The Speaker called Mr. Logan to the Chair.

The third reading of House Bill No. 165 was concluded.

Mr. Purdon moved

That the House take a recess until 2 o'clock p. m.,  
Which motion prevailed, and  
The House took such recess.

House reassembled.

Prayer by the Chaplain.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER :

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fiftieth day, and recommend it be amended as follows:

At the bottom of page 3, include in the request of Mr. Edwards the name of A. A. Trovattan, of Fargo,

And when so amended recommend that the Journal of the fiftieth day be approved.

GEORGE HILL,  
Chairman.

Mr. Rod moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the fiftieth day was approved.

Mr. Nierling requested that the courtesies of the floor be extended to Dr. McLain, of Jamestown.

Mr. Twichell requested that the courtesies of the floor be extended to Messrs. Geo. L. Town and Dr. Hill, of Fargo.

Mr. Wineman requested that the courtesies of the floor be extended to E. C. Cooper, of Grand Forks.

Mr. McLachlan requested that the courtesies of the floor be extended to Dr. J. F. Treat, of Fargo.

Mr. Rod requested that the courtesies of the floor be extended to N. Folsom, of Walsh county.

There being no objection the courtesies of the floor were extended to the gentlemen named.

Mr. Murphy moved

That the rules be suspended for the purpose of considering amendments to House Bill No. 165.

Mr. Svensrud offered as a substitute motion that the final consideration of House Bill No. 165 be deferred until the third reading of House Bills this afternoon,

Which substitute motion prevailed.

The Joint Conference Committee, by unanimous consent, introduced House Bill No. 170,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of grain and lumber within the State of North Dakota,

Was read the first and second times, and  
Referred to the Committee on Railroads.

The Speaker announced as members of the Committee to verify the report on clerk hire, Messrs. Murphy, Armstrong, Hodgson, Swenson and Hancock.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Military Affairs made the following report:

MR. SPEAKER:

Your Committee on Military Affairs to whom was referred  
House Bill No. 168.

A Bill for an act to define the terms of office of State officers in the North Dakota National Guard, and to provide for their appointment,

Have had the same under consideration and recommend that the same do pass.

C. McLACHLAN,  
Chairman.

There being no objection, House Bill No. 168 was referred to the Committee on Engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 158,

A Bill for an act to constitute public officers, fish and game commissioners and protectors; and also to amend Sections 1, 3, and 5 of Chapter 68 of the Session Laws of 1893, being an act entitled "an act constituting the superintendent of irrigation and forestry the fish and game commissioner, and providing for the stocking and maintaining fish hatcheries, and for the protection of fish in North Dakota streams,

Have had the same under consideration and recommend that the same be reported back without recommendation.

T. TWICHELL,  
Chairman.

There being no objection, House Bill No. 158 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report)

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 142,

A Bill for an act declaring certain mills in this State public custom mills, and defining the duties of the Railroad Commissioners in relation to examining and investigating the business

of said mills and empowering them to perform the same, for the purpose of fixing a maximum price and a maximum rate of toll and exchange to be charged or taken for public custom work, and providing a penalty for violation of the provisions thereof.

Also,

House Bill No. 116,

A Bill for an act to amend Section 2, Article 13 of Chapter 73, Laws of 1887, being Section 945, Compiled Laws of 1887, and to amend Section 3, Article 13 of Chapter 73, Laws of 1887, being Section 946, Compiled Laws of 1887.

Also,

House Bill No. 114,

A Bill for an act entitled "an act to provide for the taxation of property situated in the unorganized counties of the State."

Also,

House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of the State to employ the inmates of the penitentiary in manufacturing brick and constructing public improvements and appointing a board to supervise the same and authorizing expenditures.

Also,

House Bill No. 154,

A Bill for an act to amend an act entitled "an act to protect stock raisers and promote the breeding of live stock within the State of North Dakota, and to provide a lien for the service of sires," being Chapter 117 of the Laws of 1891,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### REPORTS OF SELECT COMMITTEES.

The Committee on Supplies and Expenditures made the following report:

MR. SPEAKER:

Your Committee on Supplies and Expenditures report as follows:

They have examined the books of the late State Auditor and find them fairly well kept up to November, 1894. Much energy was shown in collecting the moneys due from counties for the third and fourth quarterly statements, but the books show but few credits to the counties remitting, and a memorandum of the transactions can not be found in the office.

After the present incumbent assumed his duties he was compelled to employ extra clerical help to post the Auditor's books to January 7, and even now a large portion of the Deputy Auditor's time is devoted to balancing the books and discovering the credits to which the counties are entitled. We find all vouchers on hand.

We find many warrants drawn upon vouchers unapproved by anyone, that in contravention of the opinion of the late Attorney General that it was unconstitutional to issue a warrant when there was no money in the treasury to meet it, and his oft-expressed coincidence with this opinion, the State Auditor, it seems, whenever it suited his political policy or necessities (or those of the State Treasurer), overdraw the general fund, and we find that fund overdrawn to the extent of \$26,227 21 upon the day the new administration assumed control of the State offices. We blame the late Auditor for allowing the excessive overcharges in the public printing (attention to which is called elsewhere), as we believe it was his duty as a member of the Printing Commission to familiarize himself with the methods of measuring type instead of taking the word of the public printer in such matters.

During the past two years the late State Auditor has issued warrants to the amount of \$3 433 94 in payment of salaries and expenses of special tax adjusters, one of whom, F. L. Richter, enjoyed a sinecure for eighteen months at an average salary of \$130 per month, and whose work, we are reliably informed, is valueless to the State. The law under which these special tax adjusters were appointed provides that vouchers for their pay shall be approved by the Governor. There is not a voucher on file so approved. The late Auditor assumed that responsibility. It may be well to mention here that among those who enjoyed the favor of the State in this work were the brother of the late Auditor and the brother of the late Bank Examiner.

In the matter of public printing, Section 22, Chapter 119, Laws of 1890, provides: "The Commissioners of Printing are hereby authorized to have full charge of all the printing and binding required to be done for the several departments of the government; to receive the proper orders for the same and to have the same properly executed according to law; to keep a record of all the work ordered from the several contractors under the law and of all printing and binding \* \* \* and to see that it is executed with due economy to the State; \* \* \* to examine all accounts of printing and binding that may be presented; \* \* \* *Provided*, That no printing required by any State officer, as provided under this act, shall be paid for unless the same shall have been authorized by the Legislative Assembly or by the Commissioners of Printing.

We find that this law was habitually violated by the late State officers and that, while thousands of dollars have been paid by the State for printing, scarcely five per cent of it was done upon requisition from the Commissioners of Printing, it having been the custom of the several State officers to order what printing they pleased and from whom they pleased, bills for which, in most instances, were allowed and warrants issued therefor by the State Auditor upon the "O K" of the official ordering the work, without reference to the Commissioners of Public Printing. As an example: The records in the office of the Secretary of State (*ex-officio* chairman of the Commissioners of Printing) show that of the many orders (amounting to a large sum) issued by the Attorney General for printing, he secured a requisition from the Commissioners of Printing but once. The Secretary of State was the only official of the last administration whose printing in every instance was done upon requisition.

We find instances where requisitions were secured for a certain quantity of printed matter, but the bills show larger quantities were charged and paid for. It is evidently the intent of the law that all printed supplies should pass through the hands of the Printing Commission in order that a proper record should be kept, but as the supplies ordered by the late State officers were generally delivered direct to them the Secretary of State had no check on them, as the matter was ordered, delivered and paid for without his knowledge. Had the Commissioners of Printing passed upon the numerous orders for printing perhaps many dollars would have been saved to the State, as we find that almost invariably the prices charged were the highest retail figures and the product very inferior, both as to workmanship and stock.

Regarding the reports of State officers and institutions an investigation shows that none of the reports were in the hands of the Printing Commission until after the 12th of last November. To print and bind all the reports after that date and complete the work before the meeting of the Legislature in January is an impossibility, and any attempt at it is alike expensive to the printer and to the State. In 1893 a law was passed (Chapter 173) declaring the fiscal year should end on the 30th of June, and providing that all reports should be made to and include the 30th day of June preceding the meeting of the Legislature. Instead of following the intent of this law the last administration utterly ignored it and held back all reports to be printed until after November 12. Had these reports been carefully revised and placed in the hands of the printer earlier, hundreds of dollars might have been saved.

We have also noticed that there is much surplusage and unnecessary matter in nearly all the reports, as for instance the report of the Commissioner of Forestry. This report is several times as large as we believe the importance of the office and the demands in that direction justify. The report of the Commissioner of Agriculture and Labor, in many respects an excellent one, and containing much valuable and important statistical information, contains something over one hundred and fifty pages of tabular matter taken from the United States census reports in relation to other States. The usefulness of the report would hardly have been lessened by the absence of these tables and a saving of several hundred dollars would have been made to the State.

It is also found that the outgoing officers, during the last few days of their official existence, placed orders for a vast amount of unnecessary and unwelcome printing, much of which was paid for by the outgoing administration, but not delivered until recently. Not only are some of the departments overstocked with printed matter, but much of it is of an inferior quality, as for instance, the stationery furnished at the outset of this session of the Legislature.

Your committee has gone over the bills of the public printers, (W. R. Kellogg, et al.) and allowing the most liberal concessions, find a wide divergence in the type measurement in several of the public documents. In order that we might be perfectly fair in this matter we secured the scale of prices of several Typographical Unions of this State, besides the opinion of divers well-known employing printers as to the manner of measurement of such matter, and as a result we find the following difference between the public printer's measurement and ours:

Report of Commissioner of Agriculture and Labor.....	948,395	ems
Secretary University and School Lands .....	497,580	"
State Auditor .....	597,370	"
Trustees Valley City Normal School.....	21,930	"
State Examiner.....	30,800	"

Total overmeasure..... 2 096 075 ems

Which, at 54 cents per thousand ems (the contract price) amounts to \$1,131 88, which sum the public printer has been overpaid.

The contractors for the public printing claim that under the Union scale, pages of tabular matter in the above reports which have nonpariel box heads over brevier tables should be measured as nonpariel. Having advices as stated above, your Committee could not concede this claim.

The State will not lose this money, however, as there yet remains a large balance due the public printers from which this overcharge will be deducted by the new Commissioners of Printing. In this connection it is but just to the Secretary of State to say that he was practically ignored by the late Auditor and Treasurer (the other members of the Printing Commission); that the bills were allowed upon the measurement of the Auditor and State printer, and that the Secretary of State informed your Committee that he

had decided to investigate this matter had not your Committee taken it in hand.

All the reports for which the bills are in have been measured by your Committee, but the greatest errors lie in the measurement of those given above. The report of the Secretary of University and School Lands was paid for on Jan. 5, 1895, but the work was not delivered until Feb. 16, 1895.

The bills are not yet in for several reports, among which are those of the Superintendent of Instruction, the Superintendent of Forestry and Irrigation, and trustees of the penitentiary, and we cannot, therefore, check our measurement with the public printers.

We respectfully call your attention to the report of the late Superintendent of Instruction, which in our opinion is one of the most flagrant examples of squandering the people's money which has come under our observation. This report contains 751 pages, or a total of (according to our measurements) 2,580,550 ems of type. It contains the entire report of the Secretary of University and School Lands, parts of the reports of the Valley City and Mayville Normal Schools, the State University and Agricultural College, and copies of about all the circulars, pamphlets, etc., issued during her term of office. The composition involved in the three first items (which have all been printed in separate documents) amounts to 1,455,220 ems, or more than half the sum of the entire book, all of which the State will have to pay for twice.

The re-publication of her circulars and pamphlets (all of which were long ago in the hands of the educators of the State) adds at least 175,000 ems composition, or about \$100 to the report. The reports of the Superintendents of Instruction for Minnesota, Wisconsin, Illinois and other States average about 275 pages, and your Committee can see no good reason why this report should be so outrageously padded. After a careful perusal of the report we are convinced that everything essential to the educational interests of the State could have been presented in a volume containing from 250 to 300 pages.

In the office of the Insurance Commissioner it was found that the cost of publishing the report for the years 1893-1894 was \$2,678.11, and 1,000 copies being printed at an expense of \$2.67 each. The report contains 496 pages; 500 copies of this report will probably never be used except for fuel, and the present Commissioner states that the report for 1895-1896 will not contain to exceed 125 pages, and he believes it will contain full information in regard to the standing of all the companies, and accurate and complete details of all the business of the department. He believes 500 copies of the report of 125 pages each will be ample for all the requirements of the office for the coming biennial period, and will effect the saving of at least \$2,000 in this one report, or in other words, enough to pay the salary of the Insurance Commissioner. We have examined the books of the late Insurance Commissioner and find them correct, all the receipts of the office having been covered into the State treasury.

The report of the late Attorney General contains 29 pages of his report proper, and 131 pages of opinions and letters, and 21 pages of letters and opinions of his predecessor. The Committee is of the opinion that there is no authority for printing these opinions. Section 5, of Chapter 21, Laws of 1890, provides that the Attorney General shall publish in his report "The cost of prosecuting or defending each action and the amount of fines and penalties collected." This the late Attorney General has failed to do, but instead has published much useless matter, the following being a specimen:

October 13, 1892.

*To the County Superintendent, Valley City, N. D.:*

SIR:—Some days ago I wrote you a letter stating that your report was not complete and asking you to complete same. The officers of that depart-

ment are now making their report, and they cannot finish the same for want of your report.

Now, if this report of yours is not completed and sent in at once, then I shall commence an action against you, as provided by law.

Truly yours,  
ATTORNEY GENERAL.

The style in which most of the official reports are set is most expensive, much of the composition being distorted into double price matter. Such reports are a snap to the printer, but the State is in no condition, financially, to pay double price for so much beauty.

In most instances we deem the number of reports printed for the various offices excessive, and recommend that the law governing these reports, as prepared by the Codification Commission, be passed.

Inasmuch as many of the reports contain a large amount of unnecessary matter, your Committee recommends giving the Printing Commissioners authority to revise said reports before publication, as we believe such a course would materially lessen the expense attached to the printing of said documents.

We find that the present Commissioners of Printing are insisting upon a more strict compliance with the law in relation to ordering, keeping a record of, and paying for, all printing for the State, and it is likely that previous abuses in this direction will be corrected and extravagance averted.

Your Committee has attempted to check up the books of the late State Treasurer, but we find it an impossibility to complete the work in time for this report, and we can only say, in our judgment, so important a set of books were never so poorly kept. It is extremely difficult to follow the entries through the books to a final balance, in fact there are few visible balances shown on the ledger. The Treasurer kept no account between himself, as Treasurer, and the State, and the only means of discovering his indebtedness is by footing the receipts in the various funds and deducting the disbursements, a long and tedious procedure. At the close of his term of office the Treasurer's books were left unposted and unbalanced.

In this connection we recommend an immediate examination by the State Examiner of the books of all officials in any way connected with the fiscal affairs of the State government.

In conclusion we wish to say that we have only called attention to the most glaring irregularities which came under our notice. It would take a much longer time than we have at our disposal to make as minute a report as the state of affairs might seem to call for.

Respectfully submitted,  
E. F. PORTER, Chairman.  
J. B. SHARPE,  
C. MCLACHLAN,  
NICOLAI SWENSON,  
T. E. NELSON,  
ERICK STAFNE.

Mr. Porter moved

That the reading of the report be dispensed with, and that the report of the Committee be printed in the Journal,

Which motion prevailed.

#### MOTIONS AND RESOLUTIONS.

Mr. Hodgson offered the following Concurrant Resolution, and moved its adoption,

Which motion prevailed, and

The Concurrant Resolution was adopted.

## CONCURRENT RESOLUTION.

WHEREAS, Almost all the indemnity lands selected in this State by the Northern Pacific Railroad Company have not been patented by the United States government, and in consequence are exempt from taxation; therefore, be it

*Resolved*, By the House of Representatives, the Senate concurring: That it is the sense of this Fourth Legislative Assembly of the State of North Dakota that said indemnity lands should either be patented or opened for settlement under the homestead act; be it further

*Resolved*, That Senators Hansbrough and Roach and Representative Johnson be requested to use their influence in carrying into effect the sense of this Legislative Assembly in this matter, and that a copy of this resolution be transmitted to each of our Senators and to our Representatives at Washington.

Mr. Rasmussen offered the following Concurrent Resolution and moved its adoption.

Which motion prevailed, and

The Concurrent Resolution was adopted.

## CONCURRENT RESOLUTION,

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the State Examiner be empowered and he is hereby authorized and requested to immediately make a thorough examination of the affairs of the North American Live Stock Investment Company, having its headquarters at Dickinson, N. D., and to report the condition to the Governor and Attorney General of this State as early as possible.

## CONFERENCE COMMITTEE REPORT.

The Committee on Conference made the following report:

MR. SPEAKER:

Your Committee on Conference to whom was referred  
Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction, fixing the terms of court, compensation of judges and clerks and their duties,

Have the same under consideration and recommend that the House recede from the proposed amendment by striking out the following, being the last four lines of the amendment to Section 30, the same reading as follows:

No judge of the county court having increased civil and criminal jurisdiction shall be permitted during his term of office to practice law in any courts of the State, or to be a partner of any person who is engaged in the practice of law in any of the courts of this State.

T. TWICHELL,  
Chairman.

Mr. Wineman moved

That the report of the Conference Committee be adopted,

Which motion prevailed, and

The report of the Conference Committee was adopted.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Stafne introduced

House Bill No. 169,

A Bill for an act to provide for the division of civil townships containing two or more congressional townships by the erection of new townships therein,

Which was read the first and second times, and

Referred to the Committee on State Affairs.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 27, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota.

Also,

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota.

Also,

Senate Bill No. 140,

A Bill for an act defining the qualifications of electors of Indian descent.

Also,

Senate Bill No. 129,

A Bill for an act to amend Section 1961 (a) of the Civil Code, Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

## THIRD READING OF HOUSE BILLS.

House Bill No. 142,

A Bill for an act entitled "an act declaring certain mills in this State public custom mills, and defining the duties of the railroad commissioners in relation to examining and investigating the business of said mills, and empowering them to perform the same for the purpose of fixing a maximum price and a maximum rate of toll and exchange to be charged or taken for public custom work, and providing a penalty for violation of the provisions thereof,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 24, nays 33, not voting 5

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Gunderson,	Rasmussen,
Brown,	Hodgson,	Rinde,
Cooper,	Jennings,	Rod,
Cryan,	Korsmo,	Simpson,
Dwyer,	Lindstrom,	Smith,
Eyolfson,	Logan,	Stafne,
Flack,	Murphy,	Swenson,
Gilbertson,	Nelson,	Wallen.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Sargent,
Blacklock,	Kellogg,	Sharpe,
Colosky,	Kroeger,	Spangberg,
Edwards,	McLachlan,	Svensrud,
Fleming,	McDonald,	Tofsrud,
Guinan,	Myers,	Twichell,
Hancock,	Prosser,	Tyler,
Hanna,	Purdon,	Walker,
Herbrandson,	Ray,	Wineman,
Hill,	Richards,	Wood,
Holritz,	Roberts,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colby,	Lerom,	Porter.
Gleason,	Nierling,	

Mr. Lerom being excused.

So the bill was lost.

The hour having arrived for the consideration of House Bill No. 79 as a Special Order,

Mr. Wineman moved

That the House resolve itself into a Committee of the Whole for the consideration of House Bill No. 79 in General Orders.

Mr. Simpson arose to a point of order,

That the bill had had its third reading and could not go to General Orders without a two-thirds vote and the suspension of the rules.

The Speaker held the point of order not well taken.

Mr. Lindstrom moved

That Mr. Wineman's motion be laid upon the table.

Mr. Simpson rose to a point of order, that the motion to table would carry the bill to the table.

The Speaker held the point of order not well taken.

The Speaker held that the bill was now in General Orders.

Mr. Lindstrom withdrew his original motion and offered as a substitute that House Bill No. 79 be taken from General Orders and placed upon its final passage.

Mr. Simpson rose to a question of information stating that the bill, in his opinion, was not in General Orders.

The question being upon the substitute motion of Mr. Lindstrom, to take House Bill No. 79 from General Orders and place it upon its final passage.

Roll call demanded.

The roll being called there were ayes 42, nays 18, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Rinde,
Blacklock,	Jennings,	Roberts,
Brainard,	Kellogg,	Rod,
Colby,	Korsmo,	Sargent,
Cooper,	Lindstrom,	Sharpe,
Cryan,	Logan,	Simpson.
Dwyer,	McLachlan,	Smith.
Edwards,	McDonald,	Spangberg,
Eyolfson,	Murphy,	Stafne,
Flack,	Myers,	Svensrud,
Gilbertson,	Nelson,	Swenson,
Guinan,	Prosser,	Tofsrud,
Gunderson,	Rasmussen,	Twichell,
Hodgson,	Ray,	Walker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	Hill,	Richards,
Fleming,	Holritz,	Tyler,
Gleason,	Kroeger,	Wallen,
Hancock,	Nierling,	Wineman,
Hanna,	Porter,	Wood,
Herbrandson,	Purdon,	Mr. Speaker.

Absent and not voting, Messrs. Brown and Lerom.

Mr. Lerom being excused,

So the substitute motion prevailed.

Mr. Lindstrom requested unanimous consent to offer an amendment.

Mr. Wineman objected unless all members could have the privilege to offer amendments.

Mr. Lindstrom moved that the rules be suspended for the purpose of admitting one amendment to House Bill No. 79 when on its final passage.

Mr. Brainard offered an amendment that any member could offer an amendment to the bill.

Mr. Svensrud offered a substitute motion that the vote by which the bill was taken from General Orders be reconsidered.

The Speaker ruled Mr. Svensrud's motion out of order.

The question being on Mr. Brainard's amendment, the motion to amend prevailed.

The question recurring on the original motion of Mr. Lindstrom as amended, the original motion was lost, the question being on the final passage of the bill.

The roll being called there were ayes 31, nays 30, not voting 1.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Sharpe,
Colby,	Lindstrom,	Smith,
Cooper,	Logan,	Stafne,
Cryan,	Myers,	Svensrud,
Dwyer,	Nelson,	Swenson,
Eyolfson,	Prosser,	Tofsrud,
Flack,	Rasmussen,	Twichell,
Gilbertson,	Ray,	Walker,
Hanna,	Rinde,	Wallen,
Hodgson,	Sargent,	Mr. Speaker.
Jennings,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Porter,
Blacklock,	Hill,	Purdon,
Brown,	Holritz,	Richards,
Colosky,	Horgan,	Roberts,
Edwards,	Kellogg,	Rod,
Fleming,	Kroeger,	Simpson,
Gleason,	McLachlan,	Spangberg,
Guinan,	McDonald,	Tyler,
Gunderson,	Murphy,	Wineman,
Hancock,	Nierling,	Wood.

Absent and not voting, Mr. Lerom, who was excused.

So the bill was lost.

Verification of the vote demanded.

Vote verified.

Mr. Wineman moved

That the vote by which House Bill No. 79 was lost be reconsidered, and that the motion to reconsider be laid on the table.

Roll call demanded.

The roll being called, there were ayes 25, nays 36, not voting 1.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Colosky,  
 Fleming,  
 Gleason,  
 Guinan,  
 Hancock,  
 Hanna,  
 Herbrandson,

Messrs—  
 Hill,  
 Holritz,  
 Horgan,  
 Kellogg,  
 Kroeger,  
 McLachlan,  
 Nierling,  
 Porter,

Messrs—  
 Purdon,  
 Richards,  
 Roberts,  
 Spangberg,  
 Twitchell,  
 Tyler,  
 Wineman,  
 Wood.

Those who voted in the negative were:

Messrs—  
 Brainard,  
 Brown,  
 Colby,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Edwards,  
 Eyoifson,  
 Flack,  
 Gilbertson,  
 Gunderson,  
 Hodgson,

Messrs—  
 Jennings,  
 Korsmo,  
 Lindstrom,  
 Logan,  
 McDonald,  
 Murphy,  
 Myers,  
 Nelson,  
 Prosser,  
 Rasmussen,  
 Ray,  
 Rinde,

Messrs—  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Stafne,  
 Svensrud,  
 Swenson,  
 Tofsrud,  
 Walker,  
 Wallen,  
 Mr. Speaker.

Absent and not voting Mr. Lerom, who was excused.

So the motion to reconsider was lost.

Mr. Simpson announced his intention that tomorrow he would move a reconsideration of the vote by which House Bill No. 79 was lost.

Mr. Tyler requested that the courtesies of the floor be extended to Mr. C. Anheier, of Fargo.

There being no objection, the courtesies of the floor were so extended.

Mr. Hanna moved

That the House do now consider House Bill No. 165 for the purpose of amending,

Which motion prevailed.

Mr. Porter offered the following amendment:

AMENDMENT TO Sec. 1786 OF THE POLITICAL CODE.

Amend Section 1786 as follows: By striking out the words "five dollars" in line 20, and inserting the words "two dollars" in place thereof, and by inserting the following clause in line 22 after the words "for each issued by him," viz: "Provided, That any non-resident who may be carrying on the cultivation of any lands in the State, not less than one quarter section, shall be entitled to take out a resident permit, whether such non-resident be the

owner of the lands so cultivated in whole or in part, or a stockholder in a corporation carrying on such cultivation.

"*Provided, further,* That such non-resident shall take out such permit in the county where such cultivation is so carried on."

And by adding the following clause at end of this section, viz:

"*Provided, however,* That nothing in this section shall prohibit a person from hunting on lands of his own during the open season as provided by law."

Mr. Hanna moved the adoption of the amendment.

Which motion prevailed, and  
The amendment was adopted.

Mr. Twichell offered the following amendment, and moved its adoption,

Which motion prevailed, and  
The amendment was adopted.

Strike out, Provided that the compensation of such State's attorney shall not exceed the sum of twenty-five hundred dollars in any county.

Mr. Hodgson offered the following amendment and moved its adoption,

Which motion prevailed, and  
The amendment was adopted.

That Article 3, commencing on page 456, being Section 1269 of the Political Code, entitled "tax on gross earnings of railroads," be stricken out.

Mr. Tofsrud offered the following amendment and moved its adoption,

Which motion was lost.

In Section 2217, on page 778, in line 24, strike out the word "three" and insert in lieu thereof the word "two."

Mr. Hanna offered the following amendment and moved its adoption,

Which motion prevailed, and  
The amendment was adopted.

Amend Section 27. Where it says "pay of clerk of Judiciary Committee for the Senate shall be seven dollars per day," insert in lieu of the word "seven" the word "five."

Also, same section, where it says "pay of clerk of Judiciary Committee for the House of Representatives shall be seven dollars per day," insert in lieu of word "seven" the word "five."

Mr. Hanna offered the following amendment and moved its adoption,

Which motion prevailed, and  
The amendment was adopted.

In Section 27, relating to pay of employes of the Senate, where it says "the Journal of the Senate shall be completed in thirty days," insert in lieu of the word "thirty," the word "ten."

Also, where it says, in same paragraph, "one hundred dollars," insert in lieu of the word "one hundred" the word "fifty."

Also, in Section 27, relating to pay of employes of the House, where it

says "the Journal of the House shall be completed in thirty days," insert in lieu of the word "thirty" the word "ten."

Also, where it says, in same paragraph, "one hundred dollars," insert in lieu of the words "one hundred" the word "fifty."

Mr. Hanna offered the following amendments and moved their adoption.

Which motion prevailed, and  
The amendments were adopted.

Amend Section 701 of Article 5 by striking out all of line 1 and inserting in lieu thereof the words "the school treasurer shall keep such accounts and make."

That Section 684 of Article 4 be and the same is hereby amended to read as follows:

SECTION 684. On the third Tuesday in June of each year there shall be elected one school director for the term of three years and on the third Tuesday in June of each even numbered year a school treasurer for the term of two years. Such officers shall hold their respective offices from the second Tuesday in July following their election for the number of years respectively for which they were elected, and until their successors are elected and qualified. At the first election for the organization of a new school district there shall be elected at large for such school districts three directors, one to serve until the first annual election, one to serve until the second annual election, and one to serve until the third annual election thereafter, and a school treasurer to serve until the annual election in the next even numbered year and until his successor is elected and qualified.

That Section 699 of Article 5 be and the same is hereby amended to read as follows:

SECTION 699. The school treasurer shall on or before the second Tuesday in July following his election and before entering upon his duties give a bond to the school district conditioned for the honest and faithful discharge of his duties and that he will render a true account of all funds and property that shall come into his hands and pay and deliver the same according to law. Such bond shall be in such sum as may be fixed by the board, but not less than double the sum to come into his hands in any one year as nearly as may be ascertained, which bond shall be signed by two or more sufficient sureties, to be approved by the school board. In case the school board neglects or refuses to approve the bond of such treasurer and the sureties thereon such treasurer may present the same to the county superintendent, and serve notice thereof on the board, and due proof of the service of such notice being made to the county superintendent, he shall, unless good cause for delay appear, proceed to hear and determine the sufficiency of the bond and the sureties thereon, and may approve or disapprove the same, as the facts warrant. In case a vacancy occurs in the office of district treasurer it shall be the duty of the county treasurer of the county wherein such school district is located, upon being notified by the county superintendent or clerk of such school district that such vacancy exists, to perform the duties of treasurer of such school district until the vacancy is duly filled.

Mr. Prosser offered the following amendment and moved the adoption of the amendment:

That Chapter 3, Article 7, of House Bill No. 165, relating to the duties of the Commissioner of Agriculture and Labor, found in the Political Code, be amended by striking out Sections 124a, 124b, 124c, 124d and 124e, which sections relate to the matter of irrigation and forestry.

Also, that clause repealing Chapter 76, Laws of 1891, be stricken out.

Roll call demanded.

The roll being called there were ayes 37, nays 22, not voting 3.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Prosser,
Blacklock,	Holritz,	Rasmussen,
Brainard,	Horgan,	Richards,
Brown,	Jennings,	Rinde,
Colby,	Kellogg,	Simpson,
Cryan,	Kroeger,	Smith,
Eyolfson,	Korsmo,	Spangberg,
Flack,	Lindstrom,	Svensrud,
Fleming,	Logan,	Tofsrud,
Gilbertson,	Murphy,	Twichell,
Guinan,	Myers,	Tyler,
Gunderson,	Porter,	Walker.
Hanna,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	McLachlan,	Sharpe,
Cooper,	Nelson,	Stafne,
Dwyer,	Nierling,	Swenson,
Edwards,	Purdon,	Wallen,
Gleason,	Ray,	Wineman,
Hancock,	Rod,	Wood,
Herbrandson,	Sargent,	Mr. Speaker.
Hill,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Lerom,	McDonald,	Roberts.

Mr. Lerom being excused.

So the motion prevailed and the amendment was adopted.

Mr. Murphy offered the following amendment and moved its adoption,

Which motion prevailed, and  
The amendment was adopted.

Amend Section 2018 by striking out after the word "a" the word "popular" and insert the words "two-thirds."

Mr. Simpson moved

That House Bill No. 165 be returned to the Revision Committee to investigate in relation to a chapter in reference to unorganized counties, and that the Committee report the bill back to the House tomorrow.

Mr. Edwards offered a substitute motion that the roll be called on the final passage of House Bill No. 165.

The Speaker declared the motion of Mr. Edwards out of order.

The question being on the motion of Mr. Simpson,  
The motion was lost.

Mr. Simpson moved  
That further consideration of House Bill No. 165 be deferred  
until tomorrow,  
Which motion prevailed.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 27, 1895. }

## MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 21,

A Bill for an act providing for the appropriation of additional  
buildings, and for the payment of the contingent expenses of the  
North Dakota Agricultural College and Experimental Station of  
Fargo.

Also,  
Senate Bill No. 25,

A Bill for an act for an appropriation for current and contin-  
gent expenses of the Hospital for the Insane at Jamestown.

Also,  
Senate Bill No. 26,

A Bill for an act providing for an appropriation for the main-  
tenance of the State Normal School at Valley City.

Also,  
Senate Bill No. 29,

A Bill for an act providing for an appropriation for the peni-  
tentiary at Bismarck, and for making needed permanent im-  
provements thereat.

Also,  
Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current  
and contingent expenses, furnishing, maintenance and making  
needed improvements and repairs for the Soldiers' Home at Lisbon.

Also,  
Senate Bill No. 49,

A Bill for an act making an appropriation for maintenance of  
the State University, and for needed permanent improvements of  
the State University.

Also,  
Senate Bill No. 54,

A Bill for an act providing for an appropriation for the main-  
tenance and improvements of the State Normal School at May-  
ville.

Also,  
Senate Bill No. 35,

A Bill for an act providing for an appropriation for the maintenance and the current and contingent expenses of the School for the Deaf of North Dakota at Devils Lake for deficiency and for making needed improvements thereat.

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota,

Also,  
Senate Bill No. 147,

A Bill for an act creating an historical commission for the State, prescribing its duties and the place for preserving its records.

Also,  
Senate Bill No. 125,

A Bill for an act to provide for the extermination of Russian thistles.

Also,  
Senate Bill No. 80,

A Bill for an act defining usury and the penalty for taking the same.

Also,  
Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals, creating the office of chief State veterinarian, prescribing the duties thereof and appropriating money for the necessary expenses thereof.

Also,  
Senate Bill No. 93,

A Bill for an act for the encouragement of higher education and appropriating money therefor.

Also,  
Senate Bill No. 141,

A Bill for an act to prohibit the manufacture, sale and use of adulterated cigarettes, and the sale of cigarettes, cigars and tobacco to minors.

Also,  
Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of

completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896.

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Respectfully.

FRED FALLEY,  
Secretary.

Mr. Hodgson asked for unanimous consent from the House to return to the fifth order of business.

There being no objection the House returned to the order of

REPORTS OF STANDING COMMITTEES.

The Committee on Irrigation made the following report:

MR. SPEAKER:

Your Committee on Irrigation to whom was referred  
House Bill No. 159,

A Bill for an act to amend Section 26 of Chapter 75 of the Session Laws of 1891, entitled "an act to promote irrigation,"

Have had the same under consideration and recommend that the same be referred to General Orders.

JOHN E. HODGSON,  
Chairman.

There being no objection House Bill No. 159 was referred to General Orders.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 168,

A Bill for an act to define the terms of office of staff officers of the North Dakota National Guard, and to provide for their appointment.

Also,

House Bill No. 65,

A Bill for an act to provide for the establishment, construction and maintenance of drains in this State,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Edwards moved

That the rules be suspended and that House Bill No. 168 be placed upon its third reading and final passage,

Which motion was lost.

House Bill No. 106,

A Bill for an act to amend Section 63, Chapter 86, Laws of 1891, entitled Military Code,

Was placed upon its third reading.

Mr. Hodgson moved

That the further consideration of House Bill No. 106 be indefinitely postponed,

Which motion prevailed.

House Bill No. 141,

A Bill for an act entitled "an act fixing the salaries of the county auditor, register of deeds and county treasurer, and for the repeal of Sections 1 and 3 of Chapter 52, and Section 1 of Chapter 53 of the Session Laws,"

Was read the third time.

By unanimous consent Mr. Hanna offered the following amendment:

Section 3, line 23, strike out "\$2,000" and insert "\$2,500."

Section 3, line 26, strike out "\$2,000" and insert "\$2,500."

Mr. Twichell moved

The adoption of the amendmenst,

Which motion prevailed, and

The amendments were adopted.

The question being upon the final passage of the bill,

The roll being called there were ayes 26, nays 28, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Colby,  
Cryan,  
Dwyer,  
Gilbertson,  
Gunderson,  
Hanna,  
Herbrandson,

Messrs.

Hill,  
Hodgson,  
Kellogg,  
Korsmo,  
Lindstrom,  
Logan,  
Nelson,  
Purdon,  
Rasmussen,

Messrs—

Rinde,  
Rod,  
Sargent,  
Smith,  
Stafne,  
Twichell,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Blacklock,  
Colosky,  
Cooper,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Holritz.

Messrs—

Horgan,  
Jennings,  
Kroeger,  
McLachlan,  
Murphy,  
Myers,  
Nierling,  
Porter,  
Ray,

Messrs—

Richards,  
Roberts,  
Sharpe,  
Spangberg,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker.

Absent and not voting:

Messrs—

Brown,  
Edwards,  
Lerom,

Messrs—

McDonald,  
Prosser,  
Simpson,

Messrs—

Wineman,  
Wood.

Mr. Lerom being excused.

So the bill as amended was lost.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
February 27, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110 of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors for medicinal, scientific and mechanical purposes,"

Which the Senate has amended and passed. The amendments are attached to the bill.

Yours respectfully,  
FRED FALLEY,  
Secretary.

Senate amendments to House Bill No. 46 :

In line 13 of Section 1 of said Substitute bill as printed in House Journal of Wednesday, January 30th, on page 7 of said Journal, that the words "in this act" following the words "Section 2" in said line 13 be stricken out, and the words "Chapter 110 of Session Laws of 1890" be inserted in lieu thereof, and also be amended by providing Section 2 of said bill as follows :

SECTION 2. Whereas an emergency exists in that druggists' permits usually expire in June of each year, and it would work unnecessary hardships to prevent this act from taking effect before July 1, .895; therefore, this act shall be in force and effect from and after its passage and approval."

In line 5, by striking out the word "said" and insert in lieu thereof the word "the."

Strike out "of 25" in lines 5 and 6 and insert after the word "number" the words "required by law."

House Bill No. 137,

A Bill for an act entitled "an act to encourage the manufacture and production of the long line spinning fibres, either flax or hemp, and spinning tows grown in the State of North Dakota,"

Was read the third time.

By unanimous consent Mr. Twichell moved  
To amend House Bill No. 137 by striking out the emergency  
clause,

Which motion prevailed, and  
The amendment was adopted.

The question being on the final passage of the bill as amended,  
The roll being called there were ayes 53, nays 3, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
Murphy,  
Myers,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,

Messrs—

Colosky,

Messrs—

Wallen.

Absent and not voting:

Messrs—

Herbrandson,  
Lerom,

Messrs—

McDonald,  
Nelson,

Messrs—

Svensrud,  
Wineman.

Mr. Lerom being excused.

So the bill as amended passed and the title was agreed to.

By request of Mr. Armstrong the House returned to the  
seventh order of business.

#### MOTIONS AND RESOLUTIONS.

Mr. Armstrong moved

That the House concur in the Senate amendments to House  
Bill No. 46.

The Speaker called Mr. Edwards to the chair.

Mr. Gill offered as a substitute motion  
That House Bill No. 46, together with the Senate amendments,  
be referred to the Committee on Temperance,  
Which substitute motion prevailed.

Mr. Spangberg moved  
That the House do now adjourn.

Mr. Twichell moved  
As an amendment that the House adjourn to meet at 10 o'clock  
a. m. tomorrow, the question being on the motion to amend,  
The motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

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## FIFTY-SECOND DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
February 28, 1895.

The House assembled at 10 o'clock a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Mr. Lerom, who was excused.

Mr. Nierling requested that the courtesies of the floor be extended to F. A. Clemens, of Jamestown.

Mr. Edwards requested that the courtesies of the floor be extended to Col. Creel, of Ramsey county, and Col. Fuller, of Cass county.

Mr. Armstrong requested that the courtesies of the floor be extended to L. A. Couch, of Emmons county.

There being no objection, the courtesies of the floor were extended to the gentlemen named.

Mr. Sharpe moved

That all absent members be excused for the day,  
Which motion was lost.

Mr. Sharpe moved

That Mr. Simpson be excused for the day,  
Which motion was lost.

#### PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Gleason presented the following petition:

At a mass meeting of business men and railroad employes, held at the court house in the City of Jamestown, N. D., February 27, 1895, the following preamble and resolutions were unanimously adopted:

WHEREAS, There have been introduced and are now being considered by the Legislature of the State of North Dakota several bills, the result of which, if passed, will be to largely increase the expenses and liabilities of railroads doing business in this State, and at the same time to greatly reduce the income of the said railroads by reducing rates; and

WHEREAS, The railroads doing business in this State during the past two years have, with other industries, suffered from the financial panics and hard times and the falling off of business to such extent that they have been obliged, in order to exist and pay running expenses, to largely reduce the number of employes and also to reduce the time and wages of those retained in their service; and

WHEREAS, The enactment of any laws by this State which tend to either increase the expenses of operating railroads in this State or diminish their incomes would necessarily result in impairing the service and accommodations which said railroads are now able to furnish the public, and also a further reduction in the number of railroad employes and the wages of those so employed, and would be detrimental to the business interests of the State generally; therefore, be it

*Resolved*, That it is the sense of this meeting that no laws reducing the rates or charges of railroad companies for the transportation of either passengers or freight within this State, nor laws unnecessarily increasing the expenses and liabilities of the railroads of this State should be passed, and that we are especially opposed to the passage of the following bills now pending before the Legislature of this State, to-wit: House Bill No. 43; House Bill No. 113; House Bill No. 26; Senate Bill No. 41; House Bill No. 64; Senate Bill No. 19; House Bill No. 156; House Bill No. 50; House Bill No. 100; Senate Bill No. 72; House Bill No. 23; House Bill No. 79; House Bill No. 34; Senate Bill No. 48; and be it further.

*Resolved*, That a copy of the preamble and resolutions here adopted, certified by the president and secretary of this meeting, be forwarded to the Senators and Representatives from this Legislative district, with the request that they present the same to their respective branches of the Legislature, and that they use their influence against the passage of any of the above mentioned bills, or any similar legislation by the present Legislature.

J. E. SPURLING, Secretary.

A. M. HALSTEAD, Mayor,  
President.

There being no objection, the petition was referred to the Committee on Railroads.

Mr. Armstrong presented the following petition:

*To the Honorable Members of the Fourth Legislative Assembly of the State of North Dakota:*

GENTLEMEN—We, the undersigned, residents and taxpayers of Emmons and Kidder counties, North Dakota, believing that gophers cause the loss of many thousand dollars annually to the grain growers of the State, and believing that the farmers of the State are as much entitled to protection as the stock raisers (by a wolf bounty), hereby petition your honorable body to place a State bounty on all gophers killed within the State during the months of April and May in each year.

F. B. BAXTER,  
(And 25 others.)

There being no objection, the petition was referred to the Committee on Agriculture.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads, to whom was referred  
House Bill No. 34,

A Bill for an act to fix all railroad rates of fare for passenger travel at not over three cents per mile, and to prescribe a penalty for exacting or receiving a greater rate,

Have had the same under consideration and recommend that the same be indefinitely postponed.

ROLLIN C. COOPER,  
Chairman.

Mr. Hanna moved

That the report of the Committee on Railroads be adopted,  
Which motion prevailed, and

The report of the Committee was adopted, and House Bill No. 34 was indefinitely postponed.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 68,

A Bill for an act to provide for the establishment and government of North Dakota School of Forestry, and making appropriations therefor.

Also,

House Bill No. 120,

A Bill for an act to authorize and regulate within this State the business of commercial agencies, credit companies and guarantee associations.

Also,

House Bill No. 145,

A Bill for an act entitled "an act to establish a garnishment law for the State of North Dakota."

Also,

House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled "an act to provide a Military Code for the State of North Dakota, and to provide a Board of Control for the State Encampment Grounds."

Also,

House Bill No. 87,

A Bill for an act entitled "an act relating to steam threshing machines, saw mills and steam traction engines and their passage on public highways,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred

Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof,"

Have had the same under consideration and recommend that the same do pass.

There being no objection, Senate Bill No. 4 was referred to its third reading.

Also,

Substitute for Senate Bill No. 3,

A Bill for an act to amend Section 23, Chapter 56 of the Laws of 1890, being "an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof,"

Have had the same under consideration and recommend that the same do pass.

There being no objection, Substitute for Senate Bill No. 3 was referred to its third reading.

Also,

Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools,

Have had the same under consideration and recommend that the same do pass.

There being no objection Senate Bill No. 71 was referred to its third reading.

Also,

Senate Bill No. 133,

A Bill for an act to amend Section 63, Chapter 62, Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof,"

Have had the same under consideration, and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

There being no objection Senate Bill No. 133 was referred back to its third reading.

#### MOTIONS AND RESOLUTIONS.

Mr. Armstrong moved

That the vote by which House Bill No. 79 was lost be reconsidered,

Which motion prevailed.

Mr. Hodgson moved

That the House do now resolve itself into a Committee of the Whole for the consideration of House Bill No. 79 in General Orders.

Mr. Hanna offered as a substitute motion

That the House proceed to the order of first and second reading of Senate bills,

Which substitute motion prevailed.

#### FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 63 being a Concurrent Resolution.

#### CONCURRENT RESOLUTION.

To Amend Subdivision 8 of Section 215 of Article 19 of the Constitution of the State of North Dakota.

*Resolved by the Senate, the House of Representatives Concurring:*

SECTION 1. That the following amendment of Subdivision 8 of Section 215 of Article 19 of the Constitution of the State of North Dakota be submitted to the people of this State for adoption or rejection in accordance with the provisions of Section 202 of Article 15 of the Constitution of the State of North Dakota.

SEC. 2. That Subdivision "eight" of Section 215 of the Constitution of the

State of North Dakota be amended so as to read as follows (Subdivision eight:)

A State hospital for the insane at the City of Jamestown, in the county of Stutsman, and an institution for the feeble minded at or near the City of Grafton, in the county of Walsh, and the Legislative Assembly shall appropriate twenty thousand acres of the grant of land made by act of Congress aforesaid for "other educational and charitable institutions" to the benefit and for the endowment of said institutions in equal divisions of said land.

STATE OF NORTH DAKOTA,  
SECRETARY'S OFFICE,  
BISMARCK, N. D., January 11, 1895 }

I hereby certify that the foregoing amendment to the State Constitution passed the Third Legislative Assembly of the State of North Dakota, and that the foregoing is a true and correct copy of the original, now on file in this office, and that the same has been duly published in accordance with the provisions of Article 15, Section 202, of the Constitution of the State of North Dakota.

C. M. DAHL,

[SEAL.]

Secretary of the State of North Dakota.

Was read the first time and referred to the Committee on Judiciary.

Senate Bill No. 21,

A Bill for an act providing for the appropriation of additional buildings, and for the payment of the contingent expenses of the North Dakota Agricultural College and Experimental Station of Fargo,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 25,

A Bill for an act for an appropriation for current and contingent expenses of the Hospital for the Insane at Jamestown,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 26,

A Bill for an act providing for an appropriation for the maintenance of the State Normal School at Valley City,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 29,

A Bill for an act providing for an appropriation for the penitentiary at Bismarck and for making needed permanent improvements thereat,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

## Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current and contingent expenses, furnishing, maintenance and making needed permanent improvements and repairs for the Soldiers' Home at Lisbon,

Was read the first and second times, and

Referred to the Committee on Appropriations.

## Senate Bill No. 35,

A Bill providing for an appropriation for the maintenance and the current and contingent expenses of the School for the Deaf of North Dakota at Devils Lake, and for making needed improvements thereat,

Was read the first and second times, and

Referred to the Committee on Appropriations.

## Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota,

Was read the first and second times, and

Referred to the Committee on Judiciary.

## Senate Bill No. 49,

A Bill for an act making an appropriation for maintenance of the State University, and for needed permanent improvements of the State University,

Was read the first and second times, and

Referred to the Committee on Appropriations.

## Senate Bill No. 54,

A Bill for an act providing for an appropriation for the maintenance and improvements of the State Normal School at Mayville,

Was read the first and second times, and

Referred to the Committee on Appropriations.

## Senate Bill No. 80,

A Bill for an act defining usury and the penalty for taking the same,

Was read the first and second times, and

Referred to the Committee on State Affairs.

## Senate Bill No. 82,

A Bill for an act establishing an emergency commission, prescribing their duties and appropriating money for the expenses thereof,

Was read the first and second times, and

Referred to the Committee on Appropriations.

## Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious

and epidemic diseases among domestic animals; creating the office of Chief State Veterinarian; prescribing the duties thereof, and appropriating money for necessary expenses thereof,

Was read the first and second times, and  
Referred to the Committee on Sheep Husbandry.

Substitute for Senate Bill No. 93,

A Bill for an act for the encouragement of secondary education,

Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota,

Was read the first and second times, and  
Referred to the Committee on Ways and Means.

Senate Bill No. 104,

A Bill for an act to amend Section 161 of an act entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof of Chapter 62, Session Laws of 1890,"

Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 125,

A Bill for an act to provide for the extermination of Russian thistles and French weeds,

Was read the first and second times, and  
Referred to the Committee of the Whole.

Senate Bill No. 129,

A Bill for an act to amend Section 1961a of the Civil Code,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 136,

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws,

Was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120, of

Chapter 62, Laws of 1890, being an act providing for uniform system of public schools,

Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 141,

A Bill for an act to prohibit the manufacture, sale and use of adulterated cigarettes, and the sale of cigarettes, cigars and tobacco to minors,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 147,

A Bill for an act creating an historical commission for the State, prescribing its duties and place for preserving its records,

Was read the first and second times, and  
Referred to the Judiciary Committee.

Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 146,

A Bill for an act defining the qualifications of electors of Indian descent,

Was read the first and second times, and  
Referred to the Committee on Ways and Means.

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota.

Was read the first and second times, and  
Referred to the Committee on Judiciary.

#### THIRD READING OF SENATE BILLS.

Senate Bill No. 74,

A Bill for an act to repeal Chapter 172 of the Session Laws of 1890, being an act entitled "an act providing for the purchase and distribution of the remaining reports of the Supreme Court of Dakota Territory,"

Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 52, nays none, not voting 10.  
 Those who voted in the affirmative were:

Messrs—

Blacklock,  
 Brainard,  
 Colby,  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Edwards,  
 Eyolfson,  
 Flack,  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hancock,  
 Hanna,  
 Hill,  
 Hodgson,

Messrs—

Holritz,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Lindstrom,  
 Logan,  
 McLachlan,  
 McDonald,  
 Murphy,  
 Myers,  
 Nelson,  
 Nierling,  
 Purdon,  
 Rasmussen,  
 Ray,

Messrs—

Richards,  
 Rinde,  
 Roberts,  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Stafne,  
 Swenson,  
 Tyler,  
 Walker,  
 Wallen,  
 Wineman,  
 Wood,  
 Mr. Speaker.

Absent and not voting:

Messrs—

Armstrong,  
 Brown,  
 Fleming,  
 Herbrandson,

Messrs—

Lerom,  
 Porter,  
 Prosser,

Messrs—

Svensrud,  
 Tofsrud,  
 Twitchell.

Mr. Lerom being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 103,

A Bill for an act to amend Section 8, Chapter 79, Laws of 1891,  
 changing the place of holding district court in Wells county,  
 Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 54, nays none, not voting 8.

Those who voted in the affirmative were:

Messrs—

Blacklock,  
 Brainard,  
 Colby,  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Edwards,  
 Eyolfson,  
 Flack,  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,

Messrs—

Hodgson,  
 Holritz,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Lindstrom,  
 Logan,  
 McLachlan,  
 McDonald,  
 Murphy,  
 Myers,  
 Nelson,

Messrs—

Richards,  
 Rinde,  
 Roberts,  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Stafne,  
 Swenson,  
 Tofsrud,  
 Tyler,  
 Walker,

Messrs—  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—  
Nierling,  
Purdon,  
Rasmussen,  
Ray,

Messrs—  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—  
Armstrong,  
Brown,  
Fleming,

Messrs—  
Lerom,  
Porter,  
Prosser,

Messrs—  
Svensrud,  
Twichell.

Mr. Lerom being excused.

So the bill passed and the title was agreed to.

GENERAL ORDERS.

Mr. Hanna moved

That the House do now resolve itself into a Committee of the Whole for the consideration of General Orders, and that Mr. Wineman be called to the Chair,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole, and the Speaker called Mr. Wineman to the Chair.

When the Committee arose they made the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 134,

A Bill for an act to provide funds for defraying the expenses of insane persons confined in the North Dakota Hospital for the Insane,

And report the bill back to the House with the recommendation that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 60,

A Bill for an act entitled "an act to amend Chapter 132 of the Laws of 1893, being an act entitled 'an act prescribing the mode of making assessments and levy and collection of taxes and for other purposes relative thereto as amended by Chapter 100 of the Session Laws of 1891.'"

And recommend that further consideration of the bill be indefinitely postponed.

J. B. WINEMAN,  
Chairman.

Mr. Hodson moved

That the report of the Committee of the Whole be adopted,

Which motion prevailed, and

The report of the Committee of the Whole was adopted.

Mr. Wineman moved

That the House take a recess until 2 o'clock p. m.

Mr. Murphy offered an amendment that the House take a recess until 1 o'clock p. m.

Amendment accepted.

Which motion prevailed, and  
The House took such recess.

House reassembled.

THIRD READING OF SENATE BILLS.

Senate Bill No. 65,

A Bill for an act to secure safe keeping of all funds coming into the hands of county treasurers by prescribing and regulating the deposit thereof.

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 50, nays 1, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Kinde,  
Roberts,  
Rod,  
Sharpe,  
Smith,  
Stafne,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker

Mr. Gleason voting in the negative.

Absent and not voting:

Messrs—

Brown,  
Fleming,  
Lerom,  
Logan,

Messrs—

McLachlan,  
Richards,  
Sargent,  
Simpson,

Messrs—

Spangberg,  
Svensrud,  
Twichell.

Mr. Lerom being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 108,

A Bill for an act repealing Chapter 20 of the Special Laws of Dakota Territory for the year 1885, being an act entitled "an act

prescribing the duties and regulating the salaries of the county treasurer and register of deeds for Grand Forks county, Dakota Territory,"

Was read the third time.

By unanimous consent Mr. Wineman offered the following amendment:

Amend by striking out Section 2.

Mr. Wineman moved

That the amendment be adopted,

Which motion prevailed, and

The amendment was adopted.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs.	Messrs—	Messrs.
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Rinde,
Brainard,	Horgan,	Roberts,
Colby,	Jennings,	Rod,
Colosky,	Kellogg,	Sharpe,
Cooper,	Kroeger,	Simpson,
Dwyer,	Korsmo,	Smith,
Edwards,	Lindstrom,	Stafne,
Eyolfson,	McDonald,	Svensrud,
Flack,	Murphy,	Swenson,
Fleming,	Myers,	Tofsrud,
Gilbertson,	Nelson,	Tyler,
Gleason,	Nierling,	Walker,
Guinan,	Porter,	Wallen,
Gunderson,	Prosser,	Wineman,
Hancock,	Purdon,	Wood,
Hanna,	Rasmussen,	Mr. Speaker.
Herbrandson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Logan,	Sargent,
Cryan,	McLachlan,	Spangberg,
Holritz,	Richards,	Twichell.
Lerom,		

Mr. Lerom being excused.

So the bill as amended passed and the title was agreed to.

Senate Bill No. 50,

A Bill for an act for the consolidation and organization of contiguous unorganized counties,

Was read the third time.

Mr. Simpson moved

That Senate Bill No. 50 be referred to the Revision Commit-

tee to be considered in connection with the section of the Code of a similar nature, and that the Committee be requested to report on the bill tomorrow.

Mr. Hodgson arose to a point of order that Mr. Simpson was out of order, in that he was not discussing the question before the House.

The Speaker ruled the point of order not well taken.

The question being upon the final passage of the bill,

The roll being called there were ayes 55, nays 3, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Roberts,
Blacklock,	Hodgson,	Rod,
Brainard,	Holritz,	Sargent,
Colby,	Horgan,	Sharpe,
Colosky,	Jennings,	Simpson,
Cooper,	Kellogg,	Smith,
Cryan,	Kroeger,	Spangberg,
Dwyer,	Korsmo,	Stafne,
Edwards,	Logan,	Svensrud,
Eyolfson,	McDonald,	Swenson,
Flack,	Murphy,	Tofsrud,
Fleming,	Myers,	Twichell,
Gilbertson,	Nelson,	Tyler,
Gleason,	Nierling,	Walker,
Guinan,	Prosser,	Wallen,
Gunderson,	Purdon,	Wineman,
Hancock,	Rasmussen,	Wood,
Hanna,	Rinde,	Mr. Speaker.
Herbrandson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Lindstrom,	McLachlan,	Ray.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Porter,	Richards.
Lerom,		

Mr. Lerom being excused.

So the bill passed and the title was agreed to.

Mr. Murphy moved

That the vote by which Senate Bill No. 50 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Hodgson moved

That the Concurrent Resolution offered by Mr. Wineman be recalled from the Senate, it not having passed the House,

Which motion prevailed.

The Speaker called Mr. Edwards to the Chair.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
February 28, 1895. }

MR. SPEAKER:

I have the honor to inform you that that the Senate has concurred in the House Resolution requesting the State Examiner to immediately investigate the affairs of the North American Live Stock company, Dickinson.

Respectfully,  
FRED FALLEY,  
Secretary.

## CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the State Examiner be empowered and he is hereby authorized and requested to immediately make a thorough examination of the affairs of the North American Live Stock Investment Company, having its headquarters at Dickinson, N. D., and to report the condition to the Governor and Attorney General of this State as early as possible.

The Speaker announced that he was about to sign

House Bill No. 135,

A Bill for an act to establish a Penal Code for the State of North Dakota.

Also,

House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota.

Also,

House Bill No. 119,

A Bill for an act to establish a Probate Code for the State of North Dakota.

Also,

House Bill No. 150,

A Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota.

Also,

Senate Concurrent Resolution,

Amending Constitution, increasing the debt limit to 5 mills.

Also,

Senate Concurrent Resolution,

Authorizing the Governor to receive moneys from the United States treasury for the direct tax of August 5, 1861.

## SPECIAL ORDER.

The hour having arrived to consider Senate Bill No. 99 as a Special Order,

Senate Bill No. 99,

A Bill for an act to provide for the treatment and cure of habitual drunkards,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 22, nays 36, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Herbrandson,	Roberts,
Colby,	Hodgson,	Sargent,
Cooper,	Korsmo,	Stafne,
Cryan,	Murphy,	Twichell,
Dwyer,	Nelson,	Tyler,
Edwards,	Prosser,	Wallen,
Gilbertson,	Purdon,	Mr. Speaker.
Hanna,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Ray,
Blacklock,	Jennings,	Rinde,
Colosky,	Kellogg,	Rod,
Eylofson,	Kroeger,	Sharpe,
Flack,	Lindstrom,	Simpson,
Fleming,	Logan,	Smith,
Gleason,	McLachlan,	Spangberg,
Guinan,	McDonald,	Svensrud,
Gunderson,	Myers,	Swenson,
Hancock,	Nierling,	Tofsrud,
Hill,	Porter,	Walker,
Holritz,	Rasmussen,	Wineman.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Richards,	Wood.
Lerom,		

Mr. Lerom being excused.

So the bill was lost.

Mr. Simpson announced that he wished to change his vote from aye to no for the purpose of giving notice to reconsider the vote by which Senate Bill No. 99 was lost.

Mr. Fleming moved

That the vote by which Senate Bill No. 99 was lost be reconsidered, and that the motion to reconsider be laid on the table.

Roll call demanded.

The roll being called there were ayes 27, nays 32, not voting 3.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colosky,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Gunderson,

Messrs—

Hancock,  
Herbrandson,  
Hill,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Logan,  
McLachlan,

Messrs—

McDonald,  
Nierling,  
Rinde,  
Rod,  
Sharpe,  
Spangberg,  
Svensrud,  
Tofsrud,  
Wood.

Those who voted in the negative were:

Messrs—

Brainard,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Gilbertson,  
Hanna,  
Hodgson,  
Horgan,  
Korsmo,

Messrs—

Lindstrom,  
Murphy,  
Myers,  
Nelson,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,  
Roberts,

Messrs—

Sargent,  
Simpson,  
Smith,  
Stafne,  
Swenson,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brown,

Messrs—

Lerom,

Messrs—

Wineman.

Mr. Lerom being excused.

So the motion was lost.

Mr. Gill moved

That the vote by which Senate Bill No. 99 was lost be reconsidered and that the Bill be made a Special Order for tomorrow at 2:30 p. m.,

Which motion prevailed.

GENERAL ORDERS.

Mr. Hodgson moved

That the House do now resolve itself into a Committee of the Whole for the consideration of House Bill No. 79 in General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole.

The Speaker called Mr. Hodgson to the Chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers;

to define the duties of Commissioners of Railroads, bridges, corporations and ferry companies within this State,"

And report the bill back with the recommendation that the further consideration of the bill be indefinitely postponed.

JNO. E. HODGSON,  
Chairman.

Mr. Tyler moved

That the report of the Committee of the Whole be adopted.

Roll call demanded.

Mr. Simpson moved

A call of the House.

Call seconded.

Roll called.

All members present excepting Messrs. Brown and Lerom.

Mr. McLachlin moved

That further proceedings under the call of the House be dispensed with.

Roll call demanded.

The roll being called, there were ayes 33, nays 27, not voting 2.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colosky,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Hanna,  
Herbrandson.

Messrs—

Hill,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
McLachlan,  
McDonald,  
Myers,  
Nierling,  
Porter,

Messrs—

Purdon,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Spangberg,  
Tyler,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Gilbertson,  
Gunderson,  
Hodgson,

Messrs—

Korsmo,  
Lindstrom,  
Logan,  
Murphy,  
Nelson,  
Prosser,  
Rasmussen,  
Rod,  
Sharpe.

Messrs—

Simpson.  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen.

Absent and not voting, Messrs. Brown and Lerom, Mr. Lerom being excused.

So the motion prevailed, and further proceedings under the call of the House were dispensed with.

The question recurred on the motion to adopt the report of the Committee of the Whole.

The question recurred on the motion to adopt the report of the Committee of the Whole.

The roll being called, there were ayes 30, nays 30, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Porter,
Blacklock,	Hill,	Purdon,
Colosky,	Holritz,	Richards,
Edwards,	Horgan,	Roberts,
Eyolfson,	Jennings,	Sargent,
Fleming,	Kroeger,	Spangberg,
Gleason,	McLachlan,	Twichell,
Guinan,	McDonald,	Tyler,
Hancock,	Murphy,	Wineman,
Hanna,	Nierling,	Wood.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Sharpe,
Colby,	Lindstrom,	Simpson,
Cooper,	Logan,	Smith,
Cryan,	Myers,	Stafne,
Dwyer,	Nelson,	Svensrud,
Flack,	Prosser,	Swenson,
Gilbertson,	Rasmussen,	Tofsrud,
Gunderson,	Ray,	Walker,
Hodgson,	Rinde,	Wallen,
Kellogg,	Rod,	Mr. Speaker.

Absent and not voting, Messrs. Brown and Lerom.

So the motion was lost.

Verification of the vote demanded.

Vote verified.

Mr. Hodgson moved

That House Bill No. 79 be made a Special Order tomorrow at 2:15 p. m.

Mr. Wineman arose to a point of order that the bill was still in the Committee of the Whole, and the motion of Mr. Hodgson was not in order.

The Speaker ruled that the point of order was well taken.

Mr. Hodgson moved

That House Bill No. 79 be taken from General Orders and be made a special for tomorrow at 2:15 p. m.

Mr. Wineman arose to a point of order that to take the bill from General Orders required a suspension of the rules.

The Chair ruled the point of order not well taken.

Mr. Richards offered as an amendment that the bill be made a Special Order for next Saturday, March 2, at 2:30 p. m.

Amendment accepted.

The question being on the motion as amended.

The motion prevailed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
February 28, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 1,

A Bill for an act entitled "an act to provide for State depositories and to regulate the deposit of public moneys therein and the interest thereon and prescribing the means thereof,"

Which the Senate has amended and passed. The amendments are attached to the bill.

Also,

House Bill No. 23,

A Bill for an act defining the duties of railways in regard to station houses,

Which the Senate amended as follows:

That in line eleven (11) of original bill the figures "20,000" be stricken out and in lieu thereof the figures "40,000" be inserted.

And in line twelve (12) the word "twenty" be stricken out and in lieu thereof the word "forty" be inserted.

Also,

I have the honor to transmit herewith  
House Bill No. 136,

A Bill for an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota,

Which the Senate has amended by striking out the word "eight" in line 17, Section 4, and lines 4 and 9 of Section 5, and inserting in lieu thereof the word "three" and passed.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Simpson, by unanimous consent, moved that the House concur in the Senate amendments to House Bill No. 136,

Which motion prevailed, and

The Senate amendments were adopted.

The question being on the final passage of  
House Bill No. 136,

A Bill for an act entitled "an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota," as amended,

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
McLachlan,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,  
Richards,  
Rinde,

Messrs—

Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brown,  
Cryan,  
Edwards,

Messrs—

Lerom,  
Logan,

Messrs—

McDonald,  
Rasmussen.

So the bill as amended passed and the title was agreed to.

Mr. Armstrong, by unanimous consent, moved

That the House concur in the Senate amendments to House  
Bill No. 23,

Which motion prevailed, and

The Senate amendments were adopted.

The question being upon the final passage of

House Bill No. 23,

A Bill for an act defining the duties of railways in regard to  
station houses, as amended.

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,  
Holritz,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,  
Rinde,

Messrs—

Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svevsrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brown,  
Cryan,  
Edwards,

Messrs—

Gleason,  
Horgan,

Messrs—

Lerom,  
McDonald.

So the bill as amended passed and the title was agreed to.

## REPORTS OF STANDING COMMITTEES.

The Speaker announced that the message sent from the Senate to the House in regard to House Bill No. 23 showed that House Bill No. 23 had passed the Senate unchanged, while the indorsement on the bill showed that it had passed with amendments, and that there was something irregular in the passage of the bill.

Mr. Cooper moved

That the message and House Bill No. 23 be returned to the Senate for correction,

Which motion prevailed.

Mr. Ray moved

That the vote by which House Bill No. 141 was lost be reconsidered,

Which motion prevailed.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 119,

A Bill for an act to establish a Probate Code for the State of North Dakota.

Also,

House Bill No. 135,

A Bill for an act to establish a Penal Code for the State of North Dakota.

Also,

House Bill No. 150,

A Bill for an act entitled "an act to establish a Code of Criminal Procedure for the State of North Dakota,"

Also,

House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

Mr. Svensrud offered the following resolution, and moved the adoption of the resolution,

Which motion prevailed, and

The resolution was adopted.

#### CONCURRENT RESOLUTION.

A Memorial to Congress to Open for Settlement that Part of the Turtle Mountain Timber Reserve of North Dakota Lying Within the County of Bottineau.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That a copy of the following memorial duly signed and attested be sent to the Honorables H. C. Hansbrough, W. N. Roach, representing this State in the Senate, and to Honorable M. N. Johnson, representing this State in the House of Representatives of the Congress of the United States, and that they be respectfully requested to present the same to their respective houses and to urge the passage of an act in accordance therewith, to-wit:

*o the Honorable, the Congress of the United States:*

The Fourth Legislative Assembly of the State of North Dakota respectfully represent, that the portion of the Turtle Mountain timber reserve of North Dakota, lying within the County of Bottineau, has been overrun with fire and the greater part thereof destroyed; that the land now covered with dead, dry and partly burned timber, is well adapted for agricultural purposes; that, if opened for settlement, the small clusters of living timber now standing could be better preserved and protected by actual settlers who would be personally interested in promoting the culture of trees where the conditions are most favorable and who would remove and clear away the dry material which make and feed forest fires and endanger the property of settlers in the vicinity; that by such settlement of the said fire-destroyed timber-district the chief object of the reserve would be promoted; therefore,

*Resolved,* That the Congress of the United States be respectfully requested to exclude that part of said Turtle Mountain timber reserve, lying and being within the said County of Bottineau, and to declare the same open for settlement.

Mr. Twichell, by unanimous consent, introduced

House Bill No. 171,

A Bill for an act entitled "an act to authorize the voters at annual town meetings to vote upon the question of establishing, by proper monuments, section, quarter section or meander posts or monuments, which have been destroyed or are becoming obscure,"

Which was read the first and second times, and

Referred to the Committee on State Affairs.

REPORTS OF STANDING COMMITTEES.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred  
House Bill No. 148,

A Bill for an act to amend Section 71 of Chapter 118 of the  
Laws of 1893, being an act to provide for the control and man-  
agement of university and school lands, and making an appro-  
priation therefor,

Have had the same under consideration and recommend that  
the same do pass.

There being no objection, House Bill No. 148 was referred to  
its engrossment.

Also,

House Bill No. 132,

A Bill for an act to appropriate the sum of two hundred dol-  
lars to Troop "B," First battalion cavalry, North Dakota national  
guard, for balance due for services attending the encampment  
held at Jamestown, N. D., in July, 1894.

Have had the same under consideration and recommend that  
the same do pass.

F. H. PROSSER,  
Chairman.

There being no objection House Bill No. 132 was referred to  
its engrossment.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
House Bill No. 157,

A Bill for an act with reference to driving stock into or  
through the State of North Dakota,

Have had the same under consideration and recommend that  
the same do pass.

There being no objection House Bill No. 157 was referred  
to its engrossment.

Also,

House Bill No. 167,

A Bill for an act to encourage the manufacture of binding  
twine in the State of North Dakota,

Have had the same under consideration and recommend that the  
same be amended as follows:

The bill to read one (1) dollar per hundred pounds.

And when so amended recommend that the same do pass.

There being no objection House Bill No. 167 was referred to General Orders.

Also,

Concurrent Resolution by Mr. Logan,

Requiring the Board of Equalization of 1895 and 1896 to assess the Northern Pacific Railroad bridge known as the Bismarck bridge, at its actual value in compliance with law,

Have had the same under consideration and recommend that the same do pass.

It being the unanimous sense of this Committee, having been informed and believing the statements to be true, that the bridge known as the Bismarck bridge is not the property of the Northern Pacific Railroad Company, but the property of a bridge construction company, and also believing it to be a fact that the said bridge is one of the best paying pieces of property within the limits of the State, it is a rank injustice to the taxpayers of the State of North Dakota that our Board of Equalization has failed or neglected to tax the same.

There being no objection the Concurrent Resolution was referred to its engrossment.

Also,

Concurrent Resolution, by Mr. Rasmussen,

To amend Section 82 of Article 3 of the Constitution of North Dakota,

Have had the same under consideration and recommend that the same be amended as follows:

Change the figures 1898 to 1889,

And when so amended recommend the same do pass.

There being no objection, the Concurrent Resolution was referred to General Orders.

Also,

House Bill No. 166,

A Bill for an act entitled "an act to amend Section 46, Chapter 132 of the Session Laws of the First Legislative Assembly of the State of North Dakota,

Have had the same under consideration and recommend that the same be amended as follows:

After the words "attorney general" insert the words "State Treasurer and Secretary of State,"

And recommend further that the same be referred to its engrossment,

And when so amended, recommend that the bill do pass.

T. TWICHELL,  
Chairman.

There being no objection House Bill No. 166 was referred to General Orders.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads, to whom was referred  
House Bill No. 170,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of grain and lumber within the State of North Dakota,

Have had the same under consideration and recommend that the same be reported back without recommendation,

ROLLIN C. COOPER,  
Chairman.

There being no objection, House Bill No. 170 was referred to its engrossment.

The Speaker announced that the message from the Senate in relation to House Bill No. 23 had been returned to the House corrected.

Mr. Armstrong moved

That the vote by which House Bill No. 23, as amended, had passed be reconsidered, and the motion to reconsider be laid upon the table.

Which motion prevailed.

Mr. Wallen moved

That when the House adjourned, it adjourn to meet at 10 o'clock a. m. tomorrow.

Mr. Hanna offered the substitute motion

That when the House adjourned, it adjourn to meet at 1:55 o'clock p. m. tomorrow.

Which substitute motion prevailed.

Mr. Armstrong moved

That the House do now adjourn.

The motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTY-THIRD DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 1, 1895.

The House assembled at 1.55 o'clock p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs, Lerom, Nierling and Wood.

Mr. Colosky asked that Mr. Wood be excused for the day.

Mr. Herbrandson asked that Mr. Lerom be excused for the day.

Mr. Cooper asked that Mr. Nierling be excused for the day.

There being no objection, the members named were excused for the day.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-first day and recommend it be amended as follows:

On page 13, line 40, strike out the word "passed" and insert in lieu thereof the word "lost."

And when so amended recommend that the Journal of the fifty-first day be approved.

GEO. HILL,  
Chairman.

Mr. Rod moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the fifty-first day was approved.

## PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Wineman presented the following petition:

Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws of the State of North Dakota, provides as follows:

"Any owner of real property who shall fail to keep in repair the sidewalk in front of or along such property if he reside thereon, or if he does not reside thereon to repair the same forthwith when notified, shall be held liable to the city for any damage caused by such neglect."

We, the undersigned, voters and property owners of the City of Grand Forks, Grand Forks county, North Dakota, believe the above law to be unjust to all owners of real property in our cities and villages; that its tendency is to invite litigation and make it unsafe to hold property in the cities of our State; that it will drive out capital, prevent investments and valuable improvements, and is a damage to our City and State.

We therefore respectfully petition the Hon. John A. Sorley and F. Viets, Senators, and the Hon. J. B. Wineman and Hon. W. B. Wood, Representatives from the Sixth and Seventh Legislative Districts, to use all honorable means to secure the repeal of said law at this session of our State Legislative Assembly.

Dated, Grand Forks, N. D., this 14th day of February, 1895.

J. P. WHITE,  
Street Commissioner,  
(And 59 others.)

The petition was referred to the Committee on Municipal Corporations.

## REPORTS OF STANDING COMMITTEES.

The Committee on Sheep Husbandry made the following report:

**MR. SPEAKER:**

Your Committee on Sheep Husbandry to whom was referred  
Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals, creating the office of chief State veterinarian, prescribing the duties thereof and appropriating money for the necessary expenses thereof,

Have had the same under consideration and recommend that the same do pass.

GEORGE S. ROBERTS,  
Chairman.

Senate Bill No. 87 was referred to its third reading.

The Committee on Ways and Means made the following report:

**MR. SPEAKER:**

Your Committee on Ways and Means to whom was referred  
Senate Bill No. 140,

A Bill for an act defining the qualifications of electors of Indian descent,

Have had the same under consideration and recommend that the same do pass.

C. L. LINDSTROM,  
Chairman.

Senate Bill No. 140 was referred to its third reading.

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs to whom was referred  
House Bill No. 169,

A Bill for an act to provide for the division of civil townships containing two or more congressional townships, by the creation of new townships therein,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

House Bill No. 169 was referred to the Committee on Engrossment.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out Section two,

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 118 was referred to General Orders.

Mr. Wineman moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 147,

A Bill for an act creating an historical commission for the State,  
prescribing its duties and the place for preserving its records,

Have had the same under consideration and recommend that  
the same be amended as follows:

In last paragraph of Section 2, by striking out the word "they" and inserting in lieu thereof the words "the Board of Capitol Commissioners shall provide;" and on first line of second page of original bill by inserting before the word books "and other," and by striking out the word "other" immediately before the word "collections,"

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Mr. Wineman moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
House Bill No. 153,

A Bill for an act to provide for the service of notice by officers  
on non-residents,

Have had the same under consideration and recommend that  
the same be reported back to the House without recommenda-  
tion.

House Bill No. 153 was referred to General Orders.

Also,

House Bill No. 126,

A Bill for an act requiring county commissioners to furnish  
an official to his county,

Have had the same under consideration and recommend that the same be amended as follows:

In line 2 of Section 2 of original bill by inserting the word "be" immediately after the word "shall."

In line 8 of Section 3 of original bill by striking out the word "for" and inserting in lieu thereof the word "in," and in line 9 of said Section 3, after the word "above" by inserting the words "his debts and liabilities, property exempt from levy and sale on execution,"

And when so amended recommend that the same do pass.

House Bill No. 126 was referred to General Orders.

Also,

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 143 was referred to its third reading.

The Committee on Judiciary made the following majority report:

MR. SPEAKER:

A majority of your Committee on Judiciary to whom was referred

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

The Committee on Judiciary made the following minority report:

MR. SPEAKER:

A minority of your Committee on Judiciary to whom was referred

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota,

Have had the same under consideration and recommend that the same do not pass.

J. B. WINEMAN.  
A. B. McDONALD,  
C. McLACHLAN,  
J. B. BLACKLOCK.

Senate Bill No. 138 was referred to General Orders.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

Senate Bill No. 129,

A Bill for an act to amend Section 1961 (a) of the Civil Code,  
Have had the same under consideration and recommend that  
the same do pass.

Senate Bill No. 129 was referred to its third reading.

Also,

Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad com-  
panies may charge for the transportation of soft coal within the  
State of North Dakota,

Have had the same under consideration and recommend that  
the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 48 was referred to its third reading.

#### REPORTS OF SELECT COMMITTEES.

The Joint Inter-state Committee make the following report:

*To the President of the Senate and Speaker of the House of Representa-  
tives of the States of Minnesota and North Dakota:*

The Joint Inter-state Committee duly appointed by the Senate and House of Representatives of the States of Minnesota and North Dakota to confer upon the matter of freight rates on lumber, grain and coal within said States, respectfully submit the following report of its proceedings:

Your Committee convened in St. Paul, Minn., February 18, 1895, at 10 o'clock a. m. Present, Senators Smith and Cronkhite; Representatives Shell and DeLaittre, of Minnesota, and Senators Little and Burke, and Representatives Twichell, Wineman and Prosser, of North Dakota. Absent, Representative Hartshorn, of Minnesota.

On motion, Senator Smith was elected Chairman, and Representative Prosser, Secretary of the Committee.

At the first session the question of best mode of procedure was generally discussed and it was decided to invite the Chairman of the State Board of Railroad Commissioners, General Becker, and representatives of the various railroads interested to appear before the Committee at the subsequent sessions to give information relating to and reasons why freight rates should not be reduced in the States of Minnesota and North Dakota.

General Becker stated that the matters now before this Committee had been under consideration for some time; that under Minnesota law the Board has the power to fix a reasonable rate, but the trouble was to get information that would enable them to intelligently determine what would be held a reasonable rate for the reason that railroad companies refused to furnish satisfactory evidence as to the cost of transportation. That the Board had secured the services of an expert to ascertain the actual cost of constructing, equipping and operating railroads within the State, which facts would be used as the basis in the fixing of rates.

Mr. Moore, representing the Northern Pacific, stated in substance that owing to diminished volume of business railroads were not able to pay expenses under existing rates; that to expect a lower tariff now seemed unreasonable, and recommended that farmers should endeavor to help themselves by diversifying their operations instead of depending so much upon outside assistance in the way of concessions from railroads when times were hard and wheat prices low.

Objection was raised to this line of argument and statement made that the members were not seeking information about how they should farm, but how they could get reasonable rates of transportation of grain, lumber and coal.

It was urged that the Committee desired information as to the present cost of transportation compared with the cost, say three years ago, or at the time when the present schedule was adopted.

Mr. Moore evaded the question by urging diversified farming.

In the matter of rates on lignite coal over Great Northern lines in North Dakota, Mr. Phinney stated in substance that coal on their line was only found at points where the local business was so small that it necessitated the hauling of empty cars to the mines, which cost the company almost as much as hauling loads, and for that reason they considered the coal rates fixed by law, although adopted by other roads, unreasonable and unjust, and they would refuse to accept them.

Mr. Grover, general solicitor of the Great Northern, addressed the Committee at length, contending that the Great Northern had been liberal in its voluntary reduction of transportation rates when the volume of business and general prosperity of the road had warranted it; but the present conditions were such that further reductions could not be conceded at this time. It was shown that between 1881 and 1892 rates had been reduced from 20 to 40 per cent.

Failing to secure voluntary concessions the Committee found that the only practicable way to accomplish the object sought was by legislation, and directed the secretary to have suitable bills prepared and introduced in North Dakota and Minnesota, providing for a 10 per cent. reduction in the rates on grain, lumber and coal, based on the schedule now in force.

After which the committee adjourned to meet at Bismarck, N. D., February 25, 1895.

Respectfully submitted,

J. H. SMITH,  
Chairman.

F. H. PROSSER, Secretary.

Mr. Hanna moved

That the reading of the report be dispensed with, and that the report be printed in the Journal,

Which motion prevailed.

Mr. Brainard moved

That Senate Bill No 125 be taken from General Orders, and that it be made a special order for tomorrow at 3:30 p. m.,

Which motion prevailed.

Mr. Hanna moved

That the House proceed to the consideration of the Political Code; that all amendments adopted on the fifty-first day and any that may be proposed and adopted this day, be referred to the Enrollment Committee to be inserted in the Code, and when so inserted and reported from the Enrollment Committee, that the

Code be placed upon its final passage, and when passed that it be transmitted to the Senate,

Which motion prevailed.

Mr. Wineman moved

The adoption of the following Concurrent Resolution:

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate concurring therein:*

That in the opinion of the Legislative Assembly the best interests of the State require that a Constitutional Convention be called at some future date for the purpose of revising the Constitution;

*Therefore,* It is hereby recommended to the electors of the State of North Dakota, that at the next general election to be held on the first Tuesday after the first Monday in November, 1896, that they vote for or against a Convention to revise the Constitution of the State.

Mr. Hodgson offered the following amendment to the Concurrent Resolution, and moved its adoption.

Amendment accepted, and

The Secretary of State is hereby authorized and instructed to have the ballots for the next general election so prepared that the electors may vote on the question as hereinbefore provided,

Which motion prevailed, and

The Concurrent Resolution was adopted.

Mr. Wineman moved

That the vote by which Concurrent Resolution was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. McLachlan requested that the courtesies of the floor be extended to Mr. John C. Fay, of Eddy county.

Mr. Roberts requested that the courtesies of the floor be extended to R. P. Allison, of Kidder county.

Mr. Blacklock requested that the courtesies of the floor be extended to Timothy O'Brien, of Pembina.

There being no objection, the courtesies of the floor were so extended.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 1, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 35,

A Bill for an act entitled "an act to amend Section 39, Chap-

ter 132 of the Session Laws of 1890, entitled 'an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto.'"

Also,

House Bill No. 74,

A Bill for an act to cure defective acknowledgments,  
Which the Senate has passed without change.

Also,

Senate Bill No. 6,

A Bill for an act entitled "an act to provide for the inspection of steam boilers and licensing of steam engineers."

Also,

Senate Bill No. 132,

A Bill for an act to provide free text books for use in public schools in this State.

Also,

Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses necessary incident to the eradication of Russian thistles,

Which the Senate has passed, and the favorable consideration of the House is respectfully requested.

Respectfully.

FRED FALLEY,  
Secretary.

Mr. Lindstrom moved

That Senate Bill No. 140 be taken from General Orders, and that it be referred to its third reading,

Which motion prevailed.

Mr. Colby moved

That House Bill No. 123 be taken from General Orders, and that it be referred to its third reading,

Which motion prevailed.

Mr. Hanna moved

That the House do now consider the Political Code,  
Which motion prevailed.

Mr. Hanna offered the following amendment and moved its adoption,

Which motion prevailed, and

The amendment was adopted.

Strike out in each section of the article on education the words "county treasurer" wherever they occur and refer to the county treasurer to act as school district treasurer and insert the words "school district treasurer" and insert all the provisions of the law relating to the duties, compensation and bond of such school district treasurer.

Mr. Prosser offered the following amendment, and move its adoption,

Which motion was lost and the amendment was lost.

The provisions of Article 8 requiring fees of the register of deeds for making abstracts to be covered into the treasury, shall not be construed to apply to registers of deeds elected in 1894 during the term for which they were elected.

Mr. Prosser offered the following amendment,

Mr. Edwards moved the adoption of the amendment,

Which motion prevailed, and

The amendment was adopted.

Amend Section 204 by adding the following provision:

*Provided,* That after the rights of a purchaser, his heirs or assigns shall have become forfeited under the provisions of this article, the Board of University and School Lands shall have the power, and it is hereby made their duty to provide for the sale of said land so forfeited, if in their opinion a re-sale of said land shall be most advantageous to the State, otherwise the said board shall provide for the leasing of said land from year to year as herein provided, and after a lease of the said lands shall be made by said board the lessee, his heirs and assigns shall be entitled to the full and absolute possession of all of said lands and premises so leased.

Mr. Hodgson moved

That the Special Order House Bill No. 41 be deferred and that the Code be considered,

Which motion prevailed.

Mr. Wineman moved

That the Special Order Senate Bill No. 99 be deferred until 3:15 p. m., and that the Code be considered,

Which motion prevailed.

Mr. Korsmo offered the following amendment:

Mr. Edwards moved

The adoption of the amendment,

Which motion prevailed, and

The amendment was adopted.

Amend the article on education which includes Section 17, Chapter 56 of the Laws of 1891 so that the proviso shall read "a two-thirds vote;" and also provide that the school house shall not be moved but once in "three" years.

Mr. McLachlan offered the following amendment.

Mr. Edwards moved

The adoption of the amendment,

Which motion prevailed, and

The amendment was adopted.

Amend the Political Code as follows:

Page 100, Section 246, line 2, after the word "medicine" amend by inserting "a graduate of some reputable medical college, authorized by law to grant diplomas."

Also, page 112, Section 276, line 3, after the word "physicians" insert "graduates of reputable medical colleges."

Mr. Hill offered the following amendment.

Mr. Edwards moved

The adoption of the amendment,

Which motion prevailed, and

The amendment was adopted.

In Section 519, in line 11, insert after the word "votes" the following words, "in the State."

Mr. Hill offered the following amendment and moved its adoption:

Page 124, Section 302, line 8, after the word "State" amend by adding "at least three members of said Board shall be resident practicing graduate dentists."

Mr. Edwards moved

That further consideration of the amendment be indefinitely postponed,

Which motion was lost,

The question recurring on the motion to adopt the amendment,

Which motion prevailed,

And the amendment was adopted.

Mr. Logan offered the following amendment and moved its adoption,

Which motion prevailed, and

The amendment was adopted.

Page 90, Political Code, amend Laws of 1893, Chapter 118, Section 51, last proviso, strike out "1" and insert " $\frac{1}{2}$  of 1 per cent" in lieu thereof, also "5" and insert in lieu thereof " $2\frac{1}{2}$ ."

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 1, 1895. }

MR. SPEAKER:

I have the honor to return to the House Concurrent Resolutions in which the Senate has concurred, viz:

Requesting that the Northern Pacific indemnity lands be either patented or opened to settlement.

Also,

The memorial to Congress for the apportionment of 40,000 acres of land for the support of a school of forestry in this State.

Also,

That the Governor, Attorney General and State Auditor are appointed a Commission to inquire if North Dakota is not entitled to 5 per cent of certain lands disposed of in land grants.

Respectfully,

FRED FALLEY,  
Secretary.

The hour having arrived to consider House Bill No. 41 as a Special Order,

Mr. Hanna moved

That further consideration of House Bill No. 41 be deferred until next Saturday at 2:30 p. m.,

Which motion prevailed.

MESSAGE FROM THE GOVERNOR.

The following message was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 1, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 119,

A Bill for an act to establish a Probate Code for the State of North Dakota.

Respectfully,  
ROGER ALLIN,  
Governor.

INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Colby introduced

House Bill No. 172,

A Bill for an act to amend Section 134 of Article 5 of Chapter 5 of the Laws of 1895, entitled "an act for an act to establish a Code of Criminal Procedure of the State of North Dakota,"

Which was read the first and second times, and

Referred to the Committee on State Affairs.

Mr. Murphy introduced

House Bill No. 173,

A Bill for an act to change the lines of organized counties and to provide for the annexation of unorganized territory to organized counties,

Which was read the first and second times, and

Referred to the Committee on Counties and County Boundaries.

Mr. Murphy introduced

House Bill No. 174,

A Bill for an act entitled "an act for the investigation of the resources of the surface and underground waters of parts of the national government lands located in North Dakota, and for devising a system of irrigation therefor,"

Which was read the first and second times, and

Referred to the Committee on Irrigation.

## THIRD READING OF HOUSE BILLS.

## House Bill No. 66,

A Bill for an act authorizing and requiring the board of trustees of the penitentiary of this State to contract for, lease and operate a coal mine and appurtenances, and to employ the inmates of the penitentiary in mining coal and the disposition of any coal so mined,

Was placed upon its final passage,

The question being upon the final passage of the bill,

The roll being called there were ayes 8, nays 48, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Dwyer,	Hanna,	Tyler,
Edwards,	Myers,	Wineman.
Gunderson,	Sargent,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Holritz,	Richards,
Brainard,	Horgan,	Rinde,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Simpson,
Cryan,	Logan,	Smith,
Eyolfson,	McLachlan,	Spangberg,
Flack,	McDonald,	Svensrud,
Fleming,	Murphy,	Swenson,
Gilbertson,	Nelson,	Tofsrud,
Guinan,	Porter,	Twichell,
Hancock,	Prosser,	Walker,
Herbrandson,	Purdon,	Wallen,
Hill,	Rasmussen,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Gleason,	Lindstrom,	Stafne,
Lerom,	Nierling,	Wood.

Messrs. Lerom, Nierling and Wood being excused.

So the bill was lost.

## SPECIAL ORDERS.

The hour having arrived for the consideration of Senate Bill No. 99 as a Special Order, Mr. Smith by unanimous consent offered the following amendment:

Amend by striking out the words "double chloride of gold cure" wherever they occur in the bill.

Mr. Hodgson moved

The adoption of the amendment.

Mr. Hanna offered a substitute for the amendment, and moved its adoption:

Strike out the words "double chloride of gold cure" where they appear in line 19 of engrossed bill and add after the word "drunkenness" in line 19 the words "designated by a committee of three persons to be appointed by the Governor."

Mr. Hodgson offered the amendment to the substitute motion of Mr. Hanna:

Amend by striking out the words "where they appear" in line 19 and insert in lieu thereof "wherever they appear."

Mr. Hanna accepted the amendment.

The question being upon the adoption of the substitute as amended.

Roll call demanded.

The roll being called, there were ayes 24, nays 35, not voting 3.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hanna,	Simpson,
Colby,	McDonald,	Spangberg,
Cooper,	Murphy,	Stafne,
Dwyer,	Nelson,	Twichell,
Edwards,	Purdon,	Tyler,
Eylofson,	Rinde,	Walker,
Gilbertson,	Roberts,	Wallen,
Gunderson,	Sargent,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Prosser,
Brainard,	Holritz,	Rasmussen,
Brown,	Horgan,	Ray,
Colosky,	Jennings,	Richards,
Cryan,	Kellogg,	Rod,
Flack,	Kroeger,	Sharpe,
Fleming,	Korsmo,	Smith,
Gleason,	Lindstrom,	Svensrud,
Guinan,	Logan,	Swenson,
Hancock,	McLachlan,	Tofsrud,
Herbrandson,	Myers,	Wineman.
Hill,	Porter,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Lerom,	Nierling,	Wood,

Who were excused.

So the substitute motion was lost.

The question recurring on the amendment,

Which motion prevailed, and

The amendment was adopted.

Mr. Hanna moved the adoption of the report of the Committee on Temperance on Senate Bill No. 99, submitted to the House February 20,

Which motion prevailed, and  
The report of the Committee was adopted.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 55, nays 4, not voting 3.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Holritz,	Richards,
Brainard,	Horgan,	Rinde.
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Rod,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Sharpe,
Cryan,	Lindstrom,	Simpson,
Dwyer,	Logan,	Smith,
Edwards,	McLachlan,	Stafne,
Flack,	McDonald,	Svensrud,
Fleming,	Murphy,	Swenson,
Gilbertson,	Myers,	Twitchell,
Guinan,	Nelson,	Tyler,
Gunderson,	Porter,	Walker,
Hancock,	Prosser,	Wallen,
Hanna,	Purdon,	Wineman,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hill,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Eyolfson,	Spangberg,	Tofsrud.
Gleason,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Lerom,	Nierling,	Wood,

Who were excused.

So the bill as amended passed and the title was agreed to.

Mr. Hanna moved

That the vote by which Senate Bill No. 99 was passed be reconsidered, and that the motion to reconsider be laid on the table.

The Speaker announced that he was about to sign Senate Bill No. 50,

A Bill for an act for the consolidation and organization of contiguous unorganized counties.

Also,

Senate Bill No. 65,

A Bill for an act to secure safe keeping of all funds coming into the hands of county treasurers by prescribing and regulating the deposit thereof.

Also,

Senate Bill No. 74,

A Bill for an act to repeal Chapter 172 of the Session Laws of 1890, being an act entitled "an act providing for the purchase and distribution of the remaining reports of the Supreme Court of Dakota Territory."

Also,

Senate Bill No. 103,

A Bill for an act to amend Section 8, Chapter 79 of the Laws of 1891, changing the place of holding district court in Wells county.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 1, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 77,

A Bill for an act to amend Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887.

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 1, 1895. }

MR. SPEAKER:

I have the honor to return to the House a Memorial to Congress to open for settlement that part of the Turtle Mountain timber reservation in North Dakota, lying within the county of Bottineau,

Which the Senate has concurred in.

Also,

I have the honor to transmit herewith  
Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891, being an act entitled "an act for the prevention of prairie fires and to provide against damage done by them, also prescribing the duties of county commissioners in relation thereto,"

Which the Senate has passed, and the favorable consideration of the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

Informal recess.

House reassembled.

THIRD READING OF HOUSE BILLS.

House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 93 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota; to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act,

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Richards,
Blacklock,	Holritz,	Rinde,
Brainard,	Horgan,	Roberts,
Brown,	Jennings,	Rod,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Simpson,
Cryan,	Lindstrom,	Smith,
Dwyer,	Logan,	Spangberg,
Edwards,	McLachlan	Stafne,
Flack,	McDonald.	Svensrud,
Fleming,	Myers,	Swenson,
Gilbertson,	Nelson,	Tofsrud,
Gleason,	Porter,	Twichell,
Guinan,	Prosser,	Walker,
Gunderson,	Purdon,	Wallen,
Hanna,	Rasmussen,	Wineman,
Herbrandson,	Ray,	Mr. Speaker.
Hill,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Eyolfson,	Murphy,	Tyler,
Hancock,	Nierling,	Wood.
Lerom,		

Messrs. Lerom, Nierling and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Rinde moved

That House Bill No. 141 be placed upon its final passage,  
Which motion prevailed.

By unanimous consent Mr. Rinde offered the following amendment:

Add after the word "month" in line 28, Section 3, the words "provided that the provisions of this act shall not apply to present incumbents in office."

Mr. Wallen moved

The adoption of the amendment,  
Which motion prevailed, and  
The amendment was adopted.

The question being upon the final passage of  
House Bill No. 141,

A Bill for an act entitled "an act fixing the salaries of the county auditor, register of deeds and county treasurer, and for the repeal of Sections 1 and 3 of Chapter 52, and Section 1 of Chapter 53 of the Session Laws of 1891," as amended.

The roll being called there were ayes 41, nays 15, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Richards.
Brainard,	Holritz,	Rinde,
Brown,	Kellogg,	Roberts,
Colby,	Kroeger,	Rod,
Cryan,	Korsmo,	Sargent,
Dwyer,	Lindstrom,	Simpson,
Flack,	Logan,	Smith,
Fleming,	Murphy,	Spangberg,
Gilbertson,	Myers,	Stafne,
Guinan,	Nelson,	Twichell,
Gunderson,	Prosser,	Wallen,
Hancock,	Purdon,	Wineman.
Herbrandson,	Rasmussen,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	McLachlan,	Swenson,
Cooper,	McDonald,	Tofsrud,
Gleason,	Porter,	Tyler,
Horgan,	Sharpe,	Walker,
Jennings,	Svensrud,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Hanna,	Nierling,
Eyolfson,	Lerom,	Wood.

Messrs. Lerom, Nierling and Wood being excused.

So the bill as amended passed and the title was agreed to.

Mr. Rinde moved

That the vote by which House Bill No. 141 was passed be reconsidered and that the motion to reconsider be laid upon the table,

Which motion prevailed.

Mr. Wineman moved

That the House concur in the Senate amendments to House Bill No. 1,

Which motion prevailed, and

The Senate amendments were concurred in.

Senate amendments to House Bill No. 1:

In Section 3, line 3, strike out the word "three" and insert "two."

In line 4 strike out "five" and insert "three."

The question being upon the final passage of House Bill No. 1,

A Bill for an act entitled "an act to provide for State depositories and to regulate the deposit of public moneys therein and the interest thereon and prescribing the means thereof," as amended.

The roll being called there were ayes 54, nays none, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Richards,
Blacklock,	Holritz,	Rinde,
Brainard,	Horgan,	Roberts,
Brown,	Jennings,	Rod,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Simpson,
Cryan,	Lindstrom,	Smith,
Dwyer,	Logan,	Spangberg,
Flack,	McDonald,	Stafne,
Fleming,	Murphy,	Svensrud,
Gilbertson,	Myers,	Swenson,
Gleason,	Nelson,	Tofsrud,
Guinan,	Porter,	Twichell,
Gunderson,	Prosser,	Walker,
Hancock,	Purdon,	Wallen,
Herbrandson,	Rasmussen.	Wineman,
Hill,	Ray,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Lerom,	Tyler,
Eyolfson,	McLachlan,	Wood.
Hanna,	Nierling,	

Messrs. Lerom, Nierling and Wood being excused.

So the bill as amended passed and the title was agreed to.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 1, 1895.

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of this State to employ the inmates of the penitentiary in manufacturing of brick and constructing public improvements,

Which the Senate has passed unchanged.

Respectfully,  
FRED FALLEY,  
Secretary.

House Bill No. 118,

A Bill for an act fixing the period of residence of pupils within the school districts of this State to acquire school privileges and regulating their admission to the schools thereof,

Was read the third time.

The Speaker called Mr. Wineman to the Chair.

The question being upon the final passage of House Bill No. 118,

The roll being called there were ayes 11, nays 44, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Colosky,	Korsmo,	Rinde,
Cooper,	Logan,	Stafne,
Gilbertson,	Murphy,	Wallen.
Horgan,	Nelson,	

Those who voted in the negative were:

Armstrong,	Hodgson,	Rod,
Blacklock,	Holritz,	Sargent,
Brainard,	Jennings,	Sharpe,
Brown,	Kellogg,	Simpson,
Colby,	Kroeger,	Smith,
Dwyer,	Lindstrom,	Spangberg,
Eyolfson,	McDonald,	Svensrud,
Flack,	Myers,	Swenson,
Fleming,	Porter,	Tofsrud,
Gleason,	Prosser,	Twichell.
Guinan,	Purdon,	Tyler,
Gunderson,	Rasmussen,	Walker,
Hanna,	Ray,	Wineman,
Hancock,	Richards,	Mr. Speaker.
Herbrandson,	Roberts,	

Absent and not voting:

Messrs—  
Cryan,  
Edwards,  
Hill,

Messrs—  
Lerom,  
McLachlan,

Messrs—  
Nierling,  
Wood.

Messrs, Nierling, Lerom and Wood being excused.

So the bill was lost.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 1, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks,"

Which the Senate has amended as follows:

"SECTION 3. WHEREAS, An emergency exists in that under the present law banks cannot be organized in towns of 500 inhabitants unless with \$5,000 capital; *Therefore*, This act shall be in force and effect on and after its passage and approval,

Also,

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities,

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Tyler moved

That the House concur in the Senate amendments to House Bill No. 104,

Which motion prevailed, and

The Senate amendments were concurred in.

The question being upon the final passage of  
House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks," as amended,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs.

Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs---

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs.

Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

Armstrong,  
Edwards,  
Lerom,

Messrs—

McLachlan,  
Nierling,  
Simpson,

Messrs—

Walker,  
Wood,  
Sargent.

Messrs. Lerom, Neirling and Wood being excused.

So the bill as amended passed and the title was agreed to.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 165,

A Bill to establish a Political Code for the State of North  
Dakota,

For the purpose of inserting therein the amendments made by  
the House as the same appear in the Journal of the fifty-first day,  
together with all amendments passed by the House this day, re-  
spectfully report that they have inserted each amendment and  
the bill is reported back to the House with all the amendments  
inserted.

L. B. HANNA,  
Chairman.

Mr. Hanna moved

That the rules be suspended and that House Bill No. 165 be  
placed upon its final passage,

Which motion prevailed.

Mr. Hodgson, by unanimous consent, offered the further  
amendment:

Strike out Sections 1270, 1271, 1272 and 1273, being all of Article 3 of  
Chapter 13.

Mr. Gill moved  
That the amendment be adopted,  
Which motion prevailed, and  
The amendment was adopted.

Mr. Armstrong requested unanimous consent to offer an amendment.

Objection made.

The question being upon the final passage of  
House Bill No. 165,  
A Bill for an act to establish a Political Code for the State of  
North Dakota, as amended.

The roll being called there were ayes 39, nays 17, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brown,	Holritz,	Sharpe,
Colby,	Kellogg,	Simpson,
Colosky,	Kroeger,	Spangberg,
Cooper,	Lindstrom,	Stafne,
Cryan,	Logan,	Svensrud,
Dwyer,	McDonald,	Swenson,
Eyolfson,	Murphy,	Tofsrud,
Gilbertson,	Nelson,	Twichell,
Gleason,	Porter,	Tyler,
Gunderson,	Purdon,	Walker,
Hancock,	Ray,	Wallen,
Hanna,	Richards,	Wineman,
Hodgson,	Sargent,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Rasmussen,
Blacklock,	Hill,	Rinde,
Brainard,	Horgan,	Roberts,
Flack,	Jennings,	Rod,
Fleming,	Korsmo,	Smith.
Guinan,	Myers,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	McLachlan,	Prosser,
Lerom,	Nierling,	Wood.

Messrs. Lerom, Nierling and Wood being excused.

So the bill as amended passed and the title was agreed to.

Mr. Gill moved  
That the vote by which House Bill No. 165 was passed be re-  
considered, and that the motion to reconsider be laid on the table,  
Which motion prevailed,

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 1, 1895. }

MR. SPEAKER:

I have the honor to transmit the following Concurrent Resolution, by the Fourth Legislative Assembly of the State of North Dakota, "extending a vote of thanks to Hon. Martin Hector for his actions while a member of the State Board of World's Fair Managers,"

Which the Senate has adopted, and the concurrence of the House is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

## MOTIONS AND RESOLUTIONS.

By unanimous consent Mr. Porter moved

That the vote whereby the reading of the minority report of the Committee on Supplies and Expenditures was dispensed with be reconsidered and that the report be read.

Mr. Hodgson moved

That the motion of Mr. Porter be laid upon the table,  
Which motion was lost.

The question recurring on the original motion,

The motion prevailed, and

The minority report of the Committee on Supplies and Expenditures was ordered read.

The reading of the report being in progress.

Mr. Hodgson moved

That the further reading of the report be dispensed with and the report printed in the Journal,

Which motion was lost.

The reading of the report was concluded.

Mr. McLachlan moved

That the minority report of the Committee on Supplies and Expenditures be laid upon the table,

Which motion prevailed.

Mr. Porter moved

That the minority report of the Committee on Supplies and Expenditures be not printed in the Journal.

Roll call demanded.

The roll being called there were ayes 36, nays 18, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	McLachlan,	Sargent,
Colosky,	McDonald,	Sharpe,
Cooper,	Murphy,	Simpson,
Fleming,	Myers,	Spangberg,
Gleason,	Nelson,	Svensrud,
Hancock,	Porter,	Swenson,
Hanna,	Prosser,	Tofsrud,
Herbrandson,	Purdon,	Twichell,
Hill,	Ray,	Tyler,
Kellogg,	Richards,	Walker,
Kroeger,	Roberts,	Wallen,
Korsmo,	Rod,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Gilbertson,	Lindstrom,
Brainard,	Guinan,	Logan,
Colby,	Gunderson,	Rasmussen,
Cryan,	Hodgson,	Rinde,
Eyolfson,	Horgan,	Smith,
Flack,	Jennings,	Stafne.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Holritz,	Wineman,
Dwyer,	Lerom,	Wood.
Edwards,	Nierling,	

Messrs. Lerom, Nierling and Wood being excused.

So the motion prevailed, and  
The report was ordered not printed.

Mr. Sharpe moved

That the majority report of the Committee on Supplies and Expenditures, as printed in the Journal of the House of the fifty-first day, be adopted,

Which motion prevailed.

Mr. Tyler moved

That the Concurrent Resolution extending a vote of thanks to Martin Hector for his actions while a member of the State Board of World's Fair Managers be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

The Committee on Appropriations made the following report

MR. SPEAKER:

Your Committee on Appropriations to whom was referred  
House Bill No. 97,

A Bill for an act to encourage immigration into the State of North Dakota, and to enable the Commissioner of Agriculture and Labor, to carry out the provisions of Section 8, Chapter 46 of the Laws of 1890, and to make appropriation therefor,

Have had the same under consideration and report it back without recommendation.

F. H. PROSSER,  
Chairman.

House Bill N. 97 was referred to General Orders.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 23,

A Bill for an act defining the duties of railways in regard to station houses,

Also,

House Bill No. 35,

A Bill for an act to amend Section 39, Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto,"

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 23,

A Bill for an act defining the duties of railways in regard to station houses.

Also,

House Bill No. 35,

A Bill for an act to amend Section 39, Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Mr. Tyler moved

That the House adjourn to meet tomorrow morning at 10 o'clock,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTY-FOURTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 2, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Messrs. Lerom and Wood, who were excused.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-second day, and find it correct, and recommend that it be approved.

GEORGE HILL,  
Chairman.

Mr. Hanna moved  
 That the report of the Committee on Revision and Correction  
 of the Journal be adopted,  
 Which motion prevailed, and  
 The report of the Committee was adopted, and the Journal of  
 the fifty-second day was approved.

REPORTS OF STANDING COMMITTEES.

The Committee on Taxes and Tax Laws made the following  
 report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred  
 House Bill No. 162,

A Bill for an act to amend Sections 72 of Chapter 132 of Laws  
 of 1890, being an act entitled "an act prescribing the mode of  
 making assessment and the levy and collection of taxes and for  
 other purposes relative thereto,"

Have had the same under consideration and recommend that  
 the same do pass.

House Bill No. 162 was referred to the Committee on En-  
 grossment.

Also,

House Bill No. 160,

A Bill for an act to amend Section 103 of Chapter 132 of the  
 Laws of 1890,

Have had the same under consideration and recommend that  
 the same be amended as follows:

By adding to its title: Being an act entitled "an act prescribing the  
 mode of making assessment, and the levy and collection of taxes, and for  
 other purposes relative thereto,"

And when so amended recommend that the same do pass.

N. SWENSON,  
 Chairman.

House Bill No. 160 was referred to General Orders.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 169,

A Bill for an act to provide for the division of civil townships  
 containing two or more congressional townships by the creation  
 of new townships therein.

Also,

House Bill No. 170,

A Bill for an act fixing the maximum rates that railroad com-

panies may charge for the transportation of grain and lumber within the State of North Dakota.

Also,

House Bill No. 132,

A Bill for an act to appropriate the sum of two hundred dollars to Troop "B," First Battalion Cavalry North Dakota National Guard for balance due for services attending the encampment held at Jamestown, North Dakota, in July, 1894.

Also,

House Bill No 148,

A Bill for an act to amend Section (71) seventy-one of Chapter (118) one hundred and eighteen of the Laws of 1893, being an act to provide for the control and management of university and school lands, and making an appropriation therefor.

Also,

House Bill 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota.

Also,

House Bill No. 123,

A Bill for an act to amend Section 6 of Chapter 110 and defining what is intoxicating liquor.

Also,

House Bill No. 158,

A Bill for an act to constitute certain public officers, fish and game commissioners and protectors, and also to amend Sections 1, 3 and 5 of Chapter 68 of the Session Laws of 1893, being an act entitled "an act constituting the superintendent of irrigation and forestry, the fish and game commissioner, and providing for the stocking and maintaining fish hatcheries, and for the protection of fish in North Dakota streams."

Also,

House Bill No. 111,

A Bill for an act entitled "an act for the preservation, propagation and protection of the game and fish of the State of North Dakota."

Also,

House Bill No. 141,

A Bill for an act entitled "an act fixing the salaries of the county auditor, register of deeds and county treasurer, and for the repeal of Sections 1 and 3 of Chapter 52 and Section 1 of Chapter 53 of the Session Laws of 1891,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

## INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Wineman introduced

House Bill No. 175,

A Bill for an act amending Sections 10 and 15 of Chapter 91 of the Laws of 1890, relating to marriage licenses, Which was read the first and second times, and Referred to the Committee on Judiciary.

## THIRD READING OF HOUSE BILLS.

House Bill No. 133,

A Bill for an act to amend Sections 122 and 161 of Chapter 62, Laws of 1890,

Was read the third time.

By unanimous consent Mr. Svensrud moved

That the following amendment be adopted:

Amend by striking out the word "parents" in line 9 of Section 1 and by inserting in lieu thereof the word "patrons."

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 49, nays none, not voting 13.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Porter,

Messrs—

Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Rinde,  
Roberts,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twitchell,  
Walker,  
Wallen,  
Mr. Speaker.

Absent and not voting:

Messrs—

Guinan,  
Lerom,  
Lindstrom,  
McLachlan,  
Nelson,

Messrs—

Richards,  
Rod,  
Sargent,  
Sharpe,

Messrs—

Simpson,  
Tyler,  
Wineman,  
Wood.

Messrs. Lerom and Wood being excused.

So the bill as amended passed and the title was agreed to.

Mr. Svensrud moved

That the vote by which House Bill No. 133 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

Mr. Hodgson by unanimous consent offered the following resolution, and moved the adoption of the resolution,  
Which motion prevailed, and  
The resolution was adopted.

#### RESOLUTION.

*Be it Resolved by the House of Representatives:*

That the State Auditor be requested to furnish to this House as soon as possible,

1. An estimate of the probable income of the State for the years 1895 and 1896.
2. The amount of the deficit at the commencement of the present year.
3. A statement of the standing fixed appropriations.
4. Any other information that will help the House to determine how much it may appropriate for the various State institutions, and for other purposes, without jeopardizing the credit of the State.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Appropriations made the following report:

**MR. SPEAKER:**

Your Committee on Appropriations to whom was referred  
Senate Bill No. 54,

A Bill for an act providing for an appropriation for the maintenance and improvements of the State Normal School at Mayville,

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

Senate Bill No 54 was referred to its third reading.

Also,

Senate Bill No. 21,

A Bill for an act providing for the appropriation of additional buildings, and for the payment of the contingent expenses of the North Dakota Agricultural College and Experimental Station of Fargo,

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

Senate Bill No. 21 was referred to its third reading.

Also,

Senate Bill No. 25,

A Bill for an act for an appropriation for current and contingent expenses of the Hospital for the Insane at Jamestown,

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

Senate Bill No. 25 was referred to its third reading.

Also,

Senate Bill No. 26,

A Bill for an act providing for an appropriation for the maintenance of the State Normal School at Valley City, North Dakota,

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

Senate Bill No. 26 was referred to its third reading.

Also,

Senate Bill No. 49,

A Bill for an act making an appropriation for maintenance of the State University, and for needed permanent improvements of the State University,

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

Senate Bill No. 49 was referred to its third reading.

Also,

Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current and contingent expenses, furnishing, maintenance and making needed improvements and repairs for the Soldiers' Home at Lisbon,

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 32 was referred to its third reading.

Also,

Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896,

Have had the same under consideration and recommend that the same do not pass.

Senate Bill No. 150 was referred to its third reading.

Also,

Senate Bill No. 29,

A Bill for an act providing for an appropriation for the penitentiary at Bismarck and for making needed permanent improvements thereat,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out the words "forty-six thousand six hundred" in line eleven (11) of the engrossed bill and inserting the words in lieu thereof "fifty thousand," so that it will correspond with the sum appropriated as shown in the authorized statement,

And when so amended recommend that the same do pass.

F. H. PROSSER,  
Chairman.

Mr. Prosser moved

That the report of the Committee on Appropriation in regard to Senate Bill No. 29 be adopted.

Mr. Edwards offered as a substitute motion  
That the bill be referred to General Orders,  
Which substitute motion was lost.

The question being on the original motion to adopt the report of the Committee on Appropriation in regard to Senate Bill No. 29,

Which motion prevailed, and  
The report of the Committee was adopted.

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred  
Senate Bill No. 35,

A Bill for an act providing for an appropriation for the maintenance and the current and contingent expenses of the School for the Deaf of North Dakota, at Devils Lake, for deficiency and for making needed improvements thereat,

Have had the same under consideration and recommend that the same do pass as amended by the Senate.

Senate Bill No. 35 was referred to its third reading.

Also,

A Concurrent Resolution to reimburse messengers of House and Senate,

Have had the same under consideration and recommend that the Substitute Concurrent Resolution accompanying this report be accepted in lieu thereof,

And recommend that the same do pass.

J. H. PROSSER,  
Chairman.

#### SUBSTITUTE CONCURRENT RESOLUTION.

*Be it Resolved by the Fourth Legislative Assembly of the State of North Dakota:*

That there is hereby appropriated out of any money, not otherwise appropriated, the sum of \$20 to O. A. Boynton, messenger of the House, and the sum of \$20 to George Strom, messenger of the Senate, also the sum of \$20 to David Miller, postmaster of the House, and the sum of \$20 to A. A. Hall, postmaster of the Senate, to reimburse said messengers and postmasters for expenses incurred in transmitting House and Senate matter to and from the Capitol, postoffice and printing office.

Mr. Svensrud moved

That the report of the Committee be adopted.

Mr. Hanna moved

That the report of the Committee be laid upon the table,

Which motion prevailed, and

The report of the Committee was laid upon the table.

THIRD READING OF HOUSE BILLS.

House Bill No. 155,

A Bill for an act to locate and provide for the government of a State blind asylum at Bathgate, Pembina county, N. D.,

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 51, nays 2, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Prosser,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Wineman,  
Mr. Speaker.

Messrs. Dwyer and Walker voting in the negative.

Absent and not voting:

Messrs—

Guinan,  
Lerom,  
Lindstrom,

Messrs—

Nelson,  
Porter,  
Sargent,

Messrs—

Sharpe,  
Wallen,  
Wood.

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Armstrong moved

That the vote by which House Bill No. 155 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 131,

A Bill for an act entitled "an act to fix the compensation of

the clerks of the district courts and provide a fund to reimburse the county for the same,"

Was placed upon its third reading.

Mr. Wineman moved

That the further consideration of House Bill No. 131 be indefinitely postponed,

Which motion prevailed, and

The further consideration of House Bill No. 131 was indefinitely postponed.

House Bill No. 9,

A Bill for an act entitled "an act to provide for the better improvement of public highways,"

Was read the third time.

The question being upon the final passage of the bill.

House Bill No. 9 was ordered returned to the Committee on Engrossment for correction.

House Bill No. 111,

A Bill for an act entitled "an act for the preservation, propagation and protection of the game and fish of the State of North Dakota,"

Was placed upon its third reading.

Mr. Twichell moved

That the further consideration of House Bill No. 111 be indefinitely postponed,

Which motion prevailed.

House Bill No. 114,

A Bill for an act entitled "an act to provide for the taxation of property situated in the unorganized counties of the State,"

Was read the third time.

The question being upon the final passage of the bill.

The roll being called there were ayes 53, nays 1, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,

Messrs—

Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,

Messrs—	Messrs—	Messrs—
Gleason,	Nierling,	Walker,
Gunderson,	Porter,	Wineman,
Hancock,	Prosser,	Mr. Speaker.
Hanna,	Purdon,	

Mr. Simpson voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Guinan,	Nelson,	Wallen,
Lerom,	Sargent,	Wood.
Lindstrom,	Sharpe,	

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Murphy moved

That the vote by which House Bill No. 114 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

House Bill No. 121,

A Bill for an act entitled "an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled 'an act to provide a Military Code for the State of North Dakota,'"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 52, nays none, not voting 10,

Those who voted in the affirmative were:

Messrs—	Messrs.	Messrs—
Armstrong,	Herbrandson,	Purdon,
Blacklock,	Hill,	Rasmussen,
Brainard,	Hodgson,	Ray,
Brown,	Holritz,	Richards,
Colby,	Horgan,	Rinde,
Colosky,	Jennings,	Roberts,
Cooper,	Kellogg,	Rod,
Oryan,	Kroeger,	Smith,
Dwyer,	Korsmo,	Spangberg,
Edwards,	Logan,	Stafne,
Eyolfson,	McLachlan,	Svensrud,
Flack,	McDonald,	Swenson,
Fleming,	Murphy,	Twichell,
Gilbertson,	Myers,	Tyler,
Gleason,	Nierling,	Walker,
Gunderson,	Porter,	Wineman,
Hancock,	Prosser,	Mr. Speaker.
Hanna,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Guinan,	Sargent,	Tofsrud,
Lerom,	Sharpe,	Wallen,
Lindstrom,	Simpson,	Wood.
Nelson,		

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. McLachlin moved

That the vote by which House Bill No. 121 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 74,

A Bill for an act to cure defective acknowledgments,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 74,

A Bill for an act to cure defective acknowledgments.

House Bill No. 87,

A Bill for an act entitled "an act relating to steam threshing machines, saw mills and traction engines,"

Was read the third time.

The Speaker called Mr. Edwards to the chair.

The question being upon the final passage of the bill,

The roll being called there were ayes 38, nays 14, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
McLachlan,  
Murphy,  
Myers,

Messrs—

Nierling,  
Prosser,  
Richards,  
Roberts,  
Rod,  
Smith,  
Spangberg,  
Swenson,  
Twichell,  
Tyler,  
Wallen,  
Wineman,

Those who voted in the negative were:

Messrs—

Cryan,  
Edwards,  
Gilbertson,  
Gunderson,  
McDonald,

Messrs—

Porter,  
Purdon,  
Rasmussen,  
Ray,  
Rinde,

Messrs—

Stafne,  
Svensrud,  
Walker,  
Mr. Speaker,

Absent and not voting:

Messrs—

Guinan,  
Lerom,  
Lindstrom,  
Logan.

Messrs—

Nelson,  
Sargent,  
Sharpe,

Messrs—

Simpson.  
Tofsrud,  
Wood,

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 87 was passed be reconsidered, and that the motion to reconsider be laid on the table.  
Which motion prevailed.

Mr. Twichell requested that the courtesies of the floor be extended to Prof. J. F. Winings, of Mapleton.

Mr. Fleming requested that the courtesies of the floor be extended to F. H. Sprague, of Grafton.

There being no objections, the courtesies of the floor were so extended.

Mr. McDonald moved

That the House take a recess until 2 o'clock this afternoon.

Mr. Wineman moved

An amendment that the House take a recess until 1 o'clock this afternoon,

Which motion prevailed, and  
The amendment was adopted.

The question recurring on the original motion as amended.

The motion prevailed, and

The House took a recess.

House reassembled.

Mr. Hodgson moved

That the House take up the fourteenth order of business,  
Which motion prevailed.

#### FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891, being an act entitled "an act for the prevention of prairie fires and to provide against damages done by them;" also prescribing duties of county commissioners in relation thereto,

Was read the first and second times, and

Referred to the Committee on Counties and County Boundaries.

Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses

necessary incident to the eradication of the Russian thistle and French weeds,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 132,

A Bill for an act to provide free text books for use in the public schools of this State,

Was read the first and second times, and  
Referred to the Committee on Education.

Substitute for Senate Bill No. 6,

A Bill for an act entitled "an act to provide for the inspection of steam boilers and licensing of steam engineers,"

Was read the first and second times, and  
Referred to the Committee on State Affairs.

Senate Bill No. 77,

A Bill being an act to amend Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887,

Was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 136,

A Bill for an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 136,

A Bill for an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received, and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 169,

A Bill for an act to provide for the division of civil town-

ships containing two or more congressional townships, by the creation of new townships therein,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 48, nays none, not voting 14.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson.

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

Colby,  
Colosky,  
Cryan,  
Guinan,  
Kroeger,

Messrs—

Lerom,  
Prosser,  
Purdon,  
Roberts,  
Rod,

Messrs—

Sargent,  
Sharpe,  
Twichell,  
Wood.

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Tyler moved

That the vote by which House Bill No. 169 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

House Bill No. 116,

A Bill for an act entitled "an act to amend Section 2, Article 13 of Chapter 73, Laws of 1887, being Section 945, Compiled Laws of 1887, and to amend Section 3, Article 13 of Chapter 73, Laws of 1887, being Section 946, Compiled Laws of 1887,"

Was read the third time.

The question being on the final passage of the bill,

The roll being called. there were ayes 42, nays 4, not voting 16.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Herbrandson,  
Hill,  
Holritz,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nel-son,  
Nierling,  
Porter,

Messrs—

Ray,  
Richards,  
Roberts,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wineman,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Hodgson,  
Rasmussen,

Messrs—

Rinde,

Messrs—

Twichell.

Absent and not voting:

Messrs—

Colby,  
Colosky,  
Cryan,  
Flack,  
Guinan,  
Horgan,

Messrs—

Jennings,  
Lerom,  
Murphy,  
Prosser,  
Purdon,

Messrs—

Rod,  
Sargent,  
Sharpe,  
Wallen,  
Wood.

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Tyler moved

That the vote by which House Bill No. 116 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 154,

A Bill for an act to amend an act entitled "an act to protect stock raisers and promote the breeding of improved live stock within the State of North Dakota, and to provide a lien for the service of sires, being Chapter 117 of the Laws of 1891,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 50, nays none, not voting 12.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,

Messrs—

Hill,  
Hodgson,  
Horgan,  
Jennings,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,

Messrs—	Messrs—	Messrs—
Colby,	Kellogg,	Sargent,
Cooper,	Kroeger,	Simpson,
Dwyer,	Korsmo,	Smith,
Edwards,	Lindstrom,	Spangberg,
Eyolfson,	Logan,	Stafne,
Flack,	McDonald,	Swenson,
Fleming,	Murphy,	Tofsrud,
Gilbertson,	Myers,	Tyler,
Gleason,	Nelson,	Walker,
Gunderson,	Nierling,	Wallen,
Hancock,	Porter,	Wineman,
Hanna,	Rasmussen,	Mr. Speaker.
Herbrandson,	Ray,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colosky,	Lerom,	Sharpe,
Cryan,	McLachlan,	Svensrud,
Guinan,	Prosser,	Twichell,
Holritz,	Purdon,	Wood.

Messrs. Lerom and Wood being excused.

So the bill passed.

The question being on the title of the bill.

Mr. Armstrong moved

To amend title of House Bill No. 154 to read as follows:

#### A BILL.

For an Act to Amend Sections One (1), Two (2) and Three (3) of Chapter 117, Laws of 1891, Being an Act to Protect Stock Raisers and Promote the Breeding of Improved Live Stock Within the State of North Dakota, and to Provide a Lien for the Services of Sires,

Which motion prevailed, and

The amendment to the title was adopted, and

The title as amended was agreed to.

Mr. Hanna moved

That the vote by which Senate Bill No. 154 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Substitute for House Bill No. 86,

A Bill for an act to regulate the practice of dentistry in the State of North Dakota, and to repeal Chapter 58, Session Laws of 1890,

Was placed upon its third reading.

Mr. McLachlan moved

That the further consideration of the Substitute for House Bill No. 86 be indefinitely postponed,

Which motion prevailed, and

The further consideration of Substitute for House Bill No. 86 was indefinitely postponed.

REPORTS OF STANDING COMMITTEES.

The Committee on Municipal Corporations made the following report:

MR. SPEAKER:

Your Committee on Municipal Corporations to whom was referred

Senate Bill No. 136,

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws, Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 136 was referred to its third reading.

Also,

Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, 21, 22 and 23 of Article 15 of Chapter 73 of the Laws of 1887,

Have had the same under consideration and recommend that the same do pass,

Senate Bill No. 134 was referred to its third reading.

Also,

Senate Bill No. 131,

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act to amend Articles 4, 9 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the incorporation of cities, and to repeal Section 1 of Chapter 97 of the Laws of 1890 in so far as the same relates to cities,"

Have had the same under consideration and recommend that the same do pass.

JAMES PURDON,  
Chairman.

Senate Bill No. 131 was referred to its third reading.

Mr. Edwards requested that the courtesies of the floor be extended to Wm. Hart, of Fargo, and to J. M. Edgerly, of Bismarck.

There being no objection, the courtesies of the floor were so extended.

THIRD READING OF HOUSE BILLS.

House Bill No. 145,

A Bill for an act entitled "an act to establish a garnishment law for the State of North Dakota,"

Was read the third time.

The Speaker called Mr. Sharpe to the Chair.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 32, nays 28, not voting 2.  
 Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hanna,	Purser,
Blacklock,	Hill,	Purdon,
Brainard,	Kroeger,	Roberts,
Brown,	McLachlan,	Sargent,
Colosky,	McDonald,	Sharpe,
Edwards,	Murphy,	Simpson,
Fleming,	Myers,	Stafne,
Gleason,	Nelson,	Tyler,
Guinan,	Nierling,	Wallen.
Gunderson,	Porter,	Wineman.
Hancock,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colby,	Horgan,	Rinde,
Cooper,	Jennings,	Rod,
Cryan,	Kellogg,	Smith,
Dwyer,	Korsmo,	Spangberg,
Eyolfson,	Lindstrom,	Svensrud,
Flack,	Logan,	Tofsrud,
Gilbertson,	Rasmussen,	Twichell,
Herbrandson,	Ray,	Walker,
Hodgson,	Richards,	Mr. Speaker.

Absent and not voting, Messrs. Lerom and Wood, who were excused.

So the bill passed and the title was agreed to.

Mr. Hanna moved

That the vote by which House Bill No. 145 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
 Which motion prevailed,

Mr. Smith appealed from the decision of the Chair on the vote by which the motion of Mr. Hanna prevailed.

The question being, shall the decision of the Speaker be sustained,

The roll being called there were ayes 32, nays 27, not voting 3.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Purdon,
Blacklock,	Holritz,	Roberts,
Brown,	Horgan,	Sargent,
Colosky,	Kroeger,	Sharpe,
Edwards,	McLachlan,	Simpson,
Fleming,	McDonald,	Stafne,
Gleason,	Murphy,	Tyler,
Guinan,	Myers,	Wallen,
Gunderson,	Nelson,	Wineman,
Hancock,	Nierling,	Mr. Speaker.
Hanna,	Porter,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Hodgson,	Rinde,
Colby,	Jennings,	Rod,
Cooper,	Kellogg,	Smith,
Cryan,	Korsmo,	Spangberg,
Dwyer,	Lindstrom,	Svensrud,
Eyolfson,	Logan,	Swenson,
Flack,	Rasmussen,	Tofsrud,
Gilbertson,	Ray,	Twichell,
Herbrandson,	Richards,	Walker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Lerom,	Prosser,	Wood.

Messrs. Lerom and Wood being excused.

So the decision of the Speaker was sustained.

Mr. Roberts requested that the courtesies of the floor be extended to E. S. Owen and A. G. Clark, of Kidder county.

There being no objection, the courtesies of the floor were so extended.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 2, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections.

Also,

Senate Bill No. 84.

A Bill for an act amending Section 7, Chapter 127, Laws of 1893, entitled "an act to establish weather and crop service; for the collection and dissemination of crop statistics and meteorological data."

Which the Senate has passed, and the favorable consideration of the House is respectfully requested.

Also,

The Senate has concurred in the House amendments to Senate Bill No. 99.

Also,

The Senate has declined to concur in the House amendments to Senate Bill No. 108, and would recommend that a Conference Committee be appointed to consider the same.

The Senate has named Senators Arnold and Parkins as the Senate members of such Committee.

Respectfully,

FRED FALLEY,  
Secretary.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 2, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 150,

A Bill for an act to establish a Code of Criminal Procedure for the State of North Dakota.

Also,

House Bill No. 109,

A Bill for an act to establish a Code of Civil Procedure for the State of North Dakota.

Also,

House Bill No. 135,

A Bill for an act to establish a Penal Code for the State of North Dakota.

Respectfully,

ROGER ALLIN,  
Governor.

Mr. Wineman moved

That the House comply with the request of the Senate in relation to Senate Bill No. 108.

Which motion prevailed.

SPECIAL ORDERS.

The hour having arrived for the consideration of House Bill No. 79,

A Bill for an act entitled "an act to regulate common carriers; to define the duties of Commissioners of Railroads, bridges, corporations and ferry companies within this State."

As a Special Order.

The question being upon the final passage of the bill.

Mr. Wineman moved

That the further consideration of House Bill No. 79 be indefinitely postponed.

Roll call demanded.

The roll being called, there were ayes 32, nays 26, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hanna,	Porter,
Blacklock,	Herbrandson,	Purdon,
Brown,	Hill,	Richards,
Colosky,	Holritz,	Roberts,
Edwards,	Horgan,	Sargent,
Eylofson,	Jennings,	Simpson,
Fleming,	Kroeger,	Spangberg,
Gleason,	McLachlan,	Twichell,
Guinan,	McDonald,	Tyler,
Gunderson,	Murphy,	Wineman.
Hancock,	Nierling,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Smith,
Colby,	Lindstrom,	Stafne,
Cooper,	Logan,	Svensrud,
Cryan,	Myers,	Swenson,
Dwyer,	Nelson,	Tofsrud,
Flack,	Rasmussen,	Walker,
Gilbertson,	Ray,	Wallen,
Hodgson,	Rinde,	Mr. Speaker.
Kellogg,	Sharpe,	

Mr. Rod announced that he was paired with Mr. Wood.

Absent and not voting, Messrs. Lerom and Wood, who were excused.

So the motion prevailed, and

The further consideration of House Bill No. 79 was indefinitely postponed.

The Speaker resumed the Chair.

Mr. Sharpe requested that the courtesies of the floor be extended to F. Buechler, of LaMoure county.

There being no objection, the courtesies of the floor were so extended.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 2, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

House Bill No. 64,

A Bill for an act entitled "an act compelling railroad companies to provide a certain number of men to man trains and prescribing penalties for neglect thereof,"

Which the Senate has amended as follows:

To amend in the third line to strike out the words "five hundred" and insert "fifty" in lieu thereof,

And passed as amended.

Also,

House Bill No. 112,

A Bill for an act entitled "an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away, or exposing to view, or showing, or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings, or papers, or any article, or instrument of immoral use, and prescribing the punishment therefor."

Also,

House Bill No. 65,

A Bill for an act entitled "an act to provide for the establishment, construction and maintenance of drains in this State,

Which the Senate has passed unchanged.

Respectfully,  
FRED FALLEY,  
Secretary.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 120,

A Bill for an act to authorize and regulate within this State the business of commercial agencies, credit companies and guarantee associations,

Was read the third time.

Mr. Wineman presented the following communication and requested that the communication be read:

GRAND FORKS, N. D., Feb. 19, 1895.

*Hon. J. B. Wineman, Bismarck, N. D.:*

DEAR SIR: I wrote to the manager of Dunn's Agency for particular information in regard to the bill that was pending at Bismarck, and enclose his reply, as it will perhaps give you some information in regard to its objectionable features. It certainly seems to me that the best interests of this State demand that the bill be killed in short order.

Yours truly,  
GEO. B. CLIFFORD.

ST. PAUL, Minn., Feb. 16, 1895.

*Geo. B. Clifford, Esq., Grand Forks, N. D.*

DEAR SIR:—Replying to your valued favor of 11th inst., requesting a statement of our objections to the mercantile agency bill, etc.

In the first place there is not even a remote connection between our business and that of guarantee associations. The nature of our business is such that we are not acting as trustees for any one, have no one's funds in our possession and do not seek such responsibility. Our relations with the people of North Dakota are such that the State might exact a statement of the

financial condition of every wholesale merchant in St. Paul or Minneapolis with as much propriety as to require us to furnish a statement of our financial condition. There is nothing in the nature of our business that would render it necessary for any one in North Dakota to take any chances on our responsibility. We therefore consider that clause of the bill without sense or meaning, only as it applies to credit guarantee companies.

As to that part of Section 2, requiring statement of our income and expense accounts, we would very cheerfully comply, and for your information will state here, that our average gross receipts from all sources in North Dakota were, in 1894, \$662.50. Our expenses in reporting the State for the same period was \$6,800. Our income from the State for the past four or five years has averaged about \$5,00 to \$700, and expenses of reporting the State usually range from \$6,000 to \$8000. It may to those unfamiliar with the nature of our business appear inconsistent to spend so much money where the returns are so small. So far as that is concerned, if our income in the State did not exceed \$10, we would feel it incumbent upon us to report the State fully and carefully regardless of the expense, in order that our work as a whole would be complete. Our sources of revenue as you may readily understand are drawn from the large cities and almost entirely from wholesale merchants, manufacturers and bankers.

The two per cent tax clause in the bill would reward the State in the munificent sum of \$13.25 on our business for 1894. If the maker or drawer of the bill had made it so as to read two per cent on the gross amount expended by agencies in the State there would be some sense in it. You can readily see that the tax feature of the bill is simply a cover for Section 4, which is practically prohibitory and under its operations we would feel compelled to withdraw from the State entirely, as we could not under any circumstances limit our sources of information simply to such individuals as would act under a certificate of authority. In order that the best results might be attained in the way of arriving at correct and reliable information, our sources of information cannot be restricted in [the manner provided by Section 4.

It is a fact well known to business men generally and all dispensers of credit, that our business is strictly legitimate and our highest aim and ambition is to reach the greatest possible degree of perfection in making our reports correct, and any attempt on the part of the Legislature of your State to undertake to regulate our business as indicated by the bill leaves no alternative but to retire from the State. In this event the credit of the merchants throughout the State, we can safely assure you, will be cut off. The conditions already existing are not any too favorable for your merchants to obtain the credit necessary to carry them over from year to year. Cut off the sources of information through which the outside world gauge their claims for credit and you will have a state of affairs that will be serious indeed, to both the business and banking interests.

We take no chances in stating that the importance of this bill is far greater than is generally understood, and while some of the provisions of it are aimed at agencies, they will not by any means be the sufferers. Ask any respectable wholesale merchant in the United States his opinion of Section 4.

Truly yours,  
R. G. DUN & Co.

JNO. J. CORCORAN, Manager.

The question being upon the final passage of House Bill No. 120,

The roll being called there were ayes 41, nays 18, not voting 3.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,  
 Brown,  
 Colosky,  
 Dwyer,  
 Edwards,  
 Eyolfson,  
 Flack,  
 Fleming,  
 Gilbertson,  
 Guinan,  
 Gunderson,  
 Hanna,

Messrs—  
 Herbrandson,  
 Hill,  
 Hodgson,  
 Holritz,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Logan,  
 McLachlan,  
 McDonald,  
 Murphy,  
 Myers,

Messrs—  
 Nierling,  
 Rasmussen,  
 Richards,  
 Roberts,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Stafne,  
 Twichell,  
 Wallen,  
 Mr. Speaker.

Those who voted in the negative were:

Messrs—  
 Colby,  
 Cooper,  
 Cryan,  
 Gleason,  
 Hancock,  
 Lindstrom,

Messrs—  
 Nelson,  
 Porter,  
 Prosser,  
 Purdon,  
 Ray,  
 Rinde,

Messrs—  
 Svensrud,  
 Swenson,  
 Tofsrud,  
 Tyler,  
 Walker,  
 Wineman.

Absent and not voting:

Messrs—  
 Lerom,

Messrs—  
 Rod,

Messrs—  
 Wood.

Messrs. Lerom, Rod and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Richards moved

That the vote by which House Bill No. 120 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
 Which motion prevailed.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
 March 2, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
 House Bill No. 14.

A Bill for an act entitled "an act to regulate the practice of  
 veterinary science in the State of North Dakota,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
 Secretary.

The Speaker announced as House members of the Committee

of Conference in regard to Senate Bill No. 108, Messrs. Tyler, Guinan and Myers.

Mr. Guinan requested that the courtesies of the floor be extended to Mr. John H. Anderson, of Pembina county.

There being no objection, the courtesies of the floor were so extended.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of this State to employ the inmates of the penitentiary in manufacturing of brick and constructing public improvements, and appointing a board to supervise the same and authorizing expenditures,

Ann find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign  
House Bill No. 149,

A Bill for an act authorizing the board of trustees of the penitentiary of the State to employ the inmates of the penitentiary in manufacturing brick and constructing public improvements and appointing a board to supervise the same and authorizing expenditures.

#### MOTIONS AND RESOLUTIONS.

Mr. Prosser offered the following Concurrent Resolution:

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That paragraph 162, Article 9 of the Constitution of the State of North Dakota be amended to read as follows:

SECTION 162. The moneys of the permanent school fund and other educational funds shall be invested only in government or State bonds, or bonds issued by a school or municipal corporation, or county within this State.

Mr. Hanna moved

That the Concurrent Resolution be laid on the table.

Roll call demanded.

The roll being called there were ayes 43, nays 12, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,

Messrs—

Herbrandson,  
Holritz,  
Horgan,

Messrs—

Purdon,  
Rasmussen,  
Rinde,

Messrs—	Messrs—	Messrs—
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Sargent,
Cooper,	Kroeger,	Sharpe,
Cryan,	Korsmo,	Smith,
Edwards,	Lindstrom	Spangberg,
Eyolfson,	Logan,	Stafne,
Flack,	McLachlan,	Swenson,
Fleming,	Murphy,	Twichell,
Gleason,	Myers,	Tyler,
Guinan,	Nierling,	Walker,
Gunderson,	Porter,	Mr. Speaker.
Hanna,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	Hodgson,	Ray,
Gilbertson,	McDonald,	Svensrud,
Hancock,	Nelson,	Wallen,
Hill,	Prosser,	Wineman.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Dwyer,	Rod,	Tofsrud,
Lerom,	Simpson,	Wood.
Richards,		

Messrs. Lerom and Wood being excused.

Which motion prevailed, and

The Concurrent Resolution was laid on the table.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 1,

A Bill for an act entitled "an act to provide for State depositories and to regulate the deposit of public moneys therein and the interest thereon, and prescribing the means thereof."

Also,

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 1,

A Bill for an act entitled "an act to provide for State depositories and to regulate the deposit of public moneys therein and the interest thereon and prescribing the means thereof," as amended.

Also,

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities.

SPECIAL ORDERS.

The hour having arrived for the consideration as a special order of

Senate Bill No. 125, 3:30 o'clock p. m.

A Bill for an act to provide for the extermination of Russian thistles and French weeds.

Mr. McLachlan moved

That the House do now resolve itself into a Committee of the Whole to consider Senate Bill No. 125,

The motion withdrawn.

Mr. Twichell moved

That Mr. Simpson be excused for one half hour,

Which motion was lost.

Senate Bill No. 125 was placed upon its third reading.

The Speaker called Mr. Svensrud to the chair.

The third reading of Senate Bill No. 125 was concluded.

Mr. Brainard presented the following communication and requested that it be read:

DUANE, Traill County, N. D., March 1, 1895.

*Hon. A. H. Laughlin, Commissioner of Agriculture and Labor, Bismarck, N. D.*

DEAR SIR:—Replying to your favor of the 26th ult., relative to the French weed: My investigation into the history of this plant leads me to believe that it was cultivated by the ancient Egyptians and used by them for food. France was the next country in which it made its appearance, but then as a weed.

It was brought to this country from France by the missionaries who settled along the shores of the Great Lakes, the St. Lawrence river, but especially along the shores of Lake Huron, and by the French settlers following in the wake of these missionaries and becoming Hudson Bay Company's employes, the weed was spread over the country. Around the old Hudson Bay posts, Abercrombie, Georgetown, Caledonia, Grand Forks, Drayton and Pembina it is plentiful.

Eventually it will cover the whole Red River valley. An experience of mine with the weed may give you an idea of its hardiness and the difficulty of exterminating it.

In 1893 I bought a piece of land, a part of which was covered with the weed. I plowed it three times that year, and in the spring of 1894 seeded it to wheat. It ran out the wheat and I plowed it under, wheat and all, and three times after that, making seven times that the land was plowed, and each plowing being an absolute necessity, the weed being too thick to pull. Think now I have it subdued.

This will show you the amount of work necessary to exterminate the pest

when once it gains a foothold in the rich Red River valley soil, which seems peculiarly well adapted to the growth and propagation of the plant. Continual plowing is the only way I see to get rid of it. Do not give it a chance to go to seed, and when all the seeds in the ground have sprouted and the plants have been destroyed you are rid of the weed.

I consider this weed far more dangerous to this section than the Russian thistle. It is growing and green with the thermometer forty below zero. It has different names in different localities. In Pembina county it is popularly known as "French weed." Around Caledonia as "Sargent weed." Near Georgetown it is called "wild leek." Around Mapleton, in Cass county, it is very thick and is most improperly called "shepherd's purse." The correct name is "penny cress." It is a member of the mustard family. Its seeds have a sharp and pungent taste. The plant will have flowers and matured seeds at the same time. The flowers are small and white. The pod containing the seeds is about the shape and size of an old fashioned three cent piece. The plant will mature from the seeds five times during the season.

I have no cuts nor illustrations of the plant, but trust that what information I have been able to give, may be of some service, I am

Yours very truly,

H. D. HURLEY.

Mr. Twichell asked unanimous consent to offer an amendment.

Objection made.

Mr. Twichell asked unanimous consent to offer another amendment.

Objection made.

Mr. Horgan requested unanimous consent to offer an amendment.

Objection made.

The question being upon the final passage of the bill,

The roll being called there were ayes 46, nays 10, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Rinde,
Brainard,	Jennings,	Roberts,
Brown,	Kellogg,	Sargent,
Colby,	Korsmo,	Sharpe,
Cooper,	Lindstrom,	Simpson,
Cryan,	Logan,	Smith,
Dwyer,	McLachlan,	Spangberg,
Edwards,	McDonald,	Stafne,
Flack,	Myers,	Svensrud,
Gilbertson,	Nelson,	Swenson,
Gleason,	Porter,	Tofsrud,
Guinan,	Prosser,	Twichell,
Gunderson,	Purdon,	Tyler,
Hancock,	Rasmussen,	Walker,
Hanna,	Richards,	Mr. Speaker.
Hodgson,		

Those who voted in the negative were:

Messrs—  
Blacklock,  
Colosky,  
Eyolfson,  
Fleming,

Messrs—  
Herbrandson,  
Hill,  
Holritz,

Messrs—  
Kroeger,  
Ray,  
Wallen.

Absent and not voting:

Messrs—  
Lerom,  
Murphy,

Messrs—  
Nierling,  
Rod,

Messrs—  
Wineman,  
Wood.

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Svensrud moved

That the vote by which Senate Bill No. 125 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

#### INTRODUCTION OF BILLS AND MEMORIALS.

By unanimous consent Mr. Hancock introduced House Bill No. 176,

A Bill for an act entitled "an act establishing the maximum rates of freight of the first, second, third and fourth classes, which common carriers may charge and receive for the transportation thereof between points within the State of North Dakota,"

Which was read the first and second times, and

Referred to the Committee on Railroads.

The Speaker announced that he was about to sign

Senate Bill No. 79,

A Bill for an act defining the practice in county courts having increased jurisdiction, fixing the term of court, compensation of judges and clerks and their duties.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER. }  
March 2, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 149,

A Bill for an act to provide for the protection of planted fish in the waters of North Dakota.

Also,

Senate Bill No. 144, Substitute for Senate Bill No. 57,

A Bill for an act to amend Section 37 of Chapter 62 of the Session Laws of 1890, State of North Dakota, as amended by

Section 8, Chapter 56, of the Laws of 1891, State of North Dakota.

Also,  
Senate Bill No. 127,

A Bill for an act to amend Section 1 of Chapter 55 of the Session Laws of 1891, relating to cruelty to animals.

Also,  
Senate Bill No. 158,

A Bill for an act to suspend Sections 20, 21, 37, 40 and 60 of Chapter 86, Laws of 1891, being an act to provide for a Military Code for the State of North Dakota,

Which the Senate has passed, and favorable consideration thereof is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

#### MOTIONS AND RESOLUTIONS.

By unanimous consent Mr. Prosser moved that the House concur in the Senate amendments to House Bill No. 64,

Which motion prevailed, and  
The Senate amendments were adopted.

The question being on the final passage of the bill, as amended

The roll being called there were ayes 54, nays 1, not voting 7.

Those who voted in the affirmative were:

Messrs--	Messrs--	Messrs--
Armstrong,	Herbrandson,	Prosser,
Blacklock,	Hill,	Purdon,
Brainard,	Hodgson,	Ray,
Brown,	Holritz,	Richards,
Colosky,	Horgan,	Rinde,
Cooper,	Jennings,	Roberts,
Cryan,	Kellogg,	Sargent,
Dwyer,	Kroeger,	Sharpe,
Edwards,	Korsmo,	Simpson,
Eyolfson,	Lindstrom,	Smith,
Flack,	Logan,	Svensrud,
Fleming,	McLachlan	Swenson,
Gilbertson,	McDonald.	Tofsrud,
Gleason,	Murphy,	Twichell,
Guinan,	Myers,	Tyler,
Gunderson,	Nelson,	Walker,
Hancock,	Ni-rling,	Wallen,
Hanna,	Porter,	Mr. Speaker.

Mr. Rasmussen voting in the negative.

Absent and not voting:

Messrs—  
Lerom,  
Colby,  
Rod,

Messrs—  
Spangberg,  
Stafne,

Messrs—  
Wineman,  
Wood.

Messrs. Lerom and Wood being excused.

So the bill as amended passed and the title was agreed to.

Mr. Svensrud moved

That House Bill No. 3 and Senate Bill No. 16, also House Bill No. 166 and House Bill No. 16 and House Bill No. 129 and House Bill No. 159 be taken from General Orders and placed upon their third reading,

Which motion prevailed.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 168.

A Bill for an act to define the terms of office of State officers in the North Dakota National Guard, and to provide for their appointment,

Was read the third time.

Mr. Twichell moved

That House Bill No. 168 be referred to the Attorney General and that he be requested to report by Monday morning as to its constitutionality,

Which motion prevailed, and

House Bill No. 168 was so referred.

House Bill No. 68,

A Bill for an act to provide for the establishment and government of North Dakota School of Forestry, and making appropriations therefor,

Was read the third time.

Mr. Svensrud requested unanimous consent to offer amendments.

Objection made.

Mr. Svensrud moved

That the consideration of House Bill No. 68 be made a special order for Monday next at 3 o'clock p. m.,

Which motion prevailed.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Temperance made the following report:

MR. SPEAKER:

Your Committee on Temperance to whom was referred  
Substitute for House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110, of the Session Laws of 1890, entitled "an act to prescribe penalties for

the unlawful manufacture, sale, barter and giving away of such intoxicating liquors for medicinal, scientific and mechanical purposes."

Have had the amendments passed by the Senate under consideration and recommend that the same be concurred in.

E. C. SARGENT,  
Chairman.

Mr. Horgan moved

That the report of the Committee on Temperance be adopted,  
Which motion prevailed, and

The report of the Committee was adopted, and

The Senate amendments to Substitute for House Bill No. 46 were concurred in.

The question being upon the final passage of Substitute for House Bill No. 46, as amended.

The roll being called there were ayes 56, nays none, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Rasmussen.
Blacklock,	Hill,	Ray,
Brainard,	Hodgson,	Richards,
Brown,	Holritz,	Rinde,
Colby,	Horgan.	Sargent,
Colosky,	Jennings,	Sharpe,
Cooper,	Kellogg,	Simpson,
Cryan,	Kroeger,	Smith,
Dwyer,	Korsmo,	Spangberg,
Edwards,	Lindstrom,	Stafne,
Eyolfson,	Logan,	Swenson,
Flack,	McLachlan,	Tofsrud,
Fleming,	McDonald,	Twichell,
Gilbertson,	Myers,	Tyler,
Gleason,	Nelson,	Walker,
Guinan,	Nierling,	Wallen,
Gunderson,	Porter,	Wineman,
Hancock,	Prosser,	Mr. Speaker.
Hanna,	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Lerom,	Roberts,	Svensrud,
Murphy,	Rod,	Wood.

Messrs. Lerom and Wood being excused.

So the bill as amended passed and the title was agreed to.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Jour-

nal respectfully report that they have carefully examined the Journal of the fifty-third day and find it correct, and recommend that the Journal of the fifty-third day be approved.

GEO. HILL,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on Revision and Correction of the Journal be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and

The Journal of the fifty-third day was approved.

Mr. Hodgson moved

That the vote by which House Bill No. 68 was made a Special Order be reconsidered,

Which motion prevailed.

Mr. Svensrud moved

That House Bill No. 68 be recommitted to the Committee on State Affairs,

Which motion prevailed, and

House Bill No. 68 was recommitted to the Committee on State Affairs.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 158,

A Bill for an act to constitute certain public officers, fish and game commissioners and protectors; and also to amend Sections 1, 3, and 5 of Chapter 68 of the Session Laws of 1893, being an act entitled "an act constituting the superintendent of irrigation and forestry the fish and game commissioner, and providing for the stocking and maintaining fish hatcheries, and for the protection of fish in North Dakota streams,

Was read the third time.

The question being on its final passage.

Mr. Fleming moved

That further consideration of House Bill No. 158 be indefinitely postponed,

Which motion prevailed, and

House Bill No. 158 was indefinitely postponed.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks,"

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign  
House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks."

REPORTS OF STANDING COMMITTEES.

The Committee on Engrossed Bills made the following report:

**MR. SPEAKER:**

Your Committee on Engrossed Bills have examined  
House Bill No. 162,

A Bill for an act to amend Section Seventy-two (72) of Chapter One Hundred and Thirty-two (132) of Laws of 1890, being an act entitled "an act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto."

Also,

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways for organized townships, and also providing for the payment of expenses thereof by taxation,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Prosser moved

That the rules be suspended and the House proceed to consider the Committee report on House Bill No. 166,

Which motion prevailed.

Mr. Hanna moved

That the report of the Committee on State Affairs on House Bill No. 166 be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

Mr. Prosser moved

That the rules be suspended and that House Bill No. 166 be considered engrossed and be placed upon its final passage,

Which motion prevailed, and

House Bill No. 166,

A Bill for an act entitled "an act to amend Section 46, Chapter 132 of the Session Laws of the First Legislative Assembly of the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 46, nays 11, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz.	Ray,
Brown,	Jennings,	Roberts,
Colby.	Kellogg,	Sargent,
Cólosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Simpson,
Dwyer,	Logan,	Spangberg,
Edwards,	McLachlan,	Stafne,
Eyolfson,	McDonald,	Svensrud,
Flack,	Murphy,	Swenson,
Fleming,	Myers,	Twitchell,
Gilbertson,	Nelson,	Tyler,
Gleason,	Nierling,	Walker,
Gunderson,	Porter,	Wallen,
Hancock,	Prosser,	Wineman,
Hanna,	Purdon,	Mr. Speaker.
Hill,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hodgson,	Rinde,
Brainard,	Horgan,	Smith,
Cryan,	Lindstrom,	Tofsrud.
Herbrandson,	Rasmussen,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Guinan,	Richards,	Wood.
Lerom,	Rod,	

Messrs. Lerom and Wood being excused.

So the bill as amended passed and the title was agreed to.

Mr. Prosser moved

That the vote by which House Bill No. 166 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed.

#### REPORT OF CONFERENCE COMMITTEE.

The Conference Committee on Senate Bill No. 108 made the following report:

MR. SPEAKER:

Your Committee on Conference to whom was referred Senate Bill No. 108,

For the purpose of conferring with a committee from the Senate upon the matter of the House amendment in which the Senate has refused to concur,

Have the same under consideration and recommend that the House recede from its amendment.

EVAN S. TYLER,  
THOS. GUINAN,  
JAS. MYERS,  
Committee.

Mr. Tyler moved  
 That the report of the Conference Committee on Senate Bill No. 108 be adopted,  
 Which motion prevailed, and  
 The report of the Committee was adopted.

Mr. Tyler moved  
 That Senate Bill No. 108 be placed upon its final passage.  
 The House not having possession of the bill,  
 The Speaker announced the motion out of order.

## MOTIONS AND RESOLUTIONS.

Mr. Prosser moves  
 That the vote by which the minority report of the Committee on Supplies and Expenditures was ordered not to be printed in the Journal be reconsidered, and that the motion to reconsider be laid on the table,  
 Which motion prevailed.

Mr. Svensrud moved  
 That further action on House Bill No. 132 be deferred until Monday,  
 Which motion prevailed, and  
 Further action on House Bill No. 132 was so deferred.

Mr. Murphy asked unanimous consent to introduce a bill.  
 Objection made.

## THIRD READING OF HOUSE BILLS.

House Bill No. 123,  
 A Bill for an act to amend Section 6 of Chapter 110 of the Laws of 1890, and defining what is intoxicating liquors,  
 Was read the third time.

Mr. Colby presented the following communication and requested that it be read:

Cocculus Indicus is the dried seed of a plant growing in India. It contains an active principle known as picrotoxin. This production, when taken into the system, acts as a cerebral spinal narcotic. It produces giddiness and vertigo, and should only be used as a medicine.

Chloride of sodium is common salt.

Of course copperas, opium, cayenne pepper, etc., are well known and need not be defined.

Indian hemp is a member of the hemp family, a native of Persia, and is cultivated in the United States and Europe. When introduced in a beverage and taken into the system, produces an exhilarating effect on the brain, and conception of time is lost, sometimes results in delirium, and sometimes there is a loss of muscular power. The person suffers from depression, and when taken as a beverage by the natives of the country where largely produced, many deeds of violence result in their intoxicated condition.

Darnel seed is the seed of the Darnel plant, a member of the Lolium fam-

ily of grasses. A beverage produced from this product intoxicates, producing stupor, and in large doses results in poisoning.

Salicylic acid is the acid of the oil of wintergreen. It is used to prevent further fermentation. It is a powerful medicine used in rheumatism, acts on the kidneys, and is but slowly eliminated from the system. It tends to lower vitality, and is considered so injurious to health that in both France and Germany its use is strictly prohibited in foods and beverages, where it has been used to a considerable extent as a preservative.

Boric acid is also used as a preservative of food and beverages to prevent fermentation, and like salicylic acid is accumulative in the system and considered injurious to health, and in European countries its use in both beverages and foods is prohibited.

Methyl alcohol is better known as wood spirits produced from the destructive distillation of wood. It may also occur in alcohol which has not been properly purified, and with amyl alcohol is known as fusil oil. They are considered more poisonous than alcohol, being lighter, more active and affect the brain more readily than the common ethyl alcohol.

Picric acid is formed from carbolic acid, and its use in beverages is only to stimulate and heat the stomach, producing a burning sensation. It is a strong acid used as a dye for wool and silk, and from its action must tend to destroy the activity of the stomach itself.

The question being on the final passage of the bill,

The roll being called there were ayes 44, nays 12, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Rinde,
Brainard,	Hill,	Roberts,
Brown,	Hodgson,	Sargent,
Colby,	Holritz,	Sharpe,
Colosky,	Kellogg,	Smith,
Cooper,	Korsmo,	Stafne,
Cryan,	Lindstrom,	Svensrud,
Dwyer,	Logan,	Swenson,
Edwards,	McDonald,	Tofsrud,
Eyolfson,	Murphy,	Twichell,
Flack,	Myers,	Tyler,
Gilbertson,	Nelson,	Walker,
Guinan,	Prosser,	Wineman,
Gunderson,	Rasmussen,	Mr. Speaker.
Hanna,	Ray,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Jennings,	Purdon,
Gleason,	Kroeger,	Richards.
Hancock,	McLachlan,	Simpson,
Horgan,	Nierling,	Spangberg.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Porter,	Wallen,
Lerom,	Rod,	Wood.

Messrs. Lerom and Wood being excused.

So the bill passed and the title was agreed to.

Mr. Colby moved

That the vote by which House Bill No. 123, was passed be reconsidered, and that the motion to reconsider be laid on the table.

Which motion prevailed.

By unanimous consent Mr. Simpson moved

That on page 5 of the Journal of the fifty-third day in line 35 the word "majority" be changed to read "minority,"

Which motion prevailed, and

The correction of the Journal was so ordered.

Mr. Wineman moved

That the House take a recess until 7 o'clock this evening,

Which motion was lost.

Mr. Cooper moved

That the House adjourn until 1 o'clock p. m., Monday.

Mr. Prosser offered an amendment that the House adjourn to meet 10 o'clock a. m., Monday,

Which motion was lost.

The question recurring on the original motion of Mr. Cooper.

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTY-SIXTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 4, 1895.

The House assembled at 1 o'clock p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present except Messrs. Hill and Lerom.

Mr. Fleming asked that Mr. Hill be excused for the day.

Mr. Herbrandson asked that Mr. Lerom be excused for the day.

There being no objection, the members named were excused for the day.

Mr. Edwards requested that the courtesies of the floor be extended to Chas. E. Stone, of the Casselton Reporter, and E. B. Winship, of Fargo.

Mr. Wineman requested that the courtesies of the floor be extended to E. J. Lander and Henry Gotzian, of Grand Forks, and

W. C. Truman, of Grafton; also, Lieut. Geo. H. Morgan, United States army military instructor of the Minnesota University.

There being no objections, the courtesies of the floor were extended to the gentlemen named.

PETITIONS AND COMMUNICATIONS.

Mr. Armstrong presented the following petition:

ARMSTRONG, Feb. 28th, 1895.

To Hon. H. A. Armstrong, Bismarck, N. D.

We, the undersigned citizens of Emmons county, would most respectfully ask Hon. H. A. Armstrong to ask the legislature of the State of North Dakota to furnish seed to the needy farmers this spring.

ASAL YACOBSON,  
(and 14 others.)

The petition was referred to the Committee on Agriculture.

REPORTS OF STANDING COMMITTEES.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 68,

A Bill for an act to amend Article 2 of Chapter 13 of the Code of Civil Procedure, being Sections 5126 to Section 5140 inclusive, of the Compiled Laws,

Have had the same under consideration and recommend that the same be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on Judiciary be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted, and  
Senate Bill No. 68 was indefinitely postponed.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 141,

A Bill for an act to prohibit the manufacture, sale and use of adulterated cigarettes, and the sale of cigarettes, cigars and tobacco to minors,

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 141 was referred to its third reading.

Also,

Senate Bill No. 120,

A Bill for an act regulating voting at primary elections.

Have had the same under consideration and recommend that the same be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

Mr. Blacklock moved

That the report of the Committee on Judiciary in regard to Senate Bill No. 120 be adopted,

Which motion prevailed,

And the report of the Committee was adopted,

And Senate Bill No. 120 was indefinitely postponed.

The Committee on Judiciary made the following majority report:

MR. PRESIDENT:

A majority of your Judiciary Committee to whom was referred Senate Bill No. 63,

Concurrent Resolution to amend Subdivision 8 of Section 215 of Article 19 of the Constitution of the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

C. B. LITTLE,  
Chairman.

The Committee on Judiciary made the following minority report:

MR. SPEAKER:

A minority of your Committee on Judiciary to whom was referred

Senate Bill No. 63,

A Concurrent Resolution to amend Subdivision 8 of Section 215 of Article 19 of the Constitution of the State of North Dakota,

Have had the same under consideration and recommend that the same do not pass.

L. B. HANNA.

Mr. Kellogg moved

That the majority report be adopted.

Mr. Hodgson offered a substitute motion that the minority report be adopted.

Mr. Wineman offered as an amendment to the substitute motion that Senate Bill No. 63 be made a special order for tomorrow at 2 p. m.

Amendment accepted, and the substitute motion as amended prevailed, and Senate Bill No. 63 was made a special order for tomorrow at 2 p. m.

The Committee on Education made the following report:

**MR. SPEAKER:**

Your Committee on Education to whom was referred  
Senate Bill No. 132,

A Bill for an act to provide free text books for use in public schools in this State,

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

Senate Bill No. 132 was referred to its third reading.

The Committee on Judiciary made the following report:

**MR. SPEAKER:**

Your Committee on Judiciary to whom was referred  
House Bill No. 138,

A Bill for an act to amend Sections 6 and 14, Chapter 123, Session Laws of 1893, entitled "an act to amend Sections 1, 6, 8, 13 and 14 of Chapter 161 of Session Laws of 1890, entitled "an act to create an institute for the education of the deaf and dumb of North Dakota and providing for its support and management,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

House Bill No. 138 was referred to the Committee on Engrossment.

The Committee on Railroads made the following report:

**MR. SPEAKER:**

Your Committee on Railroads, to whom was referred  
House Bill No. 176,

A Bill for an act entitled "an act establishing the maximum rates of freight of the first, second, third and fourth classes, which common carriers may charge and receive for the transportation thereof between points within the State of North Dakota,"

Have had the same under consideration and recommend that the same do pass.

ROLLIN C. COOPER,  
Chairman.

House Bill No. 176 was referred to the Committee on Engrossment.

The Committee on Appropriations made the following report:

**MR. SPEAKER:**

Your Committee on Appropriations to whom was referred  
Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses necessary incident to the eradication of Russian thistles,

Have had the same under consideration and recommend that the same do pass.

F. H. PROSSER,  
Chairman.

Senate Bill No. 126 was referred to its third reading.

The Committee on Insurance made the following report:

MR. SPEAKER:

Your Committee on Insurance to whom was referred  
Senate Bill No. 135,

A Bill for an act declaring the Carlisle tables of mortality to be competent evidence in certain cases,

Have had the same under consideration and recommend that the same do pass.

J. J. NIERLING,  
Chairman.

Senate Bill No. 135 was referred to its third reading.

The Joint Committee to consider the report of the Revision Commission made the following report:

MR. SPEAKER:

Your Committee to whom was referred

House Bill No. 17,

A Bill for an act entitled "an act making account books *prima facie* evidence of the entries therein contained,"

Have had the same under consideration and recommend that the same be amended as follows:

AMENDMENTS TO HOUSE BILL No. 17.

Strike out in lines 6 and 7 of the printed bill the words "that the charges therein were made at the time of the transaction therein entered" and substitute the words "that the entries therein were made in the due course of business."

Strike out in line 12 of printed bill the words "*prima facie*."

After Section 3 add the following:

SECTION 4. In actions involving any items of an account, and when the matter at issue and on trial is a proper matter of book account, and one of the parties to such matter is dead, the party living may be a witness in his own favor, so far as to prove in whose handwriting his charges are, and when made, and no further,

And when so amended recommend that the same do pass.

C. E. GREGORY,  
Chairman.

House Bill No. 17 was referred to General Orders.

The Committee on Irrigation made the following report:

MR. SPEAKER:

Your Committee on Irrigation to whom was referred

House Bill No. 174,

A Bill for an act entitled "an act for the investigation of the resources of the surface and underground waters of parts of the national government lands located in North Dakota, and for devising a system of irrigation suitable therefor,

Have had the same under consideration and recommend that the same be amended as follows:

Strike out the word "five" in line 2 of Section 1 of the bill and insert in lieu thereof the word "three,"

And when so amended recommend that the same do pass.

JOHN E. HODGSON,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on Irrigation be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Joint Committee to consider the report of the Revision Commission made the following report:

MR. SPEAKER:

Your Joint Committee to whom was referred the work of the Revision Commission have had under consideration

House Bill No. 6,

A Bill for an act entitled "an act repealing an act entitled 'an act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof,'"

And recommend that the same do pass.

Respectfully,

C. E. GREGORY,  
Chairman.

House Bill No. 6 was referred to the Committee on Engrossment.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred

Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Session Laws of 1891, entitled "an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 65, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62, Laws of 1890, entitled 'an act to provide for a uniform system of free public schools throughout the State, and to provide penalties for the violation of the provisions thereof,'"

Have had the same under consideration and recommend that the last proviso be amended to read as follows:

*Provided further.* That no certificate or permit to teach in the schools of this State shall be granted to any person who is not a citizen of the United States unless such person has declared his intention to become a citizen, and has resided in the United States for one year last prior to the time of such application for certificate or permit. Any contract made in violation of this section shall be void,

And when so amended recommend that the same do pass.

JOHN LOGAN,  
Chairman.

Senate Bill No. 27 was referred to General Orders.

MOTIONS AND RESOLUTIONS.

The following Concurrent Resolution received from the Senate was read the first time:

CONCURRENT RESOLUTION.

*Resolved by the Senate, the House of Representatives Concurring:*

That the State Auditor be instructed to audit bills for expenses incurred by the Joint and Investigation Committees that have been appointed by the Legislative Assembly, such bills to be endorsed as correct by the Chairman of the aforesaid Committees before they are so audited by the State Auditor.

Mr. Wineman moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

Mr. Logan offered the following Concurrent Resolution and moved its adoption,

Which motion prevailed, and

The Concurrent Resolution was adopted:

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That a Committee of nine members, five from the House and four from the Senate be appointed by the Speaker of the House and the President of the Senate respectively. Said Committee shall examine and list all pending bills and make such recommendations concerning the same as in their judgment they deem necessary.

Mr. Logan offered the following Concurrent Resolution and moved its adoption,

Mr. Simpson offered as a substitute motion that the Concurrent Resolution be referred to its appropriate Committee.

Which substitute motion prevailed,

And the Concurrent Resolution was referred to the Judiciary Committee.

CONCURRENT RESOLUTION

To Amend Sections 82, 83 and 84 of Article 3 of the Constitution of the State of North Dakota.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

SECTION 1. That the following amendment to the Constitution of the

State of North Dakota be and the same is hereby proposed and referred to the Fifth Legislative Assembly of the State of North Dakota, to be by said Legislative Assembly submitted to the people of this State for adoption or rejection, in accordance with the provisions of Section 202 of Article 15 of the Constitution of the State of North Dakota.

SEC. 2. That Section 82 of Article 3 of the Constitution of the State of North Dakota be amended so as to read as follows:

SECTION 82. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, an Attorney General and a Commissioner of Agriculture and Labor, who shall have attained the age of twenty-five years, shall be a citizen of the United States, and shall have the qualifications of State electors. They shall severally hold their offices at the seat of government, for the term of two years, and until their successors are elected and duly qualified, but no person shall be eligible to the office of Treasurer for more than two consecutive terms.

SEC. 83. The power and duties of the Secretary of the State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Attorney General and Commissioner of Agriculture and Labor shall be as prescribed by law.

SEC. 84. Until otherwise provided by law, the Governor shall receive an annual salary of \$2,500, the Lieutenant Governor shall receive an annual salary of \$800, the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction and Commissioner of Insurance shall each receive an annual salary of \$1,800, the Attorney General shall receive an annual salary of \$2,000. The salary of the Commissioner of Agriculture and Labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the State treasury.

The Speaker gave notice that hereafter following the regular order when an order is passed, that no permission will be given to return to it for the purpose of considering matters under it, without suspension of the rules.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Murphy by request introduced  
House Bill No. 177,

A Bill for an act appropriating money to pay the Capitol Building Commission for services rendered,

Which was read the first time.

Mr. McLachlan objected to the admission of the bill, as it contained appropriations,

And further consideration of the bill was declared out of order.

By request of Mr. Twichell unanimous consent was given to make the following Committee reports:

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

House Bill No. 172,

A Bill for an act to amend Section 134 of Article 5 of Chapter 5 of the Laws of 1895, entitled "an act for an act to establish a Code of Criminal Procedure of the State of North Dakota,"

Have had the same under consideration and recommend that the same do pass.

House Bill No. 172 was referred to the Committee on Engrossment.

Also,

House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota school of forestry, and making appropriation therefor,

Have had the same under consideration and recommend that the same be amended as follows:

Amend Section 5 by adding the following: "Provided, That the board of directors shall receive no compensation for their services until some subsequent Legislature appropriate money for such services." And by striking out all of Section 11,

And when so amended, recommend that the same do pass.

House Bill No. 68 was referred to General Orders.

Also,

House Bill No. 171,

A Bill for an act entitled "an act to authorize the voters at annual town meetings to vote upon the question of establishing, by proper monuments, section, quarter-section or meander posts or monuments, which have been destroyed or becoming obscure,"

Have had the same under consideration and recommend that the same do pass.

House Bill No. 171 was referred to the Committee on Engrossment.

Also,

House Bill No. 163,

A Bill for an act to amend Section 29 of Chapter 100 of the General Laws of 1891,

Have had the same under consideration and recommend that the same do not pass.

House Bill No. 163 was referred to the Committee on Engrossment.

Also,

House Bill No. 143,

A Bill for an act providing for the appointment of a board of boiler inspectors and engineer instructors, and defining their duties,

Have had the same under consideration and recommend that the same be reported back without recommendation.

House Bill No. 143 was referred to General Orders.

Also,

Substitute for Senate Bill No. 6,

A Bill for an act entitled "an act to provide for the inspection of steam boilers and licensing of steam engineers,"

Have had the same under consideration and recommend that the same be reported back without recommendation.

Substitute for Senate Bill No. 6 was referred to General Orders.

Also,

Senate Bill No. 80,

A Bill for an act defining usury and the penalty for taking the same,

Have had the same under consideration and recommend that the same do pass.

T. TWICHELL,  
Chairman.

Senate Bill No. 80 was referred to its third reading.

#### INTRODUCTION OF BILLS AND MEMORIALS.

Mr. Logan introduced

House Bill No. 178,

A Bill for an act to repeal an act approved February 28, 1893, entitled "an act for an appropriation for the erection of the North Dakota Reform School at Mandan and for incidental and contingent expenses for the same,"

Was read the first and second times, and

Referred to the Committee on Education.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 52, nays none, not voting 10

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,

Messrs—

Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom

Messrs—

Ray,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,

Messrs—

Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Herbrandson,  
Hodgson,

Messrs—

Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Smith,  
Spangberg,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Edwards,  
Guinan,  
Hanna,  
Hill,

Messrs—

Horgan,  
Lerom,  
Richards,

Messrs—

Simpson.  
Stafne,  
Svensrud.

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

House Bill No. 170.

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of grain and lumber within the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 54, nays 1, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,  
Richards,

Messrs—

Rinde,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Mr. Rasmussen voting in the negative.

## Absent and not voting:

Messrs—

Edwards,  
Gleason,  
Hill,

Messrs—

Horgan,  
Lerom,

Messrs—

Myers,  
Roberts.

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 170 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

House Bill No. 162,

A Bill for an act to amend Sections 72 of Chapter 132 of Laws of 1890, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,"

Was read the third time,

The question being upon the passage of the bill,

The roll being called there were ayes 45, nays 6, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Fleming,  
Gilbertson,  
Gleason,  
Guinau,  
Gunderson,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Richards,

Messrs—

Roberts,  
Rod,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those voting in the negative were:

Messrs—

Korsmo,  
Lindstrom,

Messrs—

Rasmussen,  
Ray,

Messrs—

Rinde,  
Tyler.

## Absent and not voting:

Messrs—

Cryan,  
Edwards,  
Flack,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hill,  
Lerom,

Messrs—

Prosser,  
Simpson,  
Wallen.

Messrs. Hill and Lerom being excused,

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 4, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collections of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto,"

Which the Senate has passed unchanged.

Also,  
Senate Bill No. 72,

A Bill for an act to regulate the manner in which individuals, firms, and private corporations shall be authorized to construct, maintain and operate public warehouses and elevators on railway right of way in the State of North Dakota,

Which the Senate has passed and the favorable consideration thereof is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Wineman requested that the courtesies of the floor be extended to Mr. C. C. McElwell, of St Paul.

There being no objection the courtesies of the floor were so extended.

Mr. Nierling moved

That the vote by which House Bill No. 162 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

House Bill No. 9,

A Bill for an act entitled "an act to provide for the better improvement of public highways,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 38, nays 19, not voting 5.

Those who voted in the affirmative were:

Messrs—  
Armstrong,  
Blacklock,  
Brainard,  
Brown,

Messrs—  
Horgan,  
Kellogg,  
Kroeger,  
Korsmo,

Messrs—  
Richards,  
Rinde,  
Roberts,  
Sargent,

Messrs—

Colosky,  
Cooper,  
Eyolfson,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Hanna,  
Holritz,

Messrs—

Lindstrom,  
Logan,  
McLachlan,  
Murphy,  
Myers,  
Nierling,  
Porter,  
Rasmussen,  
Ray,

Messrs—

Sharpe,  
Simpson,  
Swenson,  
Twichell,  
Tyler,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Colby,  
Cryan,  
Dwyer,  
Edwards,  
Flack,  
Gilbertson,  
Hodgson,

Messrs—

Jennings,  
McDonald,  
Nelson,  
Purdon,  
Rod,  
Smith.

Messrs—

Spangberg,  
Stafne,  
Svensrud,  
Tofsrud,  
Walker,  
Wallen.

Absent and not voting:

Messrs—

Gunderson,  
Herbrandson,

Messrs—

Hill,  
Lerom,

Messrs—

Prosser.

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

Mr. Twichell moved

That the vote by which House Bill No. 9 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

The Speaker called Mr. Murphy to the Chair.

House Bill No. 132,

A Bill for an act to appropriate the sum of two hundred dollars to Troop "B," First Battalion Cavalry North Dakota National Guard for balance due for services attending the encampment held at Jamestown, North Dakota, in July, 1894,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 25, nays 29, not voting 8.

Those who voted in the affirmative were:

Messrs—

Cooper,  
Dwyer,  
Fleming,  
Gleason,  
Hancock,  
Kellogg,  
Kroeger,  
McLachlan,  
McDonald,

Messrs—

Murphy,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Roberts,  
Sargent,  
Sharpe,

Messrs—

Simpson,  
Spangberg,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Wineman,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Guinan,	Richards,
Blacklock,	Hanna,	Rinde,
Brainard,	Herbrandson,	Rod,
Brown,	Hodgson,	Smith,
Colosky,	Holritz,	Stafne,
Cryan,	Horgan,	Twichell,
Edwards,	Jennings,	Walker,
Eyolfson,	Korsmo,	Wallen,
Flack,	Lindstrom,	Wood.
Gilbertson,	Myers,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colby,	Lerom,	Rasmussen,
Gunderson,	Logan,	Ray.
Hill,	Nelson,	

Messrs. Hill and Lerom being excused.

So the bill was lost.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 4, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, Accepting the Donation of the United States Military Wood Reservation, Ramsey County, North Dakota, From the United States, to Be Used as Encampment Grounds for the National Guard of North Dakota, and Other Purposes Stated in Act of Congress Granting Same.

*Resolved by the Senate, the House of Representatives Concurring,*

That the United States Military Wood Reservation, situated on Rock Island, Rams-y county, North Dakota, recently donated to this State by Congress for an encampment ground for the National Guard of the State of North Dakota, and for other purposes, is hereby accepted by the State, subject to the provisions of act of Congress granting the same,

Which the Senate has passed, and the favorable consideration of the House is respectfully requested.

Also,

I have the honor to return to the House Senate Bill No. 108, for action as per report of the Conference Committee.

Respectfully,

FRED FALLEY,  
Secretary.

## MESSAGE FROM THE GOVERNOR.

The following message was received from the Governor:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., March 4, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 1,

A Bill for an act entitled "an act to provide for State depositories and to regulate the deposit of public moneys therein and the interest thereon, and prescribing the means thereof."

Also,

House Bill No. 23,

A Bill for an act defining the duties of railways in regard to station houses.

Respectfully,

ROGER ALLIN,  
Governor.

House Bill No 148,

A Bill for an act to amend Section (71) seventy-one of Chapter (118) one hundred and eighteen of the Laws of 1893, being an act to provide for the control and management of university and school lands, and making an appropriation therefor,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 57, nays none, not voting 5.

Those who voted in the affirmative were:

Messrs—	Hodgson,	Richards,
Armstrong,	Holritz,	Rinde,
Blacklock,	Horgan,	Roberts,
Brainard,	Jennings,	Rod,
Brown,	Kellogg,	Sargent,
Colby,	Kroeger,	Sharpe,
Colosky,	Korsmo,	Simpson,
Cooper,	Lindstrom,	Smith,
Cryan,	Logan,	Spangberg,
Dwyer,	McLachlan,	Stafne,
Edwards,	McDonald,	Svensrud,
Eyolfson,	Murphy,	Swenson,
Flack,	Myers,	Tofsrud,
Fleming,	Nelson,	Twichell,
Gleason,	Nierling,	Tyler,
Guinan,	Porter,	Walker,
Gunderson,	Prosser,	Wallen,
Hancock,	Purdon,	Wieman,
Hanna,	Ray,	Wood.
Herbrandson,		

Absent and not voting:

Messrs—  
Gilbertson,  
Hill,

Messrs—  
Lerom,  
Rasmussen,

Messrs—  
Mr. Speaker.

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers or any article or instrument of immoral use and prescribing the punishment therefor.

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign  
House Bill 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers, or any article or instrument of immoral use, and prescribing the punishment therefor.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 159,

A Bill for an act to amend Section 126 of Chapter 75 of the Session Laws of 1891, entitled "an act to promote irrigation."

Also,

House Bill No. 3,

A Bill for an act to repeal Chapter 45 of the Session Laws of 1893.

Also,

House Bill No. 166,

A Bill for an act entitled "an act to amend Section 46, Chapter 132 of the Session Laws of the First Legislative Assembly of the State of North Dakota."

Also,  
 House Bill No. 16,  
 A Bill for an act entitled "an act exempting volunteer firemen  
 from jury duty and from paying poll tax,"  
 And find the same correctly engrossed.

O. S. WALLEN,  
 Chairman.

House Bill No. 3,  
 A Bill for an act to repeal Chapter 45, Session Laws of 1893.  
 Concurrent Resolution No. 14 to amend Article 20, Section 217  
 of the Constitution of the State of North Dakota,  
 Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 52, nays 5, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
 Blacklock,  
 Brainard,  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Flack,  
 Fleming,  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hancock,  
 Herbrandson,  
 Hodgson,  
 Holritz,  
 Jennings,

Messrs—

Kellogg,  
 Kroeger,  
 Korsmo,  
 Lindstrom  
 Logan,  
 McLachlan,  
 McDonald,  
 Murphy,  
 Myers,  
 Nelson,  
 Nierling,  
 Porter,  
 Prosser,  
 Purdon,  
 Rasmussen,  
 Ray,  
 Richards,

Messrs—

Roberts,  
 Rod,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Stafne,  
 Svensrud,  
 Swenson,  
 Tofsrud,  
 Twichell,  
 Tyler,  
 Walker,  
 Wallen,  
 Wineman,  
 Wood.

Those who voted in the negative were:

Messrs—

Colby,  
 Eyoftson,

Messrs—

Hanna,  
 Horgan,

Messrs—

Rinde.

Absent and not voting:

Messrs—

Brown,  
 Edwards,

Messrs—

Hill,  
 Lerom,

Messrs—

Mr. Speaker.

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

Mr. Svensrud moved

That the vote by which House Bill No. 3 was passed be re-  
 considered, and that the motion to reconsider be laid on the table,  
 Which motion prevailed.

House Bill No. 159,

A Bill for an act entitled "an act to amend Section 26 of Chapter 75 of Session Laws of 1891, entitled 'an act to provide irrigation.'"

Was read the third time.

The roll being called there were ayes 46, nays 8, not voting 8, The question being upon the final passage of the bill.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Rinde,
Blacklock,	Jennings,	Roberts,
Brainard,	Kellogg,	Rod,
Brown,	Kroeger,	Sargent,
Colby,	Korsmo,	Sharpe,
Colosky,	Lindstrom,	Simpson,
Cooper,	Logan,	Smith,
Cryan,	McLachlan,	Spangberg,
Eyolfson,	Murphy,	Stafne,
Flack,	Myers,	Svensrud,
Gilbertson,	Nelson,	Swenson,
Gleason,	Nierling,	Tofsrud,
Gunderson,	Porter,	Tyler,
Hanna,	Rasmussen,	Walker,
Herbrandson,	Richards,	Mr. Speaker.
Holritz,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Dwyer,	Purdon,	Wineman,
Hodgson,	Ray,	Wood.
McDonald,	Twichell,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Hancock,	Prosser,
Fleming,	Hill,	Wallen.
Guinan,	Lerom,	

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax."

Was read the third time.

The roll being called there were ayes 52, nays 2, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs.	Messrs—
Armstrong,	Herbrandson,	Rinde,
Blacklock,	Holritz,	Roberts,
Brainard,	Jennings,	Sargent,
Brown,	Kellogg,	Sharpe,
Colosky,	Kroeger,	Simpson,

Messrs—

Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Messrs. Hodgson and Svensrud voting in the negative.

Absent and not voting:

Messrs—

Colby,  
Hill,  
Horgan,

Messrs—

Lerom,  
Myers,  
Prosser,

Messrs—

Richards,  
Rod.

Messrs. Hill and Lerom being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 16 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

Substitute for House Bill No. 129,

A Bill for an act to amend Section 1744, Civil Code, Revised Statutes of 1877, being Section 4379 of the Compiled Laws of 1887, relating to filing chattel mortgages,

Was read the third time.

Mr. Hodgson moved

That the further consideration of Substitute for House Bill 129 be indefinitely postponed,

Which motion prevailed, and

The further consideration of House Bill No. 129 was indefinitely postponed.

#### CONSIDERATION OF MESSAGES FROM THE SENATE.

Mr. Purdon moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

The Speaker resumed the Chair.

## FIRST AND SECOND READING OF SENATE BILLS.

## Senate Bill No. 127,

A Bill for act to amend Section 1 of Chapter 55 of the Session Laws of 1891, relating to cruelty to animals,

Was read the first and second times, and  
Referred to the Committee on State Affairs.

## Senate Bill No. 57,

A Bill for an act to amend Section 37, Chapter 62, of an act to provide for a uniform system of public schools, of Laws of 1890, State of North Dakota, as amended by Section 8, Chapter 56, of the Laws of 1891, State of North Dakota,

Was read the first and second times, and  
Referred to the Committee on Education.

## Senate Bill No. 149,

A Bill for an act to provide for the protection of planted fish in the waters of North Dakota,

Was read the first and second times, and  
Referred to the Committee on State Affairs.

## Senate Bill No. 158,

A Bill for an act to suspend Sections 20, 21, 37, 40 and 60 of Chapter 86, Laws of 1891, being an act to provide a Military Code for the State of North Dakota,

Was read the first and second times, and  
Referred to the Committee on Military Affairs.

## Senate Bill No. 84,

A Bill for an act amending Section 7, Chapter 127, Laws of 1893, entitled "an act to establish a weather and crop service for the collection and dissemination of crop statistics and meteorological data,

Was read the first and second times, and  
Referred to the Committee on State Affairs.

## Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections,

Was read the first and second times, and  
Referred to the Committee on State Affairs.

## INFORMAL RECESS.

House reassembled.

## COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., March 4, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 136,

A Bill for an act entitled "an act to appropriate for the support of organized fire companies within this State a portion of the tax paid by fire insurance companies upon premiums received and repealing Chapter 53 of the Session Laws of 1887 of the Territory of Dakota, and Chapter 66 of the Session Laws of 1893 of the State of North Dakota."

Also,

House Bill No. 30,

A Bill for an act to amend Section 9 of Article 3 of Chapter 73 of the Laws of 1887, being Section 877 of the Compiled Laws of 1887, providing for the incorporation of cities.

Also,

House Bill No. 74,

A Bill for an act to cure defective acknowledgments.

Also,

House Bill No. 35,

A Bill for an act to amend Section 39, Chapter 132 of the Session Laws of 1890, entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Respectfully,

ROGER ALLIN,  
Governor.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 4, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 156,

A Bill for an act to repeal Chapter 70 of the Session Laws of 1890, being an act to amend Article 9 of the Compiled Laws of 1887, being an act entitled "an act to promote forest tree culture,"

Which the Senate has passed.

Also,

House Bill No. 76,

A Bill for an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their township, and the amounts thereof,

Which the Senate has passed unchanged.

Also,

House Bill No. 128,

A Bill for an act entitled "an act to prevent the destruction of farm buildings in the State of North Dakota."

Which the Senate has amended as follows:

By striking out the word "prison" in line 5, Section 2 of printed bill, and insert in lieu thereof the word "penitentiary."

Also,

Senate Bill No. 163,

A Bill for an act providing for the payment of an amount equal to a per centum of gross earnings of railroads in lieu of all State, county and school taxes, and repealing Chapter 107 of the Laws of Dakota Territory of 1889, and Chapter 134 of this State of 1890 upon the same subject,

Which the Senate has passed and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Hanna moved

That the House concur in the Senate amendments to House Bill No. 128,

Which motion prevailed, and

The Senate amendments to House Bill No. 128 were adopted.

The question being upon the final passage of

House Bill No. 128,

A Bill for an act to prevent the destruction of farm buildings in the State of North Dakota, as amended by the Senate,

The roll being called there were ayes 57, nays none, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,

Messrs—

Herbrandson,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,

Messrs—

Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,

Messrs—

Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Hill,  
Lerom,

Messrs—

Murphy,  
Rasmussen,

Messrs—

Sharpe.

Messrs. Hill and Lerom being excused.

So the bill as amended passed and the title was agreed to.

The Committee on Enrolled Bills made the following report:

**MR. SPEAKER:**

Your Committee on Enrolled Bills have examined  
House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of  
veterinary science in the State of North Dakota."

Also,

House Bill No. 64,

A Bill for an act compelling railroad companies to provide a  
certain number of men to man trains, and prescribing penalties  
for neglect therefor.

Also,

Substitute for House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110 of the Ses-  
sion Laws of 1890 entitled "an act to prescribe penalties for the  
unlawful manufacture, sale, barter and giving away of such intox-  
icating liquors for medicinal, scientific and mechanical purposes,"

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of  
veterinary science in the State of North Dakota."

Also,

House Bill No. 64,

A Bill for an act entitled "an act compelling railroad com-  
panies to provide a certain number of men to man trains and  
prescribing penalties for neglect thereof."

Also,

Substitute for House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110, of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors for medicinal, scientific and mechanical purposes,"

By unanimous consent the following Committee report was presented:

*To the Senate and House of Representatives of the State of North Dakota:*

We, the undersigned members of the Committee appointed by the authority of a Concurrent Resolution of the Senate and House of Representatives of the State of North Dakota, deemed it our duty to visit the State Normal School at Valley City, believing that in no other way could a thorough and satisfactory investigation be had of the charges against one of the professors, said charges being contained in an article clipped from one of the daily papers published at Fargo, North Dakota, which article has been copied extensively by many of the papers of the State, which article reads as follows:

"A professor in one of the State educational institutions gave his class a few days ago this item of unwritten history: 'Abraham Lincoln was nothing but a vagabond and wretch, and there is no use to try to cover it up for that was all he was, that he was not genteel, that squibs had been found written by him simply disgraceful.' The charges if found true would seem to demand the dismissal of said professor, but if not true do a great wrong to an honest person, reflect on the character of the school and the teachings of the faculty and be an injustice to all connected with the institution."

On Friday, March 1, 1895, your Committee visited Valley City. No notice, to our knowledge, having been given of the intended visit. Calling at the school we were met in the office by Professor McFarland and at his suggestion attended the chapel exercises, then in progress, the entire school being present.

After this we attended the recitation in United States history, the interest manifested throughout seemed to be very intense, the recitation being a review; students were questioned at random and each answered without hesitation, displaying a familiarity with the subject that indicated thoroughness and patriotism in a marked degree.

The investigation was conducted in the office of the institution privately, and every effort made to arrive at the true facts, each person called for, appeared before your Committee and seemed to answer fully and without reservation. Your Committee also met a large majority of the class in a body in one of the class rooms and voluntary testimony was given, all of which went to show that the teachings in history were unusually instructive, creating an interest such as had never before been felt; that the remarks in reference to our honored Lincoln only tended to raise him still higher in the estimation of the class, that the words used applied to another person entirely, and were for the purposes of comparison, that none knew any wrong construction had been put upon the words used until the article appeared in the paper as published. The spirit of patriotism; love of country, and high esteem of our country's illustrious men was manifest in every word and action, and Professor Schafer was spoken of in the highest terms for his thorough knowledge of the subject, his tact in bringing out the points of interest clustering about our country's history. The enthusiasm instilled into the members of the class, and in no instance were your Committee able to find any one who would speak in any but the highest terms of Professor Schafer, or that he had ever uttered a word in any way derogatory to American patriotism. Even the student referred to as author of the letter would not

give an expression of ill will or prejudice against her teacher, but on the contrary voluntarily spoke of him in terms of praise and commendation, this too, in the privacy of her own house. The facts as developed by the investigation show conclusively that the student who wrote the letter from which the newspaper article was taken was to blame only in being for a moment inattentive and thereby losing the comparison being made by the professor. Not knowing but that she might be mistaken, she wrote her parent if such things were true, had she been answered, or referred to her teacher instead of the paragraph being shown and published as though it had been a fact, nothing would have come of the matter. Your Committee believe that in the person of Professor Schafer the State has one of the best of historians, and ablest of teachers, and the institution at Valley City is to be congratulated on having secured the services of so competent an instructor.

Respectfully submitted,

A. V. BENEDICT,  
For the Senate.  
J. J. NIERLING,  
ROLLIN C. COOPER,  
For the House.

Mr. Porter moved

That the report of the Special Committee be adopted,

Which motion prevailed, and

The report was adopted.

#### GENERAL ORDERS.

Mr. Hodgson moved

That the House resolve itself into the Committee of the Whole for the consideration of General Orders,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole for the consideration of General Orders.

The Speaker called Mr. Hodgson to the Chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration House Bill No. 84,

A Bill for an act to amend Section 4 of Chapter 100 of the Session Laws of 1891, being an amendment to Section 46 of Chapter 132 of the Session Laws of 1890, relating to the State Board of Equalization; how constituted, meetings, and rules for equalization.

And report the bill back with the recommendation that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers and providing for the preservation of coroners' records,

And recommend the following amendments:

By striking out in line 2 of the title the words "the State of North Dakota."

Also, striking out Section 2 of the bill and making Section 3 to read as Section 2.

And as so amended that the bill do pass.

Also,

House Bill No. 115,

A Bill for an act to provide for the treatment and cure of inebriates and persons addicted to the excessive use of drugs and other narcotics,

And report the bill back with the recommendation that the further consideration of the bill be indefinitely postponed.

Also,

Substitute for House Bill No. 91,

A Bill for an act to amend Sections 1, 2 and 3 of Chapter 97 of the Laws of 1893, being an act entitled "an act to amend Sections 1 and 3 of Chapter 86 of the Laws of 1890, entitled 'an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota and to provide for the compensation and payment of the same,'"

And report the bill back with the recommendation that it do pass.

Also,

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto,"

And report the bill back with the recommendation that it do pass.

Also,

House Bill No. 78,

A Bill for an act entitled "an act to amend Section 448, Article 5, Chapter 8, of the Compiled Laws of the State of North Dakota,"

And report no action on the bill.

Also,

House Bill 156,

A Bill for an act to require railroad companies to erect, maintain and keep open suitable buildings for the accommodation of passengers wherever the tracks of one crosses that of the other more than two miles from a passenger depot,

And recommend the following amendments:

In line 2, Section 1, printed bill, strike out all words after the word "com-

pany," and in line 3 all words before the word "each" and in lieu thereof insert the words "at grade,"

And when so amended that the bill do pass.

Also,

Substitute for House Bill No. 110,

A Bill for an act to protect farm laborers, and giving them a lien upon crops as security for their wages;

And recommend the following amendment:

Add after the word "performed" in line 12 of printed bill, the following: *Provided, further,* that in case any such person without cause quits his employment before the expiration of the term for which he is employed, or if he shall be discharged for cause, then he shall not be entitled to a lien as herein provided,

And when so amended recommend that the substitute bill do pass.

Also,

House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota,

And recommend the following amendment:

The bill to read (1) dollar per hundred pounds,

And as so amended that the bill do pass.

Also,

House Bill No. 161,

A Bill for an act to amend Section 1 of Chapter 70, of the Laws of 1893, being an act to amend Section 1. of Chapter 78, of the Laws of 1890, entitled "an act to amend Section 16 of the General Laws of 1885, and Section 10 of Chapter 69 of the General Laws of 1889, relating to the publication of insurance statements,"

And report the bill back to the House with the recommendation that the bill do pass.

Also,

Senate Bill No. 91,

A Bill for an act to prohibit the selling or letting of the labor of convicts to private parties or corporations,

And report the bill back with the recommendation that the further consideration of the bill be indefinitely postponed.

Also,

Concurrent Resolution,

To amend Section 82 of Article 3 of the Constitution of the State of North Dakota,

And report the Concurrent Resolution to the House with the recommendation that its further consideration be indefinitely postponed.

Also,

House Bill No. 153,

A Bill for an act to provide for the service of notice by officers on non-residents,

And report the bill back to the House with the recommendation that its further consideration be indefinitely postponed.

Also,

House Bill No. 126,

A Bill for an an act requiring county commissioners to furnish an official bond to his county,

And recommend the following amendments:

In line 2 of Section 2 of original bill by inserting the word "be" immediately after the word "shall."

In line 8 of Section 3 of original bill by striking out the word "for" and inserting in lieu thereof the word "in," and in line 9 of said Section 3 after the word "above" by inserting the words "his debts and liabilities, property exempt from levy and sale on execution."

And as so amended recommend that the bill do pass.

Also,

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota,

And report the bill back to the House with the recommendation that it do pass.

Also,

House Bill No. 97,

A Bill for an act to encourage immigration into the State of North Dakota, and to enable the Commissioner of Agriculture and Labor to carry out the provisions of Section 8, Chapter 46 of the Laws of 1890, and to make appropriation therefor,

And report the bill back with the recommendation that it do pass.

Also,

House Bill No. 160,

A Bill for an act to amend Section 103 of Chapter 132 of the Laws of 1890,

And recommend that the bill be amended as follows:

By adding to its title: Being an act entitled "an act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto,"

And as so amended that the bill be referred to the Committee on Taxes and Tax Laws.

Also,

Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of

completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896,

And recommend that the bill be amended:

The words "fifteen hundred dollars" be stricken out where they occur in the bill and in lieu thereof the words "five hundred" be inserted,

And when so amended that the bill do pass.

Also,

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants,

And report the bill back with the recommendation that it do pass.

JOHN E. HODGSON,  
Chairman.

Mr. Hodgson moved

That the reading of the report of the Committee of the Whole be dispensed with and that the report be adopted,

Which motion prevailed, and

The reading of the report was dispensed with, and the report of the Committee of the Whole was adopted.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 4, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 121,

A Bill for an act fixing the time and place for holding general and special terms of the Supreme Court of the State of North Dakota,

Which the Senate has passed, and the favorable consideration thereof by the House is respectfully requested.

Also,

I have the honor to transmit herewith

Senate Bill No. 18, a Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25, of the General Laws of 1881, being Section 4383 of the Compiled Laws,"

Which the Senate has passed, and your favorable consideration thereof is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

By unanimous consent the following Committee reports were submitted:

The Committee on Counties and County Boundaries made the following report:

**MR. SPEAKER:**

Your Committee on Counties and County Boundaries, to whom was referred

Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891, being an act entitled "an act for the prevention of prairie fires, and to provide against damage done by them; also, prescribing duties of county commissioners in relation thereto,"

Have had the same under consideration and recommend that the same do pass.

J. S. MURPHY,  
Chairman.

Senate Bill No. 123 was referred to its third reading.

The Committee on Engrossed Bills made the following report:

**MR. SPEAKER:**

Your Committee on Engrossed Bills have examined

House Bill No. 138,

A Bill for an act to amend Sections 6 and 14, Chapter 123, Session Laws of 1893, entitled "an act to amend Sections 1, 6, 8, 13 and 14, Chapter 161 of Session Laws of 1890 entitled 'an act to create an institute for the education of the deaf and dumb of North Dakota, and providing for its support and management.'"

Also,

House Bill No. 174,

A Bill for an act for the investigation of the resources of the surface and underground waters of parts of the national government lands located in North Dakota, and for devising a system of irrigation suitable therefor.

Also,

House Bill No. 176,

A Bill for an act entitled "an act establishing the maximum rates of freight of the first, second, third and fourth classes, which common carriers may charge and receive for the transportation thereof between points within the State of North Dakota."

Also,

House Bill No. 6,

A Bill for an act repealing an act entitled "an act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof."

Also,

House Bill No. 171,

A Bill for an act entitled "an act to authorize the voters at an-

nual town meetings to vote upon the question of establishing by proper monuments section, quarter section or meander posts or monuments, which have been destroyed or are becoming obscure.

Also,

House Bill No. 172,

A Bill for an act to amend Section 134 of Article 5 of Chapter 5 of the Laws of 1895, entitled "an act for an act to establish a Code of Criminal Procedure of the State of North Dakota."

Also,

House Bill No. 163,

A Bill for an act to amend Section 299, Chapter 100 of the Laws of 1891,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collection of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto,"

And find the same correctly enrolled.

L. B. Hanna,  
Chairman.

By unanimous consent Mr. Logan moved

That the vote providing for a Concurrent Resolution be reconsidered,

Which motion prevailed.

Mr. Logan offered the following Substitute Resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted:

#### RESOLUTION.

*Be it Resolved by the House of Representatives:*

That the Speaker of the House appoint a Committee of seven members to be known as the "Steering Committee," whose duty it shall be to examine and list all pending bills and make such recommendations as in their judgment they deem necessary.

The following communication was received from the Attorney General:

*Hon. House of Representatives, Bismarck, N. D.:*

GENTLEMEN: I have had under consideration House Bill No. 163, referred

by you to me March 2, 1895, for my opinion as to its constitutionality. On February 21, 1895, I submitted to Governor Allin, with reference to House Bill No. 41, an opinion which applies with equal force to the present bill, House Bill No. 168.

As my opinion of February 21 has been generally discussed and published, I do not deem it necessary to repeat the same to you at this time, but will briefly say that the principal constitutional objections found in House Bill No. 41 are to be found in House Bill No. 168. I am therefore of the opinion that House Bill No. 168 is unconstitutional for the reason that it conflicts with Section 192 of the Constitution of this State. It seeks to terminate the tenure of office of commissioned officers of the organized militia, which in my opinion can only be done under the Constitution by sentence of court martial.

Yours truly,

JOHN F. COWAN,  
Attorney General.

The following communication was received from the State Auditor:

*To the Honorable House of Representatives Fourth Legislative Assembly, State of North Dakota:*

The State Auditor, in compliance with your resolution of March 2, 1895, begs leave to report as follows:

First. The estimated probable income of the State for 1895 and 1896 is.....	\$	725,000 00
Second. The outstanding unpaid accounts left over from the last administration amount to.....		150,064 21
Third. The standing fixed appropriations are—		
State officers' salaries.....	\$	119,800 00
State officers' clerk hire.....		37 000 00
Members Fourth Legislative Assembly.....		33,450 00
Officers and employes, Fourth Legislative Assembly.....		24 000 00
Capitol maintenance.....		14,000 00
State militia.....		25,000 00
State libraries.....		3,600 00
		256,850 8
Fourth. There are certain unlimited appropriations as follows—		
Office expenses, stationery, books, stamps, etc.....		15,000 00
Public printing.....		35,000 00
Insurance, public buildings.....		12,000 00
Arrest and return of fugitives from justice.....		1,500 00
Transportation of convicts to State Penitentiary.....		5,000 00
Transportation of patients to the State Hospital for Insane.....		20,000 00
Wolf and tree bounties.....		4,500 00
Teachers' Institutes.....		4,400 00
Per diem and expenses, State boards.....		10,000 00
Volunteer fire companies.....		9,000 00
Miscellaneous, estimated.....		5,000 00
Total.....	\$	121,000 00

SUMMARY.

Revenue.....		725,000 00
Standing appropriations.....	\$	256,850 00
Unlimited appropriations.....		121,400 00

Deficiency, bills unpaid.....	\$ 150,064 21	528,314 21
Balance for appropriation.....		\$ 196,685 79

Respectfully yours,  
F. A. BRIGGS,  
State Auditor.

Mr. Hodgson moved  
That the reading of the communication be dispensed with, and  
that it be printed in the Journal,  
Which motion prevailed.

#### INTRODUCTION OF BILLS AND MEMORIALS.

By unanimous consent Mr. Twichell introduced  
House Bill No. 179,  
A Bill for an act entitled "an act to regulate the herding of animals  
for hire, to require herders to give bond and to provide for  
herders' liens,  
Which was read the first and second times, and  
Referred to the Committee on State Affairs.

#### FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 72,  
A Bill for an act to regulate the manner in which individuals,  
firms and private corporations shall be authorized to construct,  
maintain and operate public warehouses and elevators on railway  
right of way in the State of North Dakota,  
Was read the first and second times, and  
Referred to the Committee on Warehouses, Grain Grading and  
Dealing.

Senate Bill 121,  
A Bill for an act fixing the times and place of holding general  
and special terms of the Supreme Court of the State of North  
Dakota,  
Which was read the first and second times, and  
Referred to the Judiciary Committee.

Mr. Wineman moved  
That the House do now adjourn to meet at 1 o'clock p. m., to-  
morrow.

Mr. Edwards moved  
As an amendment that the House do now adjourn to meet at 10  
o'clock tomorrow,  
Which motion was lost.  
The question recurring on the original motion,  
Which motion prevailed, and  
The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTY-SEVENTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 5, 1895.

The House assembled at 1 o'clock p. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present.

Mr. Gleason requested that the courtesies of the floor be extended to Ralph Davidson, of Jamestown.

Mr. Stafne requested that the courtesies of the floor be extended to William Purdon, of Richland county.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

The following communication was received from Mr. Durrie:

BISMARCK, N. D., March 5, 1895.

Rev. and Mrs. Durrie, in behalf of the Presbyterian church, extend a personal and cordial invitation to members and employes of the House to spend

a social evening tonight, *i. e.*, Tuesday March 5, at the parsonage, adjoining the church. A mutually pleasant time is expected.

Mr. Wineman moved  
That the House accept the invitation,  
Which motion prevailed, and  
The invitation was accepted.

REPORTS OF STANDING COMMITTEES.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred  
House Bill No. 164,

A Bill for an act to amend Section 81, of Chapter 56, Laws of 1891,

Have had the same under consideration and recommend that the same be indefinitely postponed as the same is provided for in the Political Code.

JOHN LOGAN,  
Chairman.

Mr. Hodson moved  
That the report of the Committee on Education be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted, and  
House Bill No. 164 was indefinitely postponed.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred  
Senate Bill No. 144,

A Bill for an act to amend Section 37 of Chapter 62 of the Session Laws of 1890, State of North Dakota, as amended by Section 8, Chapter 56 of the Laws of 1891, State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 144 was referred to its third reading.

Also,

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120, Chapter 62, Laws of 1890, being an act providing for a uniform system of free public schools,

Have had the same under consideration and recommend that the same be reported back without recommendation.

Senate Bill No. 137 was referred to its third reading.

Also,

Senate Bill No. 93,

A Bill for an act for the encouragement of secondary education and appropriating money therefor,

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 93 was referred to its third reading.

Also,

Senate Bill No. 104,

A Bill for an act to amend Section 161 of an act entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof of Chapter 62, Session Laws of 1890,"

Have had the same under consideration and recommend that the same be indefinitely postponed, as a similar bill has passed the House and is now pending in the Senate.

JOHN LOGAN,  
Chairman.

Mr. Cooper moved

That the report of the Committee on Education in regard to Senate Bill No. 104 be adopted,

Which motion prevailed, and

The report of the Committee was adopted, and Senate Bill No. 104 was indefinitely postponed.

The Committee on Ways and Means made the following report:

MR. SPEAKER:

Your Committee on Ways and Means to whom was referred Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota,

Have had the same under consideration and recommend that the same do pass.

C. L. LINDSTROM,  
Chairman.

Senate Bill No. 96 was referred to its third reading.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

House Bill No. 175,

A Bill for an act amending Sections 10 and 15 of Chapter 91 of the Laws of 1890,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

House Bill No. 175 was referred to the Committee on Engrossment.

## UNFINISHED BUSINESS.

Senate Bill No. 108,

A Bill for an act repealing Chapter 20 of the Special Laws of Dakota Territory for the year 1885, being an act entitled "an act prescribing the duties and regulating the salaries of the county treasurers and registers of deeds for Grand Forks county, D. T.,"

Was placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 56, nays none, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Horgan,  
Lindstrom,

Messrs—

Logan,  
Richards,

Messrs—

Svensrud,  
Tyler.

So the bill passed and the title was agreed to.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined House Bill No. 97,

A Bill for an act to encourage immigration into the State of North Dakota, and to enable the Commissioner of Agriculture and Labor to carry out the provisions of Section 8 of Chapter 46 of the Session Laws of 1890, and to make appropriation therefor.

Also,

House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relat-

ing to counties and county officers and providing for the preservation of coroners' records,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

THIRD READING OF HOUSE BILLS AND MEMORIALS.

House Bill No. 138,

A Bill for an act to amend Sections 6 and 14, Chapter 123, Session Laws of 1893, entitled "an act to amend Sections 1, 6, 8, 13 and 14 of Chapter 161 of Session Laws of 1890, entitled "an act to create an institute for the education of the deaf and dumb of North Dakota and providing for its support and management,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 57, nays 1, not voting 4.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Herbrandson,  
Hill,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Mr. Hodgson voting in the negative.

Absent and not voting:

Messrs—

Horgan,  
McLachlan,

Messrs—

Richards,

Messrs—

Svensrud.

So the bill passed and the title was agreed to.

House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers, and providing for the preservation of coroner's records,

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 56, nays none, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hodgson,

Messrs—

Guinan,  
Hill,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Cryan,  
Horgan,

Messrs—

Richards,  
Simpson,

Messrs—

Svensrud,  
Tyler.

So the bill passed and the title was agreed to.

By unanimous consent the following standing committee reports were submitted:

The Committee on State Affairs made the following report:

**MR. SPEAKER:**

Your Committee on State Affairs to whom was referred Senate Bill No. 84,

A Bill for an act amending Section 7, Chapter 127, Laws of 1893, entitled "an act to establish a weather and crop service for the collection and dissemination of crop statistics and meteorological data,"

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 84 was referred to its third reading.

Also,

Senate Bill No. 149,

A Bill for an act to provide for the protection of planted fish in the waters of North Dakota,

Have had the same under consideration and recommend that the same be indefinitely postponed for the reason that it is covered by the Code.

T. TWICHELL,  
Chairman.

Mr. Hanna moved

That the report of the Committee on State Affairs in regard to Senate Bill No. 149 be adopted,

Which motion prevailed, and

Senate Bill No. 149 was indefinitely postponed.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections,

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 145 was referred to its third reading.

Also,

Senate Bill No. 127,

A Bill for an act to amend Section 1 of Chapter 53 of the Session Laws of 1891, relating to cruelty to animals,

Have had the same under consideration and recommend that the same be indefinitely postponed.

T. TWICHELL,  
Chairman.

Senate Bill No. 127 was referred to General Orders.

By unanimous consent Mr. Hanna moved

That the vote by which the report of the Committee to indefinitely postpone Senate Bill 68 was adopted be reconsidered and that the bill be referred to the Judiciary Committee,

Which motion prevailed, and

Senate Bill No. 68 was referred to the Committee on Judiciary.

Mr. Wineman by unanimous consent moved

That Senate Bill No. 80 be referred to General Orders,

Which motion prevailed, and

The bill was so referred.

The Speaker announced that he was about to sign

House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collections of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto."

Substitute for House Bill No. 91,

A Bill for an act to amend Sections 1, 2 and 3 of Chapter 97, of the Laws of 1893, being an act entitled "an act to amend Sec-

tions 1 and 3 of Chapter 86 of the Laws of 1890," entitled "an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota and to provide for the compensation and payment of the same,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 56, nays 4, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Ray,
Blacklock,	Horgan,	Rinde,
Brainard,	Jennings,	Roberts,
Brown,	Kellogg,	Rod,
Colby,	Kroeger,	Sargent,
Colosky,	Korsmo,	Simpson,
Cooper,	Lerom,	Smith,
Cryan,	Lindstrom,	Spangberg,
Dwyer,	Logan,	Stafne,
Edwards,	McLachlan,	Svensrud,
Eyolfson,	McDonald,	Swenson,
Flack,	Murphy,	Tofsrud,
Fleming,	Myers,	Twichell,
Gilbertson,	Nelson,	Walker,
Gleason,	Nierling,	Wallen,
Gunderson,	Porter,	Wineman,
Herbrandson,	Prosser,	Wood,
Hill,	Purdon,	Mr. Speaker.
Hodgson,	Rasmussen,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Hanna,	Sharpe,	Tyler.
Richards,		

Messrs. Guinan and Hancock absent and not voting.

So the bill passed and the title was agreed to.

Mr. Cryan moved

That the vote by which Substitute for House Bill No. 91 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 97,

A Bill for an act to encourage immigration into the State of North Dakota, and to enable the Commissioner of Agriculture and Labor to carry out the provisions of Section 8 of Chapter 46 of the Session Laws of 1890, and to make appropriation therefor,

Was read the third time,

The question being upon the final passage of the bill,  
The roll being called, there were ayes 29, nays 31, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Kroeger,	Roberts,
Brown,	Logan,	Sargent,
Colby,	McDonald,	Sharpe,
Edwards,	Murphy,	Spangberg,
Fleming,	Nierling,	Swenson,
Gleason,	Porter,	Tofsrud,
Gunderson,	Prosser,	Tyler,
Hill,	Rasmussen,	Wood,
Holritz,	Richards,	Mr. Speaker.
Kellogg,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Herbrandson,	Rinde,
Brainard,	Hodgson,	Rod,
Colosky,	Horgan,	Simpson,
Cooper,	Jennings,	Smith,
Cryan,	Korsmo,	Stafne,
Dwyer,	Lerom,	Svensrud,
Eylofson,	Lindstrom,	Twichell,
Flack,	Myers,	Walker,
Gilbertson,	Nelson,	Wallen,
Guinan,	Purdon,	Wineman.
Hancock,	Ray,	

Absent and not voting, Messrs. Hanna and McLachlan.

So the bill was lost.

Mr. Simpson announced that he would move to reconsider the vote by which House Bill No. 97 was lost.

Mr. Hodgson moved

That the vote by which House Bill No. 97 was lost be reconsidered, and that the motion to reconsider be laid on the table.

Roll call demanded.

The roll being called there were ayes 26, nays 34, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs.	Messrs—
Blacklock,	Guinan,	Nelson,
Brainard,	Herbrandson,	Purdon,
Colosky,	Hodgson,	Ray,
Cryan,	Horgan,	Smith,
Dwyer,	Jennings,	Stafne,
Eylofson,	Korsmo,	Twichell,
Flack,	Lerom,	Walker,
Fleming,	Lindstrom,	Wallen.
Gilbertson,	Myers,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Logan,	Rod,
Brown,	McLachlan,	Sargent,
Colby,	McDonald,	Sharpe,
Cooper,	Murphy,	Simpson,

Messrs—	Messrs—	Messrs—
Edwards,	Nierling,	Spangberg,
Gleason,	Porter,	Svensrud,
Gunderson,	Prosser,	Swenson,
Hancock,	Rasmussen,	Tofsrud,
Hill,	Richards,	Wineman,
Holritz,	Rinde,	Wood,
Kellogg,	Roberts,	Mr. Speaker.
Kroeger,		

Messrs. Hanna and Tyler absent and not voting.

So the motion was lost.

Mr. Simpson moved

That the vote by which House Bill No. 97 was lost be reconsidered.

Roll call demanded.

The roll being called there were ayes 34, nays 26, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Kellogg,	Roberts,
Brainard,	Kroeger,	Rod,
Brown,	Logan,	Sargent,
Colby,	McLachlan,	Sharpe,
Cooper,	McDonald,	Simpson,
Edwards,	Murphy,	Spangberg,
Fleming,	Nierling,	Swenson,
Gleason,	Porter,	Tofsrud,
Gunderson,	Prosser,	Wineman,
Hancock,	Rasmussen,	Wood,
Hill,	Richards,	Mr. Speaker.
Holritz,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Holgson,	Purdin,
Colosky,	Horgan,	Rinde,
Cryan,	Jennings,	Smith,
Dwyer,	Korsmo,	Stafne,
Eyolfson,	Lerom,	Svensrud,
Flack,	Lindstrom,	Twichell,
Gilbertson,	Myers,	Walker,
Guinan,	Nelson,	Wallen.
Herbrandson,		

Absent and not voting, Messrs. Hanna and Tyler.

So the motion to reconsider prevailed.

The Speaker announced that he was about to sign Concurrent Resolution,

Accepting the donation of the United States Military Wood Reservation, Ramsey county, North Dakota, from the United States, to be used as encampment grounds for the National Guard of North Dakota, and other purposes stated in act of Congress granting same.

Also,

Senate Bill No. 99,

A Bill for an act to provide for the treatment and cure of habitual drunkards.

Mr. Simpson moved

That the further consideration of House Bill No. 97 be deferred for the present.

Mr. Hodgson offered as a substitute motion that House Bill No. 97 be made a special order for next Thursday at 2:30 p. m.,

Which substitute motion was lost.

The question recurring on the original motion,

The motion prevailed.

By unanimous consent the following Committee report was submitted:

The Committee on Municipal Corporations made the following report:

MR. SPEAKER:

Your Committee on Municipal Corporations to whom was referred

Senate Bill No. 77,

A Bill being an act to amend Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887,

Have had the same under consideration and recommend that the same be amended as follows:

In line 11, page 1, original bill, strike out the figure "1" and insert in lieu thereof the figures "25."

In line 17 strike out the word and figure "Section 2."

In line 21 strike out the word and figure "Section 3."

Also, in line 3, page 2 of same bill strike out the word and figure "Section 4."

And when so amended recommend that the same do pass.

JAMES PURDON,  
Chairman.

Mr. Purdon moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

House Bill No. 179,

A Bill for an act entitled "an act to regulate the herding of animals for hire; to require herders to give bond, and to provide for herders' liens,

Have had the same under consideration and recommend that the same be amended as follows:

In line 7 of printed bill after the word "sum" strike out the words "equa to fifteen per cent of the value of the herd."

In line 8 strike out the words "entrusted to the herders' care" and insert in lieu of the words so stricken out the words "of five hundred dollars,"

And when so amended recommend that the same do pass.

T. TWICHELL,  
Chairman.

Mr. Armstrong moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Taxes and Tax Laws made the following report:

MR. SPEAKER:

Your Committee on Taxes and Tax Laws to whom was referred House Bill No. 160,

A Bill for an act to amend Section 103, of Chapter 132, of the Laws of 1890,

Have had the same under consideration and recommend that the same be amended as follows:

By striking out the word "sixty" in line 25, printed bill, and the word "ninety" be inserted in lieu thereof,"

And when so amended recommend that the same do pass.

N. SWENSON,  
Chairman.

Mr. Logan moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

Mr. Hodgson by unanimous consent offered the following resolution, and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

*Be it Resolved by the House of Representatives:*

That the Committee on Appropriations be requested to report to the House as soon as possible the aggregate amount involved in all the appropriation bills recommended by them to pass.

#### SPECIAL ORDERS.

The hour having arrived to consider

House Bill No. 41,

A Bill for an act entitled "an act to amend Sections 4, 5, 6, 18, 22, 23, 43, 57 and 61 of the Military Code, being Chapter 86 of the Session Laws of 1891,"

Together with the Governor's veto message as a special order.

Mr. Twichell moved

That the further consideration of House Bill No. 41 be indefinitely postponed,

Which motion prevailed, and

The further consideration of House Bill No. 41 was indefinitely postponed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 5, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in this State and to provide a license for persons engaged in peddling."

Also,

Senate Bill No. 152,

A Bill for an act authorizing the board of directors of corporations to hold their meetings at any place within or without the State of North Dakota.

Also,

Senate Bill No. 153,

A Bill for an act in relation to health and decency in the school districts of this State.

Also,

Senate Bill No. 111,

A Bill for an act indemnifying the owner of sheep in case of damage by dogs and creating a fund to pay the same by taxes on dogs, and to repeal Chapter 155, Laws of 1890.

Also,

Senate Bill No. 154,

A Bill for an act amending Section 1, Article 19, Chapter 73 of the Laws of 1887, the same being Section 1016 of the Compiled Laws of the Territory of Dakota, now State of North Dakota,

Which the Senate has passed and the favorable consideration thereof by the House is respectfully requested.

Also,

I have the honor to transmit herewith

Senate Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 31 of the Session Laws of 1891, for the purpose of including all lands in its

provisions and requiring a judgment to be obtained to make the expense a tax lien on the land.

Also,

Senate Bill No. 107,

A Bill for an act to provide for the levy and collection of a road poll tax.

Which the Senate has passed and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

The hour having arrived for the consideration of  
Senate Bill No. 63.

A Concurrent Resolution to amend Subdivision eight of Section 215 of Article 19 of the Constitution of the State of North Dakota,

As a special order.

The question being upon the final passage of Senate Bill No. 63, being a Concurrent Resolution,

The roll being called there were ayes 39, nays 17, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Eyolfson,  
Flack,  
Fleming,  
Guinan,  
Hancock,  
Herbrandson,  
Hill,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Prosser,  
Rasmussen,

Messrs—

Ray,  
Rinde,  
Roberts,  
Rod,  
Sharpe,  
Svensrud,  
Swenson,  
Tofsrud,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Dwyer,  
Gilbertson,  
Gleason,  
Hanna,  
Hodgson,

Messrs—

Lindstrom,  
McLachlan,  
Nierling,  
Porter,  
Purdon,  
Richards,

Messrs—

Sargent,  
Smith,  
Spangberg,  
Stafne,  
Twichell.

Absent and not voting:

Messrs—

Brown,  
Edwards,

Messrs—

Gunderson,  
Lerom,

Messrs—

Simpson,  
Tyler.

So the Concurrent Resolution passed and the title was agreed to.

Mr. Kellogg moved

That the vote by which Senate Bill No. 63 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 156,

A Bill for an act to require railroad companies to erect, maintain and keep open suitable buildings for the accommodation of passengers wherever the tracks of one crosses that of the other more than two (2) miles from a passenger depot,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 156,

A Bill for an act to require railroad companies to erect, maintain and keep open suitable buildings for the accommodation of passengers wherever the tracks of one crosses that of the other more than two (2) miles from a passenger depot,

Was read the third time.

Mr. Wineman requested unanimous consent to introduce an amendment.

Objection made.

Objection withdrawn.

Informal recess.

House reassembled.

Mr. Wineman offered the following amendments and moved their adoption,

Which motion prevailed, and

The amendments were adopted.

Amend Section 1 by adding the following:

*Provided further*, When, after due investigation the Board of Railroad Commissioners so order, amend the title of the bill by striking out the words "more than (2) miles from a passenger depot."

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 58, nays none, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Holritz,	Richards,
Brown,	Horgan,	Rinde,
Colby,	Jennings,	Roberts,
Colosky,	Kellogg,	Rod,
Cooper,	Kroeger,	Sargent,
Cryan,	Korsmo,	Sharpe,
Dwyer,	Lerom,	Smith,
Edwards,	Lindstrom,	Spangberg,
Eyolfson,	Logan,	Stafne,
Flack,	McLachlan,	Svensrud,
Fleming,	McDonald,	Swenson,
Gilbertson,	Murphy,	Twitchell,
Gleason,	Myers,	Tyler,
Guinan,	Nelson,	Walker,
Gunderson,	Nierling,	Wallen,
Hancock,	Porter,	Wineman,
Hanna,	Prosser,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.
Hill,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Simpson,	Tofsrud.
Purdon,		

So the bill as amended passed and the title was agreed to.

Mr. Hanna moved

That the vote by which House Bill No. 156 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Wallen moved

That the vote by which House Bill No. 125 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 174,

A Bill for an act entitled "an act for the investigation of the resources of the surface and underground waters of parts of the national government lands located in North Dakota, and for devising a system of irrigation suitable therefor,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 46, nays 7, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Ray,
Blacklock,	Horgan,	Richards,
Brown,	Jennings,	Rinde,
Colby,	Kellogg,	Roberts,

Messrs—  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Eyolfson,  
 Flack,  
 Fleming,  
 Guinan,  
 Hancock,  
 Hanna,  
 Herbrandson,  
 Hill,

Messrs—  
 Kroeger,  
 Korsmo,  
 Lerom,  
 Lindstrom,  
 Logan,  
 Murphy,  
 Myers,  
 Nelson,  
 Porter,  
 Prosser,  
 Rasmussen,

Messrs—  
 Sargent,  
 Sharpe,  
 Smith,  
 Spangberg,  
 Stafne,  
 Svensrud,  
 Swenson,  
 Twichell,  
 Tyler,  
 Wood,  
 Mr. Speaker.

Those who voted in the negative were:

Messrs—  
 Edwards,  
 Gilbertson,  
 Gleason,

Messrs—  
 McDonald,  
 Nierling,

Messrs—  
 Walker,  
 Wallen.

Absent and not voting:

Messrs—  
 Brainard,  
 Gunderson,  
 Holritz,

Messrs—  
 McLachlan,  
 Purdon,  
 Rod,

Messrs—  
 Simpson,  
 Tofsrud,  
 Wineman.

So the bill passed and the title was agreed to.

Mr. Twichell requested that the courtesies of the floor be extended to Addison Leach and Mr. Montgomery, of Fargo.

There being no objection the courtesies of the floor were so extended.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
 House Bill No. 161,

A Bill for an act to amend Section 1 of Chapter 70, of the Laws of 1893, being an act to amend Section 1, of Chapter 78, of the Laws of 1890, entitled "an act to amend Section 16 of the General Laws of 1885, and Section 10 of Chapter 69 of the General Laws of 1889, relating to the publication of insurance statements."

Also,

Substitute for House Bill No. 110,

A Bill for an act to protect farm laborers and giving them a lien upon crops as security for their wages,

And find the same correctly engrossed.

O. S. WALLEN,  
 Chairman.

House Bill No. 161,

A Bill for an act to amend Section 1 of Chapter 70 of the Laws of 1893, being an act to amend Section 1 of Chapter 78 of the Laws of 1890, entitled "an act to amend Section 16 of the

General Laws of 1889, and Section 10 of Chapter 69 of the General Laws of 1889, relating to the publication of insurance statements,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 38, nays 18, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Dwyer,  
Elyolfson,  
Flack,  
Fleming,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Hill,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Simpson,  
Smith,  
Spangberg,  
Svensrud,  
Swenson,  
Twichell,  
Walker,  
Mr. Speaker

Those who voted in the negative were:

Messrs—

Colby,  
Cryan,  
Edwards,  
Gilbertson,  
Gleason,  
Hanna,

Messrs—

Herbrandson,  
Hodgson,  
Holritz,  
Korsmo,  
Lerom,  
Myers,

Messrs—

Nierling,  
Porter,  
Ray,  
Sargent,  
Stafne,  
Tyler.

Absent and not voting:

Messrs—

Nelson,  
Sharpe,

Messrs—

Tofsrud,  
Wallen,

Messrs—

Wineman,  
Wood.

So the bill as amended passed and the title was agreed to.

Mr. Simpson moved

That the vote by which House Bill No. 161 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Substitute for House Bill No. 110,

A Bill for an act to protect farm laborers and give them a lien upon crops as security for their wages,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 46, nays 9, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,

Messrs—

Hodgson,  
Holritz,

Messrs—

Richards,  
Rinde,

## Messrs—

Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

## Messrs—

Horgan,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Murphy,  
Myers,  
Porter,  
Purdon,  
Rasmussen,

## Messrs—

Roberts,  
Rod,  
Sargent,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

## Messrs—

Dwyer,  
Edwards,  
Fleming,

## Messrs—

Gleason,  
Hill,  
Jennings,

## Messrs—

McDonald,  
Svensrud,  
Tyler.

Absent and not voting:

## Messrs—

Nelson,  
Nierling,  
Prosser,

## Messrs—

Ray,  
Sharpe,

## Messrs—

Simpson,  
Twichell.

So the bill passed and the title was agreed to.

Mr. Korsmo moved

That the vote by which Substitute for House Bill No. 110 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 126,

A Bill for an act requiring county commissioners to furnish an official bond to his county,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Speaker announced the following as members of the Committee to arrange the order of bills for consideration: Messrs. Hanna, Logan, Lindstrom, Simpson, Blacklock, Tyler, Murphy.

House Bill No. 126,

A Bill for an act requiring county commissioners to furnish an official bond to his county,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 38, nays 21, not voting 3.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Rinde,
Brainard,	Kellogg,	Roberts,
Brown,	Kroeger,	Rod,
Colby,	Korsmo,	Sargent,
Colosky,	Logan,	Sharpe,
Cryan,	McLachlan,	Spangberg,
Edwards,	Murphy,	Stafne,
Flack,	Myers,	Tofsrud,
Fleming,	Nelson,	Twitchell,
Gilbertson,	Porter,	Walker,
Gunderson,	Prosser,	Wallen,
Hancock,	Purdon,	Mr. Speaker.
Hanna,	Richards,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hodgson,	Ray,
Cooper,	Horgan,	Smith,
Dwyer,	Jennings,	Svensrud,
Eyolfson,	Lerom,	Swenson,
Gleason,	Lindstrom,	Tyler,
Guinan,	McDonald,	Wineman,
Hill,	Rasmussen,	Wood.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Herbrandson,	Nierling,	Simpson.

So the bill passed and the title was agreed to.

House Bill No. 171,

A Bill for an act entitled "an act to authorize the voters at annual town meetings to vote upon the question of establishing, by proper monuments, section, quarter-section or meander posts or monuments, which have been destroyed or becoming obscure,"

Was read the third time,

The question being upon the final passage of the bill,

The roll being called there were ayes 56, nays 3, not voting 3.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rinde,
Blacklock,	Holritz,	Roberts,
Brainard,	Horgan,	Rod,
Brown,	Jennings,	Sargent,
Colby,	Kellogg,	Sharpe,
Colosky,	Kroeger,	Smith,
Cooper,	Lerom,	Spangberg,
Dwyer,	Lindstrom,	Stafne,
Eyolfson,	Logan,	Svensrud,
Flack,	McLachlan,	Swenson,
Fleming,	McDonald,	Tofsrud,
Gilbertson,	Murphy,	Twitchell,
Gleason,	Myers,	Tyler,

Messrs—  
 Guinan,  
 Gunderson,  
 Hancock,  
 Hanna,  
 Herbrandson,  
 Hill,

Messrs—  
 Porter,  
 Prosser,  
 Purdon,  
 Rasmussen,  
 Ray,  
 Richards,

Messrs—  
 Walker,  
 Wallen,  
 Wineman,  
 Wood,  
 Mr. Speaker.

Those who voted in the negative were:

Messrs—  
 Cryan,

Messrs—  
 Edwards,

Messrs—  
 Nelson.

Absent and not voting:

Messrs—  
 Korsmo,

Messrs—  
 Nierling,

Messrs—  
 Simpson.

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
 March 5, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill 162,

A Bill for an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota, and to provide for their compensation and payment,

Which the Senate has passed and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
 Secretary.

Mr. Twichell moved

That the vote by which House Bill No. 171 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

House Bill No. 172,

A Bill for an act to amend Section 134 of Article 5 of Chapter 5 of the Laws of 1895, entitled "an act to establish a Code of Criminal Procedure of the State of North Dakota,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 57, nays none, not voting 5.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,

Messrs—  
 Hill,  
 Hodgson,  
 Holritz,

Messrs—  
 Ray,  
 Rinde,  
 Roberts,

Messrs—

Brown,  
Colby,  
Colosky,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanua,  
Herbrandson,

Messrs—

Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Rod,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Cooper,  
Korsmo,

Messrs—

Nierling,  
Richards,

Messrs—

Simpson.

So the bill passed and the title was agreed to.

Mr. Colby moved

That the vote by which House Bill No. 172 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Nierling requested that the courtesies of the floor be extended to Mr. C. J. Wilson, of Jamestown.

There being no objection the courtesies of the floor were so extended.

House Bill No. 6,

A Bill for an act entitled "an act repealing an act entitled 'an act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof,'"

Was read the third time.

The roll being called there were ayes 30, nays 31, not voting 1.

Those who voted in the affirmative were:

Messrs—

Blacklock,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Herbrandson,

Messrs—

Hodgson,  
Holritz,  
Kroeger,  
Lerom,  
Lindstrom,  
McLachlan,  
McDonald,  
Nelson,  
Nierling,  
Purdon,

Messrs—

Ray,  
Rod,  
Sargent,  
Stafne,  
Swenson,  
Tyler,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those voting in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Rinde,
Brainard,	Jennings,	Roberts,
Brown,	Korsmo,	Sharpe,
Colby,	Logan,	Simpson,
Cryan,	Murphy,	Smith,
Eyolfson,	Myers,	Spangberg,
Flack,	Porter,	Svensrud,
Fleming,	Prosser,	Tofsrud,
Guinan,	Rasmussen,	Twichell,
Hanna,	Richards,	Walker.
Hill,		

Mr. Kellogg absent and not voting.

So the bill was lost.

Mr. Svensrud moved

That the vote by which House Bill No. 6 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion was lost.

House Bill No. 176,

A Bill for an act entitled "an act establishing the maximum rates of freight of the first, second, third and fourth classes, which common carriers may charge and receive for the transportation thereof between points within the State of North Dakota," Was read the third time.

The question being upon the final passage of the bill, The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Rasmussen,
Brainard,	Hodgson,	Ray,
Brown,	Holritz,	Rinde,
Colby,	Horgan,	Roberts,
Colosky,	Jennings,	Sargent,
Cooper,	Kellogg,	Sharpe,
Cryan,	Kroeger,	Smith,
Dwyer,	Korsmo,	Spangberg,
Edwards,	Lerom,	Stafne,
Eyolfson,	Lindstrom,	Svensrud,
Flack,	Logan,	Swenson,
Fleming,	McLachlan,	Tofsrud,
Gilbertson,	Murphy,	Twichell,
Gleason,	Myers,	Walker,
Guinan,	Nelson,	Wallen,
Gunderson,	Porter,	Wineman,
Hancock,	Prosser,	Wood,
Hanna,	Purdon,	Mr. Speaker.
Herbrandson,		

Absent and not voting:

Messrs—  
Blacklock,  
McDonald,  
Nierling,

Messrs—  
Richards,  
Rod,

Messrs—  
Simpson,  
Tyler.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 176 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

Mr. Prosser moved

That the House take a recess for the purpose of having a photograph taken,

Which motion prevailed, and  
The House took such recess.

House reassembled.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 5, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 14,

A Bill for an act entitled "an act to regulate the practice of veterinary science in the State of North Dakota."

Also,

House Bill No. 64,

A Bill for an act entitled "an act compelling railroad companies to provide a certain number of men to man trains and prescribing penalties for neglect thereof."

Also,

House Bill No. 104,

A Bill for an act to amend Section 6 of Chapter 27 of the General Laws of 1893, entitled "an act to provide for the organization and government of State banks."

Respectfully,  
ROGER ALLIN,  
Governor.

## MESSAGE FROM THE GOVERNOR.

The following message was received from the Governor:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., March 5, 1895. }

*To the House of Representatives:*

GENTLEMEN:—House Bill No. 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers or any article or instrument of immoral use and prescribing the punishment therefor, reached the Executive Office on the 4th of March at 2:50 p. m.

The same is herewith returned, as the subject matter therein is provided for by Section 415, Chapter 35 of the Penal Code, being House Bill No. 135.

Respectfully,  
ROGER ALLIN,  
Governor.

House Bill No. 112 together with the veto message was referred to the Committee on Judiciary.

By unanimous consent the following Standing Committee reports were received:

The Committee on Counties and County Boundaries made the following report:

MR. SPEAKER:

Your Committee on Counties and County Boundaries to whom was referred

House Bill No. 173,

A Bill for an act to change the lines of organized counties and to provide for the annexation of unorganized territory to organized counties,

Have had the same under consideration and recommend that the same do pass as amended.

J. S. MURPHY,  
Chairman.

House Bill No. 173 was referred to the Committee on Engrossment.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred

House Bill No. 178,

A Bill for an act to repeal an act approved February 28, 1893,

entitled "an act for an appropriation for the erection of the North Dakota Reform School at Mandan and for incidental and contingent expenses for the same,"

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

House Bill No. 178 was referred to the Committee on Engrossment.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 175,

A Bill for an act amending Sections 10 and 15 of Chapter 91 of the Laws of 1890, relating to marriage licenses.

Also,

House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

Mr. Wineman moved

That the rules be suspended and that House Bill No. 175 be placed upon its third reading and final passage,

Which motion prevailed, and

House Bill No. 175,

A Bill for an act amending Sections 10 and 15 of Chapter 91 of the Laws of 1890, relating to marriage licenses,

Was read the third time,

The question being upon the final passage of the bill.

The roll being called there were ayes 39, nays 21, not voting 2.

Those who voted in the affirmative were:

Messrs—

Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eylofsen,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,

Messrs—

Gunderson,  
Hancock,  
Hanna,  
Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Prosser,

Messrs—

Purdon,  
Roberts,  
Sargent,  
Sharpe,  
Smith,  
Stafne,  
Swenson,  
Twichell,  
Tyler,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Lerom,	Ray,
Blacklock,	Lindstrom,	Richards,
Fleming,	Logan,	Rinde,
Herbrandson,	McLachlin,	Rod,
Horgan,	Nelson,	Spangberg,
Kroeger,	Porter,	Tofsrud,
Korsmo,	Rasmussen,	Walker.

Messrs. Simpson and Svensrud absent and not voting.  
So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 175 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed.

Mr. Hanna moved

That the House pass to the fourteenth order of business,  
Which motion prevailed.

#### FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 156,

A Bill for an act to repeal Chapter 70 of the Session Laws of 1890, being an act to amend Article 9 of the Compiled Laws of 1887, being an act entitled "an act to promote forest tree culture,"

Was read the first and second times, and  
Referred to the Judiciary Committee.

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in the State, and to provide a license fee for persons engaged in peddling,

Was read the first and second times, and  
Referred to the Committee on State Affairs.

Senate Bill No. 153,

A Bill for an act in relation to health and decency in the school districts of this State,

Was read the first and second times, and  
Referred to the Committee on Education.

Senate Bill No. 154,

A Bill for an act amending Section 1 of Article 19, Chapter 73 of the Laws of 1887, the same being Section 1016 of the Compiled Laws of the Territory of Dakota, now State of North Dakota,

Was read the first and second times, and  
Referred to the Committee on Municipal Corporations.

## Senate Bill No. 152,

A Bill for an act authorizing the board of directors of corporations to hold their meetings at any place within or without the State of North Dakota,

Was read the first and second times, and

Referred to the Committee on Corporations Other Than Municipal.

## Senate Bill No. 107,

A Bill for an act to provide for the levy and collection of a road poll tax,

Was read the first and second times, and

Referred to the Committee on Taxes and Tax Laws.

## Senate Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 31 of the Session Laws of 1891, for the purpose of including all lands in its provisions and requiring a judgment to be obtained to make the expense a tax lien on the land,

Was read the first and second times, and

Referred to the Committee on Agriculture.

## Senate Bill No. 111,

A Bill for an act entitled "an act indemnifying the owners of sheep in case of damage by dogs, and creating a fund to pay for the same by a tax on dogs," and to repeal Chapter 155, Laws of 1890,

Was read the first and second times, and

Referred to the Committee on State Affairs.

## THIRD READING OF HOUSE BILLS.

## House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,

Messrs—

Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,

Messrs—

Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,

Messrs—

Fleming,  
 Gilbertson,  
 Guinan,  
 Gunderson,  
 Hanna,  
 Herbrandson,  
 Hill,

Messrs—

Myers,  
 Nelson,  
 Nierling,  
 Porter,  
 Prosser,  
 Purdon,  
 Rasmussen,

Messrs—

Twichell,  
 Tyler,  
 Walker,  
 Wineman,  
 Wood,  
 Mr. Speaker.

Absent and not voting:

Brainard,  
 Gleason,  
 Hancock,

Horgan,  
 Murphy,  
 Ray,

Sharpe,  
 Simpson,  
 Wallen.

So the bill passed and the title was agreed to.

Mr. Purdon moved

That the vote by which House Bill No. 167 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

House Bill No. 163,

A Bill for an act to amend Section 29 of Chapter 100 of the General Laws of 1891,

Was read the third time.

Mr. Nierling moved

That further consideration of House Bill No. 163 be indefinitely postponed,

Which motion prevailed, and

The further consideration of House Bill No. 163 was indefinitely postponed.

House Bill No. 168,

A Bill for an act to define the terms of office of staff officers of the North Dakota National Guard and to provide for their appointment,

Was placed upon its third reading.

Mr. Wallen moved

That further consideration of House Bill No. 168 be indefinitely postponed,

Which motion prevailed, and

Further consideration of House Bill No. 168 was indefinitely postponed.

Mr. Twichell moved

That the House return to the fourteenth order of business,  
 Which motion prevailed.

FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 162,

A Bill for an act to fix the number of employes of the Legis-

lative Assembly of the State of North Dakota, and to provide their compensation and payment,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

THIRD READING OF SENATE BILLS.

Senate Bill No. 67,

A Bill for an act to amend Subdivision 30 of Section 73 of the Laws of 1887,

Was read the third time.

Mr. Cooper moved

That the further consideration of Senate Bill No. 67 be indefinitely postponed,

Which motion prevailed.

Senate Bill No. 147,

A Bill for an act creating an historical commission for the State, prescribing its duties and the place for preserving its records,

Was read the third time.

Amendments adopted March 1 were read.

In last paragraph of Section 2, by striking out the word "they" and insert in lieu thereof the words "the Board of Capitol Commissioners shall provide;" and on first line of second page of original bill by inserting before the word books "and other," and by striking out the word "other" immediately before the word "collections."

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Rod,  
Sargent,  
Sharpe,  
Spangberg,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Colby,  
Gunderson,  
McDonald,

Messrs—

Murphy,  
Simpson,

Messrs—

Smith,  
Stafne.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which Senate Bill No. 147 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 160,

A Bill for an act to amend Section 103 of Chapter 132 of the Laws of 1890.

Also,

House Bill No. 179,

A Bill for an act entitled "an act to regulate the herding of animals for hire; to require herders to give bond and to provide for herder's liens,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 76,

A Bill for an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their townships and the amounts thereof.

Also,

House Bill No. 128,

A Bill for an act to prevent the destruction of farm buildings in the State of North Dakota,

Ann find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 128,

A Bill for an act entitled "an act to prevent the destruction of farm buildings in the State of North Dakota."

Also,

House Bill No. 76,

A Bill for an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their township, and the amounts thereof.

Senate Bill No. 98,

A Bill for an act authorizing the counties in the State of North Dakota to raise and expend a fund for the purchase of poison for the destruction of gophers, and repealing Chapter 144 of the Session Laws of 1890,

Was read the third time.

Mr. Ray requested unanimous consent to offer an amendment.

Objection made.

The question being upon the final passage of the bill,

The roll being called there were ayes 43, nays 11, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Herbrandson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McLachlan,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,

Messrs—

Purdon,  
Rasmussen,  
Rinde,  
Sargent,  
Sharpe,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Colosky,  
Flack,  
Fleming,  
Guinan,

Messrs—

Kellogg,  
Ray,  
Richards,  
Roberts,

Messrs—

Rod,  
Spangberg,  
Wood.

Absent and not voting:

Messrs—

Brainard,  
Hanna,  
Jennings,

Messrs—

Lindstrom,  
McDonald,  
Simdson'

Messrs—

Smlth,  
Wineman.

So the bill passed and the title was agreed to.

Senate Bill No. 47,

A Bill for an act to amend Section 332 of Chapter 13 of the Code of Civil Procedure, being Section 5127 of the Compiled Laws relating to property not exempt from execution.

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 44, nays 8, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rasmussen,
Blacklock,	Horgan,	Roberts,
Brown,	Jennings,	Rod,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Smith,
Eyolfson,	Lerom,	Spangberg,
Flack,	Logan,	Swenson,
Fleming,	McLachlan,	Twichell,
Gilbertson,	McDonald,	Tyler,
Gleason,	Murphy,	Walker,
Guinan,	Myers,	Wallen,
Hancock,	Nelson,	Wineman,
Hanna,	Porter,	Wood.
Hill,	Prosser,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Purdon,	Tofsrud,
Dwyer,	Rinde,	Mr. Speaker.
Herbrandson,	Stafne,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Cryan,	Lindstrom,	Richards,
Edwards,	Nierling,	Simpson,
Gunderson,	Ray,	Svensrud.
Holritz,		

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which House Bill No. 47 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Wineman moved

That when the House adjourn it adjourns to meet at 10 o'clock to-morrow morning.

Mr. Hanna offered as a substitute motion that when the House adjourn it adjourns to meet at 1 o'clock tomorrow afternoon,

Which substitute motion prevailed.

Mr. Hodgson moved

That the vote by which the substitute motion prevailed be reconsidered.

Roll call demanded.

The roll being called there were ayes 35, nays 25, not voting 2.

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Korsmo,	Ray,
Colby,	Lerom,	Rod,
Colosky,	Lindstrom,	Smith,
Cooper,	Logan,	Stafne,
Cryan,	McLachlan,	Svensrud,
Dwyer,	Murphy,	Swenson,
Edwards,	Myers,	Tofsrud,
Gilbertson,	Nelson,	Wallen,
Gunderson,	Prosser,	Wineman,
Hancock,	Purdon,	Wood,
Hill,	Rasmussen,	Mr. Speaker.
Hodgson,		

Those voting in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Rinde,
Blacklock,	Horgan,	Roberts,
Brown,	Jennings,	Sargent,
Eylofson,	Kellogg,	Sharpe,
Flack,	Kroeger,	Spangberg,
Fleming,	McDonald,	Twichell,
Guinan,	Nierling,	Tyler,
Hanna,	Richards,	Walker.
Herbrandson,		

Messrs. Gleason and Simpson absent and not voting.

So the motion to reconsider prevailed.

Mr. Hodgson moved

That the House do now adjourn until ten o'clock tomorrow morning,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTY-EIGHTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 6, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-fourth day, and recommend that it be amended as follows:

On page 6, on last line of page, strike out the word "author-

ized" and insert in lieu thereof the word "itemized" and when so amended recommend that the Journal of the fifty-fourth day be approved.

GEORGE HILL,  
Chairman.

Mr. Svensrud moved  
That the report of the Committee be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted and the Journal of the fifty-fourth day was approved.

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-sixth day and recommend that it be amended as follows:

On page 34, after line 19, insert the following: "On motion, which was carried, all Senate bills reported from the Senate today be given their first and second reading and referred. After line 28, same page, Senate Bill No. 163 was read the first and second times and referred to the Judiciary Committee,"

And when so amended recommend that it be approved.

GEO. HILL,  
Chairman.

Mr. Rinde moved  
That the report of the Committee be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted,  
And the Journal of the fifty-sixth day was approved.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred  
Senate Bill 153,

A Bill for an act in relation to health and decency in the school districts of this State,

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

Senate Bill No. 153 was referred to its third reading.

## REPORT OF SELECT COMMITTEES.

MR. SPEAKER:

The Committee to whom was referred Senate Bills on their third reading for arrangement in order of their importance report the same back to the House with a recommendation that they be considered in the following order, viz:

Senate Bill No. 21,

A Bill for an act providing for the appropriation of additional buildings, and for the payment of the contingent expenses of the North Dakota Agricultural College and Experimental Station of Fargo.

Also,

Senate Bill No. 25,

A Bill for an act for an appropriation for current and contingent expenses of the Hospital for the Insane at Jamestown.

Also,

Senate Bill No. 26,

A Bill for an act providing for an appropriation for the maintenance of the State Normal School at Valley City.

Also,

Senate Bill No. 29,

A Bill for an act providing for an appropriation for the current and contingent expenses of the penitentiary at Bismarck and for making needed permanent improvements thereat.

Also,

Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current and contingent expenses, furnishing, maintenance and making needed improvements and repairs for the Soldiers' Home at Lisbon.

Also,

Senate Bill No. 35,

A Bill for an act providing for an appropriation for the maintenance and the current and contingent expenses of the School for the Deaf of North Dakota at Devils Lake for deficiency and for making needed improvements thereat.

Also,

Senate Bill No. 49,

A Bill for an act making an appropriation for maintenance of the State University, and for needed permanent improvements of the State University.

Also,

Senate Bill No. 54,

A Bill for an act providing for an appropriation for the main-

tenance and improvements of the State Normal School at Mayville.

Also,

Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses necessary incident to the eradication of Russian thistles and French weeds.

Also,

Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896.

Also,

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota,

Also,

Senate Bill No. 141,

A Bill for an act to prohibit the manufacture, sale or use of adulterated cigarettes, and the sale of cigarettes, cigars and tobacco to minors.

Also,

Senate Bill No. 131,

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act to amend Articles 4, 9 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the incorporation of cities, also to repeal Section I of Chapter 92 of the Laws of 1890 in so far as the same relates to cities."

Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, 21, 22 and 23 of Article 15 of Chapter 73 of the Laws of 1887.

Also,

Senate Bill No. 136,

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws.

Also,

Senate Bill No. 132,

A Bill for an act to provide free text books for use in the public schools of this State.

Also,

Senate Bill No. 140,

A Bill for an act defining the qualifications of electors of Indian descent.

Also,

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota.

Also,

Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof."

Also,

Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools.

Also,

Senate Bill No. 57,

A Bill for an act to amend Section 37, Chapter 62, of an act to provide for a uniform system of public schools, of Laws of 1890, State of North Dakota, as amended by Section 8, Chapter 56, of the Laws of 1891, State of North Dakota.

Also,

Senate Bill No. 135,

A Bill for an act declaring the Carlisle tables of mortality to be competent evidence in certain cases.

Also,

Senate Bill No. 18,

A Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25, of the General Laws of 1881, being Section 4383 of the Compiled Laws."

Also,

Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891, being an act entitled "an act for the prevention of prairie fires and to provide against damage done by them, also prescribing the duties of county commissioners in relation thereto."

Also,

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants.

Also,

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making

assessments and the levy and collection of taxes, and for other purposes relative thereto."

Also,

Senate Bill No. 129,

A Bill for an act to amend Section 1961a of the Civil Code.

Also,

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties.

Also,

Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota.

Also,

Senate Bill No. 77,

A Bill being an act to amend Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887.

Also,

Senate Bill No. 16,

A Bill for an act providing for the establishment of boards of conciliation, and prescribing the mode of procedure of the same, and to repeal Chapter 45, of the Laws of 1893.

Also,

Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals, creating the office of chief State veterinarian, prescribing the duties thereof, and appropriating money for the necessary expenses thereof.

Also,

Senate Bill No. 3,

A Bill for an act to amend Section 121, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections.

Also,

Substitute for Senate Bill No. 93,

A Bill for an act for the encouragement of secondary education.

Also,

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120, of Chapter 62, Laws of 1890, being an act providing for uniform system of public schools.

Also,

Senate Bill No. 133,

A Bill for an act to amend Section 63, Chapter 62, Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of provisions thereof."

Respectfully,

L. B. HANNA,

JOHN LOGAN,

C. L. LINDSTROM,

L. A. SIMPSON,

J. T. BLACKLOCK.

Mr. Sargent moved

That the report of the Committee be adopted.

Mr. Hodgson offered as a substitute motion that action on the report be deferred until tomorrow.

Mr. Wineman offered as an amendment to the substitute that action on the report be deferred until this afternoon.

Amendment accepted.

Mr. Sargent accepted the substitute motion as amended.

Which substitute motion as amended prevailed.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Warehouses and Grain Grading made the following report:

MR. SPEAKER:

Your Committee on Warehouses and Grain Grading to whom was referred

Senate Bill No. 72,

A Bill for an act to regulate the manner in which individuals, firms, and private corporations shall be authorized to construct, maintain and operate public warehouses and elevators on railway right of way in the State of North Dakota,

Have had the same under consideration and recommend that the same be amended as follows:

Wherever the words "railway commissioners" appear in said bill amend by changing to read "railroad commissioners,"

And when so amended recommend that the same do pass.

EVAN S. TYLER,  
Chairman.

Senate Bill No. 72 was referred to its third reading.

Mr. Rinde moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

A Concurrent Resolution,

To amend Sections 82, 83 and 84 of Article 3 of the Constitution of the State of North Dakota,

Have had the same under consideration and recommend that the same be referred to the "Steering Committee."

The Concurrent Resolution was referred to the "Steering Committee."

Also,

Senate Bill No. 156,

A Bill for an act to repeal Chapter 70 of the Session Laws of 1890, being an act to amend Article 9 of the Compiled Laws of 1887, being an act entitled "an act to provide forest tree culture,"

Have had the same under consideration and recommend that the same do not pass.

Senate Bill No. 156 was referred to its third reading.

Also,

Senate Bill No. 68,

A Bill for an act to amend Article 11 of Chapter 13 of the Code of Civil Procedure, being Section 5126 to Section 5140 inclusive of the Compiled Laws,

Have had the same under consideration and report it back without recommendation.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 68 was referred to its third reading.

Mr. Blacklock requested that the courtesies of the floor be extended to J. M. Chisholm, of Pembina.

Mr. Rasmussen requested that the courtesies of the floor be extended to George Rasmussen, of Georgetown.

There being no objection the courtesies of the floor were so extended.

MOTIONS AND RESOLUTIONS.

Mr. Simpson by request moved

That the vote by which House Bill No. 6 was lost be reconsidered,

Which motion prevailed.

Mr. Wineman moved

That action on House Bill No. 6 be deferred until this afternoon.

Mr. Svensrud offered as a substitute motion

That further consideration of House Bill No. 6 be indefinitely postponed,

Which substitute motion was lost.

The question recurring on the original motion,

The motion prevailed,

And further action on House Bill No. 6 was deferred until this afternoon.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined

House Bill No. 178,

A Bill for an act to repeal an act approved February 28, 1893, entitled "an act for an appropriation for the erection of the North Dakota Reform School at Mandan and for incidental and contingent expenses for the same,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

THIRD READING OF HOUSE BILLS.

House Bill No. 179,

A Bill for an act to regulate the herding of animals for hire; to require herders to give bond and to provide for herders' liens,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 50, nays 2, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,

Messrs—

Hanna,  
Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Smith,

Messrs—

Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Kroeger,  
Korsmo,  
Lerom,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Messrs. Lindstrom and Porter voting in the negative.

Absent and not voting:

Messrs—

Fleming,  
Herbrandson,  
Horgan,  
Logan,

Messrs—

McLachlan,  
Murphy,  
Rod,

Messrs—

Simpson,  
Twitchell,  
Tyler.

So the bill passed and the title was agreed to.

House Bill No. 160,

A Bill for an act to amend Section 103 of Chapter 132 of the Laws of 1890,

Was read the third time.

The Speaker called Mr. Hodgson to the chair.

Mr. Nierling moved

That the further consideration of House Bill No. 160 be indefinitely postponed,

Which motion was lost.

The question being upon the final passage of the bill.

The roll being called there were ayes 33, nays 21, not voting 8.

Those who voted in the affirmative were:

Messrs—

Blacklock,  
Brainard,  
Brown,  
Colby,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Gilbertson,  
Guinan,  
Hancock,

Messrs—

Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
Myers,  
Nelson,

Messrs—

Purdon,  
Rasmussen,  
Richards,  
Rinde,  
Sargent,  
Simpson,  
Smith,  
Stafne,  
Swenson,  
Twitchell,  
Wallen.

Those voting in the negative were:

Messrs—

Armstrong,  
Colosky,  
Cooper,  
Edwards,

Messrs—

McDonald,  
Nierling,  
Porter,  
Prosser,

Messrs—

Spangberg,  
Tofsrud,  
Tyler,  
Walker,

Messrs—  
Gleason,  
Hill,  
McLachlan,

Messrs—  
Ray,  
Roberts,  
Sharpe,

Messrs—  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—  
Fleming,  
Gunderson,  
Hanna,

Messrs—  
Herbrandson,  
Horgan,  
Murphy,

Messrs—  
Rod,  
Svensrud.

So the bill passed and the title was agreed to.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 6, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved House Bill No. 149, entitled "an act authorizing the Board of Trustees of the Penitentiary of this State to employ the inmates of the penitentiary in the manufacture of brick and constructing public improvements."

Yours respectfully,

ROGER ALLIN,  
Governor.

Mr. Logan moved

That the vote by which House Bill No. 160 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

House Bill No. 178,

A Bill for an act entitled "an act approved February 28, 1893, entitled 'an act for an appropriation for the erection of the North Dakota Reform School at Mandan and for the incidental and contingent expenses for the same,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 50, nays 3, not voting 9.

Those who voted in the affirmative were:

Messrs—  
Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,

Messrs—  
Hodgson,  
Jennings,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,

Messrs—  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,

Messrs—

Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Hancock,  
Hanna,  
Hill,

Messrs—

Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Holritz,

Messrs—

Kroeger,

Messrs—

Twichell.

Absent and not voting:

Messrs—

Cryan,  
Fleming,  
Gunderson,

Messrs—

Herbrandson,  
Horgan,  
Kellogg,

Messrs—

Murphy,  
Rod,  
Wineman.

So the bill passed and the title was agreed to.

Mr. Logan moved

That the vote by which House Bill No. 178 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Armstrong moved

That the vote by which House Bill No. 179 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

By unanimous consent the following Committee reports were submitted:

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred Senate Bill No. 111,

A Bill for an act entitled "an act indemnifying the owners of sheep in case of damage by dogs and creating a fund to pay the same by a tax on dogs, and to repeal Chapter 155, Laws of 1890,"

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 111 was referred to its third reading.

Also,

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in this State, and to provide a license fee for persons engaged in peddling,"

Have had the same under consideration and recommend that the same be reported back without recommendation.

T. TWICHELL,  
Chairman.

The Committee on Municipal Corporations made the following report:

MR. SPEAKER:

Your Committee on Municipal Corporations to whom was referred

Senate Bill No. 154,

A Bill for an act amending Section 1, Article 19, Chapter 73, of the Laws of 1887, the same being Section 1016 of the Compiled Laws of the Territory of Dakota, now State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

JAMES PURDON,  
Chairman.

#### INTRODUCTION OF HOUSE BILLS.

By unanimous consent Mr. Holritz introduced  
House Bill No. 180,

A Bill for an act to enlarge and define the powers of Railroad Commissioners, within the State, in the interest of morality and true reform,

Which was placed upon its first reading,

The first reading of the bill being in progress,

Mr. Cooper moved

That the further consideration of House Bill No. 180 be indefinitely postponed,

Mr. Blacklock offered the substitute motion

That the bill be referred to the chairman of Railroad Committee.

Mr. Holritz moved

That the bill be read the first and second times and then be indefinitely postponed;

Mr. Simpson moved

That the first reading of the bill be dispensed with,

Which motion prevailed.

#### FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill 162,

A Bill for an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota, and to provide for their compensation and payment,

Was read the first and second times, and

Referred to the Committee on State Affairs.

#### THIRD READING OF SENATE BILLS.

Senate Bill No. 84,

A Bill for an act amending Section 7, Chapter 127, Laws of

1893, entitled "an act to establish a weather and crop service for the collection and dissemination of crop statistics and meteorological data,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 42, nays 10, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Brainard,	Holritz,	Richards,
Brown,	Jennings,	Roberts,
Colby,	Kroeger,	Sargent,
Colosky,	Lindstrom,	Sharpe,
Cooper,	Logan,	Simpson,
Dwyer,	McLachlan,	Spangberg,
Edwards,	McDonald,	Svensrud,
Eyolfson,	Murphy,	Swenson,
Flack,	Myers,	Twichell,
Gilbertson,	Nierling,	Walker,
Guinan,	Porter,	Wallen,
Gunderson,	Prosser,	Wood,
Hancock,	Purdon,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Kellogg,	Rinde,
Cryan,	Korsmo,	Stafne,
Gleason,	Lerom,	Tofsrud.
Hodgson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Nelson,	Smith,
Hanna,	Rasmussen,	Tyler,
Herbrandson,	Rod,	Wineman.
Horgan,		

So the bill passed and the title was agreed to.

Senate Bill No. 156,

A Bill for an act to repeal Chapter 70 of the Session Laws of 1890, being an act to amend Article 9 of the Compiled Laws of 1887, being an act entitled "an act to promote forest tree culture,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 11, nays 41, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Hill,	Myers,	Wallen,
Korsmo,	Nelson,	Wood,
Lerom,	Porter,	Mr. Speaker.
McLachlan,	Stafne,	

Those who voted in the negative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,  
 Colby,  
 Colosky,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Edwards,  
 Eyolfson,  
 Flack,  
 Gilbertson,  
 Gleason,  
 Guinan,

Messrs—  
 Gunderson,  
 Hagcock,  
 Hodgson,  
 Holritz,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Lindstrom,  
 Logan,  
 McDonald,  
 Nierling,  
 Prosser,  
 Purdon,  
 Ray,

Messrs—  
 Richards,  
 Roberts,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Svensrud,  
 Swenson,  
 Tofsrud,  
 Twichell,  
 Walker,  
 Wineman.

Absent and not voting:

Messrs—  
 Brown,  
 Fleming,  
 Hanna,  
 Herbrandson,

Messrs—  
 Horgan,  
 Murphy,  
 Rasmussen,

Messrs—  
 Rinde,  
 Rod,  
 Tyler.

So the bill was lost.

Senate Bill No. 72,

A Bill for an act to regulate the manner in which individuals, firms and private corporations shall be authorized to construct, maintain and operate public warehouses and elevators on railway right of way in the State of North Dakota,

Was read the third time.

Mr. Richards moved

That the further consideration of Senate Bill No. 72 be indefinitely postponed,

Which motion was lost.

There being no objection, the further consideration of Senate Bill No. 72 was deferred until tomorrow.

Senate Bill No. 68,

A Bill for an act to amend Article 11 of Chapter 13 of the Code of Civil Procedure, being Section 5126 to Section 5140 inclusive, and to repeal Section 1 of Chapter 50 of the Laws of 1893, being Section 5137 of the Compiled Laws,

Was placed upon its third reading.

Mr. Wineman moved

That the further consideration of Senate Bill No 68 be indefinitely postponed,

Which motion prevailed.

Senate Bill No. 153,

A Bill for an act in relation to health and decency in the school districts of this State,

Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 49, nays 1, not voting 12.  
 Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rasmussen,
Blacklock,	Holritz,	Ray,
Brown,	Jennings,	Richards,
Colby,	Kellogg,	Rinde,
Colosky,	Kroeger,	Roberts,
Cooper,	Korsmo,	Sargent,
Cryan,	Lerom,	Sharpe,
Dwyer,	Lindstrom,	Smith,
Edwards,	Logan,	Spangberg,
Eyolfson,	McLachlan,	Stafne,
Flack,	McDonald,	Swenson,
Gilbertson,	Murphy,	Tofsrud,
Gleason,	Nelson,	Walker,
Guinan,	Nierling,	Wineman,
Gunderson,	Porter,	Wood,
Hancock,	Prosser,	Mr. Speaker.
Hill,		

Mr. Myers voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Horgan,	Svensrud,
Fleming,	Purdon,	Twichell,
Hanna,	Rod,	Tyler,
Herbrandson,	Simpson,	Wallen.

So the bill passed and the title was agreed to.  
 Senate Bill No. 141,

A Bill for an act to prohibit the manufacturing, sale or use of adulterated cigarettes, and the sale of cigarettes, cigars and tobacco to minors,

Was read the third time.

The question being upon the final passage of the bill,  
 The roll being called there were ayes 43, nays 9, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hancock,	Ray,
Blacklock,	Hanna,	Richards,
Brainard,	Holritz,	Rinde,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Simpson,
Cooper,	Lerom,	Smith,
Dwyer,	Lindstrom,	Spangberg,
Edwards,	Logan,	Stafne,
Eyolfson,	McDonald,	Swenson,
Flack,	Nierling,	Tyler,
Gilbertson,	Prosser,	Wallen,
Gleason,	Purdon,	Wood,
Guinan,	Rasmussen,	Mr. Speaker.
Gunderson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Cryan,	Korsmo,	Nelson,
Hill,	McLachlan,	Porter,
Hodgson,	Myers,	Walker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Rod,	Tofsrud,
Herbrandson,	Sharpe,	Twichell,
Horgan,	Svensrud,	Wineman.
Murphy,		

So the bill as passed and the title was agreed to.

Senate Bill No. 154,

A Bill for an act amending Section 1 of the Laws of 1887, the same being Section 1016 of the Compiled Laws of the Territory of Dakota, now State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 51, nays 1, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Rinde,
Brown,	Holritz,	Roberts,
Colby,	Jennings,	Sargent,
Colbsky,	Kellogg,	Sharpe,
Cooper,	Kroeger,	Simpson,
Cryan,	Korsmo,	Smith,
Dwyer,	Lerom,	Spangberg,
Edwards,	Lindstrom,	Stafne,
Eyolfson,	Logan,	Swenson,
Flack,	McDonald,	Tofsrud,
Gilbertson,	Myers,	Tyler,
Gleason,	Nelson,	Walker,
Guinan,	Nierling,	Wallen,
Gunderson,	Porter,	Wineman,
Hancock,	Purdon,	Wood,
Hanna,	Rasmussen,	Mr. Speaker.

Mr. Brainard voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Murphy,	Rod,
Herbrandson,	Prosser,	Svensrud.
Horgan,	Richards,	Twichell.
McLachlan,		

So the bill passed and the title was agreed to.

Mr. Gill moved

That the House take a recess until 1 o'clock,

Which motion prevailed, and

The House took such recess.

House reassembled.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 65,

A Bill for an act entitled "an act to provide for the establishment, construction and maintenance of drains in this State,  
And find the same correctly enrolled.

L. B. Hanna,  
Chairman.

The Speaker announced that he was about to sign  
House Bill No. 65,

A Bill for an act entitled "an act to provide for the establishment, construction and maintenance of drains in this State."

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 6, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 76,

A Bill for an act requiring county auditors to furnish township clerks with lists of real and personal taxes assessed in their townships and the amounts thereof.

Also,

House Bill No. 46,

A Bill for an act to amend Section 7 of Chapter 110, of the Session Laws of 1890, entitled "an act to prescribe penalties for the unlawful manufacture, sale, barter and giving away of such intoxicating liquors for medicinal, scientific and mechanical purposes."

Also,

House Bill No. 128,

A Bill for an act to prevent the destruction of farm buildings in the State of North Dakota.

Respectfully,  
ROGER ALLIN,  
Governor.

Mr. Hanna moved

That the report of the Steering Committee as submitted this morning, be adopted.

Mr. Hodgson arose to a point of order that the time had not yet arrived to consider the report, as the time set for this consideration was 3 o'clock.

The motion prevailed, and

The report of the Steering Committee was adopted.

The Speaker announced that he was about to sign

Senate Bill No. 125,

A Bill for an act to provide for the extermination of Russian thistles and French weeds.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 6, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

Senate Bill No. 105,

A Bill for an act fixing the fees of sheriffs and other officers for transporting insane persons to the asylum of the State,

Which the Senate has passed and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

GENERAL ORDERS.

Mr. Edwards moved

That the House resolve itself into a Committee of the Whole for the consideration of appropriation bills,

Which motion prevailed, and

The House resolved itself into a Committee of the Whole.

The Speaker called Mr. Edwards to the chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration Senate Bill No. 21,

A Bill for an act providing for the appropriation of additional buildings, and for the payment of the contingent expenses of the North Dakota Agricultural College and Experimental Station of Fargo,

And report the bill back with the recommendation that the bill do pass.

Also,  
Senate Bill No. 25,

A Bill for an act for an appropriation for current and contingent expenses of the Hospital for the Insane at Jamestown,

And report the bill back with the recommendation that it do pass.

Also,  
Senate Bill No. 29,

A Bill for an act providing for an appropriation for the penitentiary at Bismarck, and for making needed permanent improvements thereat,

And report the bill back to the House with the recommendation that the bill do pass.

Also,  
Senate Bill No. 35,

A Bill for an act providing for an appropriation for the maintenance and the current and contingent expenses of the School for the Deaf of North Dakota, at Devils Lake, for deficiency and for making needed improvements thereat,

And report the bill back to the House with the recommendation that the bill be amended as follows:

That the figures "20,000" in line 8 of printed bill be stricken out and the figures "23,000" be inserted in lieu thereof,"

And as so amended that the bill do pass.

Also,  
Senate Bill No. 49,

A Bill for an act making an appropriation for maintenance of the State University, and for needed permanent improvements of the State University,

And report the bill back with the recommendation that the bill do pass.

Also,  
Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses necessary incident to the eradication of the Russian thistle and French weeds,

And report the bill back with the recommendation that it do pass.

Also,  
Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current and contingent expenses, furnishing, maintenance and making needed improvements and repairs for the Soldiers' Home at Lisbon,

And report the bill back with the recommendation that it do pass.

Also,

Senate Bill No. 54,

A Bill for an act providing for an appropriation for the maintenance and improvements of the State Normal School at Mayville,

And report the bill back to the House with the recommendation that it do pass.

Also,

Senate Bill No. 26,

A Bill for an act providing for an appropriation for the maintenance of the State Normal School at Valley City,

And report the bill back with the recommendation that it do pass.

A. W. EDWARDS,  
Chairman.

Mr. Svensrud moved

That the reading of the reports of the Committee of the Whole be dispensed with, and

That the report of the Committee of the Whole be adopted, Which motion prevailed, and

The report of the Committee of the Whole was adopted.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
March 6, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Substitute for Senate Bill No. 66,

A Bill for an act to amend Section 86, Chapter 132, Laws of 1890, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto."

Also,

Senate Bill No. 166,

A Bill for an act fixing the maximum compensation that a railroad company may charge for a stopover in cars in transit between intermediate and terminal points, and for transportation of freight between such points.

Also,

Senate Bill No. 167

A Bill for an act to suspend Chapter 11 of the Laws of 1893, being an act for an appropriation for the creation of the North

Dakota Reform School at Mandan, and for incidental and contingent expenses of the same.

Also,

Senate Bill No. 168,

A Bill for an act entitled "an act to cede to the United States jurisdiction of the State of North Dakota over lands acquired by military posts."

Also,

Senate Bill No. 171,

A Bill for an act entitled "an act to provide that the seven Codes prepared by the Revising Commission and introduced as bills and passed as acts at the Fourth Legislative Assembly of the State of North Dakota, shall not be printed as Session Laws of the Fourth Legislative Assembly,"

Which the Senate has passed and the favorable consideration thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,

Secretary.

By unanimous consent the following committee report was submitted:

*To the House of Representatives:*

MR. SPEAKER:—Your Committee on Judiciary, to whom was referred Senate Bill No. 163, entitled "A bill for an act providing for the payment of an amount equal to a per centum of gross earnings of railroads in lieu of all State, county, township and school taxes, and repealing Chapter 107 of the Laws of the Territory of Dakota of A. D. 1889, and Chapter 134 of the Laws of this State of A. D. 1890, upon the same subject," after having given the measure most careful consideration, both with reference to the legal features presented and the questions of sound business policy involved, beg leave to report as follows, viz:

Your Committee believe that the State is confronted with a condition and not a theory. The exigencies arising from legal complications growing out of the present status of legislation on this subject, would seem to render prompt and decisive action imperative.

Section 176 of Article 11 of the Constitution of the State, provides, first, that laws shall be passed taxing by uniform rule, all property according to its true value in money; but that the Legislative Assembly may, by law, provide for the payment of a per centum of gross earnings of railroad companies, to be paid in lieu of all State, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies, as common carriers, and the last clause of this section renders Section 179 of the Article providing for the assessment of railroad property by the State Board of Equalization inoperative when and so long as a gross earnings law is in force. Chapter 134 of the Laws of 1890 was in force, as a Legislative contract, when Chapter 135, providing for the taxation of railroad property upon the basis of an assessment by the State Board of Equalization, was enacted; and Chapter 135, being predicated upon a constitutional provision, thus rendered inoperative and temporarily, at least, invalid, was, itself, barren of legal vitality and void upon its face by the adoption of the Political Code. This measure has also been expressly, by omission, repealed by necessary implication.

Both branches of the Legislature have expressly repealed Chapter 134 of the Laws of 1890, providing for a tax on the gross earnings, both State and interstate, of such companies as should accept its terms, and thereby become parties to a legislative contract; and providing for assessment and taxation direct, in the manner for taxing the property of individuals of this State for such companies as did not accept it, so that we have upon the statute books of this State no law for the taxation of railroads. The consent of a railroad company is necessary to create a binding contract, so as to compel any company to pay on interstate earnings. The Senate has almost unanimously passed this bill, which every railroad company operating in this State has agreed to accept. Your Committee is reliably informed that this law, which is more favorable to the State than that which has been most satisfactorily used in the State of Minnesota for over twenty-seven years, will require the Northern Pacific Railroad Company to pay in taxes about \$120,000 per year, the Great Northern Company about \$100,000, and the other companies more than double the present amount paid by them, thereby increasing the revenues of the State by from \$60,000 to \$70,000. As a system of taxation, all legal text writers, the Supreme Court of the United States and the courts of last resort, of England, are unanimous in that the gross earnings system is the only proper way of taxing railroad companies whose property consists of an entirety, running through different states; the franchise of the road being its most valuable part, and that it is impossible to cut up the same and sell it in sections, the same not all being within the jurisdiction of any one State. For twenty-seven years past the railroad companies in Minnesota have paid three per cent on their gross earnings in lieu of all taxes whatever, thereby exempting railroads and railway land grants from further taxation in that State. But the provision of this bill does not exempt from taxation the land of any railway company. All of the railroads doing business in this State have signified their willingness to accept the provisions of this bill if it becomes a law; and it would be injudicious and unwise, in our judgment, to change, modify or amend any of the provisions of the bill whatever; and that the bill, as passed by the Senate, in all of its features, covers the emergencies of the case. Therefore, your Committee do report back the bill with a recommendation that the same do pass.

L. A. SIMPSON,  
Chairman,  
J. B. WINEMAN,  
A. B. McDONALD,  
THOS. GUNAN,  
J. T. BLACKLOCK,  
H. A. ARMSTRONG,  
F. H. PROSSER,  
L. B. HANNA,  
A. W. EDWARDS,  
J. S. MURPHY,  
W. R. FLEMING.

Senate Bill No. 63 was referred to its third reading.

A minority of your Committee on Judiciary to whom was referred

Senate Bill No. 163,

A Bill for an act providing for payment of an amount equal to a per centum of gross earnings of railroads in lieu of all State, county, township and school taxes, and repealing Chapter 170 of the Laws of the Territory of Dakota of A. D. 1889, and Chapter 134 of the Laws of this State of A. D. 1890 upon the same subject,

Have had the same under consideration and recommend that the same be indefinitely postponed.

C. L. LINDSTROM,  
A. MCLACHLAN,  
Minority.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 173,

A Bill for an act to change the lines of organized counties and to provide for the annexation of unorganized territory to organized counties,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal made the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-seventh day and find it correct and recommend it be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved  
That the report of the Committee be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted, and the Journal of the fifty-second day was approved.

Informal recess.

House reassembled.

Mr. Wineman moved

A call of the House.

Call seconded.

The roll being called, all members present except Messrs. Edwards, Murphy, Rod, Simpson and Tyler.

Mr. Svensrud moved

That further proceedings under the call be dispensed with,  
Which motion was lost.

Mr. Ray moved

That the further proceedings under the call be dispensed with,  
Which motion was lost.

Mr. Wineman moved  
That further proceedings under the call be dispensed with,  
Which motion prevailed, and  
The call was raised.

## COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 6, 1895. }

*To the House of Representatives:*

GENTLEMEN: I desire to recall House Bill No. 112, returned to your honorable body on March 5 for further consideration, my attention having been called to certain provisions therein by Mr. Wineman, a member of the Judiciary Committee.

Respectfully,  
ROGER ALLIN,  
Governor.

Mr. Wineman moved  
That the request of the Governor be complied with,  
Which motion prevailed.

Mr. Armstrong requested that Mr. Rod be excused.  
There being no objection, Mr. Rod was excused.

## GENERAL ORDERS.

Mr. Svensrud moved  
That the House do now resolve itself into a Committee of the Whole for the consideration of House bills,  
Which motion prevailed, and  
The House resolved into a Committee of the Whole for the consideration of House bills.

The Speaker called Mr. Wineman to the chair.

When the Committee arose they submitted the following report:

MR. SPEAKER:

Your Committee of the Whole have had under consideration Concurrent Resolution No. 14 to amend Article 20, Section 217 of the Constitution of the State of North Dakota,  
And report the Concurrent Resolution back with the recommendation that its further consideration be indefinitely postponed.

Also,

House Bill No. 17,

A Bill for an act entitled "an act making account books *prima facie* evidence of the entries therein contained,"

And recommend the following amendments:

## AMENDMENTS TO HOUSE BILL No. 17.

Strike out in lines 6 and 7 of the printed bill the words "that the charges therein were made at the time of the transaction therein entered" and substitute the words "that the entries therein were made in the due course of business."

Strike out in line 12 of printed bill the words "*prima facie*."

After Section 3 add the following:

SECTION 4. In actions involving any items of an account, and when the matter at issue and on trial is a proper matter of book account, and one of the parties to such matter is dead, the party living may be a witness in his own favor, so far as to prove in whose handwriting his charges are, and when made, and no further,

And as so amended recommend that it do pass.

Also,

House Bill No. 78,

A Bill for an act entitled "an act to amend Section 448, Article 5, Chapter 8, of the Compiled Laws of the State of North Dakota,"

And recommend that further consideration of the bill be indefinitely postponed.

Also,

House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota school of forestry, and making appropriation therefor,

And report the bill back with the recommendation that the same be amended as follows:

Amend Section 5 by adding the following: "*Provided*, That the board of directors shall receive no compensation for their services until some subsequent Legislature appropriate money for such services." And by striking out all of Section 11,

And when so amended recommend that the same do pass.

J. B. WINEMAN,  
Chairman.

Mr. Murphy moved

That the report of the Committee of the Whole be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

The Speaker called Mr. Wineman to the chair.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 6, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

A Concurrent Resolution,

Authorizing and empowering the Commission established by an

act of this Legislative Assembly approved February 18, 1895, to provide for the care and education of all blind children of school age residing in this State,

Which the Senate has passed and the concurrence of the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

#### CONCURRENT RESOLUTION.

WHEREAS, Section 216 of the Constitution of this State provides for the location of a blind asylum in the county of Pembina; and

WHEREAS, Such asylum has been located by vote of the electors of the county of Pembina, and by proclamation by the Governor of this State; and

WHEREAS, The present condition of the finances of the State will not admit of the erection of an asylum for the blind; and

WHEREAS, There is now no provision for the education of the blind children in the State; therefore be it

*Resolved by the Senate, the House of Representatives Concurring:*

That the Commission established by an act of this Legislative Assembly, approved February 18, 1895, be authorized and empowered to provide for the care and education of all blind children of school age residing in this State.

Mr. Blacklock moved

That the Concurrent Resolution received from the Senate in relation to a blind asylum be concurred in,

Which motion prevailed, and

The Concurrent Resolution was adopted.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 173,

A Bill for an act entitled "an act to change the lines of organized counties and to provide for the annexation of unorganized territory to organized counties,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 56, nays 2, not voting 4.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,

Messrs—

Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Messrs. McLachlan and Twichell voting in the negative.

Absent and not voting:

Messrs—

Cryan,  
Jennings,

Messrs—

Lindstrom,

Messrs—

Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER,  
BISMARCK, N. D., March 6, 1895. }

*To the House of Representatives:*

GENTLEMEN: I have the honor to inform you that I have this day approved

House Bill No. 112,

A Bill for an act to suppress and prevent the printing, selling, loaning, making, advertising, giving away or exposing to view, or showing or taking subscriptions for any indecent or obscene literature, prints, etchings, drawings or papers, or any article or instrument of immoral use, and prescribing the punishment therefor.

Respectfully,

ROGER ALLIN,  
Governor.

Mr. Hodgson moved

That the vote by which House Bill No. 173 was passed be reconsidered, and that the motion to reconsider be laid on the table, which motion prevailed.

Mr. Murphy arose to a question of privilege and addressed the House in relation to the Governor's veto of Senate Bill No. 50.

Mr. Simpson arose to a question of privilege and addressed the House in support of the Governor's veto of Senate Bill No. 50, and wished to be recorded as objecting to the remarks of Mr. Murphy where they reflected upon the Governor in respect to the veto.

The Speaker resumed the chair.

House Bill No. 6,

A Bill for an act repealing an act entitled "an act creating the

office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 32, nays 24, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Herbrandson,	Ray,
Colby,	Hill,	Richards,
Colosky,	Hodgson,	Sargent,
Cooper,	Holritz,	Sharpe,
Dwyer,	Kroeger,	Stafne,
Edwards,	Korsmo,	Tyler,
Eyolfson,	Lerom,	Wallen,
Gilbertson,	Myers,	Wineman,
Gleason,	Nelson,	Wood,
Hancock,	Nierling,	Mr. Speaker.
Hanna,	Purdon,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Kellogg,	Roberts,
Cryan,	Lindstrom,	Smith,
Flack,	Logan,	Spangberg,
Fleming,	McDonald,	Svensrud,
Guinan,	Murphy,	Swenson,
Gunderson,	Porter,	Tofsrud,
Horgan,	Rasmussen,	Twichell,
Jennings,	Rinde,	Walker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Armstrong,	McLachlan,	Rod,
Brown,	Prosser,	Simpson.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which for House Bill No. 6 was passed be reconsidered, and that their motion to reconsider be laid upon the table,

Which motion prevailed.

House Bill No. 97,

A Bill for an act to encourage immigration into the State of North Dakota, and to enable the Commissioner of Agriculture and Labor to carry out the provisions of Section 8 of Chapter 46 of the Session Laws of 1890, and to make appropriations therefor.

Was placed upon its final passage.

Mr. Hodgson moved

That further consideration of House Bill No. 97 be indefinitely postponed.

Roll call demanded.

The roll being called, there were ayes 25, nays 32, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hill,	Purdon,
Brainard,	Hodgson,	Ray,
Colosky,	Jennings,	Rinde,
Cryan,	Korsmo,	Smith,
Eyolfson,	Lerom,	Stafne,
Flack,	Lindstrom,	Swenson,
Guinan,	Myers,	Twichell,
Hancock,	Nelson,	Wallen.
Herbrandson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Kellogg,	Roberts,
Brown,	Kroeger,	Sargent,
Colby,	Logan,	Sharpe,
Cooper,	McLachlan,	Simpson,
Dwyer,	McDonald,	Spangberg,
Edwards,	Murphy,	Tofsrud,
Gilbertson,	Nierling,	Tyler,
Gleason,	Porter,	Walker,
Hanna,	Prosser,	Wood,
Holritz,	Rasmussen,	Mr. Speaker.
Horgan,	Richards,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Rod,	Wineman.
Gunderson,	Svensrud,	

Mr. Rod being excused.

So the motion was lost.

The question being upon the final passage of the bill,  
The roll being called there were ayes 30, nays 28, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Kellogg,	Richards,
Brown,	Kroeger,	Roberts,
Colby,	Logan,	Sargent,
Cooper,	McLachlan,	Sharpe,
Edwards,	McDonald,	Simpson,
Fleming,	Murphy,	Spangberg,
Gleason,	Nierling,	Tofsrud,
Guinan,	Porter,	Tyler,
Hanna,	Prosser,	Walker,
Holritz,	Rasmussen,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hill,	Ray,
Brainard,	Hodgson,	Rinde,
Colosky,	Horgan,	Smith,

Messrs—  
 Cryan,  
 Dwyer,  
 Eyolfson,  
 Flack,  
 Gilbertson,  
 Hancock,  
 Herbrandson,

Messrs—  
 Jennings,  
 Korsmo,  
 Lerom,  
 Lindstrom,  
 Myers,  
 Purdon,

Messrs—  
 Stafne,  
 Svensrud,  
 Swenson,  
 Twichell,  
 Wallen,  
 Wood.

Absent and not voting:

Messrs—  
 Gunderson,  
 Nelson,

Messrs—  
 Rod,

Messrs—  
 Wineman.

Mr. Rod being excused.

So the bill was lost.

Mr. Logan by unanimous consent moved

That the vote by which the Journal of the fifty-sixth day was approved be reconsidered,  
 Which motion prevailed.

Mr. Logan moved

That the Journal of the fifty-sixth day be corrected as follows:  
 That on page 18 strike out the lines 10 and 11,  
 Which motion prevailed, and  
 The Journal was so corrected.

Mr. Hanna moved

That the Journal of the fifty-sixth day as corrected be approved,  
 Which motion prevailed, and  
 The Journal of the fifty-sixth day was approved.

FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 105,

A Bill for an act fixing the fees of sheriffs and other officers for transporting insane persons to the asylums of the State,  
 Was read the first and second times, and  
 Referred to the Committee on State Affairs.

Senate Bill No. 171,

A Bill for an act entitled "an act to provide that the seven Codes prepared by the Revision Commission and introduced as bills and passed as acts at the Fourth Session of the Legislative Assembly of the State of North Dakota shall be not printed as Session Laws of the Fourth Legislative Assembly,  
 Was read the first and second times, and  
 Referred to the Committee on Judiciary.

Senate Bill No. 168,

A Bill for an act entitled "an act to cede to the United States

jurisdiction of the State of North Dakota over lands acquired by military posts,

Was read the first and second times, and  
Referred to the Committee on Judiciary.

Senate Bill No. 167,

A Bill for an act to suspend Chapter 11 of the Laws of 1893, being an act for an appropriation for the erection of the North Dakota Reform School at Mandan, and for incidental and contingent expenses for the same,

Was read the first and second times, and  
Referred to the Committee on Appropriations.

Senate Bill No. 166,

A Bill for an act fixing the maximum compensation that a railroad company may charge for a stop over on cars in transit between intermediate and terminal points, and for the transportation of freight between such points,

Was read the first and second times, and  
Referred to the Committee on Railroads.

Substitute for Senate Bill No. 66,

A Bill for an act to amend Section 86, Chapter 132 Laws of 1890, being an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto,

Was read the first and second times, and  
Referred to the Committee on State Affairs.

#### THIRD READING OF SENATE BILLS.

Mr. Hanna moved that the Senate bills be considered in the order as reported by the Steering Committee,

Which motion prevailed.

House Bill No. 21,

A Bill for an act prescribing the duties of state's attorneys, fixing their compensation, and the method of determining the same,

Was placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 44, nays 14, not voting 4.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Edwards,

Messrs—

Herbrandson,  
Hill,  
Holritz,  
Horgan,  
Kellogg,  
Kroeger,  
Korsmo,

Messrs—

Rasmussen,  
Richards,  
Rinde,  
Sargent,  
Simpson,  
Spangberg,  
Svensrud,

Messrs—  
 Eyolfson,  
 Fleming,  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hancock,  
 Hanna,

Messrs—  
 Lindstrom,  
 Logan,  
 McDonald,  
 Murphy,  
 Nelson,  
 Nierling,  
 Prosser,  
 Purdon,

Messrs—  
 Twichell,  
 Tyler,  
 Walker,  
 Wallen,  
 Wineman,  
 Wood,  
 Mr. Speaker.

Those who voted in the negative were:

Messrs—  
 Brainard,  
 Cryan,  
 Dwyer,  
 Flack,  
 Hodgson,

Messrs—  
 Jennings,  
 McLachlan,  
 Myers,  
 Porter,  
 Ray,

Messrs—  
 Roberts,  
 Smith,  
 Stafne,  
 Swenson.

Absent and not voting:

Messrs—  
 Lerom,  
 Rod,

Messrs—  
 Sharpe,

Messrs—  
 Tofsrud.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Hanna moved

That the vote by which House Bill No. 21 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

By unanimous consent Mr. Blacklock moved

That the vote by which House Bill No. 97 was lost be reconsidered,

Which motion was lost.

Senate Bill No. 25,

A Bill for an act for an appropriation for current and contingent expenses of the Hospital for the Insane at Jamestown,

Was placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 57, nays 3, not voting 2.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,  
 Brown,  
 Colby,  
 Colosky,  
 Cooper,  
 Eyolfson,  
 Flack,  
 Fleming,

Messrs—  
 Horgan,  
 Jennings,  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Lerom,  
 Lindstrom,  
 Logan,  
 McLachlan,  
 McDonald,

Messrs—  
 Richards,  
 Rinde,  
 Roberts,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Stafne,  
 Svensrud,

Messrs—

Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Holritz,

Messrs—

Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Cryan,

Messrs—

Dwyer,

Messrs—

Hodgson.

Absent and not voting, Messrs. Edwards and Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 6, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 174,

A Bill for an act to repeal an act to create a joint school town-  
ship in the counties of Griggs and Steele,

Which the Senate has passed, and the favorable consideration  
thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Nierling moved

That the vote by which Senate Bill No. 25 was passed be re-  
considered, and that the motion to reconsider be laid on the  
table,

Which motion prevailed.

Senate Bill No. 26,

A Bill for an act providing for an appropriation for the  
maintenance of the State Normal School at Valley City,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 33, nays 24, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,

Messrs—

Herbrandson,  
Kellogg,

Messrs—

Sharpe,  
Simpson,

## Messrs—

Brown,  
Colby,  
Cooper,  
Eyolfson,  
Fleming,  
Gilbertson,  
Gleason,  
Hancock,  
Hanna,

## Messrs—

Logan,  
Murphy,  
Nelson,  
Nierling,  
Prosser,  
Rasmussen,  
Richards,  
Rinde,  
Sargent,

## Messrs—

Spangberg,  
Svensrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

## Messrs—

Brainard,  
Cryan,  
Dwyer,  
Flack,  
Guinan,  
Hill,  
Hodgson,  
Holritz,

## Messrs—

Horgan,  
Jennings,  
Kroeger,  
Korsmo,  
Lindstrom,  
McLachlan,  
McDonald,  
Myers,

## Messrs—

Porter,  
Purdon,  
Ray,  
Roberts,  
Smith,  
Stafne,  
Swenson,  
Tofsrud.

Absent and not voting:

## Messrs—

Colosky,  
Edwards,

## Messrs—

Gunderson,  
Lerom,

## Messrs—

Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Logan moved

That the vote by which Senate Bill No. 26 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

By unanimous consent

Senate Bill No. 174,

A Bill for an act to create a joint school township in the counties of Griggs and Steele,

Was read the first and second times, and

Referred to the Committee on Education.

The Committee on Engrossed Bills made the following report:

**MR. SPEAKER:**

Your Committee on Engrossed Bills have examined

House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota School of Forestry, and making an appropriation therefor.

Also,

House Bill No. 17,

A Bill for an act entitled "an act making account books *prima facie* evidence of the entries therein contained,"

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

By unanimous consent Mr. Hill moved  
That the vote by which House Bill No. 97 was lost be re-considered,

Which motion prevailed.

Mr. Svensrud moved

That the rules be suspended and that the House return to the twelfth order of business.

Mr. Wineman moved

That the motion be laid upon the table,  
Which motion prevailed.

Senate Bill No. 29,

A Bill for an act providing for an appropriation for the penitentiary at Bismarck and for making needed permanent improvements thereat,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes, 53, nays 4, not voting 5.

Those who voted in the affirmative were:

Messrs--

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Holritz,  
Horgan,

Messrs--

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs--

Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs--

Brainard,  
Cryan,

Messrs--

Hodgson,

Messrs--

Smith.

Absent and not voting:

Messrs--

Dwyer,  
Edwards,

Messrs--

Eyolfson,  
Lindstrom,

Messrs--

Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Armstrong moved

That the vote by which Senate Bill No. 29 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current and contingent expenses, furnishing, maintenance and making needed improvements and repairs for the Soldiers' Home at Lisbon,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 45, nays 14, not voting 3.

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Horgan,	Richards,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Spangberg,
Dwyer,	Lerom,	Svensrud,
Fleming,	Logan,	Swenson,
Gilbertson,	McDonald,	Twichell,
Gleason,	Murphy,	Tyler,
Guinan,	Myers,	Walker,
Gunderson,	Nelson,	Wallen,
Hancock,	Nierling,	Wineman,
Hanna,	Prosser,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.

Those voting in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Holritz,	Rinde,
Cryan,	Lindstrom,	Smith,
Eylofson,	McLachlan,	Stafne,
Flack,	Porter,	Tofsrud.
Hodgson,	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Rod,	Simpson.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Hanna moved

That the vote by which Senate Bill No. 32 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

## Senate Bill No. 35,

A Bill providing for an appropriation for the maintenance and the current and contingent expenses of the School for the Deaf of North Dakota at Devils Lake, and for making needed improvements thereat,

Was read the third time.

The question being upon the final passage of the bill as amended in the Committee of the Whole,

The roll being called there were ayes 49, nays 7, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Holritz,  
Horgan,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Svensrud,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Cryan,  
Dwyer,  
Hodgson,

Messrs—

McLachlan,  
Porter,

Messrs—

Rinde,  
Swenson.

Absent and not voting:

Messrs—

Colby,  
Edwards,

Messrs—

Fleming,  
Guinan,

Messrs—

Rod,  
Stafne.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Mr. Prosser moved

That the vote by which Senate Bill No. 35 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

## Senate Bill No. 49,

A Bill for an act making a appropriation for maintenance of the State University, and for needed permanent improvements of the State University,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 41, nays 18, not voting 2.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Rinde,
Blacklock,	Horgan,	Sargent,
Brown,	Kellogg,	Sharpe,
Colby,	Korsmo,	Simpson,
Colosky,	Lerom,	Spangberg,
Cooper,	Logan,	Svensrud,
Eylofson,	Murphy,	Twichell,
Gilbertson,	Myers,	Tyler,
Gleason,	Nelson,	Walker.
Guinan,	Nierling,	Wallen,
Gunderson,	Prosser,	Wineman,
Hancock,	Rasmussen,	Wood,
Hanna,	Ray,	Mr. Speaker.
Herbrandson,	Richards,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Jennings,	Purdon,
Cryan,	Kroeger,	Roberts,
Dwyer,	Lindstrom,	Smith,
Flack,	McLachlin,	Stafne,
Hodgson,	McDonald,	Swenson,
Holritz,	Porter,	Tofsrud.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Fleming,	Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which Senate Bill No. 49 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Senate Bill No. 54,

A Bill for an act providing for an appropriation for the maintenance and improvements of the State Normal School at Mayville.

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 40, nays 17, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Sargent,
Blacklock,	Kellogg,	Sharpe,
Brown,	Korsmo,	Simpson,
Colby,	Lerom,	Spangberg,
Colosky,	Logan,	Svensrud,
Cooper,	McDonald,	Tofsrud,
Dwyer,	Murphy,	Twichell,
Gilbertson,	Nelson,	Tyler,
Gleason,	Nierling,	Walker,
Gunderson,	Prosser,	Wallen,
Hancock,	Rasmussen,	Wineman,
Hanna,	Richards,	Wood,
Herbrandson,	Rinde,	Mr. Speaker.
Hill,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Jennings,	Ray,
Cryan,	Kroeger,	Roberts,
Eyolfson,	McLachlan,	Smith,
Flack,	Myers,	Stafne,
Hodgson,	Porter,	Swenson.
Holritz,	Purdon,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Guinan,	Rod.
Fleming,	Lindstrom,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Wallen moved

That the vote by which Senate Bill No. 54 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses necessary incident to the eradication of Russian thistles and French weeds,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 43, nays 12, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Korsmo,	Sargent,
Brainard,	Lindstrom,	Sharpe,
Brown,	Logan,	Simpson,
Colby,	McLachlan,	Smith,
Cooper,	McDonald,	Spangberg,
Cryan,	Murphy,	Stafne,
Dwyer,	Myers,	Svensrud,

Messrs—

Gilbertson,  
Gleason,  
Gunderson,  
Hanna,  
Hill,  
Holritz,  
Kellogg,  
Kroeger,

Messrs—

Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Richards,  
Rinde,

Messrs—

Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Blacklock,  
Colosky,  
Eylofson,  
Flack,

Messrs—

Hancock,  
Herbrandson,  
Hodgson,  
Horgan,

Messrs—

Jennings,  
Ray,  
Roberts,  
Wallen,

Absent and not voting:

Messrs—

Edwards,  
Fleming,  
Guinan.

Messrs—

Lerom,  
Nelson,

Messrs—

Rod,  
Wineman.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Brainard moved

That the vote by which Senate Bill No. 126 was passed be reconsidered, and that the motion to reconsider be laid upon the table,

Which motion prevailed.

Mr. Murphy requested that his remarks in relation to the Governor's veto message be printed in the Journal.

Mr. Murphy rose to a question of privilege and said:

I hold in my hand, Mr. Speaker, the Senate Journal of the last Legislative day, in which is contained the Governor's veto on Senate Bill No. 50. I never was more surprised in my life than when I was told last night about 9 o'clock that the Governor had vetoed this bill. I was not only surprised but disappointed, but my surprise and disappointment are as nothing compared to the surprise and disappointment of a large number of honest, hardy industrious, law-abiding residents located in the unorganized districts of this State. The people to whom I refer, Mr. Speaker, are independent and honorable people. They ask for no special privileges at the hands of this Legislature. They do not ask the extension of a paternal and fostering hand.

Our institutions are founded upon the theory that one man is just as good as another—that the people from one portion of a State are just as good as the people from other portions of the State and are entitled to just as many privileges as they are in any other portion of the State.

The people living in the unorganized counties of Bowman,

Hettinger, Allred, Wallace, McKenzie and Dunn ask that fair treatment be given them by this Legislature and the Executive department of this State. Under the present organization of things these people are disfranchised. They have no vote in shaping the affairs of this State and yet, Mr. Speaker, their property is assessed. They are not only assessed but I want to be understood as asserting on the floor of this House that the people living in the unorganized districts of this State pay their taxes with greater promptitude and regularity than any people of this State without exception. And this is true notwithstanding the fact that we exact from them something in direct conflict with the principle of no taxation without representation.

This veto, Mr. Speaker, effects adversely a large area of country and a large number of the people of this State. It effects adversely an industry and in its infancy that is designed to become one of the greatest if not the very greatest in point of magnitude of any industry in the State.

We have a mandatory clause in our Constitution. Section 21 says: "The provisions of this Constitution are mandatory and prohibitory. Another Section of our Constitution says that a law almost exactly like Senate Bill No. 50 shall be passed by the Legislature.

We have now been a State for five years and no bill of that kind has ever been introduced or passed. For the past five years and ever since the organization of this State a moral obligation has rested on every Legislature that has convened here in this capitol to pass that law or a law of that character.

We are in the position of having passed a law by a practically unanimous vote, no vote being recorded against it in the Senate and but three in the House, and the Governor vetoes the bill.

The author of the bill was given no chance to show wherein it was not a good, just and wise measure. The seductive and siren voice of the opposition was listened to for hours. The Attorney General of this State told me that he told the Governor that the bill was all right and strictly constitutional in every respect, and I contend that the reasons given for the veto are not well founded.

If Senate Bill No. 24 is constitutional this bill can have no more effect on that bill than the rising of the river Nile in April can have on the price of milk in Bismarck in December.

I must contend that the Governor was imposed upon. I do not believe that Governor Allin would willingly and knowingly veto a measure of this kind that imposes a positive wrong upon a large number of the people of this commonwealth.

Mr. Simpson requested that his remarks in reply to Mr. Murphy be printed in the Journal.

There being no objection, the remarks of Messrs. Murphy and Simpson were ordered so printed.

MR. SIMPSON: Inasmuch as the courtesies of the floor have been extended to my honorable opponent from Ward county and he has so ably addressed us with a view of the Governor's veto from his standpoint, I ask as a personal privilege from the House to state my position with regard to the Governor.

Mr. Speaker and gentlemen, I have listened with a great deal of pleasure to the eloquent words of my friend Murphy. I have always known him to be a very clever gentleman, whether upon the floor in the Legislative halls or in any other position that he may happen to have been placed, and I want to congratulate him upon the very pretty language that he has used here today.

I desire, however, to call the attention of the House to the fact that I also have in my hand the Journal of the Senate of the fifty-sixth day, which my friend Mr. Murphy said he held, but he failed to read it. I desire to read a communication from the Governor of the State therein contained:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 6, 1895. }

*To the Senate:*

GENTLEMEN:—I herewith return to you Senate Bill No. 50, without my approval. I have given the bill my careful attention since it was placed in my hands, and am of the opinion that the best interests of the State will not be subserved if the bill should become a law. Senate Bill No. 24 passed at the present session, and now a law, makes full, ample and complete provisions for the organization of all unorganized counties in the State, and for its attachment to organized counties to which it is attached, by law, for judicial purposes, and the provisions of the Political Code fully provide for the organization of new counties in accordance with the provisions of the Constitution.

Should No. 50 become a law as it stands now without provisions for repealing the former laws passed at this session, it will place conflicting laws upon our statutes and will require, in my opinion and in the opinion of the Attorney General, Cowan, adjudication by the courts to decide which bill to proceed under before the unorganized territory can be organized. The condition of our treasury and depleted revenues seem to me to imperatively demand that the law upon this point should be clear and that no delay should be tolerated in the organization of the unorganized territory, but that the State should proceed to get the revenues to which it is en-

titled from property therein situated as speedily as possible, and existing laws make ample provisions therefor.

Yours respectfully,

ROGER ALLIN,  
Governor.

Now I apprehend, Mr. Speaker and gentlemen of this House, that no words that I could utter would aid to vindicate the high esteem in which the people of the State hold our honored Governor. I believe when he says he has carefully considered the provisions of Senate Bill No. 50, that he states what is a fact, and I believe the Governor has the good will and the good wishes and the welfare of the people of the whole State at heart just as much as my friend from Ward county. The heart of the gentleman from Ward goes out to the poor people in the unorganized territory, and how we see the honored gentleman that stands back of him, the secretary of the Texas Live Stock association, also extending his heartfelt sympathy to those poor people in the unorganized counties. I say, gentlemen, Mr. Murphy makes his argument ridiculous. He does not live in that unorganized territory. He does not represent a district in which that territory is situated, and yet he comes here and because he happens to own property there, on which he desires to evade taxation, his heart goes out to the welfare of the dear people within this territory.

I want to say I believe the Governor did what he considered right and what the Senate will bear him out in, in vetoing this bill, and I want to be recorded as objecting to that part of the remarks of the gentleman from Ward, which, in my opinion reflect upon the integrity and executive ability of the Chief Executive of our State.

Mr. Hodgson moved

That the House adjourn until 10 o'clock tomorrow morning,  
Which motion was lost.

#### THIRD READING OF HOUSE BILLS.

House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota School of Forestry, and making an appropriation therefor,

Was placed upon its final passage.

The question being upon the final passage of the bill,

The roll being called there were ayes 33, nays 16, not voting 13.

Those who voted in the affirmative were:

Messrs—  
 Armstrong,  
 Blacklock,  
 Brainard,  
 Brown,  
 Colby,  
 Cryan,  
 Eyolfson,  
 Flack,  
 Gilbertson,  
 Guinan,  
 Gunderson,

Messrs—  
 Hanna,  
 Hill,  
 Horgan,  
 Jennings,  
 Kellogg,  
 Korsmo,  
 Lindstrom,  
 Logan,  
 McDonald,  
 Myers,  
 Rasmussen,

Messrs—  
 Richards,  
 Roberts,  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Svensrud,  
 Swenson,  
 Wood,  
 Mr. Speaker.

Those who voted in the negative were:

Messrs—  
 Cooper,  
 Hancock,  
 Herbrandson,  
 Hodgson,  
 Holritz,  
 Kroeger,

Messrs—  
 Porter,  
 Purdon,  
 Ray,  
 Rinde,  
 Sargent,

Messrs—  
 Stafne,  
 Tofsrud,  
 Tyler,  
 Walker,  
 Wineman.

Absent and not voting:

Messrs—  
 Colosky,  
 Dwyer,  
 Edwards,  
 Fleming,  
 Gleason,

Messrs—  
 McLachlan,  
 Murphy,  
 Nelson,  
 Nierling,

Messrs—  
 Prosser,  
 Rod,  
 Twichell,  
 Wallen.

Mr. Rod being excused.

So the bill passed.

By unanimous consent Mr. Svensrud moved that the title of House Bill No. 68 be amended as follows:

Amend title by striking out all after the word "forestry" in second line of title.

Which motion prevailed, and

The amendment was adopted and the title as amended was agreed to.

Mr. Svensrud moved

That the vote by which House Bill No. 68 was passed be re-considered, and that the motion to reconsider be laid upon the table,

Which motion prevailed.

House Bill No. 17,

A Bill for an act entitled "an act making account books *prima facie* evidence of the entries therein contained,"

Was read the third time.

The question being upon the final passage of the bill.

The roll being called there were ayes 26, nays 23, not voting 13.

Those who voted in the affirmative were:

## Messrs—

Blacklock,  
Brown,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Hill,  
Horgan,

## Messrs—

Kroeger,  
Logan,  
McDonald,  
Myers,  
Nelson,  
Porter,  
Purdon,  
Rasmussen,  
Sharpe,

## Messrs—

Simpson,  
Stafne,  
Svensrud,  
Tyler,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

## Messrs—

Armstrong,  
Brainard,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Gilbertson,

## Messrs—

Herbrandson,  
Hodgson,  
Holritz,  
Kellogg,  
Korsmo,  
Lerom,  
Lindstrom,  
Ray,

## Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Spangberg,  
Swenson,  
Tofsrud.

Absent and not voting:

## Messrs—

Colosky,  
Edwards,  
Flack,  
Fleming,  
Jennings,

## Messrs—

McLachlan,  
Murphy,  
Nierling,  
Prosser,

## Messrs—

Rod,  
Smith,  
Twitchell,  
Wallen.

Mr. Rod being excused.

So the bill was lost.

Mr. Simpson moved  
A call of the House.

Call seconded.

Mr. Hodgson moved.

That further proceedings under the call of the House be dispensed with;

Which motion was lost.

Roll called.

All members present excepting Messrs. Colosky, Edwards, Flack, Fleming, McLachlan, Murphy, Porter and Twitchell.

The Speaker ordered warrants issued for the arrest of absent members.

Warrants so issued.

Mr. Smith moved

That the further proceedings under the call of the House be dispensed with,

Which motion was lost.

Mr. Purdon moved

That the further proceedings under the call be dispensed with,  
Which motion was lost.

The Speaker called Mr. Brainard to the chair.

The Speaker resumed the chair.

The Sergeant-at-Arms made the following report:

I hereby certify and return that I have served the within warrants and have the bodies of Messrs. Edwards, Prosser, Twichell, Murphy and Colosky before the House.

FRED SNORE,  
Sergeant-at-Arms.

Warrants of arrest were re-issued for Messrs. Fleming, McLachlan and Porter.

Mr. Hodgson moved

That further proceedings of the call of the House be dispensed with,

The roll being called there were ayes 54, nays 2, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Prosser,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wood,  
Mr. Speaker.

Messrs. Twichell and Wineman voting in the negative.

Absent and not voting:

Messrs—

Fleming,  
McLachlan,

Messrs—

Porter,  
Rod,

Messrs—

Lindstrom,  
Wallen.

Mr. Rod being excused.

So the motion prevailed, and further proceedings under the call of the House were dispensed with.

House Bill No. 97,

A Bill for an act to encourage immigration into the State of North Dakota, and to enable the Commissioner of Agriculture and Labor to carry out the provisions of Section 8 of Chapter 46 of the Session Laws of 1890, and to make an appropriation therefor,

Was put upon its final passage,

The question being on the final passage of the bill.

Mr. Murphy moved that the rules be suspended for the purpose of amending House Bill No. 97;

Which motion prevailed.

Mr. Murphy moved that the bill be amended as follows:

Striking out in line six (6) Section one (1) of the printed bill the word "three" and inserting in lieu thereof the word "two."

Which motion prevailed, and

The amendments were adopted.

The question being upon the final passage of the bill as amended,  
The roll being called there were ayes 36, nays 20, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Cooper,  
Edwards,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hanna,

Messrs—

Hill,  
Holritz,  
Kellogg,  
Kroeger,  
Logan,  
McDonald,  
Murphy,  
Nierling,  
Prosser,  
Rasmussen,  
Richards,  
Rinde,

Messrs—

Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Spangberg,  
Svensrud,  
Tofsrud,  
Tyler,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Colosky,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Hancock,  
Herbrandson,

Messrs—

Hodgson,  
Horgan,  
Jennings,  
Korsmo,  
Lerom,  
Myers,

Messrs—

Nelson,  
Purdon,  
Ray,  
Smith,  
Swenson,  
Twichell.

Absent and not voting:

Messrs—

Fleming,  
Lindstrom

Messrs—

McLachlan,  
Porter,

Messrs—

Rod,  
Wallen.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Mr. Simpson moved

That the vote by which House Bill No. 97 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Hanna moved

That the House do now adjourn until ten o'clock tomorrow morning,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

FIFTY-NINTH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 7, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Mr. Rod, who was excused.

REPORTS OF STANDING COMMITTEES.

The Committee on Engrossed Bills made the following report:

MR. SPEAKER:

Your Committee on Engrossed Bills have examined  
House Bill No. 36,

A Bill for an act to provide for the licensing of dogs and the indemnifying of owners of sheep and other stock in case of dam-

age by dogs, and creating a fund to pay for the same by a dog license,

And find the same correctly engrossed.

O. S. WALLEN,  
Chairman.

REPORTS OF SELECT COMMITTEE.

MR. SPEAKER:

Your Committee to whom was referred Senate Bills on their third reading for arrangement in order of their importance, report the same back to the House with a recommendation that they be considered in the following order, viz:

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota.

Also,

Senate Bill No. 131,

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act amending Articles 4, 9 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the incorporation of cities;" and also to repeal Section 1 of Chapter 97 of the Laws of 1890, in so far as the same relates to cities.

Also,

Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, 21, 22 and 23 of Article 15 of Chapter 73, of the Laws of 1887.

Also,

Senate Bill No. 136

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws.

Also,

Senate Bill No. 132,

A Bill for an act to provide for free text books and school supplies for the use of the pupils in the public schools of North Dakota.

Also,

Senate Bill No. 140,

A Bill for an act defining the qualifications of electors of Indian descent.

Also,

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota.

Also,

Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof."

Also,

Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools.

Also,

Senate Bill No. 57,

A Bill for an act to amend Section 37, Chapter 62, of an act to provide for a uniform system of public schools, of Laws of 1890, State of North Dakota, as amended by Section 8, Chapter 56, of the Laws of 1891, State of North Dakota.

Also,

Senate Bill No. 135,

A Bill for an act declaring the Carlisle tables of mortality to be competent evidence in certain cases.

Also,

Senate Bill No. 18,

A Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25 of the General Laws of 1881, being Section 4383 of the Compiled Laws."

Also,

Senate Bill No. 163,

A Bill for an act providing for the payment of an amount equal to a per centum of gross earnings of railroads in lieu of all State, county and school taxes, and repealing Chapter 107 of the Laws of Dakota Territory of 1889, and Chapter 134 of this State of 1890 upon the same subject.

Also,

Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891, being an act entitled "an act for the prevention of prairie fires, and to provide against damage done by them; also, prescribing duties of county commissioners in relation thereto."

Also,

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants.

Also,  
Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Also,  
Senate Bill No. 129,

A Bill for an act to amend Section 1961 (a) of the Civil Code.

Also,  
Senate Bill No. 86,

A Bill for an act to provide for the abolishment of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties.

Also,  
House Concurrent Resolution by Mr. Logan.

Also,  
Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota.

Also,  
Senate Bill No. 77,

A Bill for an act to amend Section 25, of Article 15, of Chapter 73, of the Session Laws of 1887.

Also,  
Senate Bill No. 16,

A Bill for an act providing for the establishment of boards of conciliation and prescribing the mode of procedure in the same, and to repeal Chapter 45, Laws of 1893.

Also,  
Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals, creating the office of chief State veterinarian, prescribing the duties thereof, and appropriating money for the necessary expenses thereof.

Also,  
Senate Bill No. 3,

A Bill for an act to amend Section 121, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform

system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections.

Also,

Substitute for Senate Bill No. 93,

A Bill for an act for the encouragement of secondary education.

Also,

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120, of Chapter 62, Laws of 1890, being an act providing for uniform system of public schools.

Also,

Senate Bill No. 133,

A Bill for an act to amend Section 63, Chapter 62, Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof."

Also,

Senate Bill No. 111,

A Bill for an act entitled "an act indemnifying the owners of sheep in case of damage by dogs, and creating a fund to pay for the same by a tax on dogs, and for the repeal of Chapter 155, Laws of 1890.

Also,

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in this State and to provide a license fee for persons engaged in peddling."

Respectfully,

L. B. HANNA,  
Chairman.

JOHN LOGAN,  
C. L. LINDSTROM,  
J. T. BLACKLOCK,

Mr. Hanna moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

## MOTIONS AND RESOLUTIONS.

Mr. Hanna moved

That the House proceed to the third reading of Senate bills,  
Which motion was withdrawn.

Mr. Hodgson moved

That Joint Rule No. 10 on the part of the House be suspended  
until noon of today,  
Which motion prevailed.

## UNFINISHED BUSINESS.

Mr. Nierling moved

That Senate Bill No. 72 be made a special order for 2:30 p. m.,  
today,  
Which motion prevailed.

## REPORTS OF STANDING COMMITTEES.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred  
Senate Bill No. 105,

A Bill for an act fixing the fees of sheriffs and other officers  
for transporting insane persons to the asylum of the State,  
Have had the same under consideration and recommend that  
the same do pass.

T. TWICHELL,  
Chairman.

Senate No. 105 was referred to its third reading.

The Committee on Railroads made the following report:

MR. SPEAKER:

Your Committee on Railroads to whom was referred  
Senate Bill No. 166,

A Bill for an act fixing the maximum compensation that a rail-  
road company may charge for a stopover in cars in transit be-  
tween intermediate and terminal points, and for transportation  
of freight between such points,

Have had the same under consideration and recommend that  
the same do pass.

ROLLIN C. COOPER,  
Chairman.

Senate Bill No. 166 was referred to its third reading.

The Committee on Taxes and Tax Laws made the following  
report:

**MR. SPEAKER:**

Your Committee on Taxes and Tax Laws to whom was referred Senate Bill No. 158,

A Bill for an act to provide for the levy and collection of a road poll tax,

Have had the same under consideration and recommend that the same be referred back without recommendation.

N. SWENSON,  
Chairman.

Senate Bill No. 107 was referred to its third reading.

The Committee on Military Affairs made the following report:

**MR. SPEAKER:**

Your Committee on Military Affairs to whom was referred Senate Bill No. 107,

A Bill for an act to suspend Sections 20, 21, 37, 40 and 60 of Chapter 86, Laws of 1891, being an act to provide for a Military Code for the State of North Dakota,

And reports the same back to the House without recommendation.

C. McLAIDLAN,  
Chairman.

Senate Bill No. 158 was referred to its third reading.

The Committee on Agriculture made the following report:

**MR. SPEAKER:**

Your Committee on Agriculture to whom was referred Senate Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 91 of the Session Laws of 1891, being an act for the destruction of noxious weeds, providing penalties for the violation of the same, and for the repeal of an act entitled "an act to prevent the spread of noxious weeds in the Territory of Dakota, General Laws of 1885, supplement Dakota Territory, and "an act to amend Section 1, General Laws of 1885, supplement relating to noxious weeds, Chapter 102, Session Laws of 1890,"

Have had the same under consideration and recommend that the same do pass.

MORRIS F. BROWN,  
Chairman.

Senate Bill No. 20 was referred to its third reading.

The Committee on Ways and Means made the following report:

**MR. SPEAKER:**

Your Committee on Ways and Means to whom was referred Substitute for Senate Bill No. 66,

A Bill for an act to amend Section 86, Chapter 132, Laws of

1890, being an act prescribing the mode of making assessment and the levy and collection of taxes, and other purposes relative thereto,

Have had the same under consideration and recommend that the same do pass.

C. L. LINDSTROM,  
Chairman.

Substitute for Senate Bill No. 66 was referred to its third reading.

The Committee on Corporations Other Than Municipal made the following report:

MR. SPEAKER:

Your Committee on Corporations Other Than Municipal to whom was referred

Senate Bill No. 152,

A Bill for an act authorizing the board of directors of corporations to hold their meetings at any place within or without the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

H. HANCOCK,  
Chairman.

Senate Bill No. 152 was referred to its third reading.

The Committee on Education made the following report:

MR. SPEAKER:

Your Committee on Education to whom was referred

Senate Bill No. 174,

A Bill for an act to repeal an act to create a joint school township in the counties of Griggs and Steele,

Have had the same under consideration and recommend that the same do pass.

JOHN LOGAN,  
Chairman.

Senate Bill No. 174 was referred to its third reading.

#### THIRD READING OF SENATE BILLS.

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 26, nays 28, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Korsmo,	Roberts,
Brown,	Lindstrom,	Sargent,
Cooper,	McLachlan,	Sharpe,
Edwards,	McDonald,	Spangberg,
Gleason,	Myers,	Swenson,
Hanna,	Nierling,	Tyler,
Hill,	Porter,	Wineman,
Holritz,	Ray,	Mr. Speaker.
Horgan,	Richards,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Hancock,	Purdon,
Colby,	Herbrandson,	Runde,
Colosky,	Hodgson,	Smith,
Cryan,	Jennings,	Stafne,
Dwyer,	Kellogg,	Tofsrud,
Eyolfson,	Kroeger,	Twichell,
Flack,	Lerom,	Walker,
Gilbertson,	Logan,	Wallen,
Guinan,	Nelson,	Wood.
Gunderson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Armstrong,	Prosser,	Simpson,
Fleming,	Rasmussen,	Svensrud.
Murphy,	Rod,	

Mr. Rod being excused.

So the bill was lost.

Mr. Hodgson moved

That the vote by which Senate Bill No. 96 was lost be reconsidered, and that the motion to reconsider be laid on the table.

Roll call demanded.

The roll being called, there were ayes 12, nays 43, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Cryan,	Jennings,	Stafne.
Flack,	Lerom,	Tofsrud,
Herbrandson,	Nelson,	Walker,
Hodgson,	Rinde,	Wallen.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hanna,	Rasmussen,
Blacklock,	Hill,	Ray,
Brainard,	Holritz,	Richards,
Brown,	Horgan,	Roberts,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,

Messrs—

Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Korsmo,  
Lindstrom,  
McLachlan,  
McDonald,  
Myers,  
Nierling,  
Porter,  
Purdon,

Messrs—

Smith,  
Spangberg,  
Swenson,  
Twichell,  
Tyler,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Fleming,  
Logan,  
Murphy,

Messrs—

Prosser,  
Rod,

Messrs—

Simpson,  
Svensrud.

Mr. Rod being excused.

So the motion was lost.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 7, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 4,

A Bill for an act to amend Subdivision 11 of Section 1, Chapter  
100, Laws of 1891.

Also,

House Bill No. 99,

A Bill for an act to promote speedy justice and a prompt hear-  
ing of cases appealed to the supreme court,  
Which the Senate has passed unchanged.

Also,

Senate Bill No. 172,

A Bill for an act entitled "an act to provide rules for the pub-  
lication of and the construction to be placed upon the different  
acts passed at the Fourth Session of the Legislative Assembly."

Also,

Senate Bill No. 175,

A Bill for an act to amend Chapter 63 of Session Laws of  
1885, entitled "an act establishing territorial and county boards  
of health and providing for the protection of the health of per-  
sons and animals and for other purposes,

Which the Senate has passed and the favorable consideration  
thereof by the House is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

## Senate Bill No. 131.

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act amending Articles 49 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the incorporation of cities; and also to repeal Section 1 of Chapter 97 of the Laws of 1890, in so far as the same relates to cities,"

Was read the third time,

The question being upon the final passage of the bill,  
The roll being called there were ayes 51, nays 1, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Purdon,  
Porter,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Roberts,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Mr. Rinde voting in the negative.

Absent and not voting:

Messrs—

Colby,  
Flack,  
Fleming,  
Gilbertson,

Messrs—

Murphy,  
Prosser,  
Rod,

Messrs—

Sargent,  
Simpson,  
Svensrud.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

The Speaker called Mr. Hanna to the chair.

Mr. Tyler moved

That the vote by which Senate Bill No. 131 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, and 23 of Article 15 of Chapter 73 of the Laws of 1887,

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 47, nays 3, not voting 12.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Nelson,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Roberts,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Twichell,  
• Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,

Messrs—

Flack,

Messrs—

Tofsrud.

Absent and not voting:

Messrs—

Colby,  
Fleming,  
Gilbertson,  
Jennings,

Messrs—

McDonald,  
Murphy,  
Myers,  
Porter,

Messrs—

Rinde,  
Rod,  
Simpson,  
Svensrud.

Mr. Rod bein excused.

So the bill passed and the title was agreed to.

Mr. Tyler moved

That the vote by which Senate Bill No. 134 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Edwards requested that the privileges of the floor be extended to Mr. Walter Hancock, of Fargo.

There being no objection, the privileges of the floor were so extended.

Senate Bill No. 136,

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws, Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 56, nays 1, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Mr. Rasmussen voting in the negative.

Absent and not voting:

Messrs—

Eyolfson,  
Fleming,

Messrs—

Murphy,  
Rod,

Messrs—

Simpson.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Tyler moved

That the vote by which Senate Bill No. 136 was passed be reconsidered, and that the motion to reconsider be laid on the table,  
Which motion prevailed.

Mr. Wineman moved

That the Sergeant-at-arms be instructed to arrest Mr. Simpson and bring him before the bar of the House,  
Which motion prevailed.

Mr. Hill moved

That a warrant be also issued for Mr. Fleming,  
Which motion prevailed.

Mr. Richards moved

That a warrant be also issued for Mr. Murphy,  
Which motion prevailed.

The Speaker ordered the warrants issued for Messrs. Simpson, Fleming and Murphy.

Senate Bill No. 132,

A Bill for an act to provide free text books for use in the public schools of this State,

Was read the third time.

The question being on the final passage of the bill,

The roll being called there were ayes 54, nays 1, not voting 7.

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Richards,
Brainard,	Holritz,	Rinde,
Brown,	Horgan,	Roberts,
Colby,	Jennings,	Sargent,
Colosky,	Kellogg,	Smith,
Cooper,	Kroeger,	Spangberg,
Cryan,	Korsmo,	Stafne,
Dwyer,	Lerom,	Svensrud,
Edwards,	Lindstrom,	Swenson,
Eyolfson,	Logan,	Tofsrud,
Flack,	Myers,	Twichell,
Gilbertson,	Nelson,	Tyler,
Guinan,	Nierling,	Walker,
Gunderson,	Porter,	Wallen,
Hancock,	Prosser,	Wineman,
Hanna,	Purdon,	Wood,
Herbrandson,	Rasmussen,	Mr. Speaker.

Mr. Gleason voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Murphy,	Sharpe,
McLachlan,	Rod,	Simpson,
McDonald,		

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Blacklock moved

That the vote by which Senate Bill No. 132 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

By unanimous consent Mr. Svensrud was allowed to have his name recorded as voting aye on the passage of Senate Bill No. 132.

Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896.

Was read the third time.

Mr. Tyler moved

That the rules be suspended for the purpose of allowing amendments to Senate Bill No. 150,

Which motion was lost.

Mr. Wineman requested unanimous consent to offer an amendment.

Objection made.

Mr. Wineman moved

That the rules be suspended for the purpose of allowing amendments to Senate Bill No. 150,

Which motion was lost.

The question being upon the final passage of the bill as amended by the Committee of the Whole,

The roll being called there were ayes 50, nays 4, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hanna,

Messrs—

Hill,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
Myers,  
Nelson,  
Porter,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Roberts,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Herbrandson,  
Hodgson,

Messrs—

McDonald,

Messrs—

Rinde.

Absent and not voting:

Messrs—

Fleming,  
Hancock,  
Lerom,

Messrs—

Murphy,  
Nierling,  
Prosser,

Messrs—

Rod,  
Simpson.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Mr. Tyler moved

That the vote by which Senate Bill No. 150 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Mr. Wineman moved

That the House take a recess until 1 o'clock,

Which motion prevailed, and

The House took such recess.

House reassembled.

The Speaker resumed the chair.

By unanimous consent Mr. Ray offered the following Concurrent Resolution:

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the Railroad Commissioners be requested to proceed at once to compel the Great Northern Railroad to carry coal in the State for as low rates as are charged by the Northern Pacific and Soo Railroads for similar services.

Mr. Rasmussen moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

By unanimous consent Mr. Murphy offered the following Concurrent Resolution and moved its adoption,

Which motion prevailed, and

The Concurrent Resolution was adopted.

CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

The people of the State of North Dakota have paid the national government hundreds of thousands of dollars for agricultural lands, but the experience of late years prove much of these lands lack sufficient moisture for insuring success and profits at agricultural pursuits, therefore justice demands the national government should render proper aid in securing a necessary supply of water for such purposes.

The Dakota artesian basin of North and South Dakota is the largest in extent and most voluminous in the amount of its flowage of any such basin in the world. We have in this State 672 flowing artesian wells, and the artesian deposits are found from the eastern to the western and from the southern to the northern line of the State, but there are vast regions where artesian experiments should be conducted in order to develop the great artesian deposits for the material benefit of the State and the people. But owing to the diminished crops growing out of the absence of necessary amount of moisture, the denizens of this State cannot furnish the capital needed for the object in view. Now, therefore, be it

*Resolved,* By the House of Representatives of the Legislative Assembly of the State of North Dakota, the Senate concurring, that our delegates in Congress be requested to introduce into the National Congress at its next session a bill for the sum of twenty thousand dollars, and take such steps as will secure its passage, the money to be used in the direction of irrigation for the benefit of agricultural pursuits in North Dakota.

*Resolved,* That two copies of this resolution be engrossed and that the Secretary of State be required to send one copy to Senators Hansbrough and Roach, and one to Honorable M. N. Johnson, Representative, and request that they lay the same before the two houses of Congress at its next session.

By unanimous consent the following Committee report was submitted:

MR SPEKKER:

Your Select Committee recommend that the following Senate Bills be taken from General Orders:

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota.

Also,

Substitute for Senate Bill No. 6,

A Bill for an act entitled "an act to provide for the inspection of steam boilers and licensing of steam engineers."

Also,

Senate Bill No. 127,

A Bill for an act to amend Section 1 of Chapter 55 of the Session Laws of 1891 relating to cruelty to animals.

Also,

Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Session Laws of 1891 entitled "an act to provide for a uniform system of free public schools throughout the State and prescribe penalties for the violations of the provisions thereof."

Also,

Senate Bill No. 68,

A Bill for an act to amend Article 11 of Chapter 13 of the Code, of Civil Procedure, being Section 5126 to Section 5140 inclusive of the Compiled Laws,

And that they be placed following the list recommended by your Committee this morning.

Respectfully,

L. B. HANNA,  
Chairman.

Mr. Hanna moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report was adopted.

Senate Bill No. 140,

A Bill for an act defining the qualifications of electors of Indian descent,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes, 54, nays 1, not voting 7.

Those who voted in the affirmative were:

Messrs--

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,

Messrs--

Hanna,  
Hill,  
Hodgson,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,

Messrs--

Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,

Messrs—

Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
Myers,  
Nelson,  
Nierling,  
Prosser,  
Purdon,  
Ray,  
Richards,

Messrs—

Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood.  
Mr. Speaker.

Mr. Herbrandson voting in the negative.

Absent and not voting:

Messrs—

Holritz,  
McLachlan,  
McDonald,

Messrs—

Murphy,  
Porter,

Messrs—

Rasmussen,  
Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Lindstrom moved

That the vote by which Senate Bill No. 140 was passed be reconsidered, and that the motion to reconsider be laid on the table, Which motion prevailed.

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 57, nays none, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,

Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Rasmussen,	Simpson.
Prosser,	Rod,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Wineman moved

That the vote by which Senate Bill No. 143 was passed be reconsidered, and that the motion to reconsider be laid on the table,

Which motion prevailed.

Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62, of the Session Laws of 1890, entitled "an act to provide for a uniform system of free-public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 57, nays none, not voting 5.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Rasmussen,
Blacklock,	Hodgson.	Ray,
Brainard,	Holritz,	Richards,
Brown,	Horgan.	Rinde,
Colby,	Jennings,	Roberts,
Colosky,	Kellogg,	Sargent,
Cooper,	Kroeger.	Smith,
Cryan,	Korsmo,	Spangberg,
Dwyer,	Lerom,	Stafne,
Eyolfson,	Lindstrom,	Svensrud,
Flack,	Logan,	Swenson,
Fleming,	McLachlan,	Tofsrud,
Gilbertson,	McDonald,	Twichell,
Gleason,	Murphy,	Tyler,
Guinan,	Myers,	Walker,
Gunderson,	Nelson,	Wallen,
Hancock,	Nierling,	Wood,
Hanna,	Porter,	Mr. Speaker.
Herbrandson,	Purdon,	

Absent and not voting:

Prosser,	Sharpe,	Wineman.
Rod,	Simpson,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools,

Was read the third time,  
The question being upon the final passage of the bill,  
The roll being called there were ayes 57, nays 1, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Ray,
Blacklock,	Hill,	Richards,
Brainard,	Hodgson,	Rinde,
Brown,	Holritz,	Roberts,
Colby,	Horgan,	Sargent,
Colosky,	Jennings,	Sharpe,
Cooper,	Kellogg,	Simpson,
Cryan,	Kroeger,	Smith,
Dwyer,	Korsmo,	Spangberg,
Edwards,	Lerom,	Stafne.
Eyolfson,	Logan,	Svensrud,
Flack,	McLachlan,	Swenson,
Fleming,	McDonald,	Tofsrud,
Gilbertson,	Murphy,	Tyler,
Gleason,	Myers,	Walker,
Guinan,	Nelson,	Wallen,
Gunderson,	Nierling,	Wineman,
Hancock,	Porter,	Wood,
Hanna,	Rasmussen,	Mr. Speaker.

Mr. Purdon voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Lindstrom,	Rod,	Twichell.
Prosser,		

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Hodgson moved

That the rules be suspended and that when Senate bills are passed they be immediately messaged to the Senate,

Which motion prevailed.

Mr. Wineman moved

That Senate Bill No. 96 be recalled from the Senate,

Which motion prevailed, and

Senate Bill No. 96 was ordered recalled from the Senate.

Substitute for Senate Bill No. 57,

A Bill for an act to amend Section 37, Chapter 62, of an act to provide for a uniform system of public schools, of Laws of 1890,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 54, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Purdon,
Brainard,	Hodgson,	Rasmussen,
Brown,	Holritz,	Ray,
Colby,	Horgan,	Rinde,
Colosky,	Jennings,	Roberts,
Cooper,	Kellogg,	Sargent,
Cryan,	Kroeger,	Sharpe,
Dwyer,	Korsmo,	Simpson,
Edwards,	Lerom,	Smith,
Eyolfson,	Lindstrom,	Spangberg,
Flack,	Logan,	Swenson,
Fleming,	McLachlan,	Twichell,
Gilbertson,	McDonald,	Tyler,
Gleason,	Murphy,	Walker,
Guinan,	Myers,	Wallen,
Gunderson,	Nelson,	Wineman,
Hanna,	Nierling,	Wood,
Herbrandson,	Porter,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Blacklock,	Richards,	Svensrud,
Hancock,	Rod,	Tofsrud.
Prosser,	Stafne,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 135,

A Bill for an act entitled "an act declaring the Carlisle tables of mortality to be competent evidence in certain cases,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 54, nays none, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz,	Ray,
Blacklock,	Horgan,	Richards,
Brown,	Jennings,	Rinde,
Colby,	Kellogg,	Roberts,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Sharpe,
Cryan,	Lerom,	Simpson,
Dwyer,	Lindstrom,	Smith,
Edwards,	Logan,	Spangberg,
Eyolfson,	McLachlan,	Stafne,
Flack,	McDonald,	Svensrud,
Gleason,	Murphy,	Swenson,
Guinan,	Myers,	Twichell,
Gunderson,	Nelson,	Tyler,
Hanna,	Nierling,	Walker,
Herbrandson,	Porter,	Wineman,
Hill,	Prosser,	Wood,
Hodgson,	Rasmussen,	Mr. Speaker.

Absent and not voting:

Messrs—  
Brainard,  
Fleming,  
Gilbertson,

Messrs—  
Hancock,  
Purdon,  
Rod,

Messrs—  
Tofsrud,  
Wallen.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 18,

A Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25, of the General Laws of 1881, being Section 4383 of the Compiled Laws,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 57, nays 3, not voting 2.

Those who voted in the affirmative were:

Messrs—  
Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those voting in the negative were:

Messrs—  
Edwards,

Messrs—  
Gilbertson,

Messrs—  
Ray.

Absent and not voting, Messrs. Myers and Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

The Committee on Enrolled Bills made the following report:

**MR. SPEAKER:**

Your Committee on Enrolled Bills have examined  
House Bill No. 99,

A Bill for an act to promote speedy justice and a prompt hearing of cases appealed to the Supreme Court.

Also,

House Bill No. 4,

A Bill for an act to amend Subdivision 11 of Section 1 of Chapter 100, Session Laws of 1891,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 4,

A Bill for an act to amend Subdivision 11 of Section 1, Chapter 100, Laws of 1891.

Also,

House Bill No. 99,

A Bill for an act to promote speedy justice and a prompt hearing of cases appealed to the Supreme Court.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 7, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
Senate Bill No. 110,

A Bill for an act to amend Sections 13, 62 and 71 of Chapter 118, Laws of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State, and the management of the funds arising therefrom, and making an appropriation therefor."

Also,

Senate Bill No. 169,

A Bill for an act entitled "an act constituting the State Superintendent of Irrigation and Forestry the State Fish Commissioner of North Dakota, and providing for the establishment and maintenance of a State fish hatchery or hatcheries and fish breeding ponds, and for the stocking of the same and the other waters with fish, and their protection,"

Which the Senate has passed and your favorable consideration of the same is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

The Speaker announced that he was about to sign the following Senate bills, viz:

Senate Bill No. 32,

A Bill for an act providing for an appropriation for the current and contingent expenses, furnishing, maintenance and making needed improvements and repairs for the Soldiers' Home at Lisbon.

Also,

Senate Bill No. 26,

A Bill for an act providing for an appropriation for the maintenance of the State Normal School at Valley City.

Also,

Senate Bill No. 25,

A Bill for an act for an appropriation for current and contingent expenses of the Hospital for the Insane at Jamestown.

Also,

Senate Bill No. 29,

A Bill for an act providing for an appropriation for the penitentiary at Bismarck and for making needed permanent improvements thereat.

Also,

Senate Bill No. 47,

A Bill for an act to amend Section 332 of Chapter 13 of the Code of Civil Procedure, being Section 5127 of the Compiled Laws relating to property not exempt from execution.

Also,

Senate Bill No. 54,

A Bill for an act providing for an appropriation for the maintenance and improvements of the State Normal School at Mayville.

Also,

Senate Bill No. 84,

A Bill for an act amending Section 7, Chapter 127, Laws of 1893, entitled "an act to establish a weather and crop service; for the collection and dissemination of crop statistics and meteorological data."

Also,

Senate Bill No. 108,

A Bill for an act repealing Chapter 20 of the Special Laws of Dakota Territory for the year 1885, being an act entitled an "act prescribing the duties and regulating the salaries of the county treasurers and registers of deeds for Grand Forks county, D. T."

Also,

Senate Bill No. 141,

A Bill for an act to prohibit the manufacture, sale and use of adulterated cigarettes, and the sale of cigarettes, cigars and tobacco to minors.

Also,

Senate Bill No. 126,

A Bill for an act to appropriate \$30,000 to pay the expenses necessary incident to the eradication of Russian thistles and French weeds.

Also,

Senate Bill No. 153,

A Bill for an act entitled an act in relation to health and decency in the school districts of the State.

Also,

Senate Bill No. 154,

A Bill for an act entitled "an act amending Section 1, of Article 19, Chapter 73, of the Laws of 1887, the same being Section 1016 of the Compiled Laws of the Territory of Dakota, now State of North Dakota."

Senate Bill No. 163,

A Bill for an act providing for the payment of an amount equal to a per centum of gross earnings of railroads in lieu of all State county and school taxes, and repealing Chapter 107 of the Laws of Dakota Territory of 1889, and Chapter 134 of this State of 1890 upon the same subject,

Was read the third time.

Mr. Hodgson moved

That Mr. R. N. Stevens be granted the privilege of the floor to address the House in regard to the subject matter contained in Senate Bill No. 163.

Mr. Murphy moved

To amend the motion by limiting Mr. Stevens to one-half hour in his address.

The amendment accepted, and the motion as amended prevailed.

The Speaker appointed Mr. Hodgson a Committee to escort Mr. Stevens to the chair.

The Speaker introduced Hon. R. N. Stevens to the House, and Mr. Stevens addressed the House in relation to Senate Bill No. 163 and its passage.

The roll being called on the final passage of the bill there were ayes 15, nays 45, not voting 2.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Edwards,  
Fleming,  
Hancock,

Messrs—

Hill,  
Hanna,  
Kellogg,  
McDonald,  
Murphy,

Messrs—

Prosser,  
Simpson,  
Tyler,  
Wineman,  
Wood,

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Brainard,	Holritz,	Ray.
Brown,	Horgan,	Richards,
Colby,	Jennings,	Roberts,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Sharpe,
Cryan,	Lerom,	Smith,
Dwyer,	Lindstrom,	Spangberg,
Eyolfson,	Logan,	Stafne,
Flack,	McLachlin,	Svensrud,
Gilbertson,	Myers,	Swenson,
Gleason,	Nelson,	Tofsrud,
Guinan,	Nierling,	Twichell,
Gunderson,	Porter,	Walker.
Herbrandson,	Purdon,	Wallen,
Hodgson,	Rasmussen,	Mr. Speaker.

Messrs. Rinde and Rod absent and not voting.

Mr. Rod being excused.

So the bill was lost.

Mr. Richards moved

That the vote by which Senate Bill No. 163 was lost be reconsidered.

Mr. Hodgson as a substitute motion moved

That the vote by which Senate Bill No. 163 was lost be reconsidered, and that the motion to reconsider be laid on the table.

Roll call demanded.

The roll being called there were ayes 32, nays 29, not voting 1.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Hodgson,	Porter,
Colby,	Holritz,	Rasmussen,
Cooper,	Jennings,	Ray,
Cryan,	Kroeger,	Roberts,
Dwyer,	Korsmo,	Sharpe,
Eyolfson,	Lerom,	Smith,
Flack,	Lindstrom,	Stafne,
Gilbertson,	Logan,	Swenson,
Gleason,	McLachlan,	Walker,
Gunderson,	Myers,	Wallen.
Herbrandson,	Nelson,	

Those voting in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Simpson,
Blacklock,	Kellogg,	Spangberg,
Brown,	McDonald,	Svensrud,
Colosky,	Murphy,	Tofsrud,
Edwards,	Nierling,	Twichell,
Fleming,	Prosser,	Tyler.
Guinan,	Purdon,	Wineman,
Hancock,	Richards,	Wood,
Hanna,	Rinde,	Mr. Speaker.
Hill,	Sargent,	

Mr. Rod absent and not voting.

Who was excused.

So the motion prevailed.

Mr. Wineman moved

That the House take an informal recess for ten minutes,

Which motion prevailed, and

The House took such recess.

House reassembled.

Mr. Simpson requested that the courtesies of the floor be extended to Hon. W. A. Bentley, of Burleigh county.

There being no objection, the courtesies of the floor were so extended.

Senate Bill No. 72,

A Bill for an act to regulate the manner in which individuals, firms and private corporations shall be authorized to construct, maintain and operate public warehouses and elevators on railway right of way in the State of North Dakota,

Was placed upon its final passage.

By unanimous consent Mr. Hodgson moved to amend Senate Bill No. 72 by striking out Section 7 from the bill,

Which motion prevailed, and

Senate Bill No. 72 was so amended.

The question being upon the final passage of the bill,

The roll being called, there were ayes 52, nays 2, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eylofson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Prosser,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Messrs. Gleason and Nierling voting in the negative.

Absent and not voting:

Messrs—

Blacklock,  
Edwards,  
Lindstrom,

Messrs—

Porter,  
Purdon,  
Rod,

Messrs—

Tofsrud,  
Wineman.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

The Speaker announced that he was about to sign

Senate Bill No. 21,

A Bill for an act providing for the appropriation of additional buildings, and for the payment of the contingent expenses of the North Dakota Agricultural College and Experimental Station of Fargo.

Also,

Senate Bill No. 98,

A Bill for an act authorizing the counties of the State of North Dakota to raise and expend a fund for the purchase of poison for the destruction of gophers, and repealing Chapter 144 of the Session Laws of 1890.

Also,

Senate Bill No. 49,

A Bill for an act making an appropriation for maintenance of the State University, and for needed permanent improvements of the State University.

Also,

Senate Bill No. 136,

A Bill for an act to repeal Section 24 of Article 15 of Chapter 73 of the Laws of 1887, being Section 982 of the Compiled Laws.

Also,

Senate Bill No. 147,

A Bill for an act creating an historical commission for the State, prescribing its duties and the place for preserving its records.

By unanimous consent the following Committee report was submitted:

The Committee on Appropriations made the following report:

MR. SPEAKER:

Your Committee on Appropriations to whom was referred

Senate Bill No. 167,

A Bill for an act to suspend Chapter 11 of the Laws of 1893, being an act for an appropriation for the erection of the North Dakota Reform School at Mandan, and for incidental and contingent expenses for the same,

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 167 was referred to its third reading.

Also,

Senate Bill No. 82,

A Bill for an act establishing an emergency commission, prescribing their duties and appropriating money for the expenses thereof,

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. H. PROSSER,  
Chairman.

Mr. Hanna moved

That the report of the Committee be adopted,

Which motion prevailed, and

The further consideration of Senate Bill No. 82 was indefinitely postponed.

The Committee on Judiciary made the following majority report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred Senate Bill No. 121,

A Bill for an act fixing the times and places of holding general and special terms of the Supreme Court of the State of North Dakota,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

The Committee on Judiciary made the following minority report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred Senate Bill No. 121,

A Bill for an act fixing the times and places of holding general and special terms of the Supreme Court of the State of North Dakota,

Have had the same under consideration and recommend that the words "the seat of government" be stricken out and the words "the City of Fargo" be inserted in lieu thereof in line two of Section one,

And when so amended recommend that the same do pass.

W. R. FLEMING,  
A. W. EDWARDS,  
THOS. GUINAN,  
L. B. HANNA,  
Minority.

Mr. Edwards moved  
That the minority report be adopted.

Mr. Murphy offered the substitute motion  
That the majority report be adopted,  
Which motion was lost.

The question being on the original motion,  
The motion prevailed, and  
The minority report was adopted.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER. }  
March 7, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has declined to concur in the House amendments to Senate Bill No. 150, and would suggest that a Conference Committee be appointed. The Senate has appointed as members of such Committee, Senators Little and Tufts.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Wineman moved

That the House comply with the request of the Senate in relation to Senate Bill No. 150,

Which motion prevailed, and

The Speaker appointed as House members of the Conference Committee to consider Senate Bill No. 150, Messrs. Wineman and Tyler.

The Speaker announced that he was about to sign  
Senate Bill No. 18,

A Bill for an act to amend an act entitled "an act to amend Section 1, Chapter 25 of the General Laws of 1881, being Section 4383 of the Compiled Laws."

Also,

Senate Bill No. 135,

A Bill for an act declaring the Carlisle tables of mortality to be competent evidence in certain cases.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred

Senate Bill No. 171,

A Bill for an act entitled "an act to provide that the seven Codes prepared by the Revising Commission and introduced as bills and passed as acts at the Fourth Legislative Assembly of

the State of North Dakota, shall not be printed as Session Laws of the Fourth Legislative Assembly,"

Have had the same under consideration and recommend that the same do pass.

Senate Bill No. 171 was referred to its third reading.

Also,

Senate Bill No. 168,

A Bill for an act entitled "an act to cede to the United States jurisdiction of the State of North Dakota over lands acquired by military posts,"

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill 168 was referred to its third reading.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 7, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

House Bill No. 165,

A Bill for an act to establish a Political Code for the State of North Dakota,

Which the Senate has amended and attached the amendments to the proper sections of the Code.

Your concurrence therein is respectfully requested.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Hanna moved

That the House do not concur with the Senate amendments to House Bill No. 165, and that a conference committee, consisting of three from the House and two from the Senate, be appointed to consider the Senate amendments to House Bill No. 165,

Which motion prevailed, and

The Speaker appointed as House members of said conference committee, Messrs. Hanna, Nierling and Horgan.

The Speaker called Mr. Simpson to the chair.

Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891, being an act entitled "an act for the prevention of prairie fires and

to provide against damage done by them; also prescribing duties of county commissioners in relation thereto,"

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 50, nays 1, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rinde,
Blacklock,	Holritz,	Roberts,
Brainard,	Jennings,	Sargent,
Brown,	Kellogg,	Sharpe,
Colby,	Kroeger,	Simpson,
Colosky,	Korsmo,	Smith,
Cooper,	Lerom,	Spangberg,
Cryan,	Logan,	Stafne,
Dwyer,	Murphy,	Svensrud,
Eyolfson,	Myers,	Swenson,
Flack,	Nierling,	Twichell,
Fleming,	Porter,	Tyler,
Gilbertson,	Prosser,	Walker,
Guinan,	Purdon,	Wallen,
Hancock,	Rasmussen,	Wood,
Hanna,	Ray,	Mr. Speaker.
Hill,	Richards,	

Mr. Lindstrom voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	Horgan,	Rod,
Gleason,	McLachlan,	Tofsrud,
Gunderson,	McDonald,	Wineman.
Herbrandson,	Nelson,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants,

Was read the third time.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 54, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Richards,
Brainard,	Holritz,	Rinde,
Brown,	Horgan,	Roberts,
Colby,	Jennings,	Sargent,
Colosky,	Kellogg,	Simpson,
Cooper,	Kroeger,	Smith,
Cryan,	Korsmo,	Spangberg,

## Messrs—

Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

## Messrs—

Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Nelson,  
Nierling,  
Prosser,  
Purdon,  
Rasmussen,

## Messrs—

Stafne,  
Svensrud,  
Swenson,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

## Messrs—

Edwards,  
Guinan,  
McLachlan,

## Messrs—

Myers,  
Porter,  
Rod,

## Messrs—

Sharpe,  
Tofsrud.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

The Speaker announced that he was about to sign  
Senate Bill No. 4,

A Bill for an act to amend Section 130, Chapter 62, of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation of the provisions thereof."

Also,

Senate Bill No. 71,

A Bill for an act relating to the duties of county superintendent of schools.

Also,

Senate Bill No. 132,

A Bill for an act to provide free text books for use in public schools in this State.

Also,

Senate Bill No. 143,

A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota.

Also,

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Was read the third time.

The question being upon the final passage of the bill as amended,  
The roll being called there were ayes 41, nays 10, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs—

Hanna,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom  
Logan,  
Myers,  
Nierling,  
Porter,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Roberts,  
Sargent,  
Simpson,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Wallen,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Eyolfson,  
Hill,  
Kellogg,

Messrs—

Rinde,  
Smith,  
Twichell,

Messrs—

Tyler,  
Walker,  
Wineman.

Absent and not voting:

Messrs—

Edwards,  
Hancock,  
Herbrandson,  
McLachlan,

Messrs—

McDonald,  
Murphy,  
Nelson,  
Prosser,

Messrs—

Rod,  
Sharpe,  
Tofsrud.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 7, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

A Concurrent Resolution

Authorizing and instructing the Governor, State Auditor and State Treasurer to fund the outstanding warrants of the Territory of Dakota issued under and by virtue of Chapter 24 of the Laws of 1889 of said Territory, being entitled "an act to provide for the refunding of the outstanding Territorial warrants drawn on the Capitol building fund,

Which the Senate has passed and your favorable concurrence is requested.

Respectfully,

FRED FALLEY,  
Secretary.

## CONCURRENT RESOLUTION

Of the Senate and House of Representatives of the Fourth Legislative Assembly of the State of North Dakota, authorizing and instructing the Governor, State Auditor and State Treasurer to fund the outstanding warrants of the Territory of Dakota, issued under and by virtue of Chapter 24 of the Laws of 1889 of said Territory, being entitled 'an act to provide for the refunding of the outstanding Territorial Warrants drawn on the Capitol Building Fund.'

*Resolved by the Senate, the House of Representatives Concurring:*

SECTION 1. That the Governor, State Auditor and State Treasurer are hereby authorized and empowered to prepare for issue negotiable bonds of the State of North Dakota to an amount not exceeding sixty-seven thousand dollars (\$67,000), for the purpose of funding the principal and interest due April 1, 1895, upon refunding warrants issued under Chapter 24 of the Laws passed in 1889, at the eighteenth session of the Legislative Assembly of the Territory of Dakota. Such bonds shall be made payable to the purchaser or bearer in twenty years from date of issuing, and shall bear interest at a rate not to exceed four (4) per cent. per annum, payable semi-annually on the first day of April and October of each year, with coupons attached for such interest payment; said coupons to be made payable anywhere in the United States. The said bonds shall be executed under the great seal of the State, by the Governor and Treasurer, and shall be attested by the Secretary of State, and shall be negotiated by the State Treasurer to the highest bidder for cash, at not less than their par value.

SEC. 2. The State Board of Equalization, at the time the taxes are levied, shall pay a sufficient tax annually to pay the interest on said bonds as the same shall become due, which tax shall be collected in the same manner that the State taxes are collected.

Also, seven years before the maturity of said bonds, said board shall provide a sinking fund to pay off and retire said bonds at their maturity, and for such purpose shall annually levy a tax sufficient to provide such funds. No tax or fund provided for the payment of such bonds or the interest thereon shall be used for any other purpose.

SEC. 3. When the interest coupons attached to said bonds become due and whenever said bonds mature it shall be the duty of the State Treasurer to pay the same on presentation out of the funds in the treasury applicable thereto, and to cancel said coupons and bonds when paid.

SEC. 4. When said bonds have all been redeemed and all interest thereon paid, the residue of said fund and all subsequent collections of said tax shall be transferred to the general reserve fund of the State.

SEC. 5. The State Treasurer is hereby authorized and empowered to offer said bonds for sale in such amounts and at such times as the Governor, State Auditor and State Treasurer may deem proper, and for the best interests of the State.

SEC. 6. Said bonds shall be known and styled North Dakota Capitol Building Funding Bonds, and said bonds shall be issued in denominations of not less than one thousand dollars each.

By unanimous consent the following Conference Committee report was submitted:

## CONFERENCE COMMITTEE REPORT.

*Mr. Speaker:*

The Conference Committee appointed to confer upon Senate Bill No. 150, a bill for making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the necessary expenses thereof

for the years 1895 and 1896, have had such conference and respectfully recommend that the House recede from their amendment for the reason that they find that the sum of (\$500) five hundred dollars is entirely inadequate to make the absolutely necessary repairs, and further recommend that the amount of such appropriation be made one thousand dollars.

On the part of the Senate:

C. B. LITTLE,

D. C. TUFTS.

On the part of the House:

J. B. WINEMAN,

EVAN S. TYLER.

Mr. Kellogg moved

That the report of the Conference Committee be concurred in,  
Which motion prevailed, and  
The report was adopted.

Mr. Wineman moved

That the vote by which Senate Bill No. 150 was passed be reconsidered.

Mr. Hodgson arose to a point of order that Mr. Wineman's motion was not in order.

The chair ruled the point of order was not well taken.

Mr. Gill moved

That Senate Bill No. 150 be amended to comply with the recommendations of the Conference Committee,  
Which motion prevailed, and  
Senate Bill No. 150 was so amended.

Mr. Wineman moved

That the rules be suspended and Senate Bill No. 150 as amended be made a special order tomorrow at 11 o'clock a. m.

Mr. Gill moved

A call of the House.

Call seconded.

The roll being called, all members present except Messrs. Cryan, Edwards, Horgan, McDonald, Roberts, Rod, Sharpe and Wood.

Mr. Rod being excused.

Mr. Gill moved

That the further proceedings under the call of the House be dispensed with,

Which motion prevailed, and

The call of the House was raised.

The question being upon the final passage of  
Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying

the incidental expenses thereof for the years 1895 and 1896, as amended.

The roll being called there were ayes 37, nays 17, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Horgan,	Simpson,
Brown,	Kellogg,	Spangberg,
Colby,	Kroeger,	Stafne,
Cooper,	Logan,	Svensrud,
Dwyer,	Murphy,	Swenson,
Eyolfson,	Nierling,	Twichell,
Fleming,	Porter,	Tyler,
Gilbertson,	Prosser,	Walker,
Gleason,	Purdon,	Wallen,
Guinan,	Ray,	Wineman,
Hanna,	Sargent,	Wood,
Hill,	Sharpe,	Mr. Speaker.
Holritz,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Blacklock,	Hancock,	Myers,
Brainard,	Herbrandson,	Rasmussen,
Colosky,	Hodgson,	Richards,
Cryan,	Jennings,	Rinde,
Flack,	Korsmo,	Smith.
Gunderson,	McDonald,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Edwards,	McLachlan,	Rod,
Lerom,	Nelson,	Tofsrud.
Lindstrom,	Roberts,	

Mr. Rod being excused,

So the bill as amended passed and the title was agreed to.

The Speaker announced that he was about to sign Senate Bill No. 134,

A Bill for an act to amend and re-enact Sections 2, 17, 21, 22 and 23 of Article 15 of Chapter 73, of the Laws of 1887.

Also,

Senate Bill No. 131,

A Bill for an act to amend Chapter 100 of the Session Laws of 1890, being an act amending Articles 4, 9 and 16 of Chapter 73 of the General Laws of 1887, entitled "an act to provide for the incorporation of cities;" and also to repeal Section 1 of Chapter 97 of the Laws of 1890, in so far as the same relates to cities.

Also,

Senate Bill No. 140,

A Bill for an act defining the qualifications of electors of Indian descent.

Also,  
Senate Bill No. 143,  
A Bill for an act to amend Section 307 of the Probate Code of the State of North Dakota.

Also,  
Senate Bill No. 144, Substitute for Senate Bill No. 57,  
A Bill for an act to amend Section 37 of Chapter 62 of the Session Laws of 1890, State of North Dakota, as amended by Section 8, Chapter 56 of the Laws of 1891, State of North Dakota.

By unanimous consent Mr. Hanna moved  
That House Bill No. 180, introduced by Mr. Holritz, be printed as other bills,  
Which motion prevailed.

By unanimous consent Mr. Logan offered the following resolution and moved its adoption,  
Which motion prevailed, and  
The resolution was adopted.

#### RESOLUTION.

*Be it Resolved by the House of Representatives:*

That the various standing committees be and are hereby instructed to act upon and report all bills now in their possession not later than 2 o'clock p. m. March 8.

By unanimous consent Mr. Hancock moved  
That the vote by which Senate Bill No. 96 was lost be reconsidered.  
Which motion prevailed.

Mr. Hanna moved  
That the House take a recess until 7:30 p. m.

Mr. Brainard offered as a substitute motion  
That the House do now adjourn to meet tomorrow morning at 10 o'clock.

Mr. Tyler moved as an amendment to the substitute motion  
That the House remain in session until 7 p. m., and then adjourn until 10 o'clock tomorrow morning.

The Chair declared the amendment out of order.

The question being on the substitute motion.

Roll call demanded.

The roll being called there were ayes 26, nays 30, not voting 6.

Those who voted in the affirmative were:

Messrs—  
 Blacklock,  
 Brainard,  
 Cooper,  
 Cryan,  
 Dwyer,  
 Eyolfson,  
 Flack,  
 Gleason,  
 Guinan,

Messrs—  
 Herbrandson,  
 Hodgson,  
 Holritz,  
 Horgan,  
 Jennings,  
 Lindstrom,  
 Nelson,  
 Rasmussen,  
 Rinde,

Messrs—  
 Sharpe,  
 Simpson,  
 Smith,  
 Spangberg,  
 Svensrud,  
 Swenson,  
 Twichell,  
 Wineman.

Those who voted in the negative were:

Messrs—  
 Armstrong,  
 Brown,  
 Colby,  
 Colosky,  
 Gilbertson,  
 Gunderson,  
 Hancock,  
 Hanna,  
 Hill,  
 Kellogg,

Messrs—  
 Kroeger,  
 Korsmo,  
 Lerom,  
 Logan,  
 Murphy,  
 Nierling,  
 Porter,  
 Prosser,  
 Purdon,  
 Ray,

Messrs—  
 Richards,  
 Roberts,  
 Sargent,  
 Stafne,  
 Tofsrud,  
 Tyler,  
 Walker,  
 Wallen,  
 Wood,  
 Mr.-Speaker.

Absent and not voting:

Messrs—  
 Edwards,  
 Fleming,

Messrs—  
 McLachlan,  
 McDonald,

Messrs—  
 Myers,  
 Rod.

Mr. Rod being excused.

So the substitute motion was lost.

Mr. Hanna then withdrew his original motion.

The Speaker announced he was about to sign  
 House Bill No. 35,

A Bill for an act to amend Section 39, Chapter 132 of the  
 Session Laws of 1890, entitled "an act prescribing the mode of  
 making assessment and the levy and collection of taxes, and for  
 other purposes relative thereto."

Also,

Senate Bill No. 129,

A Bill for an act to amend Section 1961a of the Civil Code,  
 Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 42, nays 11, not voting 9.

Those voting in the affirmative were:

Messrs—  
 Armstrong,  
 Brainard,  
 Brown,  
 Colby,  
 Colosky,  
 Cooper,

Messrs—  
 Horgan,  
 Jennings,  
 Kellogg,  
 Korsmo,  
 Lindstrom,  
 Logan,

Messrs—  
 Roberts,  
 Sargent,  
 Sharpe,  
 Simpson,  
 Smith,  
 Stafne,

Messrs—

Flack,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,  
Hill,  
Hodgson,  
Holritz.

Messrs—

Murphy,  
Myers,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,  
Richards,

Messrs—

Swenson,  
Twitchell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Cryan,  
Dwyer,  
Eyolfson,  
Guinan,

Messrs—

Herbrandson,  
Kroeger,  
Lerom,  
Rasmussen,

Messrs—

Rinde,  
Spangberg,  
Svensrud.

Absent and not voting:

Messrs—

Blacklock,  
Edwards,  
Fleming,

Messrs—

Gilbertson,  
McLachlan,  
McDonald,

Messrs—

Nelson.  
Rod,  
Tofsrud.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

FIRST AND SECOND READING OF SENATE BILLS.

Senate Bill No. 175,

A Bill for an act to amend Chapter 63 of Session Laws of 1885, entitled "an act establishing territorial and county boards of health and providing for the protection of the health of persons and animals and for other purposes,

Was read the first and second times, and

Referred to the Committee on Public Health.

Senate Bill No. 169.

A Bill for an act entitled "an act constituting the State Superintendent of Irrigation and Forestry the State Fish Commissioner of North Dakota, and providing for the establishment and maintenance of a State fish hatchery or hatcheries and fish breeding ponds, and for the stocking of the same and the other waters of this State with fish, and their protection,

Was read the first and second times, and

Referred to the Committee on Irrigation.

Senate Bill No. 172,

A Bill for an act entitled "an act to provide rules for the publication of and the construction to be placed upon the different acts passed at the Fourth Session of the Legislative Assembly,"

Was read the first and second times, and

Referred to the Committee on Judiciary.

Senate Bill No. 110,

A Bill for an act to amend Sections 13, 62, 14 and 71 of Chap-

ter 118, Laws of 1893, entitled "an act to amend all of Chapters 25, 146, 147, and 148 of the Laws of 1890 and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State and the management of the funds arising therefrom,

Was read the first and second times, and  
Referred to the Judiciary Committee.

## THIRD READING OF SENATE BILLS.

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of the provisions of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties,

Was placed upon its third reading.

The third reading of the bill being in progress,

Mr. Wallen moved

That its further consideration be indefinitely postponed.

The motion withdrawn.

The third reading of Senate Bill No. 86 was concluded.

The question being upon the final passage of the bill,

The roll being called there were ayes 44, nays 8, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Lerom,  
Lindstrom,  
Logan,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,

Messrs—

Prosser,  
Purdon,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Twichell,  
Tyler,  
Wallen,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Kroeger,  
Rasmussen,

Messrs—

Ray,  
Spangberg,  
Svensrud,

Messrs—

Tofsrud,  
Walker.

## Absent and not voting:

Messrs--

Edwards,  
Fleming,  
Hill,  
Korsmo,

Messrs--

McLachlan,  
McDonald,  
Richards,

Messrs--

Rod,  
Swenson,  
Wineman.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Concurrent Resolution, introduced by Mr. Logan,  
To amend Sections 82, 83 and 84 of Article 3 of the Constitu-  
tion of the State of North Dakota,

Was read the third time.

Mr. Hanna moved

That the further consideration of the Concurrent Resolution  
be indefinitely postponed,

Which motion prevailed, and

The further consideration of Concurrent Resolution was indefi-  
nitely postponed.

Mr. Simpson moved

That the consideration of Senate Bill No. 48 be deferred until  
to-morrow,

Which motion prevailed.

Senate Bill No. 77,

A Bill for an act to amend Section 25, of Article 15, of Chapter  
73, of the Session Laws of 1887.

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 49, nays 1, not voting 11.

Those who voted in the affirmative were:

Messrs--

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs--

Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
Myers,  
Nelson,  
Ni-rling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs--

Richards,  
Rinde,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Sveusrud,  
Swenson,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wood,  
Mr. Speaker.

Mr. Tofsrud voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Blacklock,	Horgan,	Roberts,
Edwards,	McLachlan,	Rod,
Fleming,	McDonald,	Wineman.
Guinan,	Murphy,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 16,

A Bill for an act providing for the establishment of boards of conciliation, and prescribing the mode of procedure of the same, and to repeal Chapter 45, of the Laws of 1893,

Was placed upon its third reading.

Mr. Cooper moved

That the further consideration of Senate Bill No. 16 be indefinitely postponed.

The motion withdrawn.

The third reading of the bill was concluded,

The question being upon the final passage of the bill,

The roll being called there were ayes 32, nays 20, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rasmussen,
Brainard,	Holritz,	Rinde,
Brown,	Kellogg,	Roberts,
Colby,	Kroeger,	Simpson,
Cryan,	Korsmo,	Smith,
Dwyer,	Lerom,	Stafne,
Eyolfson,	Lindstrom,	Svensrud,
Gilbertson,	Logan,	Tofsrud,
Gunderson,	Murphy,	Wallen,
Hanna,	Nelson,	Mr. Speaker.
Hill,	Purdon,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Colosky,	Nierling,	Spangberg.
Cooper,	Porter,	Swenson,
Flack,	Prosser,	Twichell,
Gleason,	Ray,	Tyler,
Hancock,	Richards,	Walker,
Herbrandson,	Sargent,	Wood.
Jennings,	Sharpe,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Blacklock,	Horgan,	Myers,
Edwards,	McLachlan,	Rod,
Fleming,	McDonald,	Wineman.
Guinan,		

Mr. Rod being excused.

So the bill passed and the title was agreed to.

REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-eighth day and recommend that it be amended as follows:

On page 32 after line 29 strike out the following:

House Bill No. 21,

A Bill for an act prescribing the duties of state's attorneys, fixing their compensation, and the method of determining the same,

And insert in lieu thereof

Senate Bill No. 21,

A Bill for an act providing for an appropriation for the erection of additional buildings, and for the payment of the contingent expenses of the North Dakota Agricultural College and Experimental Station of Fargo, North Dakota.

Also on page 33, line 24, strike out the word "House" and insert in lieu thereof the word "Senate,"

And when so amended recommend that the Journal of the fifty-eighth day be approved.

GEO. HILL,  
Chairman.

Mr. Hanna moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted,

And the Journal of the fifty-eighth day was approved.

Mr. Colby moved

That the House do now adjourn until ten o'clock tomorrow morning,

Which motion prevailed, and

The House adjourned.

J. M. DEVINE,  
Chief Clerk.

SIXTIETH DAY.

HOUSE OF REPRESENTATIVES,  
BISMARCK, NORTH DAKOTA,  
March 8, 1895.

The House assembled at 10 o'clock, a. m., pursuant to adjournment,

The Speaker presiding.

Prayer by the Chaplain.

Roll called.

All members present excepting Mr. Rod, who was excused.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to return to the House  
House Bill No. 137,

A Bill for an act entitled "an act to encourage the manufacture

and production of the long line spinning fibres, either flax or hemp, and spinning tows grown in the State of North Dakota."

Also,

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges."

Also,

House Bill No. 70,

A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers.

Also,

House Bill No. 147,

A Bill for an act to amend Section 10, of Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws.

Also,

House Bill No. 140,

A Bill for an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioners of Railroads.

Also,

House Bill No. 145,

A Bill for an act entitled "an act to establish a garnishment law for the State of North Dakota,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Colby requested that the courtesies of the floor be extended to Charles D. Grey, of Page.

Mr. Simpson requested that the courtesies of the floor be extended to M. L. Ayers, of the Dickinson Press, and Hon. Alex. Montague, of Dickinson.

Mr. Roberts requested that the courtesies of the floor be extended to Wm. J. Dwyer, of Logan county, and G. R. Smead, of St. Paul.

There being no objection, the courtesies of the floor were extended to the gentleman named.

#### REPORTS OF STANDING COMMITTEES.

The Committee on Cactus made the following report:

MR. SPEAKER:

Your Committee on Cactus have examined

House Bill No. 58,  
A Bill for an act entitled "an act for the destruction of noxious weeds,"

And advise that it be indefinitely postponed.

FRANK W. BRAINARD,  
Chairman.

Mr. Stafne moved

That the report of the Committee on Cactus be adopted,

Which motion prevailed, and

House Bill No. 58,

A Bill for an act for the destruction of noxious weeds, providing penalties for the violation of the same, and for the repeal of an act entitled "an act to prevent the spread of noxious weeds in the Territory of Dakota, General Laws of 1885, Supplement Dakota Territory, and an act entitled 'an act to amend Sections 1 and 2, General Laws of 1885, supplement, relating to noxious weeds Chapter 102, Session Laws of 1890, and Chapter 91, Session Laws of 1891,' "

Was indefinitely postponed.

The Committee on State Affairs made the following report:

MR. SPEAKER:

Your Committee on State Affairs to whom was referred

The Governor's message relative to bill of Northern Pacific Railroad Company for transportation of National Guard, have had the same under consideration and beg leave to report as follows:

Your Committee finds that in the summer of 1894 the Adjutant General of the North Dakota militia entered into a contract with the Northern Pacific Railroad Company for the transportation of the members of the militia to the camping grounds at Jamestown, N. D., at the rate of one cent per mile for each member, and in pursuance of said contract the said company transported a large number of the members of the militia to Jamestown, N. D.

We find that at the proposed termination of the encampment, on account of the A. R. U. strike, said railroad company was unable and failed to transport the members of the militia to their respective homes.

We find that on account of the failure of the railroad company to return the members of the militia, as anticipated in the contract, an extra expense of several thousand dollars was incurred, which exhausted the militia fund.

Therefore, your Committee recommends that this claim be not paid until sufficient moneys accumulate in the militia fund to pay the same.

Your Committee would further suggest that because the railroad company was responsible for the extra expenses incurred by

the militia, that the question of damages or counter-claim be investigated before said claim is paid.

Respectfully,  
T. TWICHELL,  
Chairman.

Mr. Cooper moved

That the report of the Committee on State Affairs be adopted,  
Which motion prevailed, and  
The report of the Committee was adopted.

PRESENTATION OF PETITIONS AND COMMUNICATIONS.

Mr. Wineman presented the following communication:

GRAND FORKS, N. D., March 5, 1895.

*Hon. J. B. Wineman, Bismarck, N. D.:*

DEAR SIR:—Senate Bill No. 158, doing away with the military appropriation for two years, I believe will be a great injustice to the State militia, if passed, and in the end an injury to the State and result in very expensive economy. To do away with this appropriation means to give up all the rented armories throughout the State, thus taking away from the militia their places of drill, and depriving them of that, must eventually mean the dissolution of the State militia. In the event of such dissolution, will it not be very expensive and laborious an undertaking in 1897 to build up again from its very foundations, the State Guard? The United States government has just given to the State of North Dakota an encampment ground at Devils Lake, and to do away with our militia for two years (and that is what the passage of the above bill really means) is, to say the least, an act not encouraging any further aid from the National Government. Our State has a quantity of military supplies and equipments on hand and this will have to be gathered together at quite an expense or they will otherwise be scattered and lost. Our militia men give their time freely and often, pay out of their own pockets part of the expenses necessitated by the building up of the militia, and it seems a poor policy for our Legislature to withdraw this standing appropriation.

It is true that I am in the militia myself, but as a heavy taxpayer I speak, as well as from a militia standpoint. It may be that the State of North Dakota is different from every other State in the Union and can do without the State militia, and I sincerely hope that the time may never come when it is needed. But if it is ever needed and there is no militia, this "penny wise, pound foolish" measure will result in a loss to the State of money, far greater than the saving of the two years' appropriations.

I trust you will do all in your power to defeat this bill.

Yours truly,  
W. A. GORDON.

Mr. Korsmo moved

That the House concur in the Senate amendment to House Bill No. 108,

Which motion prevailed, and

The Senate amendments to House Bill No. 108 were adopted.

Mr. Logan moved

That House Rule No. 39 be suspended for the day,

Which motion prevailed.

Mr. Colby offered the following resolution and moved its adoption,

Which motion prevailed, and  
The resolution was adopted.

WHEREAS, That in view of the fact that the Fourth Legislative Assembly will have adjourned before House and Senate Journals shall have been printed; therefore, be it

*Resolved*, That the Secretary of State be requested to mail to each member of this House at his home address, one copy each of Journals of the sixtieth day; and also, to send a list of the titles of all acts passed at this session which finally become laws, and also list of vetoed bills, if any.

Mr. Wineman moved

That the rules of the House where they relate to time for debate be suspended and that for today the time for debate be limited to two minutes,

Which motion prevailed.

The question being upon the final passage of  
House Bill No. 108,

A Bill for an act requiring county treasurers to report to town clerks amounts of township funds on hand and amounts drawn by town treasurers, and requiring town clerks to keep accounts of township funds,

As amended in the Senate.

The roll being called there were ayes 48, nays none, not voting 14.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs—

Hancock,  
Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Nelson,  
Purdon,

Messrs—

Rasmussen,  
Ray,  
Richards,  
Roberts,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

Colby,  
Hanna,  
Horgan,  
McLachlan,  
Myers,

Messrs—

Nierling,  
Porter,  
Prosser,  
Rinde,  
Rod,

Messrs—

Simpson,  
Svensrud,  
Twichell,  
Wood.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

The Speaker announced that he was about to sign  
Senate Bill No. 72,

A Bill for an act to regulate the manner in which individuals, firms and private corporations shall be authorized to construct, maintain and operate public warehouses and elevators on railway right of way in the State of North Dakota.

THIRD READING OF SENATE BILLS.

Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals; creating the office of Chief State Veterinarian; prescribing the duties thereof, and appropriating money for necessary expenses thereof,

Was read the third time.

The Speaker called Mr. Murphy to the chair.

The question being upon the final passage of the bill,  
The roll being called, there were ayes 54, nays none, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Hanna,  
Herbrandson,  
Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,

Messrs—

Porter,  
Rasmussen,  
Ray,  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Svensrud,  
Swenson,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

McLachlan,  
Prosser,  
Purdon,

Messrs—

Rod,  
Stafne,  
Tofsrud,

Messrs—

Twichell,  
Wood.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent the following Committee report was submitted:

**MR. SPEAKER:**

Your Special Committee to arrange the order of bills for third reading, would respectfully recommend that they be taken up in the following order, namely:

Senate Bill No. 127,

A Bill for an act to amend Section 1 of Chapter 55 of the Session Laws of 1891, relating to cruelty to animals.

Also,

Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals, creating the office of chief State veterinarian, prescribing the duties thereof and appropriating money for the necessary expenses thereof.

Also,

Senate Bill No. 3,

A Bill for an act to amend Section 121, Chapter 62, of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections.

Also,

Senate Bill No. 111,

A Bill for an act entitled "an act indemnifying the owners of sheep in case of damage by dogs and creating a fund to pay the same by a tax on dogs, and to repeal Chapter 155, Laws of 1890."

Also,

Substitute for Senate Bill No. 93,

A Bill for an act for the encouragement of secondary education.

Also,

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120, of Chapter 62, Laws of 1890, being an act providing for uniform system of public schools.

Also,

Senate Bill No. 133,

A Bill for an act to amend Section 63, Chapter 62, Laws of 1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof."

Also,

Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota.

Also,

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in this State and to provide a license for persons engaged in peddling."

Also,

Senate Bill No. 107,

A Bill for an act to provide for the levy and collection of a road poll tax.

Also,

Senate Bill No. 105,

A Bill for an act fixing the fees of sheriffs and other officers for transporting insane persons to the asylums of the State.

Also,

Senate Bill No. 66,

A Bill for an act to amend Section 86, Chapter 132, Laws of 1890, being an act entitled "an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto."

Also,

Senate Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 91 of the Session Laws of 1891, for the purpose of including all lands in its provisions and requiring a judgment to be obtained to make the expense a tax lien on the land.

Also,

Senate Bill No. 166,

A Bill for an act fixing the maximum compensation that a railroad company may charge for a stop over on cars in transit between intermediate and terminal points, and for the transportation of freight between such points.

Also,

Senate Bill No. 174,

A Bill for an act to repeal an act to create a joint school township in the counties of Griggs and Steele.

Also,

Senate Bill No. 152,

A Bill for an act authorizing the board of directors of corporations to hold their meetings at any place within or without the State of North Dakota.

Also,

Senate Bill No. 158,

A Bill for an act to suspend Sections 20, 21, 37, 40 and 60 of Chapter 86, Laws of 1891, being an act to provide a Military Code for the State of North Dakota.

Also,

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the State of North Dakota.

Also,

Senate Bill No. 6,

A Bill for an act to provide for the inspection of steam boilers and licensing of steam engineers.

Also,

Senate Bill No. 167,

A Bill for an act to suspend Chapter 11 of the Laws of 1893, being an act for an appropriation for the erection of the North Dakota Reform School at Mandan, and for incidental and contingent expenses of the same.

Also,

Senate Bill No. 168,

A Bill for an act entitled "an act to cede to the United States jurisdiction of the State of North Dakota over lands acquired by military posts.

Also,

Senate Bill No. 171,

A Bill for an act entitled "an act to provide that the seven Codes prepared by the Revision Commission and introduced as bills and passed as acts at the Fourth Session of the Legislative Assembly of the State of North Dakota shall not be printed as Session Laws of the Fourth Legislative Assembly.

Also,

Senate Bill No. 121,

A Bill for an act fixing the times and place of holding general and special terms of the Supreme Court of the State of North Dakota.

Also,

Senate Bill No. 68,

A Bill for an act to amend Article 2 of Chapter 13 of the Code of Civil Procedure, being Sections 5126 to Section 5140 inclusive, and to repeal Section 1 of Chapter 50 of the Laws of 1893, being Section 5137 of the Compiled Laws.

Also,

Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Ses-

sion Laws of 1891, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for the violation thereof."

Also,

Senate Bill No. 80,

A Bill for an act defining usury and the penalty for taking the same.

Respectfully,

L. B. Hanna,

Chairman.

Mr. Gill moved

That the report of the Committee be adopted,

Which motion prevailed, and

The report of the Committee was adopted.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to inform the House that the Senate has concurred in House amendments to

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of 1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Also,

Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896.

Also,

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of the provisions of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties.

Also,

Senate Bill No. 72,

A Bill for an act to regulate the manner in which individuals, firms and private corporations shall be authorized to construct, maintain and operate public warehouses and elevators on railway right of way in the State of North Dakota.

Also,

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries,

Which the Senate has passed.

Also,

House Bill No. 126,

A Bill for an an act requiring county commissioners to furnish an official bond to his county,

Which the Senate has passed without the emergency clause.

Also,

House Bill No. 155,

A Bill for an act to locate and provide for the government of a State blind asylum at Bathgate, Pembina county, N. D.,

Which the Senatè has passed unchanged.

Respectfully,

FRED FALLEY,

Secretary. □

Substitute for Senate Bill No. 3,

A Bill for an act to amend Section 23, Chapter 56 of the Laws of 1891, being "an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Herbrandson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Purdon,  
Rasmussen,

Messrs—

Ray,  
Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wiseman,  
Mr. Speaker.

Absent and not voting:

Messrs—  
Fleming,  
Hanna,  
Horgan,

Messrs—  
Porter,  
Prosser,  
Rod,

Messrs—  
Simpson,  
Wallen,  
Wood.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 145,

A Bill for an act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections,

Was read the third time.

Mr. Smith moved

That further consideration of Senate Bill No. 145 be indefinitely postponed,

Which motion prevailed, and

The further consideration of Senate Bill No. 145 was indefinitely postponed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit

House Bill No. 122,

A Bill for an act entitled "an act to protect dairy interests of the State of North Dakota, and to prevent fraud in dairy products, and to regulate the traffic in adulterated butter and cheese."

Also,

House Bill No. 169,

A Bill for an act to provide for the division of civil townships containing two or more congressional townships by the creation of new townships therein,

Which the Senate has passed unchanged.

Also,

House Bill No. 159,

A Bill for an act to amend Section 26 of Chapter 75 of the Session Laws of 1892, entitled "an act to promote irrigation,"

Which the Senate has passed without the emergency clause.

Respectfully,

FRED FALLEY,  
Secretary.

## Senate Bill No. 111,

A Bill for an act indemnifying the owner of sheep in case of damage by dogs and creating a fund to pay for the same by taxes on dogs, and to repeal Chapter 155, Laws of 1890,

Was placed upon its third reading.

Mr. Twichell moved

That the further consideration of Senate Bill No. 111 be indefinitely postponed,

Which motion prevailed, and

The further consideration of Senate Bill No. 111 was indefinitely postponed.

## MESSAGE FROM THE SENATE.

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith the following Concurrent Resolution:

## CONCURRENT RESOLUTION.

*Resolved by the Senate, the House Concurring:*

That the Capitol Commission is hereby instructed to audit bills for fuel used at the executive mansion during the ensuing two years,

Which the Senate has passed and the concurrence of the House is respectfully requested.

Also,

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways for organized townships, and also providing for the payment of expenses thereof by taxation,

Which the Senate has passed without the emergency clause.

Also,

House Bill No. 51,

A Bill for an act to amend Section 687, Penal Code of Revised Codes of 1877, being Section 6876 of the Compiled Laws of 1887,

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

Senate Bill No. 93,

A Bill for an act for the encouragement of higher education and appropriating money therefor,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 44, nays 9, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Gunderson,  
Hill,

Messrs—

Hodgson,  
Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wineman,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Cryan,  
Edwards,  
Gilbertson,

Messrs—

Herbrandson,  
Lerom,  
Nelson,

Messrs—

Sargent,  
Tyler,  
Wallen.

Absent and not voting:

Messrs—

Hancock,  
Hanna,  
Horgan,

Messrs—

McLachlan,  
Nierling,  
Porter,

Messrs—

Rod,  
Svensrud,  
Wood.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Gill moved that the following Concurrent Resolution be adopted:

#### CONCURRENT RESOLUTION.

*Resolved by the Senate, the House Concurring:*

That the Capitol Commission is hereby instructed to audit bills for fuel used at the executive mansion during the ensuing two years.

Which motion prevailed, and

The Concurrent Resolution was adopted.

Mr. Svensrud moved

That further consideration of

Senate Bill No. 137,

A Bill for an act to amend Sections 117, 118 and 120 of Chapter 62, Laws of 1890, being an act providing for uniform system of public schools,

Be indefinitely postponed,

Which motion prevailed, and

The further consideration of Senate No. 137 was indefinitely postponed.

Senate Bill No. 133,

A Bill for an act to amend Section 63, Chapter 62, Laws of

1890, being an act entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof,"

Was placed upon its third reading.

Mr. Wineman moved

That the further consideration of Senate Bill No. 133 be indefinitely postponed,

Which motion prevailed, and

The further consideration of Senate Bill No. 133 was indefinitely postponed.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith the following

CONCURRENT RESOLUTION.

*Be it Resolved by the Senate, the House of Representatives Concurring:*

That the trustees of the State penitentiary be and they are hereby authorized, with the advice and consent of the Governor, to enter into a contract with the government of the United States for the keeping of prisoners sentenced to the penitentiary by the United States courts, and of persons being held as prisoners awaiting trial in the United States court under such rules and upon such terms as the State's interest shall justify,

Which the Senate has passed and the concurrence of the House is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to return herewith  
House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers, and providing for the preservation of coroner's records.

Also,

House Bill No. 127,

A Bill for an act to reimburse Dr. F. R. Smyth for stamping

diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor,  
Which the Senate has passed unchanged.

Respectfully,  
FRED FALLEY,  
Secretary.

Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota,

Was placed upon its third reading.

Mr. Holritz moved

That the further consideration of Senate Bill No. 48 be deferred until 2 o'clock p. m.

Mr. Brainard offered the substitute motion that the amendments to Senate Bill No. 48 be read, and the bill be now considered.

Which substitute motion prevailed.

Mr. Simpson offered the following amendments to Senate Bill No. 48:

Objection made.

Mr. Edwards moved

That the rules be suspended for the purpose of receiving amendments,

Which motion prevailed.

Mr. Simpson moved

That the amendments be adopted,

Which motion prevailed, and

The amendments were adopted.

MR. PRESIDENT:

I have the honor herewith to transmit

Senate Bill No. 48,

Which the House has amended as follows:

By striking out in line 5, Section 1, the words and figures "thirty-five" and insert in lieu thereof "thirty."

In line 6 strike out the words and figures "forty-four" and insert in lieu thereof "forty."

In line 7 strike out the words and figures "fifty-three" and insert in lieu thereof "fifty"

In line 9 strike out the words and figures "sixty-two" and insert in lieu thereof "fifty-nine."

In line 10 strike out the words and figures "seventy-one" and insert in lieu thereof "sixty-eight."

In line 12 strike out the words and figures "eighty" and insert in lieu thereof "seventy-five."

In line 13 strike out the words and figures "ninety" and insert in lieu thereof "eighty-one."

In lines 14 and 15 strike out the words and figures "ninety-eight" and insert in lieu thereof "eighty-six."

In line 16 strike out the words and figures "one dollar and five" and insert in lieu thereof "ninety."

In line 17 strike out the words and figures "one dollar and twelve" and insert in lieu thereof "ninety-four."

In line 19 strike out the words and figures "one dollar and seventeen" and insert in lieu thereof "ninety-eight."

In line 20 strike out the words and figures "one dollar and twenty-one" and insert in lieu thereof "one dollar and two."

In line 22 strike out the words and figures "\$1.24, one dollar and twenty-four" and insert in lieu thereof "one dollar and six."

In line 24 strike out the words and figures "one dollar and twenty-eight" and insert in lieu thereof "one dollar and ten."

In line 25 strike out the words and figures "one dollar and thirty-five cents" and insert in lieu thereof "one dollar and fourteen."

In line 27 strike out the words and figures "one dollar and thirty-seven" and insert in lieu thereof "one dollar and eighteen."

In line 29 strike out the words and figures "one dollar and thirty-eight" and insert in lieu thereof "one dollar and twenty-two."

In line 30 strike out the words and figures "one dollar and forty-one" and insert in lieu thereof "one dollar and twenty-six."

In line 32 strike out the words and figures "one dollar and forty-five" and insert in lieu thereof "one dollar and thirty."

In line 34 strike out the words and figures "one dollar and forty eight" and insert in lieu thereof "one dollar and thirty-four."

In line 36 strike out the words and figures "one dollar and fifty-one" and insert in lieu thereof "one dollar and thirty-eight."

In line 37 strike out the words and figures "one dollar and fifty-three" and insert in lieu thereof "one dollar and forty-two."

In line 39 strike out the words and figures "one dollar and fifty-five" and insert in lieu thereof "one dollar and forty-six."

In line 41 strike out the words and figures "one dollar and sixty" and insert in lieu thereof "one dollar and fifty."

In line 42 strike out the words and figures "one dollar and sixty-one" and insert in lieu thereof "one dollar and fifty-four."

In line 44 strike out the words and figures "one dollar and sixty-two" and insert in lieu thereof "one dollar and fifty-eight."

The question being upon the final passage of Senate Bill No. 48 as amended,

The roll being called there were ayes 55, nays 1, not voting 6.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodson,	Richards,
Brainard,	Holritz,	Rinde,
Brown,	Horgan,	Roberts,
Colby,	Jennings,	Sargent,
Colosky,	Kellogg,	Sharpe,
Cooper,	Korsmo,	Simpson,
Cryan,	Lerom,	Smith,
Dwyer,	Lindstrom,	Spangberg,
Edwards,	Logan,	Svensrud,
Eyolfson,	McDonald,	Swenson,
Flack,	Murphy,	Tofsrud,
Fleming,	Myers,	Twitchell,
Gilbertson,	Nelson,	Tyler,

Messrs—

Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Herbrandson,

Messrs—

Porter,  
Prosser,  
Purdon,  
Rasmussen,

Messrs—

Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Mr. Kroeger voting in the negative.

Absent and not voting:

Messrs—

Hanna,  
McLachlan,

Messrs—

Nierling,  
Rod,

Messrs—

Stafne,  
Wood.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Mr. Wineman moved

That the Concurrent Resolution in regard to keeping United States prisoners at the penitentiary be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 32,

A Bill for an act to amend Sections 20, 25 and 26 of Chapter 27 of the Session Laws of 1893, relating to the organization and government of State banks,

Which the Senate has passed unchanged.

Yours respectfully,  
FRED FALLEY,  
Secretary.

The Speaker announced that he was about to sign  
Senate Bill No. 129,

A Bill for an act to amend Section 1961a of the Civil Code.

Also,

Senate Bill No. 77,

A Bill for an act to amend Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887.

By unanimous consent the following Committee report was submitted:

The Committee on Irrigation made the following report:

MR. SPEAKER:

Your Committee on Irrigation to whom was referred

Senate Bill No. 169,

A Bill for an act entitled "an act constituting the State Superintendent of Irrigation and Forestry the State Fish Commissioner of North Dakota, and providing for the establishment and maintenance of a State fish hatchery or hatcheries and fish breeding ponds, and for the stocking of the same and the other waters with fish, and their protection,"

Have had the same under consideration and recommend that the same do pass.

JOHN E. HODGSON,  
Chairman.

Senate Bill No. 169 was referred to its third reading.

Mr. Wineman moved

That the Chairman of the Enrolling Committee be authorized to appoint all clerks necessary to attend to the duties in his department today.

Which motion prevailed.

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in this State and to provide a license fee for persons engaged in peddling."

Was placed upon its third reading.

Mr. Smith moved

That the further consideration of Senate Bill No. 151 be indefinitely postponed,

Which motion was lost.

The third reading of Senate Bill No. 151 was concluded.

The question being upon the final passage of the bill,

The roll being called there were ayes 40, nays 19, not voting 3.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colosky,  
Cooper,  
Dwyer,  
Eyolfson.  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Hanna,  
Hill,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,

Messrs—

Purdon,  
Ray,  
Richards,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Stafne,  
Svensrud,  
Swenson,  
Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Colby,  
Cryan,  
Edwards,  
Flack,  
Gunderson,  
Herbrandson,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Murphy,  
Rasmussen,  
Rinde,

Messrs—

Smith,  
Spangberg,  
Tofsrud,  
Twichell,  
Tyler,  
Wineman.

Absent and not voting:

Messrs—

Gilbertson,

Messrs—

Rod,

Messrs—

Wood.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent the following Conference Committee report was submitted:

MR. SPEAKER:

The Conference Committee on  
House Bill No. 165,

A Bill to establish a Political Code for the State of North Dakota.

And the amendments made thereto by the Senate, have had the same under consideration and have carefully examined and considered each amendment of the Senate and recommend that the House concur therein.

The recommendations include one providing for the taxation of railroad property in the State.

Respectfully,

L. B. HANNA,  
Chairman,

J. J. NIERLING,

P. J. HORGAN,

Conferees on the part of the House.

Mr. Gill moved

That the report of the Conference Committee on House Bill No. 165 be adopted,

Which motion prevailed, and

The report of the Conference Committee was adopted.

Mr. Hanna moved that

House Bill No. 165,

A Bill for an act to establish a Political Code for the State of North Dakota, as amended,

Be at once placed upon its final passage,

Which motion prevailed.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 51, nays 2, not voting 9.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Purdon,
Blacklock,	Hodgson,	Ray,
Brainard,	Holritz,	Roberts,
Brown,	Horgan,	Sargent,
Colby,	Kellogg,	Sharpe,
Colosky,	Kroeger,	Simpson,
Cooper,	Korsmo,	Smith,
Dwyer,	Lindstrom,	Spangberg,
Edwards,	Logan,	Stafne,
Eyolfson,	McLachlan,	Svensrud,
Flack,	McDonald,	Swenson,
Fleming,	Murphy,	Tofsrud,
Gleason,	Myers,	Twitshell,
Guinan,	Nelson,	Tyler,
Gunderson,	Nierling,	Walker,
Hancock,	Porter,	Wineman,
Hanna,	Prosser,	Mr. Speaker.

Messrs. Rasmussen and Rinde voting in the negative.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Oryan,	Jennings,	Rod,
Gilbertson,	Lerom,	Wallen,
Herbrandson,	Richards,	Wood.

Mr. Rod being excused

So the bill as amended passed and the title was agreed to.

Mr. Smith moved

That the House take a recess until 1:20 p. m.,

Which motion prevailed, and

The House took such recess.

House reassembled.

Senate Bill No. 107,

A Bill for an act to provide for the levy and collection of a road poll tax,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 35, nays 7, not voting 20.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Simpson,
Brainard,	Jennings,	Smith,
Colby,	Kellogg,	Spangberg,
Cooper,	Lerom,	Stafne,
Cryan,	McDonald,	Svensrud,
Dwyer,	Murphy,	Swenson,
Edwards,	Nelson,	Twichell,
Eyolfson,	Prosser,	Tyler,

Messrs—

Flack,  
Gilbertson,  
Guinan,  
Gunderson,

Messrs—

Purdon,  
Rinde,  
Roberts,  
Sharpe,

Messrs—

Walker,  
Wallen,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Fleming,  
Gleason,  
Herbrandson,

Messrs—

Hill,  
Holritz.

Messrs—

Ray,  
Wood.

Absent and not voting:

Messrs—

Blacklock,  
Brown,  
Colosky,  
Hancock,  
Hanna,  
Horgan,  
Kroeger,

Messrs—

Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
Myers,  
Nierling,  
Porter,

Messrs—

Rasmussen,  
Richards,  
Rod,  
Sargent,  
Tofsrud,  
Wineman

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent the following Committee report was submitted:

The Committee on Public Health made the following report:

MR. SPEAKER:

Your Committee on Public Health to whom was referred Senate Bill No. 175,

A Bill for an act to amend Chapter 63 of the Session Laws of 1885 entitled "an act establishing territorial and county boards of health, and providing for the protection of the health of persons and animals,

Have had the same under consideration and recommend that the same do not pass.

W. B. Wood,  
Chairman.

Senate Bill No. 175 was referred to its third reading.

Senate Bill No. 105,

A Bill for an act fixing the fees of sheriffs and other officers for transporting insane persons to the asylum of the State,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 39, nays none, not voting 23.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Colby,

Messrs—

Hancock,  
Herbrandson,  
Hill,

Messrs—

Roberts,  
Sargent,  
Sharpe,

## Messrs—

Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

## Messrs—

Hodgson.  
Holritz,  
Jennings,  
Kellogg,  
Lerom,  
Nelson,  
Prosser,  
Purdon,  
Ray,  
Rinde,

## Messrs—

Simpson,  
Spangberg,  
Stafne,  
Swenson,  
Twichell,  
Tyler,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

## Messrs—

Blacklock,  
Brown,  
Colosky,  
Fleming,  
Hanna,  
Horgan,  
Kroeger,  
Korsmo,

## Messrs—

Lindstrom,  
Logan,  
McLachlan,  
McDonald,  
Murphy,  
Myers,  
Nierling,  
Porter,

## Messrs—

Rasmussen,  
Richards,  
Rod,  
Smith,  
Svensrud,  
Tofsrud,  
Wallen.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Substitute for Senate Bill No. 66,

A Bill for an act to amend Section 86, Chapter 132, Laws of 1890, being an act prescribing the mode of making assessment and the levy and collection of taxes, and for other purposes relative thereto,

Was placed upon its third reading.

Mr. Ray moved

That its further consideration be indefinitely postponed,

Which motion was lost, and

The third reading of the bill was concluded.

The question being upon the final passage of the bill,

The roll being called there were ayes 41, nays 6, not voting 15.

Those who voted in the affirmative were:

## Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Colby,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,

## Messrs—

Gunderson,  
Herbrandson,  
Hodgson,  
Jennings,  
Kellogg,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Prosser,  
Purdon,  
Ray,  
Richards,  
Rinde,

## Messrs—

Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Hill,	Rasmussen,	Tyler,
Nelson,	Twichell,	Wallen.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Horgan,	Myers,
Colosky,	Kroeger,	Nierling,
Hancock,	Korsmo,	Porter,
Hanna,	McLachlan,	Rod,
Holritz,	Murphy,	Svensrud.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 8, 1895. }

*To the House of Representatives:*

GENTLEMEN:—I have the honor to inform you that I have this day approved

House Bill No. 65,

A Bill for an act entitled "an act to provide for the establishment, construction and maintenance of drains in this State."

Respectfully,

ROGER ALLIN,  
Governor.

Senate Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 31 of the Session Laws of 1891, for the purpose of including all lands in its provisions and requiring a judgment to be obtained to make the expense a tax lien on the land,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 47, nays 1, not voting 14.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hancock,	Roberts.
Blacklock,	Herbrandson,	Sargent,
Brainard,	Hill,	Sharpe,
Colby,	Hodgson,	Simpson,
Colosky,	Holritz,	Smith,
Cooper,	Kellogg,	Spangberg,
Cryan,	Korsmo,	Stafne,
Dwyer,	Lerom,	Svensrud,
Edwards,	Logan,	Swenson,
Eylofson,	McDonald,	Tofsrud,

Messrs—

Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,

Messrs—

Murphy,  
Nelson,  
Rasmussen,  
Ray,  
Richards,  
Rinde,

Messrs—

Twichell,  
Tyler,  
Walker,  
Wallen,  
Mr. Speaker.

Mr. Purdon voting in the negative.

Absent and not voting:

Messrs—

Brown,  
Hanna,  
Horgan,  
Jennings,  
Kroeger,

Messrs—

Lindstrom,  
McLachlan,  
Myers,  
Nierling,  
Porter,

Messrs—

Prosser,  
Rod,  
Wineman,  
Wood.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Tyler requested that the courtesies of the floor be extended to Messrs. F. J. Becker and C. H. Reineke.

There being no objection the courtesies of the floor were so extended.

Senate Bill No. 166,

A Bill for an act fixing the maximum compensation that a railroad company may charge for a stopover on cars in transit between intermediate and terminal points, and for transportation of freight between such points.

Was read the third time,

The question being upon the final passage of the bill,

The roll being called there were ayes 47, nays 4, not voting 11.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Guinan,  
Gunderson,  
Hancock,  
Herbrandson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Jennings,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
McDonald,  
Murphy,  
Nelson,  
Prosser,  
Rasmussen,  
Ray,  
Richards,  
Rinde,

Messrs—

Roberts,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Edwards,  
Gleason,

Messrs—

Sargent,

Messrs—

Tyler.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Colby,	Logan,	Porter,
Hanna,	McLachlan,	Purdon,
Horgan,	Myers,	Rod.
Kellogg,	Nierling,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 174,

A Bill for an act to repeal an act to create a joint school township in the counties of Griggs and Steele,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called, there were ayes 49, nays none, not voting 13.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Richards,
Brainard,	Hill,	Rinde,
Brown,	Hodgson,	Roberts,
Colby,	Holritz,	Sargent,
Colosky,	Jennings,	Sharpe,
Cooper,	Kellogg,	Simpson,
Cryan,	Kroeger,	Smith,
Dwyer,	Korsmo,	Spangberg,
Edwards,	Lerom,	Swenson,
Eyolfson,	Lindstrom,	Tofsrud,
Flack,	Logan,	Twichell,
Fleming,	Nelson,	Tyler,
Gilbertson,	Porter,	Walker,
Gleason,	Purdon,	Wallen,
Guinan,	Rasmussen,	Wood,
Gunderson,	Ray,	Mr. Speaker.
Hanna,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Blacklock,	Murphy,	Rod,
Hancock,	Myers,	Stafne,
Horgan,	Nierling,	Svensrud,
McLachlan,	Prosser,	Wineman.
McDonald,		

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Mr. Wallen moved

That the House concur in the Senate amendments to House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 93 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota; to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act,

Which motion prevailed, and

The amendments were adopted.

The question being upon the final passage of House Bill No. 107 as amended,

The roll being called there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McDonald,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Blacklock,  
Flack,  
Fleming,  
Hancock,

Messrs—

McLachlan,  
Murphy,  
Myers,

Messrs—

Prosser,  
Rod,  
Spangberg.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Mr. Edwards moved

That the House concur in the Senate amendments to House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of 1891, entitled "an act to provide a Military Code for the State of North Dakota," and provide a board of control for the State encampment grounds.

Which motion prevailed, and

The Senate amendments were adopted.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 48, nays 5, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,

Messrs—

Hill,  
Holritz,  
Horgan

Messrs—

Sargent,  
Sharpe,  
Simpson,

Messrs—

Colby,  
Colosky,  
Cooper,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gleason,  
Guinan,  
Gunderson,  
Hanna,  
Herbrandson,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Ray,  
Rinde,  
Roberts,

Messrs—

Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Those voting in the negative were:

Messrs—

Cryan,  
Hodgson,

Messrs—

Logan,  
McDonald,

Messrs—

Rasmussen.

Absent and not voting:

Messrs—

Blacklock,  
Gilbertson,  
Hancock,

Messrs—

McLachlan,  
Murphy,  
Myers,

Messrs—

Prosser,  
Richards,  
Rod.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

The Committee on Enrolled Bills made the following report:

**MR. SPEAKER:**

Your Committee on Enrolled Bills have examined  
House Bill No. 165,

A Bill for an act to establish a Political Code for the State of  
North Dakota,

Ann find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign  
House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter  
86 of the Laws of the year 1891, entitled "an act to provide a  
Military Code for the State of North Dakota, and to provide a  
board of control for the State encampment grounds."

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

**MR. SPEAKER:**

I have the honor to return herewith  
House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 93 of the Laws

of 1890, to regulate the practice of medicine in the State of North Dakota; to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act,

Which the Senate has amended as follows:

Strike out in line 26 of printed bill all after and including the word "or" down and including the word "cure" in line 28.

Add the following: *Provided, however,* That women of some experience may assist in childbirth without said license from said board in the absence of a physician,

And passed as amended.

Also,

House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled "an act to provide a Military Code for the State of North Dakota, and to provide a board of control for the State encampment grounds,"

Which the Senate has amended and passed. The amendments are attached to the bill.

Respectfully,

FRED FALLEY,  
Secretary.

Senate Bill No. 152,

A Bill for an act authorizing the board of directors of corporations to hold their meetings at any place within or without the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 43, nays 12, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brown,  
Colosky,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Korsmo,  
Lerom,  
Logan,  
McDonald,  
Murphy,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Spangberg,  
Stafne,  
Twichell,  
Tyler,  
Walker,  
Wineman,  
Wood,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Brainard,  
Colby,  
Cooper,  
Cryan,

Messrs—

Gilbertson,  
Gleason,  
Kroeger,  
Lindstrom,

Messrs—

Rasmussen,  
Smith,  
Svensrud,  
Swenson.

Absent and not voting:

Messrs—

Blacklock,  
McLachlan,  
Myers,

Messrs—

Nelson,  
Rod,

Messrs—

Tofsrud,  
Wallen.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent the following Committee report was submitted:

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws of 1893, being an act entitled "an act providing for the compilation, revision and codification of the Laws of North Dakota, and the publication and distribution and sale thereof;" and to repeal Chapter 82 of the Laws of 1891 in relation thereto,"

Have had the same under consideration and recommend that the same be amended as follows:

By adding at the end of Section 1 the following words: "To take effect September 1, 1895," and by striking out all of Section 2, being the emergency clause.

And when so amended recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 61 was referred to its third reading.

Mr. Cooper moved

That the report of the Judiciary Committee on Senate Bill No. 61 be adopted,

Which motion prevailed, and  
The report was adopted.

Mr. Wineman moved that

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota,

Be placed upon its final passage,  
Which motion prevailed.

The question being upon the final passage of the bill,

The roll being called there were ayes, 50, nays 3, not voting 9.

Those who voted in the affirmative were:

Messrs--	Messrs--	Messrs--
Armstrong,	Holritz,	Richards,
Blacklock,	Horgan,	Rinde.
Brainard,	Jennings,	Roberts,
Brown,	Kellogg,	Sargent,
Colosky,	Kroeger,	Sharpe,
Cooper,	Korsmo,	Simpson,
Edwards,	Lindstrom,	Smith.
Eyolfson,	Logan,	Spangberg.
Flack,	McLachlan,	Svensrud.
Fleming,	McDonald,	Swenson,
Gilbertson,	Murphy,	Twichell,
Gleason,	Nelson,	Tyler,
Guinan,	Nierling,	Walker.
Gunderson,	Porter,	Wineman.
Hancock,	Prosser,	Wood.
Herbrandson,	Rasmussen,	Mr. Speaker.
Hill,	Ray,	

Those who voted in the negative were:

Messrs--	Messrs--	Messrs--
Cryan,	Dwyer,	Hodgson.

Absent and not voting:

Messrs--	Messrs--	Messrs--
Colby,	Myers,	Stafne,
Hanna,	Purdon,	Tofsrud,
Lerom,	Rod,	Wallen.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent the following Committee report was submitted:

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 162,

A Bill for an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota, and to provide for their compensation and payment,

Have had the same under consideration and recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 162 was referred to its third reading.

Senate Bill No. 158,

A Bill for an act to suspend Sections 20, 21, 37, 40 and 60 of Chapter 86, Laws of 1891, being an act to provide a Military Code for the State of North Dakota,

Was read the third time.

Mr. McLachlan moved

That its further consideration be indefinitely postponed,  
Which motion prevailed, and

The further consideration of Senate Bill No. 158 was indefinitely postponed.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary to whom was referred  
Senate Bill No. 110,

A Bill for an act to amend Sections 13, 62 and 71 of Chapter 118, Laws of 1893, entitled "an act to amend all of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to provide for the management, control and disposal of university, school and all other public lands of the State, and the management of the funds arising therefrom,"

Have had the same under consideration and recommend that the same be indefinitely postponed.

L. A. SIMPSON,  
Chairman.

Mr. Hodgson moved

That the report of the Committee on Judiciary in regard to  
Senate Bill No. 110 be adopted,

Which motion prevailed, and

The further consideration of Senate Bill No. 110 was indefinitely postponed.

The Committee on Judiciary made the following report:

MR. SPEAKER:

Your Committee on Judiciary, to whom was referred  
Senate Bill No. 172,

A Bill for an act entitled "an act to provide rules for the publication of and the construction to be placed upon the different acts passed at the Fourth Session of the Legislative Assembly,"

Have had the same under consideration and recommend that the same be amended as follows:

By adding to Section 2 of the original bill after the word "statute." the words: "*Provided, however,* That any act or acts passed by the Fourth Legislative Assembly and approved by the Governor, changing provisions of Code or Codes, or enacting new laws, said act or acts or new laws so passed shall be considered and construed to be the law, and the provisions of such acts shall prevail as to all matters and questions arising thereunder out of the same subject matter,"

And when so amended, recommend that the same do pass.

L. A. SIMPSON,  
Chairman.

Senate Bill No. 172 was referred to its third reading.

Mr. Wineman moved

That the report of the Committee be adopted,  
Which motion prevailed; and  
The report was adopted.

Senate Bill No. 138,

A Bill for an act determining the southern boundary of the  
State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 25, nays 29, not voting 8.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,  
Flack,  
Fleming,

Messrs—

Gleason,  
Gunderson,  
Lindstrom,  
Logan,  
McDonald,  
Nierling,  
Purdon,  
Ray,

Messrs—

Richards,  
Roberts,  
Sargent,  
Simpson,  
Stafne,  
Swenson,  
Tyler,  
Mr. Speaker.

Those voting in the negative were:

Messrs—

Blacklock,  
Colby,  
Colosky,  
Edwards,  
Gilbertson,  
Guinan,  
Hancock,  
Herbrandson,  
Hill,  
Hodgson,

Messrs—

Holritz,  
Horgan,  
Jennings,  
Kroeger,  
Korsmo,  
Myers,  
Nelson,  
Porter,  
Rasmussen,  
Rinde,

Messrs—

Sharpe,  
Smith,  
Spangberg,  
Tofsrud,  
Twitchell,  
Walker,  
Wallen,  
Wineman,  
Wood.

Absent and not voting:

Messrs—

Hanna,  
Kellogg,  
Lerom,

Messrs—

McLachlan,  
Murphy,  
Prosser,

Messrs—

Rod,  
Svensrud.

Mr. Rod being excused.

So the bill was lost.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 151,

A Bill for an act making an appropriation to pay certain expenses incurred by the Fourth Legislative Assembly of the State of North Dakota.

Also,  
House Bill No. 70,  
A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers.

Also,  
House Bill No. 147,  
A Bill for an act entitled "an act to amend Section 10, Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws."

Also,  
House Bill No. 140,  
A Bill for an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioners of Railroads.

Also,  
House Bill No. 98,  
A Bill for an act entitled "an act amending Section 28 of Chapter 24 of the Political Code, being Section 1049 of the Compiled Laws of 1887, relating to the qualification of officers of incorporated towns or villages."

Also,  
House Bill No. 133,  
A Bill for an act to amend Sections 122 and 161 of Chapter 62 of the Laws of 1890,  
And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign  
House Bill No. 151,  
A Bill for an act entitled "an act making an appropriation to pay certain expenses incurred by the Fourth Legislative Assembly of the State of North Dakota."

Also,  
House Bill No. 70,  
A Bill for an act declaring it a misdemeanor to practice fraud on hotel keepers.

Also,  
House Bill No. 147,  
A Bill for an act to amend Section 10 of Chapter 38, Laws of 1887, being Section 545 of the Compiled Laws.

Also,  
House Bill No. 140,  
A Bill for an act making an appropriation to pay Nellie McDonald for labor as clerk for Commissioners of Railroads.

Also,  
House Bill No. 98,  
A Bill for an act amending Section 28 of Chapter 24 of the

Political Code, being Section 1049 of the Compiled Laws of 1887, relating to the qualifications of officers of incorporated towns.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to return herewith  
House Bill No. 62,

A Bill for an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3 of Chapter 57 of the Penal Code entitled "offenses pertaining to sale of intoxicating liquors,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

Senate Bill No. 6,

A Bill for an act entitled "an act to provide for the inspection of steam boilers and licensing of steam engineers,"

Was placed upon its third reading.

Mr. Cooper moved

That the further consideration of Senate Bill No. 6 be indefinitely postponed,

Which motion prevailed, and

The further consideration of the bill was indefinitely postponed.

Senate Bill No. 167,

A Bill for an act to suspend Chapter 11 of the Laws of 1893, being an act for an appropriation for the erection of the North Dakota Reform School at Mandan, and for incidental and contingent expenses for the same,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 53, nays none, not voting 9.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Eyolfson,

Messrs—

Holritz,  
Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Lindstrom,  
McLachlan,  
Murphy,  
Myers,

Messrs—

Rinde,  
Roberts,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,

Messrs—

Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Herbrandson,  
Hodgson,

Messrs—

Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Edwards,  
Fleming,  
Hanna.

Messrs—

Hill,  
Horgan,  
Logan,

Messrs—

McDonald,  
Rod,  
Sharpe.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 168,

A Bill for an act entitled "an act to cede to the United States jurisdiction of the State of North Dakota over lands acquired by military posts,"

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 55, nays none, not voting 7.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Gleason,  
Guinan,  
Gunderson,  
Hancock,  
Hanna,  
Herbrandson,

Messrs—

Hill,  
Hodgson,  
Holritz,  
Horgan,  
Jennings,  
Korsmo,  
Lerom,  
Lindstrom,  
Logan,  
McLachlan,  
Murphy,  
Myers,  
Nelson,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood,  
Mr. Speaker.

Absent and not voting:

Messrs—

Fleming,  
Kellogg,  
Kroeger,

Messrs—

McDonald,  
Nierling,

Messrs—

Rod,  
Sharpe.

Mr. Rod being excused,

So the bill passed and the title was agreed to.

## Senate Bill No. 171.

A Bill for an act entitled "an act to provide that the seven Codes prepared by the Revising Commission and introduced as bills and passed as acts at the Fourth Session of the Legislative Assembly shall not be printed as Session Laws of the Fourth Legislative Assembly,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 54, nays none, not voting 8.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Rinde,
Blacklock,	Hill,	Roberts,
Brainard,	Hodgson,	Sargent,
Brown,	Holritz,	Sharpe,
Colby,	Horgan,	Simpson,
Colosky,	Jennings,	Smith,
Cooper,	Lerom,	Spangberg,
Cryan,	Logan,	Stafne,
Dwyer,	McLachlan,	Svensrud,
Edwards,	Murphy,	Swenson,
Eyolfson,	Myers,	Tofsrud,
Flack,	Nelson,	Twichell,
Gilbertson,	Nierling,	Tyler,
Gleason,	Porter,	Walker,
Guinan,	Prosser,	Wallen,
Gunderson,	Purdon,	Wineman,
Hancock,	Rasmussen,	Wood,
Hanna,	Ray,	Mr. Speaker.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Korsmo,	Richards,
Kellogg,	Lindstrom,	Rod.
Kroeger,	McDonald,	

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent Mr. Murphy offered the following Concurrent Resolution:

## CONCURRENT RESOLUTION.

*Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That the following amendment to the Constitution of the State of North Dakota be submitted by this Legislative Assembly to the Fifth Legislative Assembly of said State to be by said Legislative Assembly submitted to the qualified electors of said State for rejection or adoption.

## PROPOSED AMENDMENTS.

*First*--That Section 121 of the Constitution be amended so as to read as follows:

SECTION 121. Every male person of the age of twenty-one years or up-

wards belonging to either of the following classes—who shall have resided in the State one year and in the county six months, and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election.

*First*—Citizens of the United States.

*Second*—Civilized persons of Indian descent, who shall have severed their tribal relations two (2) years next preceding such election.

That Section 127 be amended to read as follows:

SECTION 127. No person who is under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony unless restored to civil rights, and the Legislature shall by law establish an educational test as qualification, and may prescribe penalties for failing, neglecting or refusing to vote at any general election.

Mr. Cooper moved that the Concurrent Resolution be adopted.  
A roll call being required,

The roll being called there were ayes 45, nays 5, not voting 12.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Herbrandson,	Prosser,
Brainard,	Hodgson,	Ray,
Brown,	Holritz,	Richards,
Colby,	Horgan,	Roberts,
Colosky,	Kellogg,	Sargent,
Cooper,	Kroeger,	Simpson,
Dwyer,	Korsmo,	Smith,
Edwards,	Lerom,	Spangberg,
Fleming,	Logan,	Swenson,
Gilbertson,	McLachlan,	Twichell,
Gleason,	McDonald,	Tyler,
Guinan,	Murphy,	Walker,
Gunderson,	Myers,	Wineman,
Hancock,	Nierling,	Wood
Hanna,	Porter,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Cryan,	Jennings,	Kinde.
Flack,	Lindstrom,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Blacklock,	Purdon,	Stafne,
Eyolfson,	Rasmussen,	Svensrud,
Hill,	Rod,	Tofsrud,
Nelson,	Sharpe,	Wallen.

Mr. Rod being excused.

So the Concurrent Resolution passed.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith the following

## CONCURRENT RESOLUTION.

*Be it Resolved by the Senate, the House of Representatives Concurring:*

That the Capitol Commission be and hereby are authorized to audit the bills of the Historical Commission for expense incurred in the matter of postage and transportation on books and collections sent to the Commission under the provisions of the law creating the Historical Commission.

Which the Senate has passed, and the concurrence by the House is respectfully requested.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Edwards moved

That the Concurrent Resolution be adopted,

Which motion prevailed, and

The Concurrent Resolution was adopted.

The following communication was presented:

March 8, 1895.

*To Hon. J. M. Devine, Chief Clerk.*

We, the undersigned, Clerks of the House of the Fourth Legislative Assembly, wish to thank you for the uniform courtesy and kindness that you have shown us during the session. We appreciate the fact that your work has been arduous and difficult and we know that at all times you have done your duty by us and the State, and the best wishes of the Clerks of the Fourth Legislative Assembly will always be with you.

H. A. Lavayea, Vivian Morgan, C. S. Buck, Harry Hamilton, John G. Hamilton, Jorgen Howard, Bessie T. Waggoner, W. J. Smith, M. H. Johnson, Edward Murphy, D. C. Boyd, J. C. Shaver, A. S. Ellingson, A. J. Lavik, A. H. Johnson, S. Thompson, Will H. Carleton, T. W. Miller, Wm. Collins, C. J. Alister, M. F. Malloy, M. F. Cushing, C. G. Myhre.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 126,

A Bill for an act requiring county commissioners to furnish an official bond to his county.

Also,

House Bill No. 159,

A Bill for an act to amend Section 26 of Chapter 75 of the Session Laws of 1892, entitled "an act to promote irrigation."

Also,

House Bill No. 51,

A Bill for an act to amend Section 687, Penal Code of Revised Codes of 1877, being Section 6876 of the Compiled Laws of 1887.

Also,

House Bill No. 85,

A Bill for an act to amend Section 3 of Chapter 38, Laws of 1890, being an act entitled "an act authorizing counties to build

all bridges within the county limits wherein the cost of the construction of same exceeds the sum of one hundred dollars,"

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 126,

A Bill for an act requiring county commissioners to furnish an official bond to his county.

Also,

House Bill No. 159,

A Bill for an act to amend Section 26 of Chapter 75 of the Session Laws of 1892, entitled "an act to promote irrigation."

Also,

House Bill No. 51,

A Bill for an act to amend Section 687, Penal Code of Revised Codes of 1887, being Section 6876 of the Compiled Laws of 1887.

Also,

House Bill No. 85,

A Bill for an act entitled "an act to amend Section 3 of Chapter 38 of the Session Laws of 1890, relating to the construction of county bridges."

Mr. Twichell offered the following Concurrent Resolution and moved its adoption,

Which motion prevailed.

#### CONCURRENT RESOLUTION.

*Be it Resolved by the House of Representatives of the Fourth Legislative Assembly, the Senate concurring:*

That each member and officer of the Fourth Legislative Assembly shall have sent to him, when printed, by the Secretary of State, a copy of the New Compiled Laws, and House and Senate Journals.

Mr. Cooper presented the following resolution:

*Resolved,* That the thanks of the House are hereby tendered to the Hon. J. M. Devine for the faithful and courteous manner in which he has discharged the duties of Chief Clerk of the House.

*Resolved, further,* That the thanks of the House are also tendered to each of the assistant clerks at the Speaker's desk, to the stenographer, Journal clerk and chief enrolling and engrossing clerk for their faithfulness and efficiency.

Mr. Twichell moved the adoption of the resolution,

Which motion prevailed, and

The resolution was adopted.

Mr. Wallen offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

*Resolved*, That the thanks of the House are hereby tendered to the Hon. J. C. Gill for the efficient and courteous manner in which he has discharged the arduous and perplexing duties of the office of Speaker, and in appreciation of his services the House herewith presents him with the chair he has occupied and the gavel with which he has enforced the rules of the House.

The Speaker responded as follows:

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES:—At the opening of this session your action in so unanimously choosing me as your presiding officer was highly appreciated and I attempted then in feeble words to thank you, but this expression of your approbation of my actions in that position certainly places me in a position in which I am unable to give expression to the feelings that well up from my heart. There are times in the history of our lives when the tongue fails to give expression to the emotions of the heart. This is certainly one with me. My heart is almost too full for utterance at all, and surely I am unable to give expression to the feelings of thankfulness to you for the very generous kindness, for the kindly forbearance, for the hearty support, for the leniency of your criticism and for all of the kindly words and deeds that I have kept the recipient of at your hands, but simply say in plain, commonplace words, I sincerely thank you, and shall ever treasure a kindly remembrance of your respect, of which this token will be a reminder. Gentlemen, I thank you.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to return herewith  
House Bill No. 103,

A Bill for an act to create the seventh judicial district of the State of North Dakota, and defining the boundaries of the first and seventh judicial districts, and providing for terms of court in the seventh judicial district,

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

The Speaker announced that he was about to sign

Senate Bill No. 118,

A Bill for an act providing for the deposit in court of money, property or effects for which there are adverse claimants.

Also,

Substitute for Senate Bill No. 3,

A Bill for an act to amend Section 121, Chapter 62 of the Session Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

Senate Bill No. 16,

A Bill for an act for the establishment of courts of concilia-

tion and prescribing the mode of procedure of the same, and to repeal Chapter 45 of the Laws of 1893.

Also,  
Senate Bill No. 150,

A Bill for an act making an appropriation for the purpose of completing and furnishing the executive mansion and defraying the incidental expenses thereof for the years 1895 and 1896.

Also,  
Senate Bill No. 123,

A Bill for an act to amend Chapter 93 of the Laws of 1891 being an act entitled "an act for the prevention of prairie fires and to provide against damage done by them; also prescribing duties of county commissioners in relation thereto."

#### REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal made the following report:

MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have carefully examined the Journal of the fifty-ninth day and find it correct and recommend it be approved.

GEO. HILL,  
Chairman.

Mr. Hill moved

That the report of the Committee be adopted,  
Which motion prevailed, and

The report of the Committee was adopted, and the Journal of the fifty-ninth day was approved.

Mr. Cooper moved

That the House take a recess of twenty minutes.

The motion prevailed, and

The House took such recess.

House reassembled.

Senate Bill No. 121,

A Bill for an act fixing the times and place of holding general and special terms of the Supreme Court of the State of North Dakota,

Was read the third time.

The question being upon the final passage of the bill as amended,

The roll being called there were ayes 32, nays 26, not voting 4.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Brainard,	Hancock,	Rasmussen,
Colby,	Hanna,	Rinde.
Colosky,	Herbrandson,	Sargent,
Edwards,	Hodgson,	Smith,
Eyolfson,	Horgan,	Twichell,
Flack,	Jennings,	Tyler,
Fleming,	Kellogg,	Walker,
Gilbertson,	Korsmo,	Wallen,
Gleason,	Lerom,	Wineman,
Guinan,	Nelson,	Mr. Speaker.
Gunderson,	Nierling,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	McLachlan,	Roberts,
Blacklock,	McDonald,	Sharpe,
Cryan,	Murphy,	Simpson,
Dwyer,	Myers,	Spangberg,
Hill,	Porter,	Stafne,
Holritz,	Prosser,	Swenson,
Kroeger,	Purdon,	Svensrud,
Lindstrom,	Ray,	Tofsrud,
Logan,	Richards,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Rod,	Wood.
Cooper,		

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

House Bill No. 110,

A Bill for an act to protect farm laborers and giving them lien upon crops as security for their wages.

Also,

House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota,

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

## Senate Bill No. 68.

A Bill for an act to amend Article 11 of Chapter 13 of the Code of Civil Procedure, being Section 5126 to Section 5140 inclusive, of the Compiled Laws, and to repeal Section 1 of Chapter 50 of the Laws of 1893, being Section 5137 of the Compiled Laws,

Was read the third time.

Mr. Wineman moved

That the further consideration of the bill be indefinitely postponed,

Which motion prevailed.

## Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Session Laws of 1891 entitled "an act to provide for a uniform system of free public schools throughout the State and prescribe penalties for the violations of the provisions thereof,"

Was read the third time.

Mr. Svensrud moved

That the rules be suspended for the purpose of amending the bill,

Which motion was withdrawn.

The question being upon the final passage of the bill,

The roll being called there were ayes 40, nays 15, not voting 7.

Those who voted in the affirmative were:

Messrs—

Blacklock,  
Brown,  
Colby,  
Cooper,  
Cryan,  
Edwards,  
Eyolfson,  
Flack,  
Gilbertson,  
Hancock,  
Hanna,  
Hodgson,  
Holritz,  
Horgan,

Messrs—

Jennings,  
Kellogg,  
Korsmo,  
Lindstrom  
Logan,  
McLachlan,  
McDonald,  
Myers,  
Nelson,  
Nierling,  
Prosser,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Svensrud,  
Tofsrud,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Wood.

Those who voted in the negative were:

Messrs—

Armstrong,  
Brainard,  
Colosky,  
Dwyer,  
Gleason,

Messrs—

Gunderson,  
Herbrandson,  
Kroeger,  
Lerom,  
Porter,

Messrs—

Purdon,  
Roberts,  
Sargent,  
Twichell,  
Mr. Speaker.

Absent and not voting:

Messrs—

Fleming,  
Guinan,  
Hill,

Messrs—

Murphy,  
Rod,

Messrs—

Stafne,  
Swenson.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 80,

A Bill for an act defining usury and the penalty for taking the same,

Was read the third time.

Mr. Wineman requested unanimous consent to introduce an amendment.

Objection made.

Mr. Wineman moved

That the rules be suspended for the purpose of amendment by striking out Section 4,

• Which motion was lost.

The question being upon the final passage of the bill,

The roll being called there were ayes 26, nays 30, not voting 6.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Brown,  
Colby,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,

Messrs—

Gilbertson,  
Gunderson,  
Hodgson,  
Jennings,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
Myers,

Messrs—

Rasmussen,  
Sargent,  
Sharpe,  
Smith,  
Spangberg,  
Tofsrud,  
Twichell,  
Mr. Speaker.

Those who voted in the negative were:

Messrs—

Blacklock,  
Colosky,  
Cooper,  
Fleming,  
Gleason,  
Guinan,  
Hancock,  
Hanna,  
Herbrandson,  
Hill,

Messrs—

Holritz,  
Horgan,  
Kellogg,  
Lerom,  
McLachlan,  
McDonald,  
Nelson,  
Nierling,  
Porter,  
Prosser,

Messrs—

Purdon,  
Ray,  
Richards,  
Roberts,  
Swenson,  
Tyler,  
Walker,  
Wineman,  
Wallen,  
Wood.

Absent and not voting:

Messrs—

Murphy,  
Rinde,

Messrs—

Rod,  
Simpson,

Messrs—

Stafne,  
Svensrud.

Mr. Rod being excused.

So the bill was lost.

Senate Bill No. 127,

A Bill for an act to amend Section 1 of Chapter 55 of the Session Laws of 1891, relating to cruelty to animals,

Was read the third time.

The question being upon the final passage of the bill,  
The roll being called there were ayes 43, nays 3, not voting 16.

Those voting in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Holritz.	Ray,
Blacklock,	Horgan,	Richards,
Brown,	Jennings,	Roberts,
Colby,	Kellogg,	Sargent,
Colosky,	Kroeger,	Smith,
Cooper,	Korsmo,	Stafne,
Cryan,	Lerom,	Svensrud.
Dwyer,	Lindstrom,	Swenson,
Eyolfson,	McLachlan,	Tofsrud,
Flack,	Myers,	Twichell,
Gilbertson,	Nelson.	Tyler,
Gunderson,	Prosser,	Walker,
Hancock,	Purdon,	Wallen.
Hanna,	Rasmussen,	Mr. Speaker.
Hodgson,		

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
McDonald,	Nierling,	Porter,

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brainard,	Hill,	Sharpe,
Edwards,	Logan,	Simpson,
Fleming,	Murphy,	Spangberg,
Gleason,	Rinde,	Wineman,
Guinan,	Rod,	Wood,
Herbrandson,		

Mr. Rod being excused.

So the bill passed and the title was agreed to.

By unanimous consent, Mr. Hanna offered the following resolution and moved its adoption,  
Which motion prevailed, and  
The resolution was adopted.

*Resolved*, That the thanks of this House be extended to Colonel C. A. Lounsberry, representing the Associated Press upon the floor of this House during the session for the fairness and fullness of his Legislative reports and for the uniform courtesy shown the members of this body.

The Fargo Forum, represented by A. E. Wood, and the Bismarck Tribune by Col. Lounsberry, are also thanked for their excellent Legislative reports.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined:  
House Bill No. 155,

A Bill for an act entitled "an act to locate and provide for the government of a State blind asylum at Bathgate, Pembina county, North Dakota."

Also,

House Bill No. 127,

A Bill for an act to reimburse Dr. F. R. Smyth for stamping diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor.

Also,

House Bill No. 108,

A Bill for an act entitled "an act requiring county treasurers to report to township clerks amounts of township funds on hand and amounts drawn by township treasurers and requiring township clerks to keep accounts of township funds."

Also,

House Bill No. 32,

A Bill for an act to amend Sections 20, 25 and 26 of Chapter 27 of the Session Laws of 1893, relating to the organization and government of State banks.

And find the same correctly enrolled.

Respectfully,

L. B. HANNA,  
Chairman.

The Speaker announced that he was about to sign

House Bill No. 155,

A Bill for an act entitled "an act to locate and provide for the government of a State blind asylum at Bathgate, Pembina county, North Dakota.

Also,

House Bill No. 32,

A Bill for an act to amend Sections 20, 25 and 26 of Chapter 27 of the Session Laws of 1893, relating to the organization and government of State banks.

Also,

House Bill No. 108,

A Bill for an act requiring county treasurers to report to township clerks amounts of township funds on hand and amount drawn by township treasurers, and requiring township clerks to keep accounts of township funds.

Also,

House Bill No. 127,

A Bill for an act to reimburse Dr. F. R. Smyth for stamping diphtheria out of the county of Mercer by order of the State Board of Health, and making an appropriation therefor.

The Speaker announced that he was about to sign

A Concurrent Resolution

By the Fourth Legislative Assembly of the State of North Dakota extending a vote of thanks to the Hon. Martin Hector for

his action while a member of the State Board of World's Fair Managers.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has declined to concur in the House amendment to Senate Bill No. 121, and Messrs. Little and Burke have been appointed as the Senate members of a Conference Committee to confer with a like Committee if the House will kindly appoint such Committee.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Edwards moved

That the House comply with the Senate request for a Conference Committee to consider Senate Bill No. 121,

Which motion prevailed, and

The Speaker appointed as House members of such Conference Committee, Messrs. Edwards and Wineman.

Senate Bill No. 169,

A Bill for an act entitled "an act constituting the State Superintendent of Irrigation and Forestry the State Fish Commissioner of North Dakota, and providing for the establishment and maintenance of a State fish hatchery or hatcheries and fish breeding ponds, and for the stocking of the same and the other waters with fish, and their protection,"

Was read the third time.

Mr. Wineman moved

That the further consideration of Senate Bill No. 169 be indefinitely postponed,

Which motion was lost.

The question being upon the final passage of the bill,

The roll being called there were ayes 46, nays 11, not voting 5.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Brainard,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Edwards,  
Flack,  
Fleming,

Messrs—

Holritz,  
Horgan,  
Kellogg,  
Kroeger,  
Korsmo,  
Lindstrom,  
Logan,  
McLachlan,  
McDonald,

Messrs—

Richards,  
Rinde,  
Roberts,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,

Messrs—  
 Gilbertson,  
 Gleason,  
 Guinan,  
 Gunderson,  
 Hanna,  
 Hill,  
 Hodgson,

Messrs—  
 Myers,  
 Nierling,  
 Porter,  
 Prosser,  
 Purdon,  
 Rasmussen,

Messrs—  
 Tofsrud,  
 Twichell,  
 Tyler,  
 Walker,  
 Wood,  
 Mr. Speaker.

Those who voted in the negative were:

Messrs—  
 Blacklock,  
 Dwyer,  
 Eyolfson,  
 Hancock,

Messrs—  
 Herbrandson,  
 Lerom,  
 Murphy,  
 Sargent,

Messrs—  
 Sharpe,  
 Wallen,  
 Wineman.

Absent and not voting:

Messrs—  
 Brown,  
 Jennings,

Messrs—  
 Nelson,  
 Ray,

Messrs—  
 Rod.

Mr. Rod being excused.

So the bill passed and the title was agreed to.

Senate Bill No. 175,

A Bill for an act to amend Chapter 63 of the Session Laws of 1889, relating to Board of Health,

Was read the third time.

Mr Lindstrom moved

That the further consideration be indefinitely postponed,  
 Which motion prevailed.

Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws of 1893, being an act entitled "an act providing for the compilation, revision and codification of the Laws of North Dakota, and the publication and distribution and sale thereof, and to repeal Chapter 82 of the Laws of 1891 in relation thereto,"

Was read the third time.

Mr. McLachlan moved

That the rules be suspended for the purpose of amending the bill.

Roll call demanded.

The roll being called, there were ayes 36, nays 23, not voting 3.

Those who voted in the affirmative were:

Messrs—  
 Brown,  
 Colby,  
 Cooper,  
 Dwyer,  
 Edwards,  
 Gilbertson,  
 Gleason,

Messrs—  
 Kellogg,  
 Kroeger,  
 Korsmo,  
 Lerom,  
 Lindstrom,  
 McLachlan,  
 McDonald,

Messrs—  
 Rasmussen,  
 Ray,  
 Richards,  
 Rinde,  
 Sargent,  
 Spangberg,  
 Stafne,

Messrs—	Messrs—	Messrs—
Gunderson,	Myers,	Tofsrud,
Hancock,	Nelson,	Twichell,
Hanna,	Nierling,	Walker,
Herbrandson,	Porter,	Wallen,
Holritz,	Purdou,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Sharpe,
Blacklock,	Hodgson,	Simpson,
Brainard,	Horgan,	Smith,
Colosky,	Jennings,	Swenson,
Cryan,	Logan,	Tyler,
Eyolfson,	Murphy,	Wineman,
Flack,	Prosser,	Wood.
Guinan,	Roberts,	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Fleming,	Rod,	Svensrud.

Mr. Rod being excused.

So the motion to suspend the rules was lost.

The question being on the final passage of the bill as amended,

The roll being called there were ayes 44, nays 11, not voting 7.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Gunderson,	Ray,
Blacklock,	Hancock,	Richards,
Brainard,	Hill,	Rinde,
Brown,	Hodgson,	Sargent,
Colby,	Holritz,	Sharpe,
Colosky,	Jennings,	Simpson,
Cooper,	Kroeger,	Smith,
Cryan,	Korsmo,	Spangberg,
Dwyer,	Logan,	Svensrud,
Edwards,	McDonald,	Swenson,
Eyolfson,	Murphy,	Tyler,
Flack,	Myers,	Wineman,
Fleming,	Porter,	Wood.
Gilbertson,	Prosser,	Mr. Speaker.
Guinan,	Purdou,	

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Hanna,	McLachlan,	Twichell,
Herbrandson,	Nelson,	Walker,
Lerom,	Stafne,	Wallen,
Lindstrom	Tofsrud.	

Absent and not voting:

Messrs—	Messrs—	Messrs—
Gleason,	Nierling,	Roberts,
Horgan,	Rasmussen,	Rod,
Kellogg,		

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Senate Bill No. 172,

A Bill for an act entitled "an act to provide rules for the publication of and the construction to be placed upon the different acts passed at the Fourth Session of the Legislative Assembly,"

Was read the third time.

Mr. Edwards moved

That the report of the Judiciary Committee on Senate Bill No. 172 be adopted,

Which motion prevailed, and

The bill was so amended.

The question being upon the final passage of the bill as amended,

The roll being called, there were ayes 49, nays none, not voting 13.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brainard,  
Brown,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Hanna,  
Hodgson,  
Holritz,  
Horgan,

Messrs—

Jennings,  
Kellogg,  
Kroeger,  
Korsmo,  
Lerom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Prosser,  
Purdon,  
Rasmussen,  
Ray,

Messrs—

Richards,  
Rinde,  
Roberts,  
Sargent,  
Sharpe,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

Colby,  
Eyolfson,  
Guinan,  
Gunderson,  
Hancock,

Messrs—

Herbrandson,  
Hill,  
Lindstrom,  
McLachlan,

Messrs—

Rod,  
Svensrud,  
Walker,  
Wood.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

#### CONFERENCE COMMITTEE REPORT.

MR. SPEAKER:

We, your Committee on Conference on Senate Bill No. 121,

report recommending that the House recede from the amendment to said bill.

On the part of the Senate,  
C. B. LITTLE,  
JOHN BURKE.

On the part of the House,  
A. W. EDWARDS,  
J. B. WINEMAN.

Mr. Hanna moved  
That the report of the Conference Committee be adopted,  
Which motion prevailed, and  
The report was adopted.

The question being upon the final passage of Senate Bill No. 121  
as amended,

The roll being called there were ayes 50, nays none, not voting 12.

Those who voted in the affirmative were:

Messrs—

Armstrong,  
Blacklock,  
Brown,  
Colby,  
Colosky,  
Cooper,  
Cryan,  
Dwyer,  
Edwards,  
Eyolfson,  
Flack,  
Fleming,  
Gilbertson,  
Gleason,  
Gunderson,  
Hancock,  
Hanna,

Messrs—

Hodson,  
Holritz,  
Horgan,  
Jennings,  
Kellogg,  
Lerom,  
Logan,  
McDonald,  
Murphy,  
Myers,  
Nelson,  
Nierling,  
Porter,  
Purdon,  
Rasmussen,  
Ray,  
Richards,

Messrs—

Rinde,  
Roberts,  
Sargent,  
Simpson,  
Smith,  
Spangberg,  
Stafne,  
Svensrud,  
Swenson,  
Tofsrud,  
Twichell,  
Tyler,  
Walker,  
Wallen,  
Wineman,  
Mr. Speaker.

Absent and not voting:

Messrs—

Brainard,  
Guinan,  
Herbrandson,  
Hill,

Messrs—

Kroeger,  
Korsmo,  
Lindstrom,  
McLachlan,

Messrs—

Prosser,  
Rod,  
Sharpe,  
Wood.

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

Senate Bill No. 162,

A Bill for an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota and to provide their compensation and payment,

Was read the third time.

The question being upon the final passage of the bill,

The roll being called there were ayes 52, nays none, not voting 10.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hodgson,	Rasmussen,
Blacklock,	Holritz,	Ray,
Braiuard,	Horgan,	Richards,
Brown,	Jennings,	Rinde,
Colby,	Kellogg,	Roberts,
Colosky,	Kroeger,	Sargent,
Cooper,	Korsmo,	Sharpe,
Cryan,	Lerom,	Smith,
Dwyer,	Logan,	Spangberg,
Edwards,	McLachlan,	Stafne,
Eyolfson,	Murphy,	Swenson,
Fleming,	Myers,	Tofsrud,
Gilbertson,	Nelson,	Walker,
Gleason,	Nierling,	Wallen,
Gunderson,	Porter,	Wineman,
Hancock,	Prusser,	Wood,
Hanna,	Purdon,	Mr. Speaker.
Herbrandson,		

Absent and not voting:

Messrs—	Messrs—	Messrs—
Flack,	McDonald,	Svensrud,
Guinan,	Rod,	Twichell,
Hill,	Simpson,	Tyler.
Lindstrom,		

Mr. Rod being excused.

So the bill passed and the title was agreed to.

The Speaker announced that he was about to sign Senate Bill No. 166,

A Bill for an act fixing the maximum compensation that a railroad company may charge for a stopover in cars in transit between intermediate and terminal points, and for transportation of freight between such points.

Also,

Substitute for Senate Bill No. 66,

A Bill for an act to amend Section 86, Chapter 132 Laws of 1890, being an act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto.

Also,

Senate Bill No. 168,

A Bill for an act entitled "an act to cede to the United States jurisdiction of the State of North Dakota over lands acquired by military posts."

Also,

Senate Bill No. 88,

A Bill for an act to amend Section 1 of Chapter 100, Session Laws of 1891, being an act to amend Chapter 132 of the Laws of

1890, being an act entitled "an act prescribing the mode of making assessments and the levy and collection of taxes, and for other purposes relative thereto."

Also,

Senate Bill No. 105,

A Bill for an act fixing the fees of sheriffs and other officers for transporting insane persons to the asylums of the State.

Also,

Senate Bill No. 151,

A Bill for an act entitled "an act to regulate peddling in this State and to provide a license for persons engaged in peddling."

Also,

Senate Bill No. 174,

A Bill for an act to repeal an act to create a joint school township in the counties of Griggs and Steele.

Also,

Senate Bill No. 86,

A Bill for an act to provide for the abolishment of Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," in counties where a majority of the qualified electors so elect to provide for an election upon the question of such abolishment, and to establish a fence law in such counties.

Also,

Senate Bill No. 63,

Concurrent Resolution to amend Subdivision 8 of Section 215 of Article 19 of the Constitution of the State of North Dakota.

Also,

Senate Bill No. 171,

A Bill for an act entitled "an act to provide that the seven Codes prepared by the Revising Commission and introduced as bills and passed as acts at the Fourth Session of the Legislative Assembly shall not be printed as Session Laws of the Fourth Legislative Assembly.

Also,

Senate Bill No. 93,

A Bill for an act for the encouragement of higher education and appropriating money therefor.

Also,

Senate Bill No. 107,

A Bill for an act to provide for the levy and collection of a road poll tax.

Also,

Senate Bill No. 152,

A Bill for an act authorizing the board of directors of corpora-

tions to hold their meetings at any place within or without the State of North Dakota.

Also,

Senate Bill No. 96,

A Bill for an act to provide for the erection of necessary additional buildings for the Hospital of the Insane at Jamestown, North Dakota.

Also,

Senate Bill No. 20,

A Bill for an act to amend Section 3 of Chapter 31 of the Session Laws of 1894, for the purpose of including all lands in its provisions and requiring a judgment to be obtained to make the expense a tax lien on the land, it being a Concurrent Resolution.

Mr. Wineman moved

That the House take a recess until 8 o'clock this evening,

Which motion prevailed, and

The House took such recess.

The House reassembled.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER  
March 8, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has amended the House Concurrent Resolution providing for supplying certain persons with copies of Compiled Laws and the Legislative Journals. Those to have the books are Chief Clerk of the House, Assistant Chief Clerk, Stenographer and Bill Clerk, Secretary of the Senate, Assistant Secretary, Stenographer and Bill Clerk, Lieutenant Governor, the United States Senators and Member of Congress from the State of North Dakota.

Also,

The Senate has concurred in the resolution proposing amendments to Section 121 of the Constitution of the State of North Dakota.

Also,

House Resolution asking the National Congress for an appropriation of \$20,000 for irrigation purposes.

Respectfully,

FRED FALLEY,  
Secretary.

Mr. Edwards moved

That the House concur in the Senate amendments to Concur-

rent Resolution providing for supplying certain persons with copies of Compiled Laws and Legislative Journals,  
Which motion prevailed, and  
The amendments were concurred in.

## MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith  
House Bill No. 148,

A Bill for an act to amend Section Seventy-one (71) of Chapter One Hundred and Eighteen (118) of the Laws of 1893, being an act to provide for the control and management of university and school lands, and making an appropriation therefor,  
Which the Senate has passed unchanged.

Respectfully,  
FRED FALLEY,  
Secretary.

## COMMUNICATION FROM THE GOVERNOR.

The following communication was received from the Governor:

EXECUTIVE CHAMBER, }  
BISMARCK, N. D., March 8, 1895. }

*To the House of Representatives:*

GENTLEMEN: I have the honor to inform you that I have this day approved

House Bill No. 8,

A Bill for an act to repeal an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "an act providing for the levy and collection of taxes upon the property of railroad companies in this Territory, and all acts amendatory thereto."

Respectfully,  
ROGER ALLIN,  
Governor.

The Speaker announced that he was about to sign

Senate Bill No. 167,

A Bill for an act to suspend Chapter 11 of the Laws of 1893, being an act for an appropriation for the erection of the North Dakota Reform School at Mandan, and for incidental and contingent expenses for the same.

Also,

Senate Bill No. 87,

A Bill for an act to prevent the spread of contagious, infectious and epidemic diseases among domestic animals; creating the office of Chief State Veterinarian; prescribing the duties thereof, and appropriating money for necessary expenses thereof,

Also,

Senate Bill No. 121,

A Bill for an act fixing the times and place of holding general and special terms of the Supreme Court of the State of North Dakota.

Also,

Senate Bill No. 27,

A Bill for an act to amend Section 24 of Chapter 56 of the Session Laws of 1891, entitled "an act to provide for a uniform system of free public schools throughout the State, and prescribe penalties for the violation thereof."

Also,

Senate Bill No. 48,

A Bill for an act fixing the maximum rates that railroad companies may charge for the transportation of soft coal within the State of North Dakota.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit herewith

House Bill No. 10,

A Bill for an act to amend Section 2578 of the Compiled Laws of 1887, relating to divorce.

Also,

House Bill No. 175,

A Bill for an act amending Sections 10 and 15 of Chapter 91 of the Laws of 1890, relating to marriage licenses.

Also,

House Bill No. 173,

A Bill for an act to change the lines of organized counties and to provide for the annexation of unorganized territory to organized counties.

Also,

House Bill No. 97,

A Bill for an act to encourage immigration into the State of

North Dakota, and to enable the Commissioner of Agriculture and Labor to carry out the provisions of Section 8 of Chapter 46 of the Session Laws of 1890, and to make appropriations therefor,  
Which was lost.

Also,

House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivisions 4 and 5 of Section 2134 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor."

Also,

House Bill No. 101,

A Bill for an act to provide for the licensing of public warehouses.

Also,

House Bill No. 178,

A Bill for an act to repeal an act approved February 28, 1893, entitled "an act for an appropriation for the erection of the North Dakota Reform School at Mandan and for incidental and contingent expenses for the same."

Also,

House Bill No. 152,

A Bill for an act to amend Section 33 of Chapter 56, Laws of 1891, being an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192, of Chapter 62, Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

By unanimous consent Mr. Sargent offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

*Resolved*, That as a slight token of our appreciation of services of th Hon. J. M. Devine as Chief Clerk of this House, we present to him the chair occupied by him during this session of the Legislature.

Hon. J. M. Devine responded with an expression of his thanks to the members of the House.

By unanimous consent Mr. Twichell offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted.

## RESOLUTION.

*Be it Resolved by the House, the Senate Concurring:*

That it is the sense not only of the lower branch of the Fourth Legislative Assembly, but of the people of the State that House Bill No. 170 is in the interest of the producers and consumers of this State.

*Therefore,* It is requested that the Senate dig up or chase out House Bill No. 170 from the Railroad Committee who have had it in their possession for some days and as yet have shown no disposition to let go of it. And either pass it or defeat it.

By unanimous consent Mr. Svensrud offered the following resolution:

*Resolved,* As a token of regard for our esteemed Assistant Chief Clerk the House hereby presents to Hon. Henry Lavayea the chair occupied by him during the session just closing of the Fourth Legislative Assembly of North Dakota. This being a slight evidence of the high appreciation in which he is held and for the manner in which he has performed the arduous duties of his position.

Mr. Murphy moved

To amend the resolution by including the name of Miss Bessie Waggoner, and that Miss Waggoner, too, be given the chair that she has occupied during this session.

The amendment was accepted.

Mr. Horgan moved

That the House approve the resolution by a standing vote,

Which motion was sustained unanimously by a standing vote.

In response, Mr. Lavayea addressed the House, expressing his thanks for the gift bestowed; his appreciation of the evidence of the highly valued good will of the members of the House and for the honor conferred.

Miss Waggoner also thanked the House.

Mr. Wineman offered the following resolution and moved its adoption,

Which motion prevailed, and

The resolution was adopted

*Be it Resolved by the House of Representatives, the Senate Concurring:*

That the House consider House Bill No. 176 a very important measure to the people of the State of North Dakota, and respectfully suggest that the Senate act upon said bill.

Mr. Lindstrom offered the following resolution, and moved its adoption,

Which motion prevailed.

*Resolved,* That the chair occupied by Mr. Morgan, the bill clerk, be presented to him as a mark of respect for his faithful service to this House.

Mr. Colby moved

That the House concur in the Senate amendments to Senate Bill No. 123,

A Bill for an act to amend Section 6 of Chapter 110 of the Laws of 1890, and defining what is intoxicating liquor,

Which motion prevailed.

The question being upon the final passage of the bill as amended,  
The roll being called there were ayes 48, nays 3, not voting 11.

Those who voted in the affirmative were:

Messrs—	Messrs—	Messrs—
Armstrong,	Hill,	Ray,
Blacklock,	Hodgson,	Richards,
Brainard,	Holritz,	Rinde,
Colby,	Kellogg,	Roberts,
Colosky,	Korsmo,	Sharpe,
Cooper,	Lerom,	Smith,
Cryan,	Lindstrom,	Spangberg,
Dwyer,	Logan,	Stafne,
Edwards,	McLachlan,	Swenson,
Eyolfson,	Myers,	Tofsrud,
Flack,	Nelson,	Twichell,
Fleming,	Nierling,	Tyler,
Gilbertson,	Porter,	Walker,
Gunderson,	Prosser,	Wallen,
Hancock,	Purdon,	Wineman,
Herbrandson,	Rasmussen,	Mr. Speaker.

Those who voted in the negative were:

Messrs—	Messrs—	Messrs—
Gleason,	Kroeger,	McDonald.

Absent and not voting:

Messrs—	Messrs—	Messrs—
Brown,	Jennings,	Simpson,
Guinan,	Murphy,	Svensrud,
Hanna,	Rod,	Wood.
Horgan,	Sargent,	

Mr. Rod being excused.

So the bill as amended passed and the title was agreed to.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, )  
March 8, 1895. )

MR. SPEAKER:

I have the honor to return herewith  
House Bill No. 38,

A Bill for an act entitled "an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakota's refractory children at the South Dakota Reform School,"

Which the Senate has passed unchanged.

Respectfully,

FRED FALLEY,  
Secretary.

By unanimous consent Mr. Cooper offered the following resolution and moved its adoption,

Which motion prevailed.

*Resolved by the House of Representatives of the Fourth Legislative Assembly of the State of North Dakota:*

That the worthy Journal Clerk of the House be presented with the chair he has occupied in the House, and that in lieu of a speech he be requested to sing a song.

Mr. Buck responded by singing "The Alabama Coon."

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 137,

A Bill for an act entitled "an act to encourage the manufacture and production of the long line spinning fibres, either flax or hemp, and spinning tows grown in the State of North Dakota."

Also,

House Bill No. 110,

A Bill for an act to protect farm laborers and give them a lien upon crops as security for their wages.

Also,

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries.

Also,

House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota.

Also,

House Bill No. 169,

A Bill for an act to provide for the division of civil townships containing two or more congressional townships, by the creation of new townships therein.

Also,

House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled "an act to provide a Military Code for the State of North Dakota, and to provide a board of control for the State encampment grounds."

Also,

House Bill No. 103,

A Bill for an act to create the Seventh Judicial District of the State of North Dakota, and defining the boundaries of the First and Seventh Judicial Districts and providing for terms of court in the Seventh Judicial District.

Also,

House Bill No. 9,

A Bill for an act to provide for the better improvement of public highways for organized townships, and also providing for the payment of expenses thereof by taxation.

Also,

House Bill No. 122,

A Bill for an act entitled "an act to protect dairy interests of the State of North Dakota and to prevent fraud in dairy products and regulate the traffic in adulterated butter and cheese."

Also,

House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers, and providing for the preservation of coroner's records.

Also,

House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 93 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota; to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act.

Also,

House Bill No. 62,

A Bill for an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3 of Chapter 57 of the Penal Code entitled "offenses pertaining to sale of intoxicating liquors,"

And find the same correctly enrolled.

L. B. Hanna,  
Chairman.

Mr. Twichell moved

A suspension of the rules for the purpose of offering a resolution,

Which motion prevailed, and

Mr. Twichell offered the following resolution:

*Resolved.* By this body that as Mr. Wineman having used his best endeavor to earn his *per diem* and as proof of his desire to earn his money has talked about one-third as much as the entire number of the derelict members; therefore, be it

*Resolved.* That the members of the House are thankful that he took no more time, as Mr. Simpson, of the State of Stark, would not have had a chance to talk up the other two-thirds.

Mr. Twichell moved

The adoption of the resolution,

Which motion prevailed, and

The resolution was adopted.

The Speaker announced that he was about to sign  
House Bill No. 9,

A Bill for an act entitled "an act to provide for the better improvement of public highways."

Also,

House Bill No. 167,

A Bill for an act to encourage the manufacture of binding twine in the State of North Dakota.

Also,

Substitute for House Bill No. 110,

A Bill for an act to protect farm laborers, and giving them a lien upon crops as security for their wages.

Also,

House Bill No. 62,

A Bill for an act to amend Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3 of Chapter 57 of the Penal Code entitled "offenses pertaining to sale of intoxicating liquors."

Also,

House Bill No. 107,

A Bill for an act to amend Section 3 of Chapter 93 of the Laws of 1890, to regulate the practice of medicine in the State of North Dakota; to license physicians, surgeons and obstetricians, and to punish persons violating the provisions of this act.

Also,

House Bill No. 122,

A Bill for an act entitled "an act to protect dairy interests of the State of North Dakota, and to prevent fraud in dairy products, and to regulate the traffic in adulterated butter and cheese."

Also,

House Bill No. 121,

A Bill for an act to amend Sections 20, 22 and 23 of Chapter 86 of the Laws of the year 1891, entitled "an act to provide a Military Code for the State of North Dakota, and to provide a Board of Control for the State Encampment Grounds."

Also,

House Bill No. 71,

A Bill for an act to provide for the acquisition of lands for township cemeteries.

Also,

House Bill No. 137,

A Bill for an act to encourage the manufacture and production of the long line spinning fibers, either flax or hemp, and spinning tows, grown in the State of North Dakota.

Also,

House Bill No. 125,

A Bill for an act to amend Section 675 of Article 13 of Chapter 9 of the Compiled Laws of the State of North Dakota, relating to counties and county officers, and providing for the preservation of coroner's records.

Also,

House Bill No. 169,

A Bill for an act to provide for the division of civil townships containing two or more congressional townships by the creation of new townships therein.

Also,

House Bill No. 103,

A Bill for an act to create the seventh judicial district of the State of North Dakota, and defining the boundaries of the first and seventh judicial districts, and providing for terms of court in the seventh judicial district.

Mr. Edwards offered the following resolution and moved its adoption,

Which motion prevailed.

WHEREAS, The members have been supplied with the Jamestown Alert, Jamestown Capital, Grand Forks Plaindealer, Grand Forks Herald, daily; and the Devils Lake Inter Ocean and the Devils Lake News; and

WHEREAS, The said papers have been laid upon the members desks and have furnished valuable information to us all; therefore be it

*Resolved*, That the thanks of the members are due and hereby tendered to said papers for the appreciated courtesies so liberally extended.

Mr. Murphy offered the following resolution and moved its adoption,

Which motion prevailed:

WHEREAS, The members of the Fourth Legislative Assembly have been liberal in their patronage of the Bismarek Tribune; therefore, be it

*Resolved*, That the editor be invited to thank us.

Mr. Stevens responded in an argument against the gross earnings system of taxing railroads.

#### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to return herewith

House Bill No. 154,

A Bill for an act to amend an act entitled "an act to protect stockraisers and promote the breeding of improved live stock within the State of North Dakota, and to provide a lien for the service of sires, being Chapter 117 of the Laws of 1891."

Which was lost.

Also,

House Bill No. 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota,

Which the Senate has passed unchanged.

Also,

House Bill No. 68,

A Bill for an act to provide for the establishment and government of the North Dakota School of Forestry, and making an appropriation therefor,

Which has been indefinitely postponed.

Yours respectfully,

FRED FALLEY,

Secretary.

The Speaker announced that he was about to sign

Senate Bill No. 127,

A Bill for an act to amend Section 1 of Chapter 55 of the Session Laws of 1891, relating to cruelty to animals.

The Speaker called Mr. Murphy to the chair.

Mr. Gill moved

That the Chair appoint a Committee of three to wait upon the Governor and inform him that the House has about completed its labors, and ascertain if the Governor has any further communication to make to the House,

Which motion prevailed, and

The Chair appointed as such Committee, Mr. Speaker and Messrs. Simpson and Prosser.

The Speaker announced that he was about to sign

Senate Bill No. 162,

A Bill for an act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota, and to provide their compensation and payment.

Also,

Senate Bill No. 169.

A Bill for an act entitled "an act constituting the State Superintendent of Irrigation and Forestry the State Fish Commissioner of North Dakota, and providing for the establishment and maintenance of a State fish hatchery or hatcheries and fish breeding ponds, and for the stocking of the same and the other waters of this State with fish, and their protection.

Also,

Senate Bill No. 172,

A Bill for an act entitled "an act to provide rules for the pub-

lication of and the construction to be placed upon the different acts passed at the Fourth Session of the Legislative Assembly."

Also,

House Bill No. 148,

A Bill for an act to amend Section 71 of Chapter 118 of the Laws of 1893, being an act to provide for the control and management of university and school lands, and making an appropriation therefor.

Also,

House Bill No. 145,

A Bill for an act entitled "an act to establish a garnishment law for the State of North Dakota."

Also,

House Bill No. 178,

A Bill for an act to repeal an act approved February 28, 1893, entitled "an act for an appropriation for the erection of the North Dakota Reform School at Mandan and for incidental and contingent expenses for the same."

The Sergeant-at-Arms announced that a Committee from the Senate were in waiting.

The Committee was received, and Senator Gregory, in behalf of such Committee, announced that the Senate was about to adjourn.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined

House Bill No. 145,

A Bill for an act to establish a garnishment law for the State of North Dakota.

Also,

House Bill No. 178,

A Bill for an act to repeal an act approved February 28, 1893, entitled "an act for an appropriation for the erection of the North Dakota reform school at Mandan.

Also,

House Bill No. 148,

A Bill for an act to amend Section Seventy-one (71) of Chapter One Hundred and Eighteen (118) of the Laws of 1893, being an act to provide for the control and management of university and school lands, and making an appropriation therefor,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Special Committee to wait upon the Governor made the following report:

MR. SPEAKER:

Your Committee has waited upon the Governor and performed the duty to which it was assigned.

The Governor instructs us to inform the House that he has nothing further to communicate at this session and desires us also to present his regards and his appreciation of the kindness of the House, and wishes that they may have peace and prosperity in the future.

The Committee on Enrolled Bills made the following report:

MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill No. 123,

A Bill for an act to amend Section 6 of Chapter 110 of the Laws of 1890, and defining what is intoxicating liquor.

Also,

House Bill No. 38,

A Bill entitled "an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakota's refractory children at the South Dakota reform school."

Also,

House Bill No. 152,

A Bill for an act to amend Section 33, Chapter 56 of the Laws of 1891, being "an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

House Bill No. 101,

A Bill for an act entitled "an act to provide for licensing of public warehouses."

Also,

House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivision four (4) and five (5) of Section 2144 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor,"

And find the same correctly enrolled.

L. B. HANNA,  
Chairman,

Mr. Simpson moved

That the Speaker appoint a Committee to wait upon the Senate and investigate in regard to omissions of amendments in the enrollment of Senate Bill No. 172,

Which motion prevailed.

The Speaker appointed as such Committee Messrs. Simpson, Twichell and Hodgson.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER,  
March 8, 1895. }

MR. SPEAKER:

I have the honor to transmit

House Bill No. 92,

A Bill for an act to encourage the culture of sugar beets in the State of North Dakota and their manufacture into sugar."

Also,

House Bill No. 171,

A Bill for an act entitled "an act to authorize the voters at annual town meetings to vote upon the question of establishing by proper monuments section, quarter section or meander posts or monuments, which have been destroyed or are becoming obscure."

Also,

House Bill No. 67,

A Bill for an act providing for the appointment of the Governor as superintendent of census and to carry out the Constitutional provisions regarding the taking of a State census in 1895 and an appropriation therefor.

Also,

House Bill No. 50,

A Bill for an act to amend Section 2 (a) of Chapter 122 of the General Laws of 1890, entitled "an act to regulate common carriers, and defining the duties of the Commissioners of Railroads in relation thereto in the State of North Dakota.

Also,

House Bill No. 102,

A Bill for an act entitled "an act to authorize the Secretary of the State of North Dakota to receive, preserve and turn over to his successor in office, portraits of State officials and Members of Congress."

Also,

House Bill No. 28,

A Bill for an act entitled "an act making Labor Day a legal holiday."

Also,

House Bill No. 146,

A Bill for an act to prescribe penalties for the unlawful manufacture, sale and keeping for sale illuminating oils manufactured from petroleum as coal oils, and to repeal Chapter 107 of the Laws of 1890 and Chapter 77 of the Laws of 1893.

Also,

House Bill No. 174,

A Bill for an act entitled "an act for the investigation of the resources of the surface and underground waters of parts of the national government lands located in North Dakota, and for devising a system of irrigation suitable therefor.

Also,

House Bill No. 16,

A Bill for an act entitled "an act exempting volunteer firemen from jury duty and from paying poll tax."

Which have been indefinitely postponed.

Respectfully,

FRED FALLEY,  
Secretary.

The Speaker announced that he was about to sign

House Bill No. 123,

A Bill for an act to amend Section 6, of Chapter 110, of the Laws of 1890, and defining what is intoxicating liquor.

Also,

House Bill No. 38,

A Bill for an act entitled "an act to appropriate money to compensate the State of South Dakota for caring, providing for and schooling North Dakotas's refractory children at the South Dakota Reform School."

Also,

House Bill No. 152,

A Bill for an act to amend Section 33 of Chapter 56 Laws of 1891, being an act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192 of Chapter 62 of the Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof."

Also,

House Bill No. 101,

A Bill for an act to provide for the licensing of public warehouses.

Also,  
House Bill No. 82,

A Bill for an act entitled "an act to amend Subdivisions 4 and 5 of Section 2144 of Chapter 22 of the Political Code, Compiled Laws of 1887, relating to settlement and support of the poor."

The Sergeant-at-Arms announced that a Committee from the Senate were in waiting.

The Senate Committee, being Senators Gregory, Haggart and Davis, were received.

The Committee announced that they were appointed for the purpose of investigating the alleged omissions in the enrolling of Senate Bill No. 172.

The investigation as authorized, was made, the omissions of amendments as alleged by Mr. Simpson were discovered, and copies of such amendments were made by the Senate Committee.

The Committee on Enrolled Bills made the following report:  
MR. SPEAKER:

Your Committee on Enrolled Bills have examined  
House Bill 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota,

And find the same correctly enrolled.

L. B. HANNA,  
Chairman.

The Special Committee to wait upon the Senate to investigate in regard to amendments not enrolled in Senate Bill No. 172, made the following report:

MR. SPEAKER:

I desire to announce that your Committee appointed to wait upon the Senate as to facts with reference to Senate Bill No. 172, laid the matter before the Senate and that body appointed a committee to investigate. They have discovered the amendments and they have been concurred in and passed by the Senate.

L. A. SIMPSON,  
Chairman.

MESSAGE FROM THE SENATE.

The following message was received from the Senate:

SENATE CHAMBER, }  
March 8, 1895. }

MR. SPEAKER:

I have the honor to inform you that the Senate has concurred in the House amendments to Senate Bill No. 172.

Respectfully,  
FRED FALLEY,  
Secretary.

Mr. Wallen offered the following resolution:

*Resolved by the House of Representatives:*

That in J. Howard the House recognizes a competent and efficient Chief Enrolling and Engrossing Clerk, and hereby thank him for his faithful discharge of duties.

Mr. Hanna moved

That the resolution be adopted,

Which motion prevailed, and

The resolution was adopted.

The Speaker announced that he was about to sign

House Bill No. 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota.

Also,

A Concurrent Resolution,

Recommending to the electors of the State of North Dakota that at the next general election to be held on the first Tuesday after the first Monday in November, 1896, that they vote for or against a convention to revise the Constitution.

The Speaker announced that he was about to sign

Senate Bill No. 61,

A Bill for an act to repeal Chapter 74, Session Laws of 1893, being an act entitled "an act providing for the compilation, revision and codification of the Laws of North Dakota and the publication and distribution and sale thereof, and to repeal Chapter 82 of the Laws of 1891 in relation thereto.

The Speaker called Mr. Edwards to the chair.

Mr. Twichell moved

That a committee of three be appointed from the House to request the Senate to make further search for House Bill No. 170,

Which motion prevailed, and

The Speaker appointed as members of the Committee Messrs. Twichell, Prosser and Lindstrom.

The Speaker announced that he was about to sign

A Concurrent Resolution,

Memorializing Congress to restore the tariff on wool.

Also,

Senate Bill No. 172,

A Bill for an act entitled "an act to provide rules for the publication of and the construction to be placed upon the different acts passed at the Fourth Session of the Legislative Assembly,"

Also,

House Bill No. 157,

A Bill for an act with reference to driving stock into or through the State of North Dakota.

Mr. Hanna moved  
 That a vote of thanks be extended to Rev. Archibald Durrie,  
 the Chaplain of the House,  
 Which motion prevailed,  
 By a unanimous vote.

## REFERENCE OF THE JOURNAL.

The Committee on Revision and Correction of the Journal make the following report:

## MR. SPEAKER:

Your Committee on the Revision and Correction of the Journal respectfully report that they have examined the proceedings of the sixtieth day as far as possible and recommend it be approved.

GEO. HILL,  
 Chairman.

Mr. Hill moved  
 The adoption of the report,  
 Which motion prevailed, and  
 The Journal of the sixtieth day was approved.

Mr. Svensrud offered the following resolution, and moved its adoption,  
 Which motion prevailed, and  
 The resolution was adopted.

*Resolved*, That the Journal of the House of the sixtieth day be approved as corrected by the Chief Clerk.

Mr. Wineman moved  
 That House Bills Nos. 170 and 176 be recalled from the Senate,  
 Which motion prevailed.

Mr. Hodgson moved  
 That a committee of three be appointed to wait upon the Senate and ascertain if the Senate has any further communications to make to the House, and to inform the Senate that the House was ready to adjourn,

Which motion prevailed, and  
 The Speaker appointed as such Committee, Messrs. Hodgson, Cooper and Horgan.

The Special Committee appointed to wait upon the Senate reported to the House that the Senate had adjourned.

The Speaker announced that previous to adjournment the House would unite in singing the Doxology, and that after such song the Chaplain pronounced the benediction.

Doxology sung by the House.

Benediction pronounced.

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Mr. Hodgson moved  
That the House do now adjourn *sine die*,  
Which motion prevailed, and  
The House of Representatives of the Fourth Legislative As-  
sembly of the State of North Dakota adjourned *sine die*.

J. M. DEVINE,  
Chief Clerk.

## HOUSE BILLS.

Number.	Introduced by	Title.	Introduced.
1	Mr. Wineman .....	Relating to State Depositories .....	43
2	Mr. Edwards .....	To Extend the Elective Franchise to Females. ....	44
3	Mr. Svensrud .....	To Repeal Chapter 45, Session Laws of 1893. ....	47
4	Mr. Svensrud .....	To Amend Subdivision 11 of Section 1, Chapter 100, Laws of 1891 .....	47
5	Mr. Wineman .....	For Trial by District Court Without a Jury .....	47
6	Mr. Wineman .....	State Superintendent of Irrigation and Forestry .....	47
7	Mr. Tofsrud .....	Assessment and Collection of Taxes .....	54
8	Mr. Hodgson .....	Collection of Taxes upon Railroad Companies .....	54
9	Mr. Twichell .....	Improvement of Public Highways .....	54
10	Mr. Wineman .....	Relating to Divorce .....	54
11	Mr. Ray .....	Collection of Taxes .....	54
12	Mr. Twichell .....	Uniform Policy of Fire Insurance .....	54
13	Mr. Hanna .....	Manufacture of Potato Starch .....	54
14	Mr. Myers .....	Practice of Veterinary Science .....	58
15	Mr. Nierling .....	Assessment and Collection of Taxes .....	58
16	Mr. Hancock .....	Exemption of Firemen .....	58
17	Mr. Wood .....	Account Books .....	58
18	Mr. Nierling .....	Assessment and Collection of Taxes .....	59
19	Mr. Tofsrud .....	Receipts and Disbursements of County Treasurers .....	66
20	Mr. Tofsrud .....	State Auditor and State Treasurer .....	66
21	Mr. Sharpe .....	Duties of State's Attorneys .....	67
22	Mr. Simpson .....	Relating to Counties Billings, Stark and Mercer .....	67
23	Mr. Guinan .....	Station Houses .....	67
24	Mr. Wineman .....	Free Public Schools .....	67
25	Mr. Logan .....	Liability of Corporations .....	67
26	Mr. Rasmussen .....	To Repeal Chapter 101, Session Laws of 1893 .....	67
27	Mr. Logan .....	Market Price of Wheat .....	67
28	Mr. Hill .....	Labor Day .....	74
29	Mr. Logan .....	Free School Text Books .....	74
30	Mr. Purdon .....	Amending Chapter 73, Laws of 1887 .....	81
31	Mr. McDonald .....	Amending Chapter 13, Laws of 1887 .....	81
32	Mr. Hodgson .....	Organization of State Banks .....	81
33	Mr. Wineman .....	Town Supervisors .....	81
34	Mr. Rod .....	Railroad Rates of Fare .....	81
35	Mr. Purdon .....	Assessments and Collection of Taxes .....	99
36	Mr. Hanna .....	Licensing of Dogs .....	99
37	Mr. Sargent .....	Fees of District Court Clerks .....	99
38	Mr. Hill .....	Reform School .....	99
39	Mr. Wineman .....	Prohibiting the Sale of Cigarettes .....	99
40	Mr. Gunderson .....	Licensing and Registration of Attorneys .....	99
41	Mr. McLachlan .....	Amend Sections 5, 6 and 18 of Chapter 86, Laws of 1891 .....	99
42	Mr. Ray .....	Amend Chapter 24, Laws of 1890 .....	99
43	Mr. Logan .....	Construction of Cattle Guards, Signs and Crossings .....	100
44	Mr. Gunderson .....	Licensing and Registration of Physicians .....	100
45	Mr. Lerom .....	Amend Section 324 of Chapter 13, Regarding Ex- emption .....	100
46	Mr. Fleming .....	Amend Section 7, Chapter 110, Session Laws of 1890 .....	104
47	Mr. Svensrud .....	Exemption of Fines for Payment of Taxes .....	104
48	Mr. Nierling .....	Preservation of Fish and Game .....	104

HOUSE BILLS.

First Reading.	Second Reading.	Reference.	Reported Back.	Amended.	Amend'ts Adopted.	Third Reading.	Passed.	Lost.	Reconsidered.	Rec'd from Senate.	Amended.	Unchanged.	Amend'ts Concur'd in.	Conf'rnce Committee.	To Governor.	Further Action.
43	47	47	114	114	114	156	156	....	....	562	562	..	587	..	648	...
44	47	97	97	128	....	....	....	448	....	....	..	..	..	..	..	..
47	55	55	444	....	....	650	650	....	....	....	..	..	..	..	..	..
47	55	55	119	119	....	....	255	277	....	....	758	..	758	..	..	..
47	55	55	135	....	....	158	158	....	....	....	..	..	..	..	..	..
47	55	55	333	....	....	688	729	689	....	....	..	..	..	..	..	..
54	59	59	205	420	421	474	....	....	....	....	..	..	..	..	..	..
54	59	59	152	205	....	162	163	....	....	645	645	..	..	..	848	....
54	59	59	329	152	....	645	646	....	....	805	805	..	..	..	..	..
54	59	59	279	329	....	389	390	....	....	849	849	..	..	..	..	..
54	59	59	121	....	....	139	139	....	....	....	..	..	..	..	..	..
54	60	60	136	196	....	258	....	259	....	....	..	..	..	..	..	..
55	60	60	108	....	....	115	115	....	....	387	387	..	..	..	449	....
58	68	69	184	184	284	247	248	....	....	618	618	..	..	..	690	....
58	69	69	120	180	....	156	156	....	....	....	..	..	..	..	..	..
58	69	69	187	120	178	651	651	....	....	861	..	..	..	..	..	..
59	69	69	687	206	....	745	....	746	....	....	..	..	..	..	..	..
59	69	69	487	157	....	....	....	....	....	....	..	..	..	..	..	..
66	74	74	485	334	....	....	....	....	....	....	..	..	..	..	..	..
67	74	74	108	726	....	115	116	....	....	....	..	..	..	..	..	..
67	75	75	108	637	142	732	733	....	....	....	..	..	..	..	..	..
67	75	75	102	109	....	....	....	....	....	....	..	..	..	..	..	..
67	75	75	102	102	....	....	....	....	....	....	..	..	..	..	..	..
67	75	75	122	180	181	157	157	....	....	562	562	..	562	..	648	....
67	75	75	206	122	....	....	....	....	....	....	..	..	..	..	..	..
67	75	75	95	....	....	224	224	....	....	....	..	..	..	..	..	..
67	75	122	122	....	....	886	886	....	....	....	..	..	..	..	..	..
67	75	75	365	....	....	....	....	....	....	....	..	..	..	..	..	..
74	74	74	133	....	....	257	276	258	276	860	....	..	..	..	..	..
74	74	74	207	230	231	230	231	....	231	....	..	..	..	..	..	..
81	81	113	118	207	207	140	140	....	....	589	....	589	....	....	654	....
81	81	81	120	....	....	....	....	....	....	....	..	..	..	..	..	..
81	81	81	113	....	....	128	128	....	....	810	....	810	....	....	..	..
81	81	81	171	....	....	....	....	....	....	....	..	..	..	..	..	..
81	81	81	....	....	....	....	....	....	....	....	..	..	..	..	..	..
98	98	98	193	....	....	213	214	....	....	576	....	576	....	....	654	....
99	99	99	300	300	300	335	....	396	....	....	..	..	..	..	..	..
99	99	99	508	....	....	....	....	....	....	....	..	..	..	..	..	..
99	99	99	123	....	....	160	160	....	....	852	....	852	....	....	..	..
99	99	99	129	....	....	140	141	....	....	288	....	288	....	....	307	....
99	99	99	272	....	....	....	....	....	....	....	..	..	..	..	..	..
99	99	99	146	195	195	214	214	....	....	....	..	..	..	..	..	..
99	99	99	146	....	....	....	....	....	....	....	..	..	..	..	..	..
99	99	99	190	190	190	....	....	....	....	....	..	..	..	..	..	..
100	100	100	193	....	....	....	....	....	....	....	..	..	..	..	..	..
100	100	100	273	....	....	....	....	....	....	....	..	..	..	..	..	..
100	100	100	136	....	....	159	....	....	....	....	..	..	..	..	..	..
104	104	104	185	185	186	215	215	....	....	541	541	..	..	..	718	....
104	104	104	137	....	....	159	172	....	....	....	..	..	..	..	..	..
104	104	104	408	....	....	....	....	....	....	....	..	..	..	..	..	..

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104	104	104	357	...	...	...	...	...	...	...	...	...	...	...	...	...
104	104	104	329	...	...	...	363	...	...	860	...	...	...	...	...	...
104	104	104	137	216	216	263	216	...	...	805	...	...	...	...	...	...
			137	137	...	...	...	...	...	...	...	805	...	...	...	...
			108	108	...	...	...	...	...	...	...	...	...	...	...	...
105	105	108	108	...	...	...	...	...	...	...	...	...	...	...	...	...
105	105	105	145	...	...	174	175	...	...	...	...	...	...	...	...	...
105	105	105	186	...	...	...	...	...	...	...	...	...	...	...	...	...
105	105	105	186	...	...	264	...	264	...	...	...	...	...	...	...	...
105	105	105	345	...	...	...	...	...	...	...	...	...	...	...	...	...
105	105	105	135	...	...	159	...	...	...	...	...	...	...	...	...	...
111	111	111	795	...	...	...	...	...	...	...	...	...	...	...	...	...
111	111	111	239	...	...	...	...	...	...	...	...	...	...	...	...	...
111	111	111	553	...	...	320	...	...	...	...	...	...	...	...	...	...
			301	...	...	...	...	...	...	...	...	...	...	...	...	...
111	111	111	...	...	...	418	414	...	...	...	...	...	...	...	...	...
111	111	111	375	...	...	413	414	...	...	827	...	...	...	...	...	...
111	111	111	170	...	...	...	...	...	...	...	...	...	...	...	...	...
112	112	112	208	208	208	259	260	...	...	615	616	...	...	...	...	...
112	112	112	272	355	355	442	413	...	...	615	...	615	624	...	...	690
112	112	112	360	...	...	581	...	581	...	...	...	...	...	...	...	...
113	113	113	242	...	...	260	261	...	...	860	...	...	...	...	...	...
113	113	113	504	726	...	744	744	...	...	857	...	...	...	...	...	...
			409	...	...	...	...	...	...	...	...	...	...	...	...	...
125	125	125	345	...	...	304	365	...	...	...	...	...	...	...	...	...
125	125	125	273	273	273	474	474	...	...	794	...	794	...	...	...	...
125	125	125	153	153	235	246	247	...	...	803	...	803	...	...	...	...
126	126	126	194	...	...	216	216	...	...	...	...	...	...	...	...	...
126	126	126	394	...	...	394	...	...	...	...	...	...	...	...	...	...
127	127	127	187	...	...	218	218	...	...	...	...	...	...	...	...	...
127	127	127	240	240	...	...	...	...	...	...	...	...	...	...	654	...
127	127	127	171	...	...	189	189	...	...	655	...	655	...	...	718	...
128	128	128	149	...	...	176	176	...	...	242	...	242	...	...	246	...
138	138	138	726	...	...	...	...	...	...	...	...	...	...	...	...	...
			273	...	...	...	...	...	...	...	...	...	...	...	...	...
138	138	138	302	...	...	515	...	532	...	...	...	...	...	...	...	...
138	138	138	485	...	...	...	...	...	...	...	...	...	...	...	...	...
138	138	138	171	...	...	...	...	...	...	...	...	...	...	...	...	...
139	139	139	427	274	274	458	459	...	...	850	...	850	...	...	...	...
			274	...	...	...	...	...	...	...	...	...	...	...	...	...
150	155	155	...	...	...	492	...	492	...	...	...	...	...	...	...	...
150	150	155	658	302	302	...	...	...	...	...	...	...	...	...	...	...
			302	...	...	...	...	...	...	...	...	...	...	...	...	...
150	155	155	187	...	...	256	257	...	...	794	...	794	...	...	...	...
154	154	154	485	485	465	...	...	...	...	...	...	...	...	...	...	...
154	154	154	302	495	302	605	606	...	...	...	...	...	...	...	...	...
			302	...	...	...	...	...	...	...	...	...	...	...	...	...
154	154	154	320	...	...	...	...	...	...	...	...	...	...	...	...	...
154	154	154	356	...	...	422	423	...	...	...	...	...	...	...	...	...
154	154	154	371	...	...	...	...	...	...	...	...	...	...	...	...	...
155	155	155	...	...	...	674	674	...	...	...	...	...	...	...	...	...
155	155	155	194	194	...	290	291	...	...	860	...	...	...	...	...	...
173	173	173	241	...	...	...	...	...	...	...	...	...	...	...	...	...
173	173	173	...	...	...	...	...	...	...	...	...	...	...	...	...	...
173	173	173	373	...	...	411	412	...	...	...	...	...	...	...	...	...
173	173	173	393	...	...	417	...	418	...	850	...	850	...	...	...	...
188	188	188	594	746	746	674	748	675	...	...	...	...	...	...	...	...
188	188	188	283	427	284	475	476	...	...	...	...	...	...	...	...	...
			283	...	...	...	...	...	...	...	...	...	...	...	...	...
188	188	188	274	...	...	291	291	...	...	758	...	758	...	...	...	...
188	188	188	300	300	...	459	459	...	...	...	...	...	...	...	...	...
188	188	188	209	...	...	225	233	...	...	850	...	850	...	...	...	...
189	189	189	303	428	...	442	443	...	...	860	...	...	...	...	...	...
201	201	201	303	...	...	387	...	...	...	833	...	833	...	...	...	...

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473	473	473	641	...	...	695	....	....	....	....	..	..	..	..	..	..
491	491	491	668	...	...	501	591	....	....	779	779	..	779	812	..	..
				536	...			....	....			..			..	..
				534	...			....	....			..			..	..
				535	...			....	....			..			..	..
498	498	498	567	567	628	628	628	....	....	835	..	835	..	..	..	..
518	518	518	566	566	...	694	695	....	....	...	..	...	..	..	..	..
518	518	518	522	...	...	695	...	....	....	...	..	...	..	..	..	..
529	529	529	571	...	...	608	608	....	....	804	..	804	..	..	..	..
...	...	...	508	...	...	643	643	....	....	...	..	...	..	..	..	..
565	565	565	641	...	...	686	686	....	....	860	..	...	..	..	..	..
580	580	580	644	...	...	687	688	....	....	...	..	...	..	..	..	..
580	580	580	691	...	...	727	728	....	....	849	..	849	..	..	..	..
580	580	580	688	638	...	682	683	....	....	861	..	...	..	..	..	..
598	598	598	689	...	...	692	693	....	....	849	..	...	..	..	..	..
623	623	623	636	...	...	689	690	....	....	...	..	...	..	..	..	..
640	...	...	...	...	...	...	...	....	....	...	..	...	..	..	..	..
642	642	642	692	...	...	711	712	....	....	850	..	850	..	..	..	..
666	666	666	678	678	678	709	710	....	....	...	..	...	..	..	..	..
718	...	...	...	...	...	...	...	....	....	...	..	...	..	..	..	..

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233	233	394			699	699			
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337	337	395			551	551			
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336	336	509							
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653	653	672			714	714			
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549	549	.....	800	.....	787	787	.....	.....	.....
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PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

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REPORT OF JOINT COMMITTEE.

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## A BILL

For An Act to Establish a Civil Code for the State of North Dakota.

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

## CHAPTER 1.

SECTION 1. This act shall be known as the Civil Code of the State of North Dakota.

SECTION 3. The will of the sovereign power is expressed:

1. By the Constitution of the State.
2. By the statutes of the State.

SECTION 23. Indians resident within this State have the same rights and duties as other persons, except that:

1. They cannot vote or hold office except as prescribed in sub-division three of Section one hundred and twenty-one of the Constitution of this State.

2. They cannot grant, lease, or encumber Indian lands except in the cases provided by law.

SECTION 34. Marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, between uncles and nieces, aunts and nephews, or cousins of the first degree of the half as well as the whole blood, are declared to be incestuous, and absolutely void. This section shall apply to illegitimate as well as legitimate children and relations.

SECTION 42. The books of record of marriage licenses issued and certificates returned, kept by the Judge of the County Court of any county, or copies of such entries certified by such Judge under the seal of the court, shall be received as evidence in all courts.

SECTION 45. When a marriage is annulled, children begotten before the judgment are legitimate, and succeed to the estate of both parents.

SECTION 54. Habitual intemperance is that degree of intemperance from the use of intoxicating drinks, morphine, opium, chloral, cocaine, or other like narcotic drugs which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental agony upon the innocent party.

SECTION 69. No divorce can be granted upon the default of the defendant, or upon the uncorroborated statement, admission, or testimony of the parties, or upon any statement or finding of fact made by a referee; but the Court must, in addition to any statement or finding of the referee, require proof of the facts alleged.

SECTION 79. The wife after marriage has, with respect to property, contracts and torts, the same capacity and rights and is subject to the same liabilities as before marriage, and in all actions by or against her, she shall sue and be sued in her own name.

SECTION 80. A husband and wife cannot by any contract with each other alter their marital relations, except that they may agree in writing to an immediate separation, and may make provision for the support of either of them and of their children during such separation.

SECTION 98. If a parent, chargeable with the support of a child, dies, leaving it chargeable upon the county, and leaving an estate sufficient for its support, the county commissioners of the county, in the name of the county, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditor against that estate, and against the heirs, devisees and next of kin of the parent.

SECTION 112. A legitimate child cannot be adopted without the consent of its parents, if living, nor an illegitimate child without the consent of its mother, if living, except that such consent is not necessary from a parent deprived of civil rights or adjudged guilty of adultery, or cruelty, and for either cause divorced, or from a parent adjudged to be an habitual drunkard, or of unsound mind, or who has been judicially deprived of the custody of the child on account of cruelty or neglect. In case the child has no parent living or the consent of the parent living is not necessary under the provisions of this section, consent to the adoption may be given by the guardian, if the child has a guardian,

and if there is no guardian, consent to the adoption may be given by the person having the custody of the child, or by the next of kin of the child residing in this State.

SECTION 113. The consent of a child, if over the age of ten years, is necessary to its adoption.

SECTION 116. The child so adopted shall be deemed as respects all legal consequences and incidents of the natural relation of parent and child, the child of such parent or parents by adoption, the same as if he had been born to them in lawful wedlock.

SECTION 146. Any child who is chargeable, or whose parents are chargeable to a county, may be bound to service until attaining majority by the county commissioners as provided in this chapter; but such binding by such county commissioners must be with the consent in writing of the judge of the county court of the county.

SECTION 156. The county commissioners must see that every apprentice or other servant in their respective counties is properly treated, and that the terms of the contract are fulfilled in his favor; and it is their duty to redress any grievance of such persons in the manner prescribed by law.

SECTION 318. No power can be executed by a married woman before she attains her majority.

SECTION 377. The due incorporation of any company, claiming in good faith to be a corporation under this chapter, and doing business as such, or its right to exercise corporate powers, shall not be inquired into collaterally, in any private action to which such *de facto* corporation may be a party.

SECTION 381. All corporations not public are private. Private corporations may be formed for any purpose for which individuals may lawfully associate themselves.

SECTION 382. The instrument by which a private corporation is formed is called articles of incorporation.

SECTION 383. Private corporations may be formed by the voluntary association of three or more persons, except as otherwise expressly provided, upon complying with the provisions of this chapter.

SECTION 386. The articles of any corporation formed for the purpose of constructing wagon roads, telegraph or telephone lines must also state:

1. The place from and to which the road or line is intended to be run and all the intermediate branches.

2. The counties through which it is intended to be run.
3. The estimated length and cost of the road or line.

SECTION 387. The articles of incorporation of railway corporations shall be in compliance with Section —; of insurance corporations in compliance with Section —; of fraternal associations or corporations in compliance with Section —; of banking corporations in compliance with Section —.

SECTION 388. The articles of incorporation must be subscribed by three or more persons, one-third of whom must be residents of this State, and acknowledged by each before some officer authorized to take acknowledgments of conveyances of real property.

SECTION 398. After the Secretary of State issues the certificate of incorporation as provided in Section 392, the directors named in the articles of incorporation must proceed in the manner specified or provided in their by-laws; or, if none, then in such manner as they may by order adopt, to open books of subscription to the capital stock then unsubscribed, and to secure subscriptions to the full amount of the fixed capital; and to levy and collect assessments thereon, in the manner provided by Article Six of this Chapter.

SECTION 400. All corporations for profit must issue certificates of stock when fully paid up, signed by the president and secretary, and may provide in their by-laws for the issuance of certificates prior to the full payment, under such restrictions and for such purposes as their by-laws provide. Upon all certificates of stock which are fully paid up, issued by a corporation, shall be indorsed the words "fully paid up." When certificates of stock are issued before they are fully paid up the secretary shall, before the same are issued, indorse thereon the amount which has been paid. No corporation shall issue any certificates of stock under an agreement or with the understanding that the full par value shall not be paid. Any officer of a corporation who issues certificates of stock in violation of the provisions of this chapter, or who has knowledge thereof, and does not at the time dissent therefrom in writing, shall be liable to the creditors of the corporation and to purchasers in good faith of such stock for all damages they may sustain thereby. Whenever the capital stock of any corporation is divided into shares, and certificates thereof are issued, such shares of stock are personal property, and may be transferred by endorsement by the signature of the proprietor, or his attorney or legal representative, and delivery of the certificate; but such transfer is not valid except between the parties thereto, until the same is so entered upon the books of the corporation as to show the names of the parties by and to whom transferred, the number or designation of the shares, and the date of the transfer.

SECTION 401. No corporation shall issue stock or bonds except for money, labor done, or property, estimated at its true money value, actually received by it, and all the officers of a corporation who consent to the issuance of stock or bonds for labor or property in excess of its actual cash value, or who have knowledge thereof and do not at the time dissent therefrom in writing shall be jointly and severally liable to the creditors of such corporation for the difference between the actual cash value of such labor, or property at the time such stock or bonds were issued and the par value of the stock or bonds issued therefor.

SECTION 402. No note or obligation given by a stockholder, whether secured by pledge or otherwise, shall be considered as payment of any part of the capital stock; but the capital stock shall be paid in, either in cash, or in the manner provided in this article.

SECTION 406. Every corporation as such has power:

1. To have succession by its corporate name; for the period limited, not exceeding twenty years, if a corporation for profit, and if not a corporation for profit, perpetually, subject to the power of the Legislative Assembly as hereinbefore declared.

2. To sue and be sued in any court.

3. To make and use a common seal and alter the same at pleasure.

4. To purchase, hold, transfer and convey such real and personal property as the legitimate purposes of the corporation may require, not exceeding, in any case, any amount limited by law.

5. To appoint such subordinate officers and agents as the business of the corporation may require, and to allow them suitable compensation.

6. To make by-laws not inconsistent with the laws of the land, for the management of its property, the regulation of its affairs and for the transfer of its stock.

7. To admit stockholders or members, and to sell their stock or shares for the payment of assessments or installments.

8. To enter into any obligations or contracts essential to the transacting of its ordinary affairs, or for the purposes of the corporation.

9. The powers of banking corporations are prescribed in Sections 744 and 745.

In addition to the above enumerated powers and to those expressly given in any other statute under which it is incorporated no corporation shall possess or exercise any corporate powers, except such as are necessary to the exercise of the powers enumerated and given.

SECTION 412. All elections of directors must be by ballot and every stockholder shall have the right to vote, in person, or by proxy, the number of shares standing in his name as provided in Section 419, for as many persons as there are directors to be elected, or to accumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principal among as many candidates as he shall think fit. The persons receiving the highest number of votes shall be declared elected.

SECTION 417. Any officer of a corporation who willfully gives a certificate, or willfully makes an official report, public notice or entry in any of the records or books of the corporation, concerning the corporation or its business, which is false in any material representation, shall be liable for all damages resulting therefrom to any person injured thereby; and if two or more officers unite or participate in the commission of any of the acts herein designated, they shall be jointly and severally liable.

SECTION 421. Upon the application of any person or body corporate aggrieved by any election held by any corporate body, or any proceedings thereof, the District Judge of the district in which such election is held, must proceed forthwith summarily to hear the allegations and proofs of the parties, or otherwise inquire into the matters of complaint, and thereupon confirm the election, order a new one, or direct such other relief in the premises as accords with right and justice. Before any proceedings are had under this section, five days' notice thereof must be given to the adverse party or those to be affected thereby.

SECTION 425. Each stockholder of a corporation is individually and personally liable for the debts of the corporation to the extent of the amount that is unpaid upon the stock held by him. Any creditor of the corporation may institute joint or several actions against any or all of the stockholders of a corporation whose shares have not been fully paid up, and in such action the court must ascertain the amount that is unpaid upon the stock held by each stockholder and for which he is liable, and several judgment must be rendered against each in conformity therewith. The liability of each stockholder is determined by the amount unpaid upon the stock or shares owned by him at the time such action is commenced, and such liability is not released by any subsequent

transfer of stock. The term stockholder, as used in this section, shall apply not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appears on the books in the name of another; and also to every person who has advanced the installments or purchase money of stock in the name of a minor, so long as the latter remains a minor; and also to every guardian or other trustee who voluntarily invests any trust funds in the stock. Trust funds in the hands of a guardian or trustee shall not be liable under the provisions of this section by reason of any such investment, nor shall the person for whose benefit the investment is made be responsible in respect to the stock until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making these investments shall continue until that period. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above mentioned, so as to charge him with the debts or liabilities of the corporation; but the pledger or person, or estate represented, is to be deemed the stockholder as respects such liability.

SECTION 426. When all the stockholders or members of a corporation are present at any meeting, however called or notified, and sign a written consent thereto on the record of such meeting, the doings of such meeting are as valid as if had at a meeting legally called and noticed; but this section shall not be construed to authorize the stock or bonded indebtedness of corporations to be increased, except at a meeting held after sixty days' notice. The stockholders or members of such corporation, when so assembled, may elect officers to fill all vacancies then existing, and may act upon such other business as might lawfully be transacted at regular meetings of the corporation.

SECTION 428. Every corporation may increase or diminish its capital stock at a meeting called for that purpose by the directors, as follows:

1. Notice of the time and place of the meeting, stating its object and the amount to which it is proposed to increase or diminish its capital stock, must be personally served on each stockholder resident in the State, sixty days prior to the time of such meeting, at his place of residence, if known; and the notice must be given to stockholders whose place of residence is unknown or who are not residents in the State, by the publication of such notice in a newspaper published in the county where the principal office of the corporation is situated, not less than once a week for sixty days prior to such meeting.

2. The capital stock must in no case be diminished to an amount less than the indebtedness of the corporation, or the estimated cost of the works which it may be the purpose of the corporation to construct.

3. At least two-thirds of the entire capital stock must be represented by the vote in favor of the increase or diminution, before it can be effected.

4. A certificate must be signed by the chairman and secretary of the meeting, and a majority of the directors, showing a compliance with the requirements of this section, the amount to which the capital stock has been increased or diminished, the amount of stock represented at the meeting, and the vote by which the object was accomplished.

5. The certificate must be filed in the office of the Secretary of State, there to be recorded in the Book of Corporations, and thereupon the capital stock shall be so increased or diminished.

SECTION 429. At a meeting of the stockholders of the corporation called for that purpose by the directors, a corporation may issue bonds, as follows:

1. Notice of the time and place of the meeting, stating its object and the amount of bonds to be issued, must be served in the manner provided in the last section.

2. At least two-thirds of the entire capital stock must be represented by the vote in favor of the issuance of bonds.

3. The certificate must be signed by the chairman and secretary of the meeting and a majority of the directors, showing a compliance with the requirements of this section, the amount of bonds to be issued, the amount of stock represented at the meeting and the vote by which the object was accomplished, which certificate shall be filed in the office of the Secretary of State, there to be recorded in the Book of Corporations.

4. A violation of any of the provisions of this section shall render every director, officer and stockholder of the corporation, who had knowledge of such violation and did not dissent therefrom and cause his dissent to be entered at large upon the journal of the corporation, jointly and severally liable for all debts so created.

SECTION 431. Any private corporation created or existing, or which may hereafter be created under the laws of the State of North Dakota, may amend or change its articles of incorporation at a meeting called for that purpose by the directors, as follows:

1. Notice of the time and place of the meeting must be served in the manner prescribed in Section 428.

2. At least two-thirds of the entire capital stock must be represented by the vote in favor of the amendment or change in the articles of incorporation.

3. A certificate must be signed by the chairman and secretary of the meeting and a majority of the directors, showing a compliance with the requirements of this section; the articles to be amended or changed; the amount of stock or the number of members represented at the meeting and the vote by which the object was accomplished.

4. The certificate must be filed in the office of the Secretary of State, there to be recorded in the Book of Corporations, and thereupon the articles shall be so amended.

5. The written assent of the holders of three-fourths of the capital stock or members shall be as effectual to authorize the change or amendment of the articles of incorporation as if a meeting of the stockholders, as prescribed by this section, was called and held, and upon such written assent the directors may proceed to make the certificate to the Secretary of State, as herein provided. (Sec. 1, C. 40, 1893.)

431a. Any private corporation now existing in this State or which may hereafter be created under the laws of this State may, at any time prior to the expiration of the period of its corporate existence as limited by its articles of incorporation or by this chapter renew the term of its corporate existence for another term of years, not exceeding the period limited by law, by amending its articles of incorporation in the manner and upon the notice prescribed in Section 431.

SECTION 432. Every private corporation created and existing, or which may hereafter be created under the laws of the State of North Dakota, may change its name at a meeting called for that purpose by the directors, as follows:

1. Notice of the time and place of meeting, stating its object, must be served in the manner prescribed in Section 428.

2. At least two-thirds of the entire capital stock must be represented by the vote in favor of the change of name.

3. A certificate must be signed by the chairman and secretary of the meeting and a majority of the directors, showing a compliance with the requirements of this section, the name adopted as the new name of such corporation, the amount of stock or the

number of the members represented at the meeting and the vote by which the change of name was accomplished.

4. The certificate must be filed in the office of the Secretary of State, there to be recorded in the Book of Corporations, and thereupon the name of such corporation shall be so changed.

5. The written assent of the holders of three-fourths of the subscribed capital stock shall be as effectual to authorize the change of name as if a meeting were called and held, as prescribed by this section, and upon such written assent the president and secretary may proceed to make the certificate to the Secretary of State, as herein provided.

6. Every proceeding, act, liability, or thing done, undertaken, or incurred by or on behalf of the corporation, under its former name, shall be and continue of the same validity and obligation under such new name, as if the name had remained unchanged. (Sec. 1, C. 41, 1893.)

SECTION 465. The Legislative Assembly may at any time amend or repeal this chapter, or any article or section thereof, and dissolve all corporations thereunder; but such amendment or repeal does not, nor does the dissolution of any such corporation take away or impair any remedy given against such corporation, its stockholders or officers, nor any liability which has been previously incurred.

SECTION 466. Any number of persons, not less than five, may form a corporation for the purpose of constructing, maintaining and operating a railroad for the transportation of freight and passengers, and for the purpose of maintaining and operating any railroad already constructed for the like purpose.

The articles of incorporation shall state:

1. The name of the corporation.
2. The place from and to which such railroad is to be constructed or maintained and operated, as the case may be.
3. The estimated length of such railroad and the name of each county in this State through or into which it is made or intended to be made.
4. The amount of the capital stock of the corporation, the number of shares of which it shall consist, and if such stock shall consist of common or preferred stock, the number and amount of each class.
5. The names and residences of the directors of the corpora-

tion who shall manage its affairs for the first year, and until others are chosen in their places, and who shall not be less than five nor more than thirteen in number; and each such person shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in such corporation. There shall be annexed to such articles an affidavit of at least three of the directors therein named, that the signatures thereto are genuine, and that it is intended in good faith to construct or maintain and operate the railroad therein mentioned; and thereupon said articles and affidavits shall be filed in the office of the Secretary of State. (Sec. 1, C. 46, 1879.)

SECTION 467. There shall be a board of not less than five nor more than thirteen directors of every such corporation, who shall be elected at such time, in such manner and for such term as shall be prescribed by its by-laws, and shall hold their offices until their respective successors shall be chosen. (Sec. 3, C. 46, 1879.)

SECTION 470. Every railroad company duly organized under the laws of any State or Territory, or by the United States authorized to build and operate a railroad; within this State, which shall have filed with the Secretary of State a copy of its articles of incorporation, properly certified, shall have the right to take hold and use for the purpose of a railroad, a strip of land one hundred feet wide, fifty feet on each side of the center line of such railroad, through each and every tract of public land owned or held by the State across which its road has been or shall be located or constructed; *provided*, that when it shall be necessary to protect such railroad from snow, or to use extra width in its construction, such company shall have the right to take, hold and use a strip of land not exceeding two hundred feet in width, one hundred feet on each side of such center line, through such public lands; *provided*, further, that at all its regular stations established upon such lands, such company shall have the right to take a strip of land one thousand six hundred feet long and three hundred feet wide for station purposes. (Sec. 1, C. 99, 1893.)

SECTION 471. Whenever any school or State lands are taken for railway purposes, as provided in the preceding section, the railway company so taking such lands shall pay to the State Treasurer the appraised value thereof, but in no case any sum less than ten dollars per acre for all such lands so taken. (Sec. 2, C. 99, 1893.)

SECTION 472. Any railway company desiring to secure the benefits of Section 470 (Sec. 1, C. 99, 1893) shall, within ninety days after the definite location of its road, across any section of such lands, file in the office of the Board of University and School

Lands a plat of such section of land, showing the location of such road through the same, and all stations located thereon; and thereafter all such lands over which such road shall pass shall be disposed of subject to this grant; and every certificate or patent for such lands thereafter sold shall contain an express reservation to the use of such company, of all lands which it shall have appropriated in accordance with the provisions of this article; *provided*, that if such road shall not be completed across any such section within five years after the location of the same thereon, the rights herein granted shall be forfeited as to any such section of land. (Sec. 3, C. 99, 1893.)

SECTION 473. If any railway company, appropriating any public lands by virtue of Section 470 (Sec. 1, C. 99, 1893) shall at any time abandon the use thereof for railway purposes for a period of one year, the same shall revert to the State. (Sec. 4, C. 99, 1893.)

SECTION 474. Any railroad corporation may, under the provisions of this article, extend its road from any point named in its articles of incorporation, or may build branch roads, either from any point on its line of road, or from any point on the line of any other road connecting or to be connected with its road, the use of which other road between such points and the connection with its own road such corporation shall have secured by lease or agreement for a term of not less than ten years from its date. Before making such extension or building any such branch road, such corporation shall, by resolution of its directors, to be entered in the record of its proceedings, designate the route of such proposed extension or branch in the manner provided in section 466 (2972 C. L.), and file a copy of such record, certified by the president and secretary in the office of the Secretary of State, and cause the same to be recorded as provided in such section. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch and receive aid thereto, which it would have had if it had been authorized in its articles of incorporation. But this section shall not be construed to authorize railroad corporations to consolidate with each other. (Sec. 11, C. 46, 1879.)

SECTION 475. The board of directors of every railroad corporation may, by a vote of two-thirds of the whole number, at any time alter the route or any portion of the route of its road, or any extension or branch thereof, or part of their road, or any extension or branch as constructed, if it shall appear to them that the line can be improved thereby; but no railroad shall be so diverted from any county, town, city or village which in its corporate capacity shall have extended aid to such road, either while

in the hands of the then present owner or any former person or corporation; and no such alteration shall be made in any city or village after the road shall have been constructed therein, unless the same shall have been sanctioned by a vote of two-thirds of the council of such city, or the trustees of such village. Before making any such alteration the board of directors shall designate the route thereof by resolution, to be entered in its records, filed and recorded in the office of the Secretary of State, as provided in the preceding section; thereupon it shall have the same rights and privileges to build such road as altered, as if it were the original line. (Sec. 12, C. 46, 1879.)

SECTION 476. Any railroad corporation organized and existing under the laws of the Territory of Dakota or State of North Dakota, or existing by consolidation of different railway companies under the laws of such Territory or State, and of any other Territory or State, may consolidate its stock, franchises and property with any other railroad corporation, whether within or without the State, when their respective railroads can be lawfully connected and operated together, to constitute one continuous main line, with or without branches, upon such terms as may be agreed upon, and become one corporation by any name selected, which within this State shall possess all the powers, franchises and immunities, including the right of further consolidations with other corporations under this section, and be subject to all liabilities and restrictions of this chapter. Articles stating the terms of consolidation shall be approved by each corporation by a vote of the stockholders owning a majority of the stock in person or by proxy, at a meeting called for that purpose, of which notice, stating the object of the meeting, shall be heard in the manner prescribed by Section 428 (2936 C. L.); and a copy thereof, with a copy of the records of such approval, and accompanied by lists of their stockholders, and the number of shares held by each, duly certified by their respective presidents and secretaries, with the respective seals of such corporations affixed, shall be filed for record in the office of the Secretary of State before any such consolidation shall have any validity or effect. Any such railroad corporation may lease or purchase, and take a conveyance or assignment of the railroad, franchises, immunities and all other property and appurtenances of any other railroad corporation, or any portion thereof, within or without this State, when their respective railroads can be lawfully connected and operated together to constitute one continuous main line, or when the road so purchased will constitute branches or feeders of any road maintained and operated by such purchasing corporation. Such purchase or lease must be authorized by the stockholders of the respective corporations at a meeting called as herein provided for the con-

solidation of railroads and by the same vote. But no railroad corporation shall consolidate with, or lease or purchase, or in any way become owner of, or control any other railroad corporation or any stock, franchises, rights, or property thereof, which owns and controls a parallel and competing line. In no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies consolidated at the par value thereof, nor shall any bonds or other evidences of debt be issued as a consideration for or in connection with such consolidation. (Sec. 13, C. 46, 1879; Sec. 1, C. 91, 1883.)

SECTION 486. Every railroad corporation shall make an annual report to the stockholders of its operations during the year ending on the thirtieth day of June, which report shall be verified by the affidavit of the secretary, treasurer, superintendent and directors of the corporations, and shall state:

1. The length of the road in operation; the length of single track; the length of double track; the weight of the rail per yard.

2. The capital stock actually subscribed and the amount paid thereon.

3. The whole cost of the road, showing the amount expended for the right of way, bridging, grading, iron and buildings respectively, and for all other purposes incidental to the construction of such road.

4. The amount and nature of its indebtedness, distinguishing the first, second and third mortgage bonds, and the unsecured indebtedness, and the amount due the corporation.

5. The amount received for the transportation of passengers, property and mails, for interest, and from other sources respectively.

6. The amount of freight, specifying the quantity in tons or other usual mode of measurement.

7. The amount paid for the repairs of the road, buildings, engines and cars respectively; for fuel, taxes and interest, specifying the indebtedness on which the same is paid; for wages of employes; the aggregate amount paid for salaries of officers, and for any other purpose incidental to the business of transportation so as to give a complete statement of the entire annual expense of the corporation.

8. The amount of loss to the corporation paid for loss and damage to freight and injury to person and property.

9. The number and amount of dividends, and when made, and in what manner such dividends have been paid.

10. The amount appropriated to sinking fund, and the manner in which the same has been applied, and the total amount then held by such sinking fund.

11. The number of persons killed or injured, the causes thereof and whether passengers or persons employed by the corporation.

12. Whether any such accidents have arisen from carelessness or negligence of any person in the employ of the corporation, and whether such person is retained in the service of such corporation. The secretary of each railroad corporation shall mail to every stockholder thereof, whose postoffice address is known, a copy of its annual report and shall file a certified copy thereof with the Railroad Commissioners on or before the 15th day of September in each year. (Sec. 22, C. 46, 1879.)

SECTION 487. Every railroad corporation organized and doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in the State for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, and the transfers of said stock; the amount of its assets and liabilities and the names and places of residences of its officers. Any corporation violating any of the provisions of this section or of Section 486 (2995 C. L.) shall, upon conviction thereof in any district court, be subject to a penalty of not less than one hundred and not more than five thousand dollars, and its corporate rights shall be subject to forfeiture.

SECTION 489. Every railway company owning or operating a railway line in this State is hereby required to run a train of cars over its lines and branches of any line one way during every week day of the year, unless prevented by storm, accident, or other cause over which the railroad company has no control. (Sec. 1, C. 103, 1893.)

SECTION 490. For each and every violation of the provisions of the last section the railway company shall be subject to a fine of five hundred dollars. (Sec. 2, C. 103, 1893.)

SECTION 499. Every train of cars and every locomotive about to cross the track of another railroad shall come to a full stop before arriving at or crossing the track of such other, and within four hundred feet thereof; and the train or locomotive arriving

near such crossing first, shall cross and move on first; and every such train or locomotive shall also come to a full stop before crossing or running upon any draw-bridge over a stream which is regularly navigated by vessels during the season when such stream is so used for navigation, and the use of such draw is necessary for the passage of boats, vessels and other crafts, navigating the waters of such stream, at a distance from such bridge of not more than six hundred feet; *provided*, that no such stop need be made before crossing such draw-bridge or railroad crossing of railroads operated by the same company, if, at the time, an employe of the company shall be standing on such bridge or crossing, with a proper light by night, or flag by day, and signal such train to proceed.

SECTION 514. All railroad corporations doing business in this State shall file with the county auditor of each county, in which such railroad or any part thereof may be located, a map showing the correct location of all right of way and side tracks in such county owned or occupied by such railroad corporation and also showing the number of acres in each parcel of land included by such railroad corporation or any of them in such county as right of way. (Sec. 1, C. 130, 1890.)

SECTION 515. Any railroad corporation which may hereafter acquire any right of way or other property, as set forth in the last section shall file, within six months after the location of its right of way, a map as provided for in the last section. (Sec. 2, C. 130, 1890.)

SECTION 516. Any railroad corporation which shall violate any of the provisions of the last two sections, shall, upon conviction thereof, be fined in a sum of not less than one hundred dollars nor more than five hundred dollars. (Sec. 3, C. 130, 1890.)

SECTION 517. All railway companies operating a line of railway in this State, shall build or cause to be built and kept in repair, good and sufficient crossings over such line at all points where any public highway in use is now or may hereafter be intersected by the same. (Sec. 1, C. 127, 1890.)

SECTION 518. Such crossing shall be constructed as follows:

1. Of a grade of earth on one or both sides of the railroad track, as the location may require, twenty feet in width, the middle point of which shall be as nearly as practicable at the middle point of the highway, and such grade shall be of such slope as shall be necessary for the safety and convenience of the traveling public.

2. Plank shall be firmly spiked on, and for the full length of, the ties used in the road-bed of such railway, where such crossing occurs, and shall be laid not more than one inch apart, except where the rail prevents; the plank next inside of the rail shall not be more than two and one-half inches from the inside surface of such rail, and the plank used in the crossing shall be not less than three inches in thickness, and so laid that the upper surface of the plank shall be on a level with the upper surface of the rail; such plank shall extend along the railway the entire width of the highway grade, and in no case less than twenty feet. (Sec. 2, C. 127, 1890.)

SECTION 519. Any railroad company which shall violate any of the provisions of the last two sections shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, and shall be liable for all damages caused thereby. (Sec. 5, C. 127, 1890.)

SECTION 520. The three persons elected Railroad Commissioners, pursuant to the provisions of Section 82 of the Constitution of this State, constitute and shall be known and designated as the "Board of Railroad Commissioners of the State of North Dakota." They shall have power to elect one of their number president of such board and to appoint a secretary.

SECTION 521. No person in the employment of, or owning any stock or bonds, or otherwise pecuniarily interested in, or an officer of any railroad, freight or transportation company, public warehouse or elevator, operated in this State, shall be eligible to the office of Railroad Commissioner. (Sec. 2, C. 110, 1889.)

SECTION 522. Such commissioners, before entering upon the duties of their office, shall take and subscribe the following oath, which shall be filed in the office of the Secretary of State, viz:

I do solemnly swear (or affirm) that I will support the Constitution of the State of North Dakota, and that I will faithfully discharge the duties of Railroad Commissioner to the best of my ability; that I am not in the employment of, and that I own no stock or bonds of, and am not otherwise pecuniarily interested in, nor an officer of any railroad, freight or transportation company, public warehouse or elevator operated in this State.

And each of such commissioners shall give at the same time a bond to the State in the sum of ten thousand dollars, with sureties to be approved by the State President, conditioned for the faithful discharge of his duties, which bond shall be filed in the office of the Secretary of State.

SECTION 523. The salary of each commissioner shall be two thousand dollars per annum; the salary of the secretary shall be one thousand dollars per annum. Such commissioners shall keep their office at the seat of government, and shall be provided with a suitable room, necessary office furniture, stationery, books and maps, the expense thereof to be paid out of the State treasury, but the total sum therefor shall not exceed five hundred dollars per year. The accounts for all payments authorized by this section, except salary, shall be audited only when approved by the Governor.

SECTION 524. Such commissioners, and the persons in their official employment, shall, when in the performance of their official duties, have the right to pass free of charge on all railroads, steamers, vessels and boats, and on all vehicles employed in or by any railroad or other transportation company, engaged in the transportation of freight and passengers within this State.

SECTION 525. Such board shall have general supervision of all railroads in this State and all freight and passenger transportation and traffic thereon or connected therewith, and shall inquire into any neglect or violation of the laws of the State by any railroad company, its officers, agents, or employes, doing business therein, and shall from time to time carefully examine and inspect the condition of each railroad in the State, and all railway stations and passenger and freight depots and buildings and the conduct and management of such railroad with reference to the safety and convenience of the public. (Sec. 3, C. 110, 1889.)

SECTION 526. The Attorney General of the State of North Dakota shall be ex-officio attorney for the Board of Commissioners of Railroads, and shall give it such counsel and advice as it may from time to time require; and he shall institute and prosecute any actions which such board may deem it proper and expedient to prosecute; and he shall render such board all counsel, advice and assistance necessary to carry out the provisions of any law of this State, according to the true intent and meaning thereof. It shall also be the duty of the States' Attorney in every county, on request of such board, to institute and prosecute and to appear and defend for such board in any and all actions and proceedings which he shall be requested by such board to institute and prosecute and to appear in all actions and proceedings to which the board is a party. Such board shall have power to employ additional counsel to assist such Attorney General or States' Attorney, when in its judgment the exigencies of the case may so require. The fee of such additional counsel shall be determined by the Gov-

error and paid by the State. (Sec. 17, C. 110, 1889; Sec. 9, C. 122, 1890.)

SECTION 527. Such Board of Railroad Commissioners shall, on or before the first Monday of November of each year, make a report to the Governor of their doings for the preceding year, containing such facts, statements and explanations as will disclose the workings of the system of railroad transportation in this State and its relation to the general business and prosperity of the citizens of this State, and such suggestions and recommendations in respect thereto as may to them seem appropriate. Such report shall also contain as to every railroad company doing business in this State:

1. The amount of its capital stock.
2. The amount of its preferred, if any, and the character of its preferment.
3. The amount of its funded debt and the rate of interest.
4. The amount of its oating debt.
5. The cash and present value of its road and equipment in this State, including permanent way, buildings and rolling stock, all real estate used exclusively in operating the road, and fixtures and conveniences for transacting its business.
6. The estimated cash value of all property owned by such railroad company in this State with a schedule of the same, not including lands granted in aid of its construction.
7. The number of acres situated in this State originally granted in aid of the construction of such road by the United States or by this State.
8. The number of acres of such land remaining unsold.
9. A list of the officers and directors with their respective places of residence.
10. Such statistics of the road and of the transportation and business for the year within this State as may in the judgment of the commissioners be necessary and proper for the information of the Legislative Assembly, or as may be required by the Governor; such report shall exhibit and refer to the condition of the railroad company at the close of business June 30, and the details of its transportation business transacted during the year ending June thirtieth.
11. The average amount of tonnage that can be carried over each road within the State with one engine of given power.

SECTION 540. It shall be unlawful for any common carrier, subject to the provisions of this article, to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same lines, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, within the terms of this article, to charge and receive as great compensations for a shorter as for a longer distance; *provided*, however, that upon application to the Commissioners of Railroads, such common carrier may, in special cases, after investigation by the Commissioners of Railroads, be authorized to charge less for a longer than for shorter distances for the transportation of passengers or property, and the Commissioners of Railroads may, from time to time, prescribe the extent to which such designated common carrier may be relieved from the operation of this section. (Sec. 1, C. 95, 1891.)

SECTION 542. When any railroad company, doing business in this State, shall be unable from any reasonable cause to furnish cars at any railway station for side-track in accordance with the demands made by all persons demanding cars at such station or side-track for the shipment of freight in carload lots, such cars as are furnished shall be divided daily equally among the applicants in the order of their application until each shall have received one car, when the remainder shall be divided ratably among the several shippers in the proportion that the carload lots of freight offered by each bear to the entire number of carload lots of freight offered at such station or side-track on that day; *provided*, that every application made in good faith on an earlier day shall be filled before supplying any to any applicant of a succeeding day. (Sec. 7, C. 110, 1889.)

SECTION 544. Every common carrier subject to the provisions of this article, shall print and keep for public instruction, schedules showing the classification, rates, fares and charges for the transportation of passengers and property of all kinds and classes which such common carrier has established, and which are in force at the time, upon its railway, as defined by Section 531. This schedule printed as aforesaid by such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force upon each of the lines of such railroad, a distance tariff, and a table of inter-station distances, and shall also state separately the terminal charges, and any rules or regulations which in any way change, affect, or determine any part of the aggregate of such aforesaid rates, fares and

charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept in every depot or station upon any such railroad in such places and in such form that they can be conveniently inspected. (Sec. 8a, C. 122, 1889.)

SECTION 545. No change of classification shall be made and no change shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier, in compliance with the requirements of this section, without the order or by the authority of the Railroad Commissioners, except after ten days public notice, which notice shall plainly state the changes proposed to be made in the schedules then in force, and the time when the changed schedules will go into effect, and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. (Sec. 8b, C. 122, 1890.)

SECTION 552. The Commissioners of Railroads shall have authority to inquire into the management of the business of all common carriers, subject to the provisions of this article, and shall keep themselves informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information, necessary to enable the commissioners to perform the duties and carry out the objects for which they were created; in order to enable such commissioners efficiently to perform their duties under this article, it is hereby made their duty to cause one of their number to visit the various stations on the lines of each railroad as often as practicable, and at least once in twelve months, to visit each county in the State in which is or shall be located a railroad station, and personally inquire into the management of such railroad business, and for this purpose all railroad companies and common carriers and their officers and employes, are required to aid and furnish each of the commissioners with reasonable and proper facilities and each or all of the commissioners shall have the right, in his or their official capacity, to pass free on any railroad train on all railroads in this State, and to enter and remain in at all suitable times any and all cars, offices or depots, on or upon the railroads of any railroad company in this State, in the performance of official duties; and whenever, in the judgment of the commissioners, it shall appear that any common carrier fails in any respect or particular to comply with the laws of this State, or whenever in their judgment any repairs are necessary upon its railroad, or any addition to or change of its stations or station house is necessary, or any change in the mode of operating its road or conducting its business is reasonable or expedient in order to promote the security, convenience and accommodation of the public, such commissioners shall make an order requiring such common car-

rier to comply with such law, or to make such repairs or addition or change, specifying the same particularly and shall cause such order to be served upon the carrier to be effected thereby, which service may be made in the manner provided in Section 548; and if such common carrier shall neglect or refuse to comply with such order, the commissioners may, in their discretion, cause actions or proceedings to be instituted to enforce the same as provided in this article. (Sec. 10a, C. 122, 1890.)

SECTION 571. The board of commissioners are hereby directed to require annual reports from all common carriers subject to the provisions of this article, to prescribe the manner in which such report shall be made, and to require from such carriers specific answers to all questions upon which the commissioners may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipment, the number of employes and the salary paid each class, the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts of each branch of business, and from all sources, the operating, and other expenses; the balance of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet; also the total number of acres of land received as grants from the United States, the number of acres of such grants sold, and the average price received per acre, the number of acres of grants unsold and the appraised value per acre. Such detailed reports shall also contain such information in relation to rates or regulations concerning fares or freights and agreements, arrangements, or contracts with express companies, telegraph companies, sleeping and dining car companies, fast freight lines, and other common carriers, as the commissioners may require, with copies of such contracts, agreements, or arrangements. (Sec. 17a, C. 122, 1890.)

SECTION 572. Nothing in this article contained shall in any way abridge or alter the remedies now existing at law or in equity, but the provisions of this article are in addition to such remedies. No pending litigation shall in any way be affected by this article. Witnesses summoned before the commission shall be paid the same fees and mileage as are paid witnesses in the district court. All expenses of the commission in making an investigation or examination in any other place than the city of Bismarck, shall be allowed and paid out of the State treasury on the presentation of

itemized vouchers therefor, approved by the chairman of the commission and the State Auditor. (Sec. 18c, C. 122, 1890.)

SECTION 573. Any railroad company doing business in this State, when requested by any person wishing to ship grain on its road shall receive and transport such grain in bulk, and permit the same to be loaded either on its track adjacent to its depot, or at any warehouse or side-track, at any station, without discrimination or distinction as to the manner or condition in which such grain is offered for transportation, or as to the person, corporation, warehouse, elevator, or place where, or to which it may be consigned, and shall receive the same, in car load lots, from wagons, sleighs, or other vehicles, on its side-tracks at any station, the same as when offered from warehouses or elevators, allowing a reasonable time for loading them, and for the purpose of loading the same, shall place the cars in convenient places, easy of access by wagon, or sleighs, or other vehicles, and shall after the same have been loaded, whether at side-track, elevator, warehouse, or depot, without unnecessary delay, proceed to ship the same to the place where the same is consigned. (Sec. 5, C. 110, 1889.)

SECTION 578. Every railroad company doing business in this State shall, within sixty days after notice from the Commissioners of Railroads, erect one or more platforms for the transfer of live stock, grain and other commodities, from wagons or otherwise, to cars at each and every station designated in such notice; such platforms to be erected so as not to endanger life and property. If any railroad company, after receiving notice as provided for in this section, shall fail, refuse or neglect to erect such platform as required by this and the following section, within the required sixty days, the Commissioners of Railroads are hereby authorized and empowered, and it is made their duty, to notify such railroad company to appear before them at a certain time and place to show cause, if any there is, why such commissioners should not issue an order requiring such railroad company to comply with the requirements of this section. The Commissioners of Railroads shall have power after such hearing to issue an order upon such railroad company, commanding them to erect such platform if the commissioners shall, upon such examination and hearing, deem such platform necessary. (Sec. 1, C. 123, 1890; H. B. No. 2, Sp. Sec. 1, 1892.)

SECTION 579. Each platform shall be not less than twelve feet wide and thirty-two feet long, extending four feet and six inches, or such height as shall be determined by the Railroad Commissioners, above the rails of the track, with suitable approaches to and from such platforms to admit of the driving of loaded teams thereon. (Sec. 2, C. 123, 1890; H. B. No. 2, Sp. Sec. 2, 1892.)

SECTION 582. Every railroad company neglecting or refusing to comply with the requirements of the last four sections shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than five hundred dollars for every thirty days such failure shall continue after notice as aforesaid. (Sec. 3, C. 123, 1890.)

SECTION 583. In all cases where any line of railroad shall cross or intersect any other line of railroad in this State on the same grade, it shall be the duty of the railroad companies owning or operating such intersecting railroad lines to provide at such crossing or intersection suitable and sufficient facilities, such as building Y or other tracks and connections for transferring cars or traffic of all kinds and classes from one such line of railroad to another, and to maintain the same and to afford equal and reasonable facilities for the interchange of cars and traffic between the respective lines. (Sec. 1, C. 105, 1893.)

SECTION 584. Upon the failure of any railroad companies to build or maintain Y or other tracks and suitable connections at railroad crossings in accordance with the last section, it shall be the duty of the Board of Railroad Commissioners to serve notice in writing upon such companies, requiring them to construct and maintain such Y or other tracks and connections within sixty days from the date of the service of such notice. (Sec. 2, C. 105, 1893.)

SECTION 585. Any railroad company that shall fail to comply with such notice shall be subject to a fine of one hundred dollars for each day during which it fails so to comply after the expiration of the time specified in the notice, and it shall be the duty of the Attorney General or the states' attorney of any county in which such Y or other tracks are to be constructed and maintained, upon demand of the Board of Railroad Commissioners, to commence and prosecute all actions necessary for the recovery of such fine.

SECTION 586. No railroad company doing business as a common carrier within this State shall charge or receive for the transportation of coal from any station or siding within the State a greater rate per ton than the following: For the first fifty miles or fractional part thereof, seventy-five cents per ton; for any distance over fifty miles and not exceeding one hundred miles, ninety-five cents per ton; for any distance over one hundred miles and not exceeding one hundred and fifty miles, one dollar and fifteen cents per ton; for any distance over one hundred and fifty miles and not exceeding two hundred miles, one dollar and thirty-five cents per ton; for any distance over two hundred miles and not exceeding two hundred and fifty miles, one dollar and fifty-five cents per ton; for any distance over two hundred and fifty

miles and not exceeding three hundred miles, one dollar and seventy-five cents per ton; for any distance over three hundred miles and not exceeding three hundred and fifty miles, one dollar and ninety-five cents per ton; for any distance over three hundred and fifty miles and not exceeding four hundred miles, two dollars and fifteen cents per ton. (Sec. 1, C. 101, 1893.)

SECTION 587. A railroad company violating any of the provisions of the last section shall be subject to a fine of not less than twenty-five dollars per day for each and every day during which such violation shall continue, to be recovered by any person prejudiced by such violation. (Sec. 2, C. 101, 1893.)

SECTION 600. When consistent with the context and not obviously used in a different sense the term "company" or "insurance company," as used herein, includes all corporations, associations, partnerships, or individuals engaged as principals in the business of insurance; the word "domestic" designates those companies incorporated or formed in this State, and the word "foreign" when used without limitation, includes all those formed by authority of any other state or government.

SECTION 601. All insurance companies now or hereafter incorporated or formed by authority of any law of this State, except where otherwise expressly provided, may exercise the powers and shall be subject to the duties and liabilities provided by this article. The general provisions of law relating to the powers, duties and liabilities of corporations shall apply to all incorporated domestic insurance companies, so far as such provisions are pertinent and not in conflict with other provisions of law relating to such companies.

SECTION 602. Any number of persons, not less than seven, may form a corporation to carry on the business of insurance, either upon the stock or mutual plan, against loss or damage by fire, lightning, cyclone, tornado or hail, or the risks of inland navigation and transportation, or to make insurance upon the lives of persons and every insurance pertaining thereto, and against accidental injuries, including the granting, purchasing and paying of annuities and indemnities, and to transact fidelity insurance and corporate suretyships. An insurance company incorporated under the provisions of this article shall have power to make insurance of any of the kinds hereinbefore mentioned, which shall have been expressed in its articles of incorporation. (Sec. 1, C. 69, 1885; Sec. 1, C. 73, 1891.)

SECTION 603. The articles of incorporation shall set forth in addition to what is required to be set forth in Section 385 (2902 C. L.), the kind of insurance proposed to be made, and whether

on the stock or mutual plan; the period for the commencement and termination of its fiscal year and the period for which it is incorporated, not to exceed thirty years, and shall be filed in the office of the Commissioner of Insurance. Any name not previously in use by an existing corporation, may be adopted, but the words "insurance company," or, if the business is to be conducted upon the mutual principal, the words "mutual insurance company," shall constitute a part of such name. No certificate shall be granted by the Insurance Commissioner, as hereinafter provided, if, in his judgment, the name adopted too closely resembles the name of an existing corporation, or is liable to mislead the public. (Sec. 4, C. 69, 1885.)

SECTION 604. One-third of the directors and all of the executive officers of a domestic insurance company must be residents of this State and each of the directors of such a company, if it has a capital stock, must be the owner in his own right of stock of such company worth at par at least five hundred dollars.

SECTION 605. The articles of incorporation shall be examined by the Attorney General and if found conformable to this article and not inconsistent with the Constitution and laws of this State, shall be certified by him to the Commissioner of Insurance, who shall thereupon make an examination to ascertain whether the company has in all respects complied with the requirements of law, according to the nature of the business proposed to be transacted by it and if satisfied by such examination that the corporation has complied with the law he shall deliver to such corporation a certified copy of the articles of incorporation and a certificate, to the effect that such corporation has complied with all requirements of law, which, on being filed in the office of the register of deeds of the county where the principal office of the corporation is located, shall be its authority to commence business and issue policies; and such certified copy of the articles of incorporation and of such certificate may be used for or against such company with the same effect as the originals, and shall be conclusive evidence of the fact of the organization of such corporation. (Sec. 11, C. 69, 1885.)

SECTION 606. Any domestic insurance company shall have power to effect reinsurance of any risks taken by it. (Sec. 2, C. 69, 1885.)

SECTION 607. No company organized under this article shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise, or other commodities whatever, except such as may have been insured by such company and are claimed to be damaged by reason of the risk insured against. (Sec. 5, C. 69, 1885.)

SECTION 608. No domestic insurance company shall purchase, hold, or convey real estate except for the purpose and in the manner herein set forth, to-wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith as security for loans previously contracted, or for money due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in legitimate business, or for money due; or,

4. Such as shall have been purchased at sales upon judgment or mortgage foreclosures obtained or made for such debts. (Sec. 10, C. 69, 1885; Sec. 3, C. 69, 1889).

SECTION 609. A domestic insurance company may invest its capital and the funds accumulated in the course of its business, or any part thereof, in bonds or mortgages on improved unincumbered real estate within this State, worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured and the policies made payable to the company as its interest may appear, and also in the bonds of this State, or bonds or treasury notes of the United States, and also in the bonds of any county or incorporated city in this State, authorized to be issued by the Legislative Assembly, and loan such capital and funds, or any part thereof, on the security of such bonds, treasury notes, or upon bonds or mortgages as aforesaid, and change and reinvest the same in like securities as occasion may from time to time require; but the surplus money over and above the capital stock of such insurance company may be invested in or loaned upon the pledge of bonds of the United States, or any of the States or stocks, bonds, or other evidence of indebtedness of any solvent, dividend-paying institution incorporated under the laws of this State, or of the United States, except its own stock; *provided*, always, that the market value of such stock, bonds, or other evidence of indebtedness shall be, at all times during the continuance of such loan, at least ten per cent more than the amount loaned thereon. No domestic insurance company shall invest or loan its capital, or the funds accumulated in the course of its business, or any part thereof, except as provided in this section. (Sec. 9, C. 69, 1885; Sec. 2, C. 69, 1889.)

SECTION 610. No domestic insurance company shall make any dividends except from the surplus profits arising from its business; and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent of the amount of premiums on all unexpired risks and policies, which amount so reserved, is

hereby declared to be unearned premiums; and there shall also be reserved all sums due the company on bonds, mortgages, stocks and book accounts of which no part of the principal or interest thereon has been paid during the year preceding such estimate of the profits, and upon which suit for foreclosure or collection has been commenced, or which, after judgment has been obtained thereon, shall have remained more than one year unsatisfied and on which interest shall not have been paid. (Sec. 13, C. 69, 1895.)

SECTION 611. Any director or officer making or authorizing an investment or loan in violation of Section 609, shall be personally liable to the stockholders for any loss occasioned thereby. If a company is under liability for losses equal to its net assets and the president and directors, knowing it, make or assent to further insurance, they shall be personally liable for any loss under such insurance. If the directors allow to be insured on a single risk a larger sum than the law permits, they shall be liable for any loss thereon above the amount they might lawfully insure, unless the excess is reinsured, as required in Section 631.

SECTION 612. No stock company shall be incorporated under this chapter unless it has a capital stock of at least one hundred thousand dollars, twenty-five per cent of which must be paid in previous to the issuance of any policy and the residue within twelve months from the time of filing the articles of incorporation. No fire, cyclone, tornado, hail, marine, life or accident insurance company of any other state, territory or nation, shall do business in this State unless it has a paid up capital stock of at least two hundred thousand dollars in available cash assets, over and above all liabilities for losses reported, expenses, taxes and reinsurance of all outstanding risks. (Sec. 6, C. 69, 1885.)

SECTION 613. The individuals associated for the purpose of organizing an insurance company under this article, after having filed the articles of incorporation as required by Section 603, may open books for subscriptions to the capital stock of such corporation, and keep the same open until the full amount specified in the articles of incorporation is subscribed. (Sec. 8, C. 69, 1885.)

SECTION 614. Whenever it appears to the Commissioner of Insurance that the capital of a domestic insurance company is impaired to the extent of one-fourth or more on the basis fixed in Section 610, he shall notify the company that its capital is legally subject to be made good in the mode provided by Section 615, and if such company shall not within three months after such notice satisfy him that it has fully repaired its capital, or reduced its

capital as provided in Section 616, he shall institute proceedings against in accordance with Section 642.

SECTION 615. Whenever the net assets of a company do not amount to more than three-fourths of its original capital, it may make good its original capital to the original amount by assessment of its stock. Shares on which such an assessment is not paid within sixty days after demand shall be forfeitable, and may be cancelled by a vote of the directors, and new shares issued to make up the deficiency. If such company shall not within three months after notice from the Commissioner of Insurance to that effect, make good its capital as aforesaid, or reduce the same as allowed by the next section, its authority to transact new business of insurance shall cease.

SECTION 616. When the capital stock of a company is impaired, such company may, upon a vote of the majority of the stock represented at a meeting legally called for that purpose, reduce its capital stock and the number of shares thereof to an amount not less than the minimum sum required by law. But no part of its assets and property shall be distributed to its stockholders. Within ten days after such meeting the company shall submit to the Insurance Commissioner a certificate setting forth the proceedings thereof and the amount of such reduction and the assets and liabilities of the company, signed and sworn to by its president, secretary and a majority of its directors. The commissioner shall examine the facts in the case, and if the same conform to law, and in his judgment the proposed reduction may be made without prejudice to the public he shall endorse his approval upon the certificate. Upon filing the certificate, so endorsed, the company may transact business upon the basis of such reduced capital, as though the same were its original capital, and its articles of incorporation shall be deemed to be amended to conform thereto; and the Commissioner of Insurance shall issue his certificate to that effect. Such company may, by a majority vote of its directors after such reduction, require the return of the original certificates of stock held by each stockholder in exchange for new certificates in lieu thereof for such number of shares as each stockholder is entitled to in the proportion that the reduced capital bears to the original capital.

SECTION 617. When the actual funds of a domestic life insurance company, exclusive of its capital, are not of a net cash value equal to its liabilities, the Commissioner of Insurance shall notify such company and its agents to issue no new policies until its funds become equal to its liabilities.

SECTION 618. No transfer of the stock of any domestic insurance company made during the pendency of any examination will

release the party making the transfer from his liability for loss which may have occurred previous to the transfer. (Sec. 32, C, 69, 1885; Sec. 7, C, 69, 1889.)

**SECTION 619.** No policy shall be issued by a purely mutual insurance company until not less than two hundred thousand dollars of insurance, in not less than one hundred separate risks, has been subscribed for and entered on its books; but the provisions of this section shall not apply to county mutual insurance companies.

**SECTION 620.** Every person insured by a domestic mutual insurance company, other than life, shall be a member while his policy is in force entitled to one vote for each policy he holds, and shall be notified of the time and place of holding its meetings by a written notice or by an imprint upon the back of each policy, receipt, or certificate of renewal, as follows, to-wit:

The assured is hereby notified that by virtue of this policy he is a member of the.....mutual insurance company, and that the annual meetings of said company are held at its home office on the.....day of.....in each year at.....o'clock.

The blanks shall be duly filled and the same shall be deemed a sufficient notice.

**SECTION 621.** Every person insured by a domestic mutual life insurance company shall be a member entitled to one vote, and one vote additional for each five thousand dollars of insurance in excess of the first five thousand dollars, and shall be notified of its annual meetings in the manner provided in the last section.

**SECTION 622.** Members may vote by proxy dated and executed within three months, and returned and recorded on the books of the company, three days or more, before the meeting at which they are to be used; but no person shall be allowed as proxy or otherwise to cast more than fifty votes, and no officer shall himself, or by another, ask for, receive, procure to be obtained, or use a proxy vote.

**SECTION 623.** Mutual insurance companies shall charge and collect upon their policies the full mutual premium in cash or notes absolutely payable, and may in their by-laws fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by their cash funds; provided, that such contingent liability of a member shall not be less than a sum equal to and in addition to the cash premium written in his policy. The total amount of the liability of a policy holder shall be plainly and legibly stated upon the back of each policy.

SECTION 624. Any mutual insurance company may, at a meeting called for that purpose, provide for the accumulation of a permanent fund, by reserving a portion of the net profits to be invested and be a reserve for the security of the insured. Such reservation shall not exceed twenty per cent of said net profits, and when the fund so accumulated amounts to two per cent of the sum insured by all policies in force, the whole of the net profits, shall be divided among the insured at the expiration of their policies. The permanent fund so accumulated shall be used for the payment of losses and expenses, whenever the cash funds of the company in excess of an amount equal to its liabilities are exhausted; and whenever the said fund is drawn upon, the reservation of profits as aforesaid shall be renewed or continued until the limit of accumulation as herein provided is reached.

SECTION 625. Every member of a mutual insurance company, except a mutual life insurance company, when his policy expires shall be entitled to be paid in cash his share of the net profits or surplus accrued while his policy was in force; and shall in like manner be liable to pay his proportionate part of any assessments which may be laid by the company in accordance with law and his contract on account of losses and expenses incurred while he was a member.

SECTION 626. Every domestic mutual life insurance company shall annually, or once in every two, three, four, or five years as it shall determine, and as may be conditioned in its policies, make distribution of all surplus it may have accumulated since its last dividend of surplus. By such surplus is here intended all accumulations since its last distribution of surplus above its debts and reserve computed as provided in Section 610. The distribution shall be upon what is known as the contribution plan, and each member upon whose policy no premium is overdue and unpaid shall be entitled to the amount contributed by his policy to such surplus. Policies which have become payable before the time when such distribution is made, and after the date of the last previous distribution, shall share in the same equitably and proportionately.

SECTION 627. Whenever a mutual insurance company, other than life, is not possessed of cash funds above its reinsurance reserve sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon its members liable to assessment therefor in proportion to their several liability. The company shall cause to be recorded in a book kept for that purpose the order for such assessment together with a statement which shall set

forth the condition of the company at the date of the order, the amount of its cash assets and of the notes of its policy holders, or other contingent funds, liable to the assessment, the amount the assessment calls for and the particular losses or other liabilities it is made to provide for. Such record shall be made and signed by the directors who voted for the order before any part of the assessment is collected, and any person liable to the assessment may inspect and take a copy of the same.

SECTION 628. When by reason of depreciation or loss of its funds, or otherwise, the cash assets of such a company after providing for its other debts are less than the required premium reserve upon its policies, it shall make good the deficiency by assessment in the mode provided in the last section; or if the directors are of the opinion that the company is likely to become insolvent, they may, instead of such assessment, make two assessments, the first determining what each policy holder must equitably pay or receive in case of withdrawal from the company and having his policy cancelled; the second, what further sum each must pay in order to reinsure the unexpired term of his policy at the same rate as the whole was insured at first. Each policy holder shall pay or receive according to the first assessment, and his policy shall then be cancelled, unless he pays the further sum determined by the second assessment, in which case his policy shall continue in force; but in neither case shall a policy holder receive or have credited to him more than he would have received on having his policy cancelled by a vote of the directors under the by-laws. If within two months after such alternative assessments have become collectable, the amount of the policies whose holders have settled for both assessments is less than two hundred thousand dollars, the company shall cease to issue policies; and all policies whose holders have not settled for both assessments, shall be void, and the company shall continue only for the purpose of adjusting the deficiency or excess of premiums among the members and settling outstanding claims. No assessment shall be valid against a person who has not been duly notified thereof within two years after the expiration or cancellation of this policy.

SECTION 629. If the directors of any mutual insurance company shall neglect or omit for the space of six months to lay and use reasonable diligence to collect any assessment they are required to make, they shall be personally liable for all debts and claims then outstanding against the company, or that may accrue until such assessment is laid and put in process of collection. If the treasurer of such company unreasonably neglects to collect an assessment made by order of the directors and to apply

the same to the payment of the claims for which it was made, he shall be personally liable to the party having such claims for the amount of the assessment; and he may repay himself out of any money afterwards received for the company on account of said assessment.

SECTION 630. No foreign insurance company shall directly or indirectly take any risks or transact the business of insurance in this State until:

1. It shall deposit with the Insurance Commissioner a certified copy of its articles of incorporation and a statement of its financial condition and business, in such form and detail as he may require, signed and sworn to by its president and secretary or other proper officer.

2. It shall satisfy the Insurance Commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; that it has a fully paid up and unimpaired capital, exclusive of stockholders' obligations of any description, of an amount not less than is required by Section 612, and, if a mutual company, that its assets are not less than is required by Section 619; that such capital or net assets are well invested and immediately available for the payment of losses in this State; and that it insures on any single hazard a sum no larger than one-tenth of its net assets.

3. It shall by a duly executed instrument, filed in his office, constitute and appoint the Commissioner of Insurance and his successors, its true and lawful attorney upon whom all process in any action or proceeding against it may be served, and therein shall agree that any process which may be served upon its said attorney shall be of the same force and validity as if served on the company, and that the authority thereof shall continue in force irrevocable, so long as any liability of the company remains outstanding in this State. Service upon such attorney shall be deemed sufficient service upon the company. Whenever process against any foreign insurance company, doing business in this State, shall be served upon the Commissioner of Insurance he shall forthwith mail a copy of such process, postage prepaid, and directed to such company at its principal place of business, or if it is a foreign company, to its resident manager in the United States, or to such other person as may have been previously designated by it by written notice filed in the office of the Commissioner of Insurance. As a condition of valid and effectual service the plaintiff shall pay to the commissioner of Insurance at the time of service the sum of two dollars, which the plaintiff shall recover as taxable costs if he shall prevail in his action.

The Commissioner shall keep a record of all such process which shall show the time and hour of service.

4. It shall appoint as its agents in this State only residents thereof.

SECTION 629a. Any company organized to transact fidelity insurance and corporate suretyship and authorized to do business in this State, may make contracts of insurance to guarantee the fidelity of persons holding positions of trust in private or public employment or responsibility, and may, if accepted and approved by the court, magistrate, obligee, or person competent to approve such bond, act as surety upon the official bond or undertaking in civil procedure of any person or corporation to the United States, to the State of North Dakota, or to any county, city, town, court, judge, magistrate or public officer, or to any corporation or association public or private; and may also act as surety upon any bond or undertaking to any person or corporation conditioned upon the performance of any duty or trust, or for the doing or not doing of anything in such bond specified, and upon bonds to indemnify against loss any person who is responsible as surety upon a written instrument or otherwise for the performance by others of any office, employment, contract or trust. When by law two or more sureties are required upon any obligation such company is authorized to insure, it may act as sole surety thereon, and may be accepted as such by the court, magistrate or other officer or person authorized to approve the sufficiency of such bond or undertaking; and nothing contained in these Codes shall be construed to forbid the acceptance of a qualified foreign corporation as joint or sole surety on any such bond. No such company shall incur in behalf or on account of any one person, partnership, association or corporation, a liability for an amount larger than one-tenth of its paid-up capital, unless it shall be secured from loss thereon beyond that amount by deposit with it in pledge or conveyance to it in trust for its protection, of property equal in value to the excess of its liability over such limit.

SECTION 631. No company organized under this article, or transacting business in this State, shall expose itself to loss on any one risk or hazard to an amount exceeding ten per cent of its paid-up capital, exclusive of any guarantee, surplus or special reserve fund, unless the excess shall be reinsured in some other good, reliable company. (Sec. 7, C. 69, 1885.)

SECTION 632. No fire insurance company shall insure in any one town or city, property, other than dwelling houses, to an amount exceeding its assets. And when, from any cause, the company has at risk in any town or city an amount, as aforesaid, in excess of its net assets, it shall forthwith, by reinsurance or by

cancellation of policies and return of unearned premiums thereon to the insured, reduce the amount of the insurance to the authorized limit. But no policy shall be cancelled under the provisions of this section until after notice to the holder.

**SECTION 633.** Every insurance company doing business in this State must transmit to the Commissioner of Insurance a statement of its condition and business for the year ending on the preceding thirty-first of December, which shall be rendered not later than the first Monday in February in each year. Foreign insurance companies shall have until the following first day of December to transmit their statements of business, other than that taken in the United States. Such statement must be published at least three times in a newspaper of general circulation, printed and published in each judicial district of the State in which such insurance company shall have an agency. Statements for publication shall be made out on blanks furnished by the Commissioner of Insurance, and the certificate of authority of the Commissioner of Insurance for the company to do business in this State shall be published in connection with such statement. Proof of publication shall be filed with the Commissioner of Insurance in all cases, within four months from the time of the filing of the annual statement. Such publication shall be made at half of the authorized rate for publishing legal notices. The Commissioner of Insurance shall select three newspapers of general circulation, published in each of the judicial districts, from which such company shall select one in which such statements shall be published. (Sec. 16, C. 69, 1885; Sec. 1, C. 78, 1890; Sec. 1, C. 70, 1893.)

**SECTION 635.** Such statements must be verified by the signatures and oath of the president and vice-president and of the secretary of a domestic insurance company, and by the manager or general agent of a foreign company doing business in this State; and it shall be the duty of the Commissioner of Insurance to cause the information contained in such statements to be arranged in a tabular form and printed annually for distribution to the companies doing business in this State and for transmission to the Legislative Assembly with his biennial report. (Sec. 19, C. 69, 1885.)

**SECTION 636.** It shall be the duty of all receivers of insurance companies, on or before the thirtieth day of June of each year, and at any other time, when required by the Commissioner of Insurance, to make and file, annually, statements of their assets and liabilities, and of their income and expenditures in the same manner and form, as the officers of such companies are required by law to make, and for refusal or neglect to make and file

the same, they shall be subject to the same penalty. (Sec. 37, C. 69, 1885.)

SECTION 637. The Commissioner of Insurance is hereby authorized and empowered to address any inquiries to any insurance company doing or applying for permission to do business in this State in relation to its doings or condition, or any other matter connected with its transactions, and it shall be the duty of any such company so addressed to reply promptly in writing to any such inquiries. (Sec. 15, C. 73, 1891.)

SECTION 638. No agent shall act for any insurance company, directly or indirectly, in taking risks or transacting the business of insurance, without procuring from the Commissioner of Insurance a certificate of authority, stating that such corporation or company has complied with all the requisites of this chapter. The statements and evidences of investment required by this chapter shall be renewed from year to year in such manner and form as are required by this chapter, and the Commissioner of Insurance, on being satisfied that the capital, securities and investments remain secure as hereinbefore provided, shall furnish a renewal of the certificate as aforesaid. (Sec. 25, C. 69, 1885.)

SECTION 639. Before granting certificates of authority to an insurance company to issue policies, or make contracts of insurance, the Commissioner of Insurance shall be satisfied, by such examination and evidence as he sees fit to make and require, that such company is duly qualified under the laws of the State to transact business therein. As often as once in two years he shall personally, or by his deputy or chief clerk, visit each domestic insurance company and thoroughly inspect and examine its affairs, especially as to its financial condition and ability to fulfill its obligations and whether it has complied with the law. He shall also make an examination of any such company whenever he deems it prudent to do so or upon the request of five or more of the stockholders, creditors, policy holders or persons pecuniarily interested therein who shall make affidavit of their belief, with specifications of their reasons therefor, that such company is in an unsound condition. Whenever he deems it prudent for the protection of policy holders in this State, he shall in like manner visit and examine, or cause to be visited and examined by some competent person appointed by him for that purpose, any foreign insurance company applying for admission, or already admitted, to do business by agencies in this State, and such company shall pay the proper charges incurred in such examination, including the expense of the commissioner or his deputy. For the purposes aforesaid the commissioner or person making the examination shall have free access to all books and papers of an

insurance company that relate to its business, and to the books and papers kept by any of its agents, and may summon as witnesses and examine under oath the directors, officers, agents and trustees of any such company and any other persons in relation to its affairs, transactions and condition.

SECTION 640. If the Commissioner of Insurance has, or shall have at any time, after examination, reason to believe that any annual statement or other report required or authorized by this article, made or to be made out by any officer or agent of any insurance company, is false, it shall be the duty of said Commissioner of Insurance immediately to revoke the certificate of authority of such company and mail a copy of such revocation to such company, and to the agents thereof in this State and such company and its agents after such notice shall discontinue the issuance of any new policies or the renewal of any policy previously issued; and such revocation shall not be set aside nor any new certificate of authority be given until satisfactory evidence shall have been furnished to said Commissioner of Insurance that such company is in substance and in fact in the condition set forth in such statement or report, and that all requirements of this article have been fully complied with. (Sec. 28, C. 69, 1885.)

SECTION 641. The Commissioner of Insurance shall, at the expense of the company, as soon as practical after statements are filed, proceed to ascertain the net cash value of all life insurance policies in force. The Commissioner of Insurance may, however, accept such valuation from the proper officer of the company or the insurance officer of the state in which such company is located, should he deem it expedient so to do. When the actual funds of any life or accident insurance company doing business in this State are not of a net value equal to the net value of its policies, according to the combined experience or actuaries rate of mortality, with interest at four per cent per annum, it shall be the duty of the Commissioner of Insurance to give notice to such company and its agents to discontinue the issuance of new policies in this State until its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent, who, after such notice has been given, issues or delivers a new policy from and in behalf of such company before its funds have become equal to its liabilities, as aforesaid, shall forfeit for each offense a sum not exceeding one thousand dollars. (Sec. 12, C. 73, 1891.)

SECTION 642. If the Commissioner of Insurance is of opinion upon examination or other evidence that a foreign insurance company is in an unsound condition, or if it has failed to comply with the law, or if it, its officers or agents, refuse to submit to examination, or to perform any legal obligation in relation thereto, or, if

a life insurance company, that its actual funds exclusive of its capital are less than its liabilities, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notifications thereof to be published three times, once in each week for three successive weeks, in some newspaper published at the seat of government, and no new business shall thereafter be done by it or its agents in this State while such default or disability continues, nor until its authority to do business is restored by the commissioner. If, upon examination, he is of opinion that any domestic insurance company is insolvent, or has exceeded its powers or has failed to comply with any provision of law, or that its condition is such as to render its further proceedings hazardous to the public or to its policy holders, he shall apply to the district court of the county in which the principal office of the company is located to issue an injunction restraining it in whole or in part from further proceeding with its business. The court or judge may, in discretion, issue an injunction forthwith or upon notice and hearing thereon, and after a full hearing of the matter may dissolve or modify such injunction or make it perpetual, and may make all orders and decrees needful in the premises, and may appoint agents or receivers to take possession of the property and effects of the company and to settle its affairs according to the course of proceedings in equity.

SECTION 643. No insurance company shall do business in this State, except through its authorized agents, who must be residents of and have their office or place of business in this State. All policies not written in accordance with the foregoing provision shall be deemed a violation of this article. (Secs. 1 and 2, C. 76, 1890.)

SECTION 644. Any insurance company doing business in this State that neglects to make the statements in the manner and within the time in this article required shall forfeit one hundred dollars for each day's neglect, and upon notice by the Insurance Commissioner to that effect, its authority to do new business shall cease while such default continues, and every such company that wilfully makes false statements shall be liable to a fine of not less than five hundred dollars or more than one thousand dollars. Any new business done by the insurance company after neglect to make the required statements, shall be deemed to be done in violation of law. (Sec. 2, C. 73, 1891.)

SECTION 645. For violation of any provision of this article when no penalty is specifically provided for herein, the offender shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars.

SECTION 646. There shall be paid by every company doing

business in this State, except county mutual insurance companies, the following fees:

Upon filing articles of incorporation, or copies thereof, twenty-five dollars.

Upon filing the annual statement, ten dollars.

For each certificate of authority and certified copy thereof, two dollars.

For every copy of any paper filed in the insurance department, the sum of twenty cents per folio; and for affixing the official seal on such copy and certifying the same, the sum of one dollar.

For official examination of companies under this article, the actual expense incurred, not to exceed ten dollars per day. (Sec. 39, c. 69, 1885.)

SECTION 647. Whenever the laws of any other state of the United States or foreign country shall require of insurance companies incorporated under the laws of this State, or of the agent thereof, any deposits of securities in such state for the protection of policy holders or otherwise, or any payment for taxes, fines, penalties, certificate of authority, license or fees greater than the amount required for such purposes from similar companies of other states by the then existing laws of this State, then and in every such case, all insurance companies of such states establishing or having heretofore established an agency in this State shall be and are hereby required to make the same deposit for a like purpose, with the State Treasurer of this State, and to pay to the Commissioner of Insurance an amount equal to the amount of such charges and payment imposed by the laws of such other states upon the company of this State and the agents thereof. (Sec. 20, C. 73, 1891.)

#### ARTICLE VII—COUNTY MUTUAL COMPANIES.

SECTION 648. Any number of persons, not less than fifty, residing in any five adjoining counties in this State, who collectively own property of not less than fifty thousand dollars in value which they desire to insure, or any number of persons not less than twenty-five, residing in any one county, owning property of not less than twenty-five thousand dollars in value which they desire to insure, may form a corporation for mutual insurance against loss or damage by fire, lightning, hail and cyclone, which shall possess the powers and be subject to the duties and liabilities of other insurance companies, except as herein otherwise provided. The principal office of the company must be located

within the limits of the county or counties in which the incorporators reside. The name of the county together with the word county shall be embraced in the corporate name of the company when organized by the residents of a single county.

SECTION 649. The general management of the business of such company shall be vested in a board of not less than five nor more than thirteen directors, each of whom shall during his term of office be a policy holder in the company. Such directors shall be elected annually, and shall hold their office for one year, and until their successors are elected and qualified.

SECTION 650. In all cases of insurance against loss or damage by hail, it shall be the duty of such company to keep a separate and distinct record of all interest, premiums and policies of insurance relating to such hail insurance, and no note, premium, undertaking, or policy of insurance which shall be received, issued, or delivered for any insurance against loss by hail shall be used in any connection with insurance against loss or damage by reason of any other cause, and no moneys, premiums, or funds arising out of or received for insurance against loss or damage by hail shall be used in the payment of any loss or damage by reason of fire, lightning, or cyclone, and no moneys, premiums, or funds arising out of or received for insurance against loss or damage by fire, lightning and cyclone, shall be used in the payment of any loss or damage by hail. (Sec. 5, c. 67, 1887.)

SECTION 653. Any company organized under this article may provide in its by-laws for creating a fund of not to exceed \$15,000 in the hail department and of not to exceed \$3,000 in the fire, lightning and cyclone department, the by-laws to set forth the manner in which such funds shall be created and the purpose to which they shall be applied. (Sec. 8, c. 67, 1887.)

SECTION 654. Every person insured against loss or damage by fire, lightning and cyclone shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns to pay his *pro rata* share to the company of all losses or damage by fire, lightning and cyclone, which may be sustained by any member thereof, and every such undertaking shall, within five days after the execution thereof, be filed with the secretary in the office of the company and shall remain on file in such office, except when required to be produced in court as evidence. He shall also at the time of receiving such insurance pay such percentage in cash or such reasonable sum named in the policy, as may be required by the rules and by-laws of the company. (Sec. 9, c. 67, 1887.)

SECTION 655. Every member of such company who may sus-

tain loss or damage by fire, lightning or cyclone, shall immediately notify the secretary of such company, or in case of his absence, the president thereof, specifying the property destroyed, the damage and cause thereof, which officer shall forthwith ascertain and adjust the amount of such loss or damage, or forthwith convene the directors of such company, whose duty it shall be to appoint a committee of not more than three members of such company, to ascertain the amount of such loss, and in case of the inability of the parties to agree upon the amount of such damage, the claimant shall choose a disinterested party and the company shall choose a disinterested party, who shall constitute a board of arbitration to settle such loss, and in case these parties cannot agree, they shall choose a third party to act with them, and such board of arbitration shall have power to examine witnesses and determine all matters in dispute, and the decision of such board shall be final. (Sec. 10, c. 67, 1887.)

SECTION 656. Such company may classify the property insured at the time of issuing the policy thereon under different rates, corresponding as nearly as may be to the nature of the risk attaching to the kind of property insured. Whenever the amount of any loss shall have been ascertained, if it exceeds the amount of the cash funds of the company, applicable to the payment of such loss, the president shall convene the directors of the company, who shall make an assessment sufficient at least to pay such loss, upon all members of the company having property insured, belonging to the same department as that on which the loss occurred. Such assessments shall be in proportion to the sums obtained by multiplying the amount of insurance granted by the several policies by the rate of premium applicable to the property covered by the policies respectively. No assessment for loss or damage by hail shall be made prior to the 1st day of September of the year in which the loss occurred. (Sec. 11, c. 67, 1887.)

SECTION 658. Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon him under the provisions of this article, and the directors of such company who shall wilfully neglect to perform the duties imposed upon them under the provisions of this article shall be liable in their individual capacity to the person sustaining such loss. (Sec. 13, c. 67, 1887.)

SECTION 659. No company formed under the provisions of this article shall insure any property beyond the limits of the district comprised in the formation of the company, nor shall they insure any property other than detached dwellings and their contents, farm buildings and their contents, school houses and school furniture therein, church buildings and furniture therein,

live stock only on the premises or running at large, and hay or grain in bin or stack, or growing grain against damage by hail, nor shall they insure any property within the limits of any incorporated city or village in this State. (Sec. 14, c. 67, 1887.)

SECTION 660. The directors of each company so formed shall be chosen by a vote at the annual election thereof, which shall be held on the first Tuesday in June of each year, and every member shall have one vote; but no person shall vote by proxy at such election; *provided*, that any company organized under the provisions of this article, whose policies shall not run for a longer period than one year, all persons holding policies of insurance therein during the year immediately preceding the annual election, shall be considered as members of said company, and shall be entitled to vote at such election.

SECTION 661. Any member of the company may withdraw therefrom at any time by giving ten days' notice in writing to the president or secretary thereof and by paying his share of all claims existing against such company at the expiration of the ten days. (Sec. 17, c. 67, 1887.)

SECTION 662. Non-residents of any county in this State, owning property therein, may become members of any company incorporated under this article and shall be entitled to all rights and privileges pertaining thereto, except that they cannot become directors in such company. (Sec. 18, c. 67, 1887.)

SECTION 664. The secretary of the company shall prepare and submit to the members thereof at each annual meeting a copy of the annual statement required to be filed with the Commissioner of Insurance as provided in Section 633.

SECTION 665. In all other respects companies organized under this article shall be subject to the provisions of the last article.

SECTION 667. Any insurance company, or any agent or solicitor thereof, violating the provisions of the last section, shall be deemed guilty of a misdemeanor. And such company shall forfeit all its rights and privileges under its articles of incorporation. (Sec. 2, c. 19, 1887.)

SECTION 669. The purposes for which any such corporation shall be formed must be distinctly and definitely specified in the articles of incorporation, and it must not appropriate its funds to any other purpose, nor must it loan any of its money to any stockholder therein; and if any such loan or misappropriation is made, the officers who shall make it, or who shall assent thereto, shall be jointly and severally liable, to the extent of such loan or misappropriation and interest and for all the debts of the corporation

contracted before the repayment of the sum so loaned or misappropriated.

SECTION 686. A corporation for religious, educational, benevolent, charitable, or scientific purposes may be formed in the manner provided in Chapter 19. (Sec. 2, c. 48, 1891.)

SECTION 688. All such corporations shall have power to acquire property, both real and personal, by purchase, devise, or bequest and to hold the same and may sell, exchange, or mortgage any or all property held or owned by them in the manner determined by their by-laws or by a majority vote of their members at a meeting called for that purpose. (Sec. 1, c. 28, 1881.)

SECTION 689. Such corporations may in their by-laws in addition to the provisions of Section 408 provide for:

1. The qualification of members, mode of election, and terms of admission to membership.
2. The fees of admission and dues to be paid to their treasury by members.
3. The expulsion and suspension of members for misconduct or non-payment of dues; also for restoration to membership.
4. Contracting, securing, paying and limiting the amount of their indebtedness.
5. Other regulations not repugnant to the law of the State, and consonant with the objects of the corporation.

SECTION 717. Any ten or more persons may form a corporation for the purpose of doing business as a building and loan association in the manner provided in this chapter and, except as otherwise provided, the provisions of Articles one to eleven, inclusive of Chapter 19 shall be applicable to such corporation. Such corporation may do business outside of this State if it shall have expressed its intention so to do in its articles of incorporation. (Sec. 1, c. 34, 1885.)

SECTION 718. The capital stock of any corporation formed pursuant to this chapter shall be paid in at such times, in such amounts and at such places as the by-laws shall appoint; every share of stock shall be subject to a lien for the payment of unpaid installments, and other charges incurred thereon under the provisions of the by-laws and the by-laws may prescribe the form and manner of enforcing such lien; new shares of stock may be issued in lieu of the shares withdrawn or forfeited. The stock may be issued in one or more successive series in such amounts as the board of directors or stockholders may determine and any stock-

holder wishing to withdraw from the corporation shall have power to do so by giving thirty days' notice of his intention to withdraw, when he shall be entitled to receive the amount paid in by him and such proportion of the profit as the by-laws may determine, less all fines and other charges; *provided*, that at no time shall more than one-half of the funds in the treasury of the corporation be applicable to the demands of withdrawing stockholders without the consent of the board of directors; and that no stockholder shall be entitled to withdraw whose stock is held in pledge for security. Upon the death of the stockholder his legal representatives shall be entitled to receive the full amount paid in by him and legal interest thereon after deducting all charges that may be due on stock. No fine shall be charged to a deceased member's account after his decease, unless the legal representatives of such decedent assume the future payments on the stock. (Sec. 11, c. 40, 1889.)

SECTION 719. The officers shall hold stated meetings at which the money in the treasury, if equal to the amount of one share of stock in such corporation, shall be offered for loan in open meeting, and the stockholder who shall bid the highest premium for the preference or priority of loan shall be entitled to receive a loan of the amount of the par value of one share of stock for each share of stock held by him. (Sec. 3, c. 34, 1887.)

SECTION 720. For every loan made, a note secured by first mortgage of real estate shall be given, accompanied by a transfer and pledge of the shares of the borrower. The shares so pledged shall be held by the corporation as collateral security for the performance of the conditions of such note and mortgage. The note and mortgage shall recite the number of shares pledged and the amount of money advanced thereon, and shall be conditioned for the payment of the dues on such shares, and the interest and premium upon the loan, together with all fines and payments in arrears, until such shares reach the ultimate par value of the shares of stock of the corporation, or the loan is otherwise cancelled and discharged; *provided*, that the shares without other security may, in the discretion of the directors, be pledged as security for loans to an amount not exceeding their value as adjusted at the last adjustment and valuation of shares before the time of the loan.

If the borrower neglects to offer security satisfactory to the directors within the time prescribed by the by-laws, his right to the loan shall be forfeited, and he shall be charged with one month's interest and one month's premium at the rate bid by him, together with all expenses, if any, incurred; and the money appropriated for such loan may be reloaned at the next or any subsequent meeting.

SECTION 721. A borrower may repay a loan at any time upon application to the corporation, whereupon, on settlement of his account, he shall be charged with the full amount of the original loan, together with all installments of interest, premiums and fines in arrears, and shall be given credit for the withdrawing value of his shares pledged and transferred as security; and the balance shall be received by the corporation in full satisfaction and discharge of such loan; *provided*, that a borrower desiring to retain his shares and membership may, at his option, repay his loan without claiming credit for such shares, whereupon the shares shall be retransferred to him and shall be free from any claim by reason of such cancelled loan. If, however, the by-laws of the corporation prescribe a different manner and different terms upon which a loan may be repaid, the repayment can only be made in accordance with such by-laws.

SECTION 722. No premiums, fines or interest on premiums that may accrue to the corporation according to the provisions of this chapter shall be deemed usurious. (Sec. 6, c. 34, 1885.)

SECTION 723. Every such corporation may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, lien or other incumbrance, or ground rent or in which it may have any interest, and may sell, convey, lease or mortgage at pleasure, real estate so purchased, (Sec. 5, c. 34, 1887.)

SECTION 724. Such corporation may in its by-laws fix a per cent premium at less than which it will not be obliged to accept loans.

SECTION 725. Not less than eighty-three per cent of all monthly dues collected from the shareholders of such corporation shall be put into a fund to be known as the loan fund, no part of which shall be used by the corporation for the purpose of paying its expenses, or the expense of carrying on its business, excepting interest, taxes and insurance. (Sec. 5, c. 40, 1889.)

SECTION 727. Any funds of such corporation which shall remain unloaned for a period of more than thirty days, and for which there is no sufficient demand may be loaned or invested by the corporation, under the provisions of its by-laws at any rate of interest allowed by law upon any security approved and accepted by the board of directors. (Sec. 7, c. 40, 1889.)

SECTION 728. Such corporation shall have power to borrow money under such restrictions and regulations as its by-laws may provide. (Sec. 8, c. 40, 1889.)

SECTION 729. The board of directors of such corporation

shall have power in their discretion to retire the unpledged shares of stock of such corporation at any time after the third year from the date of the issue of such stock, and to enforce the withdrawal of the same in such manner and under such regulations as they may deem best for the interest of the corporation. They shall determine by lot or in any other impartial manner which shares shall be thus retired, but no unmatured stock shall be retired while any matured stock remains in force. (Sec. 9, c. 40, 1889.)

SECTION 730. The by-laws of such corporation may provide for the voluntary withdrawal and cancellation at or before maturity of shares of stock not borrowed on; *provided*, that such withdrawal and cancellation shall be *pro rata* among the shares of the same series of stock. (Sec. 18, c. 34, 1885.)

SECTION 731. All building and loan associations doing business in this State, shall annually make a true and correct statement, verified by the oath of its president or secretary, setting forth its actual financial condition on the thirtieth day of June of the current year, which shall be forwarded to the State Examiner not later than the first day of August of the same year, and shall contain the following information:

1. The amount of authorized capital and the par value of each share of stock.
2. The number of shares sold during the year.
3. The number of shares cancelled and withdrawn during the year.
4. The number of shares in force at the end of the year.
5. A detailed statement of the receipts and disbursements during the year.
6. A detailed statement of the assets and liabilities at the end of the year.

Such report shall also show the total amount received as dues on stock under each separate class or kind of stock, and all deduction therefrom for expenses, withdrawals, cancellations, forfeitures, refunded or otherwise, and the amounts, if any, of profits credited to stock, or subject to such credit, the number of shares in force of each issue or series, and the amount expended during the year in payment of salaries of officers, clerks, agents and all other employes, the amount expended for traveling expenses, rent, postage, including telegraph and express charges, printing, books and stationery, office supplies, office furniture, advertising, commissions paid agents or other persons, and all other items of expense.

In addition such annual report shall contain a statement of the business of the corporation for the preceding year, showing the amount of resources included in mortgage loans, the amount of loans on stock of the association, the amount of loans on other securities, specifying the kind of such securities, the amount of unpaid dues, fines, premiums and interest, the amount due from agents, the amount due from banks, the amount invested in real estate and secured by foreclosure, the amount invested in furniture and fixtures, the amount of cash on hand, and the amount of all other resources of the association not enumerated heretofore; and shall state as its liability the amount received from stock subscriptions, the amount due from stock delinquent in each class or kind of stock, and the unpaid fines on such stock, the amount set aside as an expense fund from each kind or class of stock, the amount of undivided profits at the beginning of the year, the amount received as interest, premiums, fees, fines or other sources as profits during the year, the amount of such interest and interest delinquent at the end of the year, the amount of all bills payable and the amount of all other liabilities at the close of the year. Within thirty days from the filing of the report a statement of the assets and liabilities shall be published at least once in some newspaper in the city or town in which the association has its principal place of business. All statements herein required to be made shall be uniform and in accordance with a form to be prescribed by the State Examiner, and shall correctly show the proportion which the entire expenses of the association for the term reported bear to its gross earnings for that term. All reports required of building and loan associations organized under the laws of this State are also required of all foreign building and loan associations doing business in this State, and all the provisions of this chapter relating to such reports, the filing thereof, and the fees therefor, shall apply to such foreign building and loan associations.

SECTION 732. If any such association shall fail to furnish to the State Examiner the report required by this chapter at the time required, it shall forfeit the sum of twenty-five dollars for every day such report shall be delayed or withheld, and the Attorney General on the application of the State Examiner shall bring an action to recover such penalty. After receiving such annual report, the State Examiner, if satisfied that such corporation has complied with all the provisions of this chapter and is entitled to do business in this State, shall issue his certificate stating the compliance with such provisions, and that such corporation is entitled to do business in this State, which certificate shall be in force for the period of one year, unless sooner rescinded as provided in this article. The State Examiner shall also issue such

certificate to a domestic corporation, which commenced business at some intervening period in any year, which has complied with the law in regard to its articles of incorporation and in all other respects, except the filing of such report.

SECTION 733. It shall be the duty of the State Examiner as often as he may deem necessary and at least once in each year, to examine every building and loan association incorporated under the laws of this State, and for that purpose he shall have and exercise over such corporation, their business, officers, directors and employes, all the power and authority conferred upon him by the laws of this State over banks and other moneyed corporations; *provided*, that he shall not have the power to suspend the operations of any such corporation, except in the manner provided in this chapter. The State Examiner shall have the same supervision and control over the business, within this State, of foreign corporations of like kind, doing business in this State. Upon the completion of any examination of any association made by the State Examiner, or under his direction, the association so examined shall pay to the Examiner a fee to be determined as follows, viz: For the first one hundred thousand dollars of assets, a fee of ten dollars, and for each additional one hundred thousand dollars of assets, or major portion thereof, an additional fee of five dollars.

SECTION 734. If it shall appear to the State Examiner from any examination made by him, or from the annual report aforesaid, that any such corporation organized under the laws of this State, is violating the law, or that it is conducting business in an unsafe, unauthorized, or dishonest manner, he shall, by an order under his hand and seal of office, addressed to such corporation direct compliance with the requirements of the law. And whenever such corporation shall refuse or neglect to make such report or account as may be lawfully required, or to comply with such order as aforesaid, the State Examiner shall file a statement in writing with the Attorney General, setting forth the facts or particulars in which such alleged violation or refusal consists, which statement shall be *prima facie* evidence of such violation or refusal, whereupon the Attorney General shall institute such proceedings against such corporations as are provided by law in the case of insolvent corporations, or such other proceedings as the occasion may require.

SECTION 735. No foreign building and loan association or corporation shall do business in this State, until:

1. It shall have first complied with the provisions of Sections 776 and 778.
2. It shall have obtained from the State Examiner a certificate authorizing it to do business in this State.

Upon application by any foreign building and loan corporation or association to do business in this State, and thereafter, whenever the State Examiner shall deem it prudent for the public interests, he shall examine into its financial condition and method of doing business and for that purpose, if he deems it necessary, he may visit such corporation, or cause the same to be visited by a competent person appointed by him, and he may demand from such corporation or association in advance, his fees and necessary expenses for making such examination and may refuse to make the same or to issue any certificate, unless such fees and expenses are paid, and if a certificate has already been issued may rescind the same. For the purpose of making such examination the person making the same shall have free access to all the books and papers of the corporation that relate to its business and to the books and papers kept by any of its agents and may summon as witnesses and examine under oath the directors, officers, agents and trustees of any such corporation and any other person in relation to its affairs, transactions and condition.

SECTION 736. If he is satisfied from such examination that such corporation is solvent and its method of doing business such as is likely to be beneficial to all of its members alike, he shall issue a certificate, authorizing it to do business in this State, if one is not already in force, which certificate shall be in force for one year, or until the time required for the filing of the annual report, unless sooner rescinded.

SECTION 737. If the State Examiner is of opinion upon examination or other evidence that a foreign building and loan association doing business in this State is in an unsound condition, or if it has failed to comply with the law, or if it, its officers or agents, refuse to submit to examination or to perform any legal obligation in relation thereto, he shall revoke or suspend its certificate of authority and shall cause notification thereof to be published three times, once in each week for three consecutive weeks, in some newspaper published at the seat of government and shall mail a copy to such association or corporation at its home office and no new business shall thereafter be done by it, or its agents, in this State while such default or disability continues, nor until its authority to do business is restored by the Examiner.

SECTION 738. Any officer, director or agent of any foreign building and loan association, or any person whatever, who shall in this State solicit subscriptions to the stock of such association, or who shall sell or issue, or knowingly cause to be sold or issued, to a resident of this State any stock of such association, while such association shall not hold the certificate of the State Examiner, authorizing it to do business in this State as herein described,

or before such association has complied with all the provisions of this chapter, or when such association shall have been notified that its authority to do business in this State has been revoked, as hereinbefore provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment of not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

SECTION 739. Any officer, director or agent of any building and loan association incorporated under the laws of this State, or any other person whatever, who shall sell or issue, or knowingly cause to be sold or issued, to any person any stock of such association while such association shall not have a certificate of the State Examiner, authorizing it to do business as herein prescribed, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars, or by imprisonment of not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

SECTION 740. All corporations heretofore organized in this State and doing business as building and loan associations shall comply with and be subject to all the provisions of this chapter and shall be entitled to all the privileges and benefits thereof, without reincorporating.

SECTION 775. Any person or association of persons now engaged in or that may hereafter engage in the construction of any railroad, street railway, telegraph or telephone lines, ditch for conveying water, or other like work of internal improvement shall be required to comply strictly with all the provisions of the preceding ten chapters in the same manner as corporations, so far as the same can be done. A failure of any such person or association of persons to comply as aforesaid shall work a forfeiture of any and all rights he or they may have acquired in accordance with law. (Sec. 4, c. 10, 1879.)

SECTION 776. No foreign corporation, association, or joint stock company, except any insurance company, shall transact any business within this State, or acquire, hold, or dispose of property real or personal, within this State, until such corporation shall have filed in the office of the Secretary of State, a duly authenticated copy of its charter or articles of incorporation, and shall have complied with the provisions of this chapter; *provided*, that the provisions of this chapter shall not apply to corporations created for religious or charitable purposes solely.

SECTION 778. Such corporation, association, or joint stock company shall, by a duly executed instrument, filed in the office of the Secretary of State, constitute and appoint the Secretary of State and his successors, its true and lawful attorney upon whom all process in any action or proceeding against it may be served, and therein shall agree that any process which may be served upon its said attorney shall be of the same force and validity as if served upon it personally in this State, and that such appointment shall continue in force irrevocable, so long as any liability of the corporation, association, or joint stock company remains outstanding in this State. Service upon such attorney shall be deemed sufficient service upon the corporation, association, or joint stock company. Whenever process against any foreign corporation, association or joint stock company, doing business in this State, shall be served upon the Secretary of State he shall forthwith mail a copy of such process, postage prepaid, and directed to such corporation, association, or joint stock company at its principal place of business, or if it is a corporation, association, or joint stock company of a foreign country, to its resident manager in the United States, or to such other person as may have been previously designated by it by written notice filed in the office of the Secretary of State. As a condition of valid and effectual service the plaintiff shall pay to the Secretary of State at the time of service the sum of two dollars which the plaintiff shall recover as taxable costs if he prevails in his action. The Secretary of State shall keep a record of all such process which shall show the time and hour of service. (Sec. 1, c. 36, 1885.)

SECTION 779. Any failure to comply with the provisions of the last three sections and with Section 630 of this Code shall render each and every officer, agent and stockholder of any corporation, association, or joint stock company failing to comply therewith, jointly and severally liable on any and all contracts of such corporation, association, or joint stock company made within this State during the time such corporation, association, or joint stock company is so in default. (Sec. 1, c. 193, 1890.)

SECTION 779a. Every contract made by or on behalf of any corporation, association, or joint stock company, doing business in this State, without first having complied with the provisions of Section 630, if an insurance company, or with the provisions of Sections 776 and 778, if other than an insurance company, shall be wholly void on behalf of such corporation, association, or joint stock company and its assigns, but any contract so made in violation of the provisions of this Section may be enforced against such corporation, association, or joint stock company.

836a. The signature of a corporation to any instrument mentioned in Section 833 shall be as follows:

(Full name of corporation.)

.....

(Some officer authorized by the by-laws of the corporation to execute and acknowledge such instruments.)

By

.....

(Official designation of person signing.)

.....

Attest:

....., Secretary.

[SEAL.]

SECTION 898. The homestead of every head of a family residing in this State, not exceeding in value five thousand dollars, and if within a town plat, not exceeding two acres in extent, and if not within a town plat, not exceeding in the aggregate more than 160 acres, and consisting of a dwelling house in which the homestead claimant resides, and all its appurtenances and the land on which the same is situated, shall be exempt from judgment lien and from execution or forced sale, except as provided in this chapter. (Sec. 1, c. 67, 1891.)

SECTION 901. The homestead of a married person cannot be conveyed or incumbered, unless the instrument by which it is conveyed or incumbered is executed and acknowledged by both husband and wife.

SECTION 902. No action, defense, or counter-claim founded upon a right of homestead in property heretofore conveyed or incumbered, otherwise than as provided by the law in force at the time of the execution of such conveyance or incumbrance, and for which no declaration of homestead shall have been filed previous to the taking effect of this section shall be effectual or maintainable unless such action is commenced or such defense or counter-claim interposed on or before the first day of January, 1900; *provided*, nevertheless, that such limitation shall not apply if the homestead claimant was at the time of the execution of such conveyance or incumbrance in the actual possession of the property claimed, and had not quit such possession previous to the commencement of such action or the interposing of such defense or counter-claim.

SECTION 903. When an execution for the enforcement of a

judgment obtained in a case not within the classes enumerated in Section 900, is levied upon the homestead, the judgment creditor may apply to the district court in the county in which such homestead is situated for the appointment of persons to appraise the value thereof. (Sec. 5, c. 67, 1891.)

SECTION 904. The application for appraisers must be made upon a verified petition showing:

1. The fact that an execution has been levied upon the homestead.
2. The name of the claimant.
3. That the value of the homestead exceeds the amount of the homestead exemption.

SECTION 906. At the hearing the court, upon proof of the service of such notice and petition and of the facts stated in the petition, may appoint three disinterested residents of the county to appraise the value of the homestead, who must take an oath impartially to appraise the same. They must view the premises and appraise the value thereof, and if the appraised value exceeds the homestead exemption they must determine whether the real property claimed can be divided without material injury. (Sec. 8, c. 67, 1891.)

SECTION 907. Within fifteen days after their appointment the appraisers must present to the judge a report in writing, which report must show the appraised value of the homestead and their determination upon the matter of a division of the real property claimed.

SECTION 908. If from the appraiser's report it appears that the real property claimed as a homestead can be divided without material injury, the court shall, by an order, direct the appraisers to set off to the claimant so much of the real property including the residence, as will amount in value to the homestead exemption, and the execution may be enforced against the remainder of the real property. (Sec. 9, c. 67, 1891.)

SECTION 910. If the sale is made, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution; *provided*, that when the execution is against a husband, whose wife is living, the court may, in its discretion, direct the five thousand dollars to be deposited in court, to be paid out only on the joint receipt of the husband and wife, and it shall, whether paid directly to the claimant or to the husband and wife jointly, possess all the protection against legal process and voluntary dis-

position by the husband as did the original homestead premises. (Sec. 11, c. 67, 1891.)

SECTION 912. If the homestead is conveyed as provided in Section 901, or sold for the satisfaction of any lien mentioned in Section 900, the price thereof or the proceeds of the sale beyond the amount necessary to satisfy such lien, and not exceeding in either case the amount of the homestead exemption, shall be entitled thereafter to the same protection against legal process as the law gives to the homestead. (Sec. 13, c. 67, 1891.)

SECTION 913. Any person who is the head of a family may make a declaration of homestead in the manner provided in the next two sections, but a failure to make such declaration shall not impair the homestead right.

SECTION 914. In order to select a homestead, the husband or other head of the family, or in case the husband has not made such selection, the wife must execute and acknowledge in the same manner as a grant of real property is acknowledged, a declaration of homestead and file the same for record.

SECTION 915. The declaration of homestead must contain:

1. A statement showing that the person making it is the head of a family; or, when the declaration is made by the wife, showing that her husband has not made such declaration for their joint benefit.

2. A statement that the person making it is residing on the premises, and claims them as a homestead.

3. A description of the premises.

4. An estimate of their cash value.

SECTION 916. The declaration must be recorded in the office of the Register of Deeds of the county in which the land is situated.

SECTION 918. The phrase "head of family," as used in this chapter, includes within its meaning:

1. The husband or wife when the claimant is a married person, but in no case are both husband and wife entitled each to a homestead under the provisions of this chapter.

2. Every person who has residing on the premises with him or her, and under his or her care and maintenance, either:

1. His or her child or the child of his or her deceased wife or husband, whether by birth or adoption.

2. A minor brother or sister, or the minor child of a deceased brother or sister.

3. A father, mother, grandfather, or grandmother.

4. The father or mother, grandfather or grandmother of a deceased husband or wife.

5. An unmarried sister or any other of the relatives mentioned in this section who have attained the age of majority, and are unable to take care of or support themselves. (Sec. 15, c. 67, 1891.)

SECTION 919. Upon the death of a person in whom the title to real property constituting a homestead as defined in this chapter is vested, a homestead estate in such real property shall survive, descend and be distributed to the persons and in the order following:

1. To the surviving husband or wife for life; or

2. There being no surviving husband or wife, to the decedent's minor child or children, until the youngest attains majority, or,

3. The surviving husband or wife dying before, then thereafter to the decedent's minor child or children, until the youngest attains majority.

920. The terms "homestead estate" employed in this chapter shall be construed to mean the right to the possession, use, control, income and rents of the real property held or occupied by such decedent as a homestead at death; and the term "youngest" as employed in this chapter shall be construed to mean the decedent's child, whether by birth or adoption, last to attain majority.

920a. If a homestead in such real property had been ascertained and set off to such decedent before death, as provided in this chapter, the homestead estate provided for in Section 919 shall be commensurate therewith and must not be again ascertained; but if such homestead had not been so ascertained and set off, the county court must ascertain in the manner provided in Sections 232, 233, 234 and 235 of the Probate Code and set off and decree the homestead estate to the surviving husband or wife, or minor child or children, as the case may be; *provided*, however, that the real property which is subjected to the homestead estate by the county court and in which such estate is ascertained and set off by such court, must not exceed in value or area the value or area prescribed in Section 898.

920b. The county court shall ascertain and set forth in its

decree setting off the homestead estate to the surviving husband or wife, or minor child or children, whether ascertained by it or not, the name of, and the dates at which the minor child, or each minor child, if more than one, will attain majority, and direct in such decree that in case the surviving husband or wife dies before the last of such dates is reached, the minor child or children then surviving shall from the time of such death succeed to such homestead estate until the youngest attains majority. If a surviving minor child dies before a full satisfaction of the homestead estate, such estate shall thereafter be proceeded with as though such child had never lived.

920c. The real property subjected to such homestead estate, shall, subject to the full satisfaction of such estate descend, exempt from decedent's debts except as provided in Section 900, and be distributed in the same manner as real property not subjected to a homestead estate, or as directed in the decedent's will, *provided*, that in no case shall the real property constituting the homestead of a decedent, or any part thereof, descend or be distributed to any person other than the surviving husband or wife and decedent's heirs in the direct descending line, as prescribed in Chapter 41, until all the decedent's debts are fully paid.

SECTION 921. Subject to the homestead estate as defined by law and the payment of decedent's debts, the homestead may be devised to persons other than those mentioned in 920c, like other real property of the testator.

SECTION 922. If either the husband or wife shall become insane, the county court of the county in which the homestead is situated may, upon application of the husband or wife not insane and upon due proof of such insanity, make an order permitting the husband or wife not insane to sell and convey or mortgage such homestead.

SECTION 923. Such application shall be made by a petition to the court subscribed and sworn to by the applicant, setting forth the name and age of the insane husband or wife; the number, age and sex of the children of such insane husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; and such facts in addition to that of the insanity of the husband or wife, relating to the circumstances and necessities of the applicant and his or her family, as he or she may rely upon in support of the petition.

SECTION 924. Notice of the application for such order shall be served upon such persons and in such manner as the court shall

by order direct and in such order the court shall fix a time for the hearing of the application.

SECTION 925. A certified copy of the order granting permission to sell and convey or mortgage the homestead shall be filed for record and recorded in the office of the register of deeds of the county in which the homestead is situated.

SECTION 926. On granting an order authorizing a sale of the homestead the court may direct that a part of the funds derived from such sale, not to exceed one-third thereof, be set aside, and may direct its investment for the use and benefit of the insane husband or wife. If such husband or wife dies while insane the sum so set aside reverts to the surviving husband or wife. If he or she is dead at the time the insane husband or wife dies, then such sum shall descend in accordance with the laws of succession as provided in this Code. (Sec. 21, c. 67, 1891.)

SECTION 927. On the hearing of such application, any of the kindred of the insane person may appear and be heard in the premises, and may appeal from any order made on the subject to the district court for the county in which the land is situated in the manner provided for appeals in other cases. (Sec. 22, c. 67, 1891.)

SECTION 928. A conveyance or mortgage of the homestead made pursuant to the last six sections shall be as valid and effectual as if the insane husband or wife had been sane and had joined in the execution and acknowledgment of such conveyance or mortgage.

SECTION 964. No person who has been finally convicted of feloniously causing the death of another shall take or receive any property or benefit by succession, will, or otherwise, directly or indirectly, by reason of the death of such person, but all property of the deceased and all rights conditioned upon his death shall vest and be determined the same as if the person convicted were dead.

SECTION 1092. An obligation for the delivery of money, property, or a conveyance of property is not discharged, by an offer of performance nor any of its incidents affected, unless the thing offered, if money, is deposited as provided in Section 1098, or, if other than money is deposited for the creditor with some depository of good repute at the place of performance, and notice of such deposit in either case given to the creditor. After such deposit and notice the thing deposited shall be at the risk and expense of the creditor.

SECTION 1317. The interest which would become due at the end of the term for which a loan is made, not exceeding 90 days' interest in all, may be deducted from the loan in advance if the parties thus agree.

SECTION 1730. When a mortgagor of property effects insurance in his own name, providing that the loss shall be payable to the mortgagee, or assigns a policy of insurance to the mortgagee, the insurance is deemed to be upon the interest of the mortgagor, who does not cease to be a party to the original contract, and any act of his which would otherwise avoid the insurance will have the same effect, although the property is in the hands of the mortgagee.

SECTION 1741. A change of interest in one or more of several distinct things, insured by one policy, does not avoid the insurance as to the others.

SECTION 1742. The procurement of any other contract of insurance upon or the incumbrance of one or more of several distinct things, insured by one policy, does not render void any insurance upon the things not covered by such other contract of insurance or incumbrance; but in case of loss or damage such an amount shall be deducted from the insurance as the value of the property so incumbered or doubly insured bears to the value of all the property covered by the policy. Any agreement made to waive the provisions of this or the preceding section is void.

SECTION 1767. No oral or written misrepresentation made in the negotiation of a contract or policy of insurance, by the insured or in his behalf, shall be deemed material or defeat or avoid the policy, or prevent its attaching unless such misrepresentation is made with actual intent to deceive, or unless the matter misrepresented increased the risk of loss.

SECTION 1794. If a peril insured against has existed and the insurer has been liable for any period, however short, the insured is not entitled to a return of premium, so far as that particular risk is concerned, unless the insurance was for a definite period of time, in which case he is entitled to a proportionate return under Sections 1783 and 1796.

SECTION 1810a. Upon notice of loss being given to the insurer on behalf of the insured or of a beneficiary under a policy of life insurance, the insured shall within twenty days after receipt of such notice furnish to the insured or

beneficiary, as the case may be, a blank form of proof of loss, and the insured shall have sixty days after such blank form is furnished in which to make such proof of loss; in case of life insurance the beneficiary shall have ninety days after receipt of such blank form in which to make such proof of loss. If the insurer shall fail to furnish such blank form of proof of loss within the time aforesaid, he shall be deemed to have waived such proof, and any agreement made to waive the provisions of this section is void.

SECTION 1973. Redemption from a lien is made by performing the act for the performance of which it is a security, and paying the damages, if any, to which the holder of the lien is entitled for delay, or by offering to perform such act and pay such damages; *provided*, that if the act requires the delivery of money, property, or a conveyance of property, the same shall be deposited and notice thereof given as provided in Section 1102.

SECTION 1975. The sale of any property on which there is a lien, in satisfaction of the claim secured thereby, or in case of personal property, its wrongful conversion by the person holding the lien, extinguishes the lien thereon; *provided*, however, that in an action for the conversion of personal property, the defendant may show in mitigation of damages the amount due on any lien to which the plaintiff's rights were subject and which was held or paid by the defendant, or any person under whom he claims.

SECTION 1889. No fire insurance company, corporation, or association, their officers or agents, shall make, issue, use or deliver for use, any fire insurance policy, or renewal of any fire policy on property in this State, other than such as shall conform in all particulars as to blanks, size of type, context, provisions, agreements and conditions with the printed form of contract or policy heretofore filed in the office of the Insurance Commissioner as a standard policy for this State, and no other or different provision, agreement, condition or clause shall in any manner be made a part of such contract or policy, or be endorsed thereon or delivered therewith, except as follows, to wit:

SECTION 1890. Policies of insurance in form prescribed by the last section shall be in all respects subject to the same rules of construction as to their effect or the waiver

of any of their provisions as if the form thereof had not been prescribed.

SECTION 1961a. A lien by contract upon crops shall attach only to the crops next maturing after the delivery of such contract.

SECTION 1997. When an executor or administrator shall be appointed in any other state or foreign country, on the estate of any person not a resident of this State at the time of his decease, and no executor or administrator thereon shall have been appointed in this State, such foreign executor or administrator, upon filing in the office of the register of deeds of any county in which any mortgage held by the estate of such deceased person is filed or recorded, an authenticated copy of his appointment may execute, acknowledge and deliver a certificate of discharge of such mortgage the same as and with like effect as executors and administrators appointed under the laws of this State may do.

SECTION 1998. Any heir or legatee of such deceased person, residing within or without the State, upon recording in the office of the register of deeds an authenticated copy of the judgment or decree of the court, transferring to such heir or legatee the ownership of any such mortgage, may, in like manner and with like effect, satisfy or release such mortgage.

SECTION 1999. Any guardian appointed in any other state or foreign country of a minor holding and owning a mortgage upon property in this State, upon filing in the office of the register of deeds of the county in which the property is situated, an authenticated copy of his appointment as guardian and the same proof of the ownership of such mortgage as is required in the last section, may, in like manner and with like effect, satisfy or release such mortgage.

SECTION 2001. When any mortgage or lien upon property has been satisfied, the owner of such mortgage or lien must, immediately on demand of the owner of the property, execute and deliver to him a certificate of the discharge thereof, and must, at the expense of the owner of the property, acknowledge the execution thereof so as to

entitle it to be recorded, or he must enter satisfaction, or cause satisfaction of such mortgage or lien to be entered of record; and any owner of mortgage or lien, who refuses to execute and deliver to the owner of the property covered by the mortgage or lien the certificate of discharge, and to acknowledge the execution thereof, or to enter satisfaction or cause satisfaction to be entered of the mortgage or lien, as provided by law, is liable to the owner of such property, or his assigns or legal representatives for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of one hundred dollars.

SECTION 2009. All reservations of the title to personal property, as security for the purchase money thereof, shall, when the possession of such property is delivered to the vendee, be void as to subsequent creditors without notice and purchasers and incumbrancers in good faith and for value, unless such reservation is in writing and filed and indexed the same as a mortgage of personal property. In indexing such instruments the register of deeds shall treat the purchaser as mortgagor and the vendor as mortgagee.

SECTION 2014. A mortgage of personal property ceases to be valid as against creditors of the mortgagor, and subsequent purchasers or incumbrancers in good faith, after the expiration of three years from the filing thereof, unless within thirty days next preceding the expiration of such term, a copy of the mortgage and a statement of the amount of existing debt for which the mortgagee or his assignee claims a lien, sworn to and subscribed by him, his agent or attorney, are filed anew in the office of the register of deeds, in the county in which the mortgage was originally filed, and in like manner the mortgage and statement of debt must be again filed every three years, or it ceases to be valid as against the parties above mentioned. (Sec. 1. c. 25, 1881; Sec. 1, c, 41, 1890.)

SECTION 2065. Any person who shall perform any labor upon or furnish any materials, machinery or fixtures for the construction or repair of any work of internal improvement, or for the erecting, alteration or repair of any building or other structures upon land, or in making any

other improvement thereon, including fences, sidewalks, paving, wells, trees, drains, grades or excavations, under a contract with the owner of such land, his agent, trustee, contractor, or subcontractor, or with the consent of such owner, shall, upon complying with the provisions of this chapter, have for his labor done, or materials, machinery, or fixtures furnished, a lien upon such building, erection or improvement and upon the land belonging to such owner on which the same is situated, or to improve which the work was done or the things furnished, to secure the payment for such labor, materials, machinery or fixtures.

The owner shall be presumed to have consented to the doing of any such labor or the making of any such improvement if, at the time, he had knowledge thereof and did not give notice of his objection thereto to the person entitled to the lien

The provisions of this section and chapter shall not be construed to apply to claims or contracts for furnishing lightning rods or any of their attachments. (Sec. 655, C. C. P.; Sec. 1, c. 69, 1887.)

SECTION 2066. If labor is done or materials furnished under a single contract for several buildings, erections or improvements, the person furnishing the same shall be entitled to a lien therefor as follows:

1. If such buildings, erections or improvements are upon a single farm, tract or lot upon all such buildings, erections and improvements and the farm, tract or lot upon which the same are situated.

2. If such buildings, erections or improvements are upon separate farms, tracts or lots, upon all such buildings, erections and improvements and the farms, tracts or lots upon which the same are situated; but upon the foreclosure of such lien, the court may, in the cases provided for in this subdivision, apportion the amount of the claim among the several farms, tracts or lots, in proportion to the enhanced value of the same produced by means of such labor or materials, if such apportionment is necessary to protect the rights of third persons.

SECTION 2067. Every person who furnishes any labor, skill or material for constructing, altering or repairing any

line of railway, or any improvement or structure appertaining to any line of railway, by virtue of any contract with the owner, his agent, contractor or subcontractor, shall have a lien upon such line of railway and the right of way thereof and upon all bridges, depots, offices and other structures appertaining to such line of railway, and all franchises, privileges and immunities granted to the owner of such line of railway for the construction and operation thereof, to secure the payment for such labor, skill and materials upon filing a statement of his demand therefor in accordance with the provisions of the next section within ninety days from the last day of the month in which such labor or material was furnished; but a failure to file the same within the time aforesaid shall not defeat the lien except to the extent specified in the next section. (Sec. 657, C. C. P.)

SECTION 2068. Every person who wishes to avail himself of the provisions of this chapter, shall file with the clerk of the district court of the county or judicial subdivision in which the property to be charged with the lien is situated, and within ninety days after all the claims aforesaid shall have been furnished or the labor done, a just and true account of the demand due him after allowing all credits, and containing a correct description of the property to be charged with such lien, and verified by affidavit; but a failure to file the same within the time aforesaid shall not defeat the lien, except as against purchasers, or incumbrancers in good faith and for value, whose rights accrue after the ninety days and before any claim for the lien is filed, or as against the owner except the amount paid to the contractor after the expiration of the ninety days and before the filing of the same; provided, that no person who furnishes materials for any building, erection, or other improvement shall be entitled to a lien under the provisions of this chapter, unless he shall within twenty days after the day on which the last of such materials were furnished, serve upon the owner, his agent or trustee, written notice of his intention to claim a lien for such materials and for what amount. (Sec. 662, C. C. P.)

SECTION 2069. The clerk of the district court shall indorse upon every account the date of its filing, and make

an abstract thereof in a book to be kept by him for that purpose, and properly indexed, containing the date of its filing, the name of the person filing the lien, the amount of such lien, the name of the person against whose property the lien is filed, and a description of the property to be charged with the same. (Sec. 663, C. C. P.)

SECTION 2070. Liens under the provisions of this chapter shall have priority in the following order:

1. For manual labor.
2. For materials.
3. Sub-contractors, other than manual labor.
4. Original contractors.

Liens in the same class filed within the ninety days shall share ratably in the security; but liens in the same class filed thereafter shall have priority in the order of the filing of the accounts thereof as aforesaid. Liens under the provisions of this chapter shall be preferred to all other liens or incumbrances upon such building, erection, or other improvement and the land on which the same is situated, or to improve which the labor was done or things furnished, or either of them, filed or docketed subsequent to the commencement of such building, erection, or other improvement. (Sec. 664, C. C. P.)

SECTION 2071. The entire land upon which any such building, erection, or other improvement is situated, or to improve which the labor was done or things furnished, including that portion of the same not covered therewith, shall be subject to all liens created by this article, to the extent of all the right, title and interest owned therein by the owner thereof, for whose immediate use or benefit such labor was done or things furnished, and when the interest owned in such land by such owner of such building, erection, or other improvement, is only a leasehold interest, the forfeiture of such lease for the non-payment of rent, or for non-compliance with any of the other stipulations therein, shall not forfeit or impair such liens so far as it concerns such buildings, erections and improvements, but the same may be sold to satisfy such lien, and be renewed within thirty days after the sale thereof, by the purchaser. (Sec. 665, C. C. P.)

SECTION 2072. The liens for the things aforesaid or the work, including liens for additions, repairs and betterments, shall attach to the building, erection, or improvement, for which they were furnished or done, in preference to any prior lien or incumbrance or mortgage upon the land upon which such erection, building, or improvement belongs, or is erected, or put up.

If such material was furnished or labor performed in the erection or construction of an original and independent building, erection or other improvement, commenced since the attaching of such prior lien, incumbrance, or mortgage, the court may, in its discretion, order and direct such building, erection or improvement to be separately sold under execution and the purchaser may remove the same within such reasonable time as the court may fix. But if, in the opinion of the court, it would be for the best interests of all parties that the land and the improvements thereon should be sold together, it shall so order and the court shall take an account and ascertain the separate values of the land and of the erection, building, or other improvement, and distribute the proceeds of sale so as to secure to the prior mortgage or other lien, priority upon the land, and to the mechanics' lien, priority upon the building, erection or other improvement.

If the material furnished or labor performed was for an addition to, repairs of, or betterments upon buildings, erections, or other improvements, the court shall take an account of the values before such material was furnished, or labor performed, and the enhanced value caused by such additions, repairs, or betterments, and, upon the sale of the premises, distribute the proceeds of sale so as to secure to the prior mortgage or lien priority upon the land and improvements as they existed prior to the attaching of the mechanic's lien and to the mechanic's lien priority upon the enhanced value caused by such additions, repairs or betterments. (Sec. 666, C. C. P.)

SECTION 2073. Any person having a lien by virtue of this article may bring an action to enforce the same in the district court of the county or judicial subdivision in which the property is situated, and any number of persons claiming liens against the same property

may join in the same action and when separate actions are commenced the court may consolidate them. Whenever, in the sale of the property subject to the lien, there is a deficiency of the proceeds, judgment may be entered for the deficiency in like manner and with like effect as in actions for the foreclosure of mortgages. The court shall also allow as part of the costs the money paid for filing each lien and the sum of five dollars for drawing the same. (Sec. 667, C. C. P.; Sec. 1, c. 83, 1883.)

SECTION 2074. Upon the written demand of the owner, his agent or contractor, served on the person holding the lien, requiring him to commence suit to enforce such lien, such suit shall be commenced within thirty days thereafter, if the debt for which the lien is security is due and if not due, within thirty days after the same becomes due, or the lien shall be forfeited. All claims for which liens may be or have been filed and rights of action to recover therefor under this article may be assigned by an instrument in writing and such assignment shall vest in the assignee all rights and remedies herein given, subject to all defenses that might have been interposed, if such assignment had not been made. (Sec. 668, C. C. P.)

SECTION 2076. Whenever a lien has been claimed by filing the same in the clerk's office, and it is afterwards paid, or more than thirty days have elapsed after the service of the demand mentioned in Section 2074 without the commencement of an action to enforce the lien, the holder thereof shall upon demand of any person entitled to have such lien discharged, and upon payment of the expenses thereof, discharge the same either on the proper book in such office, or by an instrument acknowledged or proved in the same manner as the satisfaction of a mortgage, and if he neglects to do so for ten days after such demand, he shall forfeit one hundred dollars to the person entitled to such discharge, and be liable to any person injured to the extent of the injury. (Sec. 670, C. C. P.)

SECTION 2078. The taking of collateral or other security for an indebtedness for which a lien might be claimed under the provisions of this article, shall in no way impair the right to such lien, unless such security shall be by express agreement given and received in lieu of such lien.

SECTION 2079. Whenever any public officer shall, under the laws of this State, enter into contract in any sum exceeding one hundred dollars, with any person for making any public improvements, or for constructing any public building, or making repairs on the same, such officer shall take from the party contracted with a bond conditioned to the effect that such contractor shall pay all indebtedness incurred for labor or material furnished in the construction or repair of such public building or in making such public improvements. (Sec. 1, c. 111, 1890.)

SECTION 2080. Such bond shall run to the State of North Dakota, shall be executed by two or more sureties, and shall be for an amount at least equal to the price stated in the contract. It shall be approved by the clerk of the district court of the county in which such building is to be constructed or such public improvement is to be made, and the sureties thereon shall qualify in a sum equal to double the amount specified in the bond. (Sec. 2, c. 111, 1890.)

SECTION 2081. Such bond shall be filed in the office of the clerk of the district court of the county in which such public improvement is to be made or such public building is to be erected; and any person to whom there is due any sum for labor or material furnished, as stated in Section 2079, or his assigns, may bring an action on the bond for the recovery of such indebtedness; *provided*, that no action shall be brought on such bond unless commenced within one year from the completion of such public improvements, repairs or buildings. (Sec. 3, c. 111, 1890.)

SECTION 2091a. Such lien shall have priority over all other liens on such property for ten days after the receipt of the same and shall thereafter have priority over all other liens on such property, if the person to whom such property is entrusted as in this chapter provided shall within such ten days:

1. Serve upon the holder of any earlier lien upon such property, if known and a resident of this State, written notice that such property has been entrusted to him for some one of the purposes mentioned in Section 2090, specifying which and by whom; or,
2. If the residence of the holder of any such lien is un-

known or he is not a resident of this State, publish for one week in some newspaper published in the county in which such property is being kept and if there is no such newspaper then in a newspaper published at the seat of government a notice of the same kind as provided for in Subdivision 1 of this section.

SECTION 2092. Every owner of a sire charging a service fee, in order to have a lien for service upon the offspring of any such sire under the provisions of this article, shall file a statement, verified by oath, to the best of his knowledge and belief with the Commissioner of Agriculture and Labor giving the name, age, description and pedigree, or breeding of such sire, so far as known, as well as the terms and conditions upon which he is advertised for service. (Sec. 1, c. 117, 1891.)

SECTION 2093. The Commissioner of Agriculture and Labor upon receipt of the statement specified in the last section, and also of a certificate of register of such sire in any society for the purpose of registry of sires, duly verified by affidavit, shall issue a certificate to the owner thereof, a copy of which shall be filed in the office of the clerk of the district court of the county or counties in which such sire shall stand for service and shall also be posted conspicuously in all places where such sire shall stand for service, which certificate shall state the name, age, description, pedigree and ownership of such sire, the terms and conditions upon which the sire is advertised for service, and that the provisions of this article so far as relates to the filing of the statement aforesaid have been complied with. (Sec. 2, c. 117, 1891.)

SECTION 2094. The owner of any sire receiving such certificate shall have a lien upon the offspring of such sire and upon the female served, upon filing, at any time within eight months after the service, in the office of the register of deeds of the county in which such female was kept at the time of the service a statement of the account thereof together with a description of the female served. Such lien shall exist for a period of three years from the filing of the statement and shall have priority over all other liens and incumbrances upon the offspring of the female served. (Sec. 3, c. 117, 1891.)

SECTION 2095. After the expiration of nine months from the filing of the lien, or at any time after an attempt shall be made to dispose of the female or remove her from the county, the lien may be foreclosed by a sale of the property covered thereby, upon the notice and in the manner provided for the foreclosure of mortgages upon personal property and the costs and fees for such foreclosure shall be the same as are provided in Section 714 of the Code of Civil Procedure. (Sec. 6, c. 117, 1891.)

SECTION 2096. Any person who shall furnish to another seed to be sown or planted upon lands owned, used, occupied, or rented by him shall, upon filing the statement provided for in the next section, have a lien upon the crop produced from the seed so furnished to secure the payment of the purchase price thereof. (Sec. 1, c. 150, 1887.)

SECTION 2097. Any person entitled to a lien under this article shall within thirty days after the seed is furnished file in the office of the register of deeds of the county in which the seed is to be sown or planted a statement in writing, verified by oath, showing the kind and quantity of seed, its value, the name of the person to whom furnished, and a description of the land upon which the same is to be or has been planted or sown. Unless the person entitled to the lien shall file such statement within the time aforesaid he shall be deemed to have waived his right thereto. (Sec. 3, c. 150, 1887.)

SECTION 2098. The lien given by this article shall, as to the crops covered thereby, have priority over all other liens and incumbrances thereon, except liens given by Article 83. (Sec. 2, c. 150, 1887.)

SECTION 2099. Any owner or lessee of a threshing machine who threshes grain for another therewith, shall, upon filing the statement provided for in the next section, have a lien upon such grain for the value of his services in threshing the same from the date of the commencement of the threshing. (Sec. 1, c. 88, 1889.)

SECTION 2100. Any person entitled to a lien under this article shall, within thirty days after the threshing is completed, file in the office of the register of deeds of the county in which the grain was grown a statement in writ-

ing, verified by oath, showing the amount and quantity of grain threshed, the price agreed upon for threshing the same, the name of the person for whom the threshing was done, and a description of the land upon which the grain was grown. Unless the person entitled to the lien shall file such statement within the time aforesaid he shall be deemed to have waived his right thereto. (Sec. 3, c. 88, 1889.)

SECTION 2101. Such lien shall have priority over all other liens and incumbrances upon such grain. (Sec. 2, c. 88, 1889; Sec. 1, c. 87, 1890.)

SECTION 2117. Upon default being made in the payment of a debt secured by a lien upon personal property such lien may be foreclosed upon the notice and in the manner provided for the foreclosure of mortgages upon personal property and the holder of such lien shall be entitled to the possession of the property covered thereby for the purpose of foreclosing the same. The costs and fees for such foreclosure shall be the same as are provided in Section 714 of the Code of Civil Procedure. No report of such foreclosure need be made or filed. Such liens may also be foreclosed by action as provided in Chapter 28 of the Code of Civil Procedure.

SECTION 2118. It shall be the duty of the register of deeds to file and index any statement of lien upon personal property, required by law to be filed in his office, the same as a mortgage upon personal property, the person filing the lien being treated as mortgagee and the person against whom the lien is filed as mortgagor.

SECTION 2129. A negotiable instrument may contain a pledge of collateral security, with authority to dispose thereof, or an agreement to pay the current rate of exchange on a place other than the place of payment.

SECTION 2155. An indorsee in due course is one who, in good faith in the ordinary course of business, and for values before its apparent maturity or presumptive dishonor, and without knowledge of its actual dishonor, acquires a negotiable instrument duly indorsed to him, or indorsed generally or payable to the bearer, or one, other than the payee, who acquires such an instrument of such an indorsee thereof.

SECTION 2192. Days of grace are not allowed.

SECTION 2447. Accepting payment of the whole principal, as such, waives all claim to interest, unless interest is expressly provided for in the contract.

SECTION 2254. The detriment caused by the breach of an agreement to convey an estate in real property, is the difference between the price agreed to be paid, and the value of the estate agreed to be conveyed, at the time of the breach, and the expenses properly incurred in examining the title, with interest thereon, and in preparing to enter upon the land and the amount paid on the purchase price, if any, with interest thereon from the time of breach.

SECTION 2255. The detriment caused by the breach of an agreement to purchase an estate in real property, is deemed to be the excess, if any, of the amount which would have been due to the seller under the contract, over the value of the property.

SECTION 2312. When a written instrument, or the record thereof, may cause injury to a person against whom such instrument is void or voidable, such instrument may, in an action brought by the party injured, be adjudged void and the same be ordered to be delivered up for cancellation and the record thereof cancelled, whether extrinsic evidence is necessary to show its invalidity or not.

SECTION 2324. Every sale made by a vendor of personal property in his possession, or under his control, and every assignment of personal property, unless the same is accompanied by an immediate delivery, and followed by an actual and continued change of possession of the property sold or assigned, shall be presumed to be fraudulent and void as against the creditors of the vendor or assignor, or subsequent purchasers or incumbrancers in good faith and for value, unless those claiming under such sale or assignment make it appear that the same was made in good faith and without any intent to hinder, delay or defraud such creditors, purchasers or incumbrancers. (Sec. 1, c. 78, 1893.)

SECTION 2395. If the first day of January, twenty-second day of February, fourth day of July, thirtieth day of May,

or twenty-fifth day of December falls upon a Sunday, the Monday following is a holiday.

SECTION 2413. Whenever in any act or statute of the State of North Dakota, providing for the publication of notices, the phrase "successive weeks" is used, the word weeks shall be construed to mean calendar weeks, and the publication upon any day in such week shall be sufficient publication for that week; provided that at least five days shall intervene between such publications, and all publications heretofore or hereafter made in accordance with the provisions of this section shall be deemed legal and valid. (Sec. 1, c. 38, 1889.)

SECTION 2414. The fiscal year for the State of North Dakota shall commence on the first day of July and end on the thirtieth day of June each year, and all reports required annually or biennially by any state officer or from any private corporation shall be made to and include the thirtieth day of June preceding, and all accounts of such officers shall be closed and balanced to that date. (Sec. 1, c. 67, 1893.)

To save any question as to repeal by implication, the following sections which have been redrafted or amended have been repealed. The number of the section repealed in the old or existing law is in each case followed by a number in parenthesis which is the number of the section in the bill where the repealed section as redrafted or amended is found.

Sections of the Civil Code repealed: 3, (3); 26, (24); 54, (43); 55, (44); 56, (45); 59, (48); 60, (49-55); 61, (56-62); 66, (66); 69, (69); 79, (79); 80, (80); 96, (98); 111, (113); 114, (116); 140, (143); 141, (144); 143, (146); 153, (156); 316, (318); 376, (377); 380, (381); 381, (382); 384, (383); 385-8, (384-8); 396, (398); 398, (400); 399, (403); 402, (406); 403, (407); 406, (410-2); 407, (413); 408, (414); 409, (415-7); 411, (419); 412, (420-4); 413, (425); 414, (426); 415, (427); 416, (428); 439, (455); 449, (465); 512, (669); 538, (686); 542, (688); 543, (689); 549, (693); 550, (694); 567, (776); 569, (778); 648, (860); 659, (872); 668, (884); 683, (929); 687, (933); 707, (953); 756-8, (1004-6); 775, (1023); 808, (1056); 853, (1102); 866, (1115); 889, (1138); 911, (1160); 968, (1217); 1062, (1311); 1076, (1325); 1100, (1349); 1110, (1358); 1448, (1697); 1481, (1730); 1492, (1741); 1544, (1799); 1645, (1902); 1713, (1970); 1716, (1973); 1718, (1975); 1735, (2001); 1748, (2014); 1803, (2104); 1812, (2113); 1814, (2116); 1826, (2129); 1845, (2148); 1852, (2155); 1889, (2192); 1945,

(2247); 1953, (2254); 1954, (2255); 2011, (2312); 2024, (2324); 2026, (2326); 2116, (2396).

Laws of 1879 repealed:

Sec. 4, ch. 10, (775); chapter 46: sec. 1, (466); sec. 3, (467); sec. 6, (468); secs. 9-10, (469); sec. 11, (474); sec. 12, (475); sec. 13, (476); sec. 15, (477); sec. 22, (486); sec. 27, (488).

Sec. 3, ch. 51, (1479).

Laws of 1881 repealed:

Sec. 1, ch. 25, (2014).

Sec. 1, ch. 28, (688).

Laws of 1883 repealed:

Sec. 1, ch. 91, (476); ch. 93, sec. 1, (481); sec. 2, (482).

Laws of 1885 repealed:

Ch. 34, sec. 1, (717); sec. 2, (718); sec. 4, (719); sec. 6, (722); sec. 8, (723); sec. 18, (730).

Sec. 3, ch. 35, (428); sec. 1, ch. 36, (778).

Ch. 69, sec. 1, (602); sec. 2, (606); sec. 4, (603); sec. 5, (607); sec. 6, (612); sec. 7, (631); sec. 8, (613); sec. 9, (609); sec. 10, (608); sec. 11, (605); sec. 13, (610); sec. 16, (633); sec. 17, (634); sec. 19, (635); sec. 25, (638); sec. 28, (640); sec. 32, (618); sec. 37, (636); and sec. 39, (646).

Sec. 1, ch. 88, (2395).

Laws of 1887 repealed:

Sec. 2, ch. 19, [667]; ch. 34, sec. 1, [718]; sec. 3, [719]; sec. 5, [723].

Sec. 1, ch. 36, (422); sec. 1, ch. 67, (648); secs. 5-15, (650-60); sec. 17, (661); sec. 18, (662); and sec. 20, (663).

Sec. 3, ch. 69, (1797); sec. 1, ch. 99, (2065).

Ch. 150, secs. 1-3, (2096-8).

Laws of 1889 repealed:

Sec. 1, ch. 38, (2414); ch. 40, secs. 5-8, (725-8); sec. 11, (718).

Ch. 69, sec. 1, (606); sec. 2, (609); sec. 3, (608); sec. 7, (618); and sec. 10, (633).

Sec. 1, ch. 70, (1348); sec. 1, ch. 81, (415).

Ch. 88, secs. 1-3, (2099-2100).

Ch. 110, sec. 2 (521); sec. 3, (525); sec. 4, (524); sec. 5, (573); sec. 6, (574); sec. 7, (542); sec. 12, (577); sec. 17, (526); sec. 21, (557); sec. 23, (527); sec. 25, (529).

Laws of 1890 repealed:

Sec. 1, ch. 49, (433); sec. 4, ch. 74, (1889); secs. 1-2, ch. 76, (643); sec. 1, ch. 77, (648); sec. 1, ch. 78, (633); sec. 1, ch. 87, (2101).

Ch. 91, secs. 1-3, (34); secs. 6-7, (35-6); sec. 15, (42).

Ch. 111, secs. 1-3, (2079-2081.)

Ch. 122, (530-572); ch. 123, sec. 1, (578); sec. 2, (579); sec. 3, (582); secs. 5-6, (580-1).

Ch. 127, sec. 1, (517); sec. 2, (518); sec. 5, (519).

Ch. 128, secs. 1-2, (575-6).

Ch. 130, secs. 1-3, (514-6); ch. 139, secs. 1-3, (389-391).

Ch. 193, sec. 1, (779).

**Laws of 1891:**

Ch. 4, sec. 1, (114); sec. 2, (112); sec. 3, (113); sec. 6, (116).

Ch. 48, sec. 1, (413); sec. 2, (686).

Ch. 67, sec. 1, (898); secs. 4-9, (901-9); sec. 11, (910); sec. 13, (912); sec. 15, (918); sec. 18, (921); sec. 19, (921); secs. 21-2, (926-7).

Ch. 73, sec. 1, (602); sec. 12, (641); sec. 15, (637); sec. 20, (647).

Sec. 1, ch. 95, (540); sec. 1, ch. 105, (389).

Ch. 117, secs. 1-3, (2092-4) sec. 6, (2095).

**Laws of 1892:**

House Bill 2 sp., secs. 1-2, (578-9).

**Laws of 1893 repealed:**

Ch. 27, sec. 2, (742); sec. 4, (744); sec. 27, (767); sec. 33, (773).

Ch. 40, sec. 1, (431); ch. 41, sec. 1, (432).

Ch. 42, sec. 3, (835), ch. 67, sec. 1, (2415).

Ch. 70, sec. 1, (633); sec. 1 ch. 78, (2324).

Ch. 99, secs. 1-4, (470-3); ch. 101, secs. 1-2, (586-7).

Sec. 2, ch. 102, (505); ch. 103, secs. 1-2, (489-490).

Sec. 1, ch. 105, (583); sec. 3, ch. 131, (1348).

# APPENDIX.

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CODE OF CIVIL PROCEDURE.

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PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

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REPORT OF JOINT COMMITTEE.

## A BILL

For An Act to Establish a Code of Civil Procedure for the State of North Dakota.

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

## CHAPTER I.

## GENERAL DEFINITIONS AND PROVISIONS.

SECTION 1. This act shall be known as the Code of Civil Procedure of the State of North Dakota. (4801-4817.)

SECTION 18. The following are the courts of justice of this State:

1. The supreme court.
2. The district courts.
3. The county courts.
4. The courts of justices of the peace.
5. Such other courts as are or may be created by law for cities, incorporated towns and villages.

Of these, the supreme, district and county courts are courts of record.

SECTION 19. The sittings of every court of this State shall be public, and every citizen may freely attend the same, except that, on the trial of cases of a scandalous or obscene nature, the presiding judge or justice may, in his discretion, exclude therefrom all minors not necessarily present as parties or witnesses. (Sec. 1, c. 104, 1890.)

SECTION 20. Courts shall not be open on Sundays or legal holidays, unless for the purpose of instructing or discharging a

jury, or receiving a verdict. Any magistrate may, however, on such days exercise his jurisdiction in criminal cases to preserve the peace or arrest offenders, and may in all cases, either civil or criminal, admit any person arrested to bail.

SECTION 21. The supreme court shall have and exercise appellate jurisdiction only, except when otherwise especially provided by law or the Constitution. (Sec. 1, 2, c. 118, 1891.)

SECTION 24. Whenever an issue of fact shall be joined or assessment of damages by a jury be necessary in any action or proceeding commenced in the supreme court, the court may, in its discretion, send the same to some district court, and it shall be there determined in the same manner as other issues of fact are tried or assessment made, and return be made thereof as directed by the supreme court. In such cases the supreme court may order a special verdict to be found and returned. (Sec. 3-6, c. 118, 1891.)

SECTION 29. On a second and each subsequent appeal to the supreme court, or when an appeal has once been dismissed for defect or irregularity, the cause shall be placed upon the calendar as of the time of filing the first appeal; and whenever, in any action or proceeding in which the State of North Dakota, or any State officer or any board of State officers, is or are sole plaintiff or defendant, an appeal has been or shall be brought from any judgment or order for or against him or them in any court, such appeal shall have a preference in the supreme court, and may be moved by either party out of the order on the calendar.

SECTION 30. The concurrence of a majority of the judges is necessary to pronounce judgment. If a majority do not concur, the case must be reheard. But no more than two rehearings shall be had; and if on the second rehearing a majority of the judges do not concur, the judgment shall be affirmed.

SECTION 31. The supreme court may be held in other buildings than those designated by law as places for holding courts, and at a different place in the same city from that at which it is appointed to be held. (Sec. 1, c. 53, 1879.)

SECTION 32. The district courts have the general jurisdiction conferred upon them by the Constitution and, in the exercise thereof, they have power to issue all writs, processes and commissions provided therein or by law, or which may be necessary to the due execution of the powers with which they are vested. They have power to hear and determine all civil actions and proceedings, and all cases of crimes and misdemeanors of every kind; and they have all the powers according to the usages of

courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties, and the full and complete administration of justice and to carrying into effect their judgments, orders and other determinations, subject to a re-examination by the supreme court as provided by law. They have jurisdiction of appeals from all final judgments of justices of the peace and police justices, and from all judgments, decrees, or orders of the county court and from the determination of inferior officers, boards, or tribunals, in such cases and pursuant to such regulations as may be prescribed by law. (Sec. 1-5, c. 86, 1893. 4830.)

SECTION 39. No action shall be commenced upon a judgment rendered in any court of this State between the same parties within nine years after its rendition, without leave of the court for good cause shown, and notice to the adverse party. (4832-4837.)

SECTION 46. No cause of action, or defense or counter-claim to an action, founded upon the title to real property or to rents or services out of the same shall be effectual unless it appears that the person prosecuting the action or interposing the defense or counter-claim, or under whose title the action is prosecuted, or the defense or counter-claim is made, or the ancestor, predecessor, or grantor of such person was seized or possessed of the premises in question, within twenty years before the committing of the act in respect to which such action is prosecuted, or defense or counter-claim made. (4839-4846.)

SECTION 55. If a person entitled to maintain any of the actions mentioned in this article, or to interpose a defense or counter-claim thereto, or to make an entry upon real property, is when his title first descends or his cause of action or right of entry first accrues, or when such defense or counter-claim might be interposed, either:

1. Within the age of twenty-one years; or,
2. Insane; or,

3. Imprisoned on a criminal charge, or in execution upon conviction of a criminal offense for a term less than for life, the time of such disability is not a part of the time in this article limited for the commencement of such action, or the making of such entry, or the interposing of such defense or counter-claim; but the time so limited cannot be extended more than ten years after the disability ceases, or after the death of the person so disabled.

SECTION 56. The following actions must be commenced within the following periods after the cause of action has accrued.

**SECTION 57. Within ten years:**

1. An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States.
2. An action upon a contract contained in any conveyance or mortgage of, or instrument affecting the title to, real property, except a covenant of warranty, an action upon which must be commenced within ten years after the final decision against the title of the covenantor.

**SECTION 58. Within six years:**

1. An action upon a contract, obligation, or liability, expressed or implied, excepting those mentioned in Section 57.
2. An action upon a liability created by statute, other than a penalty or forfeiture, where not otherwise expressly provided.
3. An action for trespass upon real property.
4. An action for taking, detaining or injuring any goods or chattels, including actions for the specific recovery of personal property.
5. An action for criminal conversation, or for any other injury to the person or rights of another not arising on contract, and not hereinafter enumerated.
6. An action for relief on the ground of fraud, in cases which heretofore were solely cognizable by the court of chancery, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party, of the facts constituting the fraud. (4851.)

**SECTION 60. Within two years:**

1. An action for libel, slander, assault, battery, or false imprisonment.
2. An action upon a statute, for a forfeiture or penalty to the State.
3. An action for the recovery of damages resulting from malpractice. (Sec. 1, c. 87, 1893.)
4. An action for injuries done to the person of another, when death ensues from such injuries; and the cause of action shall be deemed to have accrued at the time of the death of the party injured. (4853-4854.)

**SECTION 63. An action upon a statute for a penalty or for-**

feiture given in whole or in part to any person who will prosecute for the same, must be commenced within one year after the commission of the offense; and if the action is not commenced within the year by a private party, it may be commenced within two years thereafter in behalf of the State by the Attorney General, or by the State's attorney of the county, where the offense was committed. (4856-4857.)

SECTION 66. An action is commenced as to each defendant when the summons is served on him, or on a co-defendant who is a joint contractor, or otherwise united in interest with him. An attempt to commence an action is deemed equivalent to the commencement thereof, within the meaning of this chapter, when the summons is delivered, with the intent that it shall be actually served, to the sheriff or other officer of the county in which the defendants or one of them usually or last resided; or if a corporation is defendant, to the sheriff or other officer of the county in which was situated the principal place of business of such corporation, or where its general business was transacted, or where it kept an office for the transaction of business. But such an attempt must be followed by the first publication of the summons or the service thereof, within sixty days.

SECTION 67. If, when the cause of action shall accrue against any person, he shall be out of the State, such action may be commenced within the terms herein respectively limited, after the return of such person into this State; and if, after such cause of action shall have accrued, such person shall depart from and reside out of this State, or remain continuously absent therefrom, for the space of one year or more, the time of his absence shall not be deemed, or taken, as any part of the time limited for the commencement of such action. (4860-4867:)

SECTION 70. When a person shall be an alien subject or a citizen of a country at war with the United States, the time of the continuance of the war is not a part of the period limited for the commencement of the action.

SECTION 71. If an action is commenced within the time prescribed therefor, and the judgment therein is reversed on appeal, the plaintiff, or, if he dies and the cause of action survives, his heirs, or representatives, may commence a new action within one year after the reversal.

SECTION 72. When the commencement of an action is stayed by injunction or other order of a court or judge, or by statutory prohibition, the time of the continuance of the stay is not a part of the time limited for the commencement of the action. (4865-4869.)

SECTION 78. Every action must be prosecuted in the name of the real party in interest, except as otherwise provided in Section 80. (4871-4875.)

SECTION 84. When the defendant is a person of unsound mind at the time the action is commenced, and no guardian has been appointed of his person or estate, the court, or a judge thereof, shall appoint a guardian for him for the action. If, during the pendency of an action, either party shall become, or prove to be of unsound mind, the action may be prosecuted or defended by his guardian, in like manner as if it had been commenced after the appointment of the guardian, or the court, or judge, may appoint a guardian for the action as the case may require. Such guardian for the action may be appointed upon the application of any party thereto, or any relative or friend of such person of unsound mind, after at least five days' notice of such application shall have first been given to such person personally, if a resident of this State, and if not a resident, in such manner as the court or judge shall direct. Upon the hearing of such application the court or judge may, if deemed desirable and practicable, order such person of unsound mind to appear or be brought in by the sheriff in person.

SECTION 85. No guardian appointed for an infant or a person of unsound mind, under the provisions of this chapter, shall be permitted to receive any money or other property of the ward, except costs and expenses allowed to the guardian by the court, or recovered by the ward in the action, until he has given sufficient security, approved by the judge of the court, to account for and apply the same under the direction of the court. And no person appointed a guardian for the purpose of defending an action brought against an infant or person of unsound mind, shall be liable for the costs of such action, unless specially charged by the order of the court for some personal misdemeanor therein. (4877-4878. Sec. 1, c. 84, 1890. 4879.)

SECTION 90. Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, whether the action is brought upon the instrument, or by a party thereto, to recover against other parties liable over to him, and persons liable severally for the same debt or demand, although upon different obligations or instruments, may all, or one or more of them, be included in the same action, at the option of the plaintiff. (4881-4883.)

SECTION 94. In case of the death of one of two or more plaintiffs or one of two or more defendants, if part only of the cause of action, or part of some of two or more distinct causes of action survives to or against the others, the action may proceed without

bringing in the successor to the rights or liabilities of the deceased party; and the judgment will not affect him or his interest in the subject of the action; but where it appears proper so to do, the court may require or compel the successor, or a person who claims to be the successor, to be brought in as a party, upon his own application or upon the application of a party to the action. (4885-4889.)

SECTION 100. In all other cases, subject to the power of the court to change the place of trial as provided by statute, the action shall be tried in the county in which the defendant, or some of the defendants reside at the time of the commencement of the action; *provided*, that if such county is attached to another county for judicial purposes, the action shall be tried in the latter county; and if none of the defendants shall reside in the State, the action may be commenced in any county which the plaintiff shall designate in the summons. (Sec. 1, c. 35, 1887. 4891.)

SECTION 102. When the place of trial is changed all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing, duly filed; and the papers shall be filed or transferred accordingly. (4892.)

SECTION 104. The summons must contain the title of the action, specifying court in which the action is brought, the names of the parties to the action, and the name of the county in which the plaintiff desires the trial and shall be subscribed by the plaintiff or his attorney, who must add to his signature his address, specifying a place within the State where there is a post-office.

SECTION 105. The summons exclusive of the title of the action and the subscription must be substantially in the following form, the blanks being properly filled:

"The State of North Dakota to the above named defendant:

"You are hereby summoned to answer the complaint in this action and to serve a copy of your answer upon the subscriber within thirty days after the service of this summons upon you, exclusive of the day of service; and in case of your failure to appear or answer judgment will be taken against you by default for the relief demanded in the complaint.

Dated....." (4895-4896.)

SECTION 108. In an action affecting the title to real property the plaintiff at the time of filing the complaint or at any time afterwards, or the defendant when he sets up an affirmative cause of action in his answer, and demands substantive relief, at the time of filing his answer or at any time afterwards, if the same is

intended to affect real property, may file for record with the register of deeds of each county in which the real property is situated, a notice of the pendency of the action, containing the names of the parties, the object of the action, and the description of the real property in that county affected thereby; from the time of filing only shall the pendency of the action be constructive notice to a purchaser or incumbrancer of the property affected thereby; but if the action is for a foreclosure of a mortgage or the enforcement of a mechanic's or minor's lien, no such notice need be filed; and every person whose conveyance or incumbrance is subsequently executed or subsequently recorded, shall be deemed a subsequent purchaser or incumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he was a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice; *provided*, however, that such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by the personal service thereof, on a defendant within sixty days after such filing. And the court in which the action was commenced, may at any time, on application of any person aggrieved and on good cause shown, and on such notice as shall be directed or approved by the court, order the notice authorized by this section to be cancelled of record, in whole or in part, by the register of deeds of any county in whose office the same may have been filed or recorded, and such cancellation shall be made by an indorsement to that effect on the margin of the record which shall refer to the order. Such cancellation may in like manner be made by the register of deeds upon a written request, directing such cancellation, signed by the party, or the attorney of the party, who caused such notice to be filed. (Sec. 1, c. 117, 1885; Sec. 1, c. 22, 1887.)

SECTION 109. The summons shall be served by delivering a copy thereof, as follows:

1. If the defendant is a minor under the age of fourteen years, to such minor personally, and also to his father, mother, or guardian; or if there is none within the State, then to any person having the care and control of such minor, or with whom he shall reside, or in whose service he shall be employed.

2. If the defendant is a person judicially declared to be of unsound mind or incapable of conducting his own affairs in consequence of habitual drunkenness or any other cause, and for whom a guardian has been appointed, to such guardian and to the defendant personally.

3. If the defendant is a public corporation within this State, to the mayor or any of the aldermen of any city; to any of the

commissioners of a county; to the president or any of the trustees of any incorporated town; to any of the supervisors of a civil township; to any of the members of a school district board. If the defendant is the State, to the Governor or Attorney General.

4. If the defendant is a domestic corporation, to the president or other head of the corporation, secretary, cashier, treasurer, a director or managing agent thereof.

5. If the defendant is a foreign corporation, joint stock company or association, to the Secretary of State, unless the defendant is an insurance company, in which case, to the Commissioner of Insurance, or to the president, secretary, cashier, treasurer, a director or managing agent thereof, if within the State, doing business for the defendant.

6. In all cases when a foreign corporation, joint stock company or association shall not have appointed either the Secretary of State or Commissioner of Insurance, as the case may be, as its lawful attorney upon whom service of process may be made, and such foreign corporation, joint stock company, or association cannot be personally served with such process according to the provisions of subdivision five of this section, it shall be lawful to serve such process on any person who shall be found within this State, acting as the agent of, or doing business for, such corporation, joint stock company or association. But the service provided for in this subdivision can be made upon a foreign corporation, joint stock company or association only when it has property within the State or the cause of action arose therein.

7. In all other cases to the defendant personally; and if the defendant cannot conveniently be found, by leaving a copy thereof at his dwelling house in the presence of one or more of the members of his family over the age of fourteen years; or if the defendant resides in the family of another, with one of the members of the family in which he resides, over the age of fourteen years.

Service made in any of the modes provided in this section shall be taken and held to be personal service; and all writs, process or orders, issued by any of the courts of this State, or by the judges thereof, in any action or proceeding, shall be served in the manner, and upon the persons or officers mentioned in this section, and none other, except in cases where service of papers can be made upon an attorney after the appearance, as provided by this Code. (Sec. 1, c. 37, 1881. 4899.)

SECTION 111. Service of the summons in an action may be made on any defendant by publication thereof upon filing a verified complaint therein with the clerk of the district court of the county in which the action is commenced, setting forth a cause of

action in favor of the plaintiff and against the defendant, and also filing an affidavit stating the place of defendant's residence, if known to the affiant, and if not known, stating that fact; and further stating:

1. That the defendant is not a resident of this State; or,
2. That the defendant is a foreign corporation, joint stock company, or association, and has no agent or person in this State upon whom service may be made under the provisions of Section 109; or,
3. That personal service cannot be made on such defendant within this State to the best knowledge, information and belief of the person making such affidavit, and in cases arising under this subdivision the affidavit shall be accompanied by the return of the sheriff of the county in which the action is brought, stating that after diligent inquiry for the purpose of serving such summons, he is unable to make personal service thereof upon such defendant.

The affidavit shall also state or the complaint show:

1. That the defendant has property within this State or debts owing to him from residents thereof; or,
2. That the defendant is a resident of this State, and has departed therefrom with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself secreted therein with a like intent; or,
3. That the relief sought in the action consists wholly or partly in excluding the defendant from any interest in or lien upon specific real or personal property within this State, or in enforcing, regulating, defining, or limiting such interest or lien in favor of either party to the action; or otherwise affecting the title to such property; or,
4. That the action is for divorce or for a decree annulling a marriage; or,
5. That the defendant in any of the cases mentioned in the last preceding subdivisions, one, two, three and four, is unknown to the plaintiff.

SECTION 112. Service of the summons by publication may be made by publishing the same six times, once in each week for six successive weeks, in a newspaper published in the county in which the action is pending, if a newspaper is published in such county; and if no newspaper is published in such county, then in a newspaper published at the seat of government of this State.

SECTION 113. A copy of the summons and complaint must within ten days after the first publication of the summons be deposited in some postoffice in this State, postage prepaid, and directed to the defendant to be served, at his place of residence, unless the affidavit for publication states that the residence of the defendant is unknown.

SECTION 114. After the affidavit for publication and the complaint in the action are filed, personal service of the summons and complaint upon the defendant out of the State, shall be equivalent to and have the same force and effect as the publication and mailing provided for in this chapter.

SECTION 115. The first publication of the summons or personal service of the summons and complaint upon the defendant out of the State must be made within sixty days after the filing of the affidavit for publication, and if not so made, the action shall be deemed discontinued.

SECTION 116. Service by publication is complete upon the expiration of thirty-six days after the first publication of the summons, or in case of personal service of the summons and complaint upon the defendant out of the State, upon the expiration of fifteen days after the date of such service.

SECTION 117. The defendant upon whom service by publication is made, or his representatives, on application and sufficient cause shown at any time before judgment, must be allowed to defend the action; and, except in an action for divorce, the defendant upon whom service by publication is made, or his representatives, may, in like manner, upon good cause shown, be allowed to defend after judgment or at any time within one year after notice thereof and within seven years after its rendition, on such terms as may be just; and if the defense is successful and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs; but the title to property sold under such judgment to a purchaser in good faith shall not be thereby affected. (4901.)

SECTION 119. Proof of the service of the summons and of the complaint or notice, if any, accompanying the same, must be as follows:

1. If served by the sheriff or other officer, his certificate thereof; or,
2. If by any other person, his affidavit thereof; or,
3. In case of publication, an affidavit made as provided in

Section 522 of this Code and an affidavit of a deposit of a copy of the summons and complaint in the postoffice, as required by law, if the same shall have been deposited; or,

4. The written admission of the defendant.

In cases of service otherwise than by publication the certificate, affidavit or admission must state the time, place and manner of service. (Sec. 1, c. 125, 1885.)

SECTION 120. Any original pleading or paper in any civil action or proceeding which by law is required to be filed in the office of the clerk of the court in which such action or proceeding is pending may, upon the request of the party filing the same, be removed from the files for the purpose of serving the same either within or without the State. (4904.)

SECTION 122. All forms of pleadings heretofore existing are abolished; and hereafter the forms of pleading in civil actions in courts of record and the rules by which the sufficiency of the pleadings is to be determined are those prescribed by this Code. (4906-4921.)

SECTION 139. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to those matters stated upon information and belief, and as to those matters he believes it to be true, except when it is made by any person other than the party to the action, in which case it must be to the effect that the same is true to the best knowledge, information and belief of the person making it; and such verification must be by the affidavit of the party, his agent or attorney, or if there are several parties united in interest and pleading together, by one at least of such parties acquainted with the facts, or by the agent or attorney of such party. When a corporation is a party, the verification may be made by any officer thereof, and when the State or any officer thereof in its behalf is a party, the verification may be made by any person acquainted with the facts. The verification may be omitted when an admission of the truth of the allegation might subject the party to a prosecution for felony, and no pleading can be used in a criminal prosecution against the party as proof of a fact admitted or alleged in such pleading. (Sec. 1, c. 149, 1885. 4923-4928.)

SECTION 146. In an action for libel or slander it shall not be necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose, but it shall be sufficient to state generally that the same was published or spoken concerning the plaintiff, and if such allegation is con-

troverted, the plaintiff shall be bound to establish, on trial, that it was so published or spoken. (4930.)

SECTION 149. The plaintiff may unite in the same complaint several causes of action, whether they are such as have been heretofore denominated legal or equitable, or both, where they all rise out of :

1. The same transaction or transactions connected with the same subject of action; or,
2. Contract, express or implied; or,
3. Injuries, with or without force, to person and property, or either; or,
4. Injuries to character; or,
5. Claims to recover real property, with or without damages, for the withholding thereof, and the rents and profits of the same, or for waste committed thereon; or,
6. Claims to recover personal property, with or without damages for the withholding thereof; or,
7. Claims against a trustee by virtue of a contract, or by operation of law.

But the causes of action so united must all belong to one of these classes and, except in actions for the foreclosure of mortgages, must affect all the parties to the action, and not require different places of trial, and must be separately stated. (4933.)

SECTION 151. No variance between the allegation in a pleading and the proof shall be deemed material, unless it has actually misled the adverse party to his prejudice, in maintaining his action or defense upon the merits. Whenever it shall be alleged that a party has been misled, the fact shall be proved to the satisfaction of the court, and in what respect he has been misled; and thereupon the court may order the pleading to be amended, upon such terms as shall be just. (4935-4940.)

SECTION 158. The court shall, in every stage of an action, disregard any error or defect in the pleadings or proceedings, which shall not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defeat. (4942-4944.)

SECTION 162. The defendant may be arrested, as hereinafter prescribed in the following cases:

1. In an action for the recovery of damages for an injury to

person or character, or for injuring or wrongfully taking, detaining or converting property.

2. In an action for money or property embezzled or fraudulently misapplied or converted to his own use, by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent, or other person in a fiduciary capacity, in the course of his employment as such.

3. In an action to recover the possession of personal property unjustly detained, when the property, or any part thereof, has been concealed, removed or disposed of, so that it cannot be found or taken by the sheriff, and with the intent that it should not be found or taken, or with the intent to deprive the plaintiff of the benefit thereof.

4. When the defendant has been guilty of a fraud in contracting the debt, or in incurring the obligation for which the action is brought, or in concealing or disposing of the property, for the taking, detention or conversion of which the action is brought, or when the action is brought to recover damages for fraud or deceit.

5. When the defendant has removed or disposed of his property, or is about to do so, with the intent to defraud his creditors.

But no female shall be arrested in any action, except for willful injury to person, character or property. (4946-4948.)

**SECTION 166.** The order may be made to accompany the summons, or at any time afterwards before judgment. It shall require the sheriff of the county where the defendant may be found forthwith to arrest him and hold him to bail in a specified sum, and return the order, at a place and time therein mentioned, to the plaintiff or his attorney, by whom it shall be subscribed or indorsed. But such order of arrest shall be of no avail and shall be vacated or set aside on motion, unless the same is served upon the defendant, as provided by law, before the docketing of any judgment in the action; and the defendant shall have thirty days after the service of the order of arrest, in which to answer the complaint in the action, and to move to vacate the order of arrest, or to reduce the amount of bail. (4950-4960.)

**SECTION 178.** For the purpose of justification, each of the bail shall attend before any judge of a district court, or a justice of the peace, at the time and place mentioned in the notice, and may be examined on oath on the part of the plaintiff touching his sufficiency, in such manner as the judge or justice of the peace, in discretion, may think proper. The examination shall be reduced to writing and subscribed by the bail if required by the plaintiff.

The costs of the justification shall be paid by the party offering the bail, if the same is found not sufficient, but if sufficient then the party accepting shall pay such costs. Such costs shall be returned by the officer with his report of the justification, and shall be taxed by the court in which the action is pending, as other costs are taxed. (Sec. 1, c. 21, 1889. 4962-4984.)

**SECTION 202.** An injunction may be granted in either of the following cases:

1. When it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act the commission or continuance of which, during the litigation, would produce injury to the plaintiff; or,

2. When, during the litigation, it shall appear that the defendant is doing, or threatens, or is about to do, or procuring or suffering some act to be done in violation of the plaintiff's rights, respecting the subject of the action, and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act.

3. And when, during the pendency of an action, it shall appear by affidavit that the defendant threatens, or is about to remove or dispose of his property, with intent to defraud his creditors, a temporary injunction may be granted to restrain such removal or disposition. (4986-4992.)

**SECTION 210.** In an action on a contract or judgment for the recovery of money only, or for wrongful conversion of personal property, the plaintiff at or after the commencement thereof, may have the property of the defendant attached in the following cases:

1. When the defendant is not a resident of this State or is a foreign corporation.

2. When the defendant has absconded or concealed himself.

3. When the defendant has removed or is about to remove his property or a material part thereof from this State, not leaving enough therein for the payment of his debts.

4. When the defendant has sold, assigned, transferred, secreted, or otherwise disposed of, or is about to sell, assign, transfer, secrete, or otherwise dispose of, his property with intent to cheat or defraud his creditors, or to hinder or delay them in the collection of their debts.

5. When the defendant is about to remove his residence from the county where he resides with the intention of permanently

changing the same, and fails or neglects on demand, to give security for the debt upon which the action is commenced.

6. When the debt upon which the action is commenced was incurred for property obtained under false pretences.

7. When the defendant is about to remove his property, or a material part thereof, from the State, with the intent, or to the effect of cheating or defrauding his creditors, or hindering or delaying them in the collection of their debts.

SECTION 211. The plaintiff may bring an action on his claim before it is due and have the property of the defendant attached in any of the cases mentioned in the preceding section except the first, second and fifth. The proceeding on such attachment shall be conducted in all respects as if the claim was due, but judgment must not be rendered in the action until the debt upon which such action is commenced shall become due, and the complaint must state that the action is commenced before the debt is due for the purpose of obtaining the issuance of an attachment, but need not state the grounds of the attachment; and upon the discharge of such attachment, except under the provisions of Section 229, the action shall be dismissed, but without prejudice to the bringing of a new action.

SECTION 212. Within the meaning of the last two sections, an action shall be deemed commenced when the summons is issued, but personal service of such summons must be made, or publication thereof commenced, within sixty days after the issuance of the warrant of attachment.

SECTION 213. The warrant of attachment shall be issued by the clerk of the court in which the action is commenced, shall be attested in the name of the presiding judge and sealed with the seal of the court.

SECTION 214. The warrant shall issue upon a verified complaint, setting forth a proper cause of action for attachment in favor of the plaintiff and against the defendant, and an affidavit, setting forth in the language of the statute one or more of the grounds of attachment enumerated in Section 210, if the claim is due upon which the action is commenced; and if not due, one or more of the grounds of attachment enumerated in subdivision three, four, six and seven of that section.

SECTION 215. The warrant must briefly recite the statutory grounds of the attachment, but shall not set forth plaintiff's cause of action, and must be directed to the sheriff of any county in which property of such defendant may be and must require him to attach and safely keep all the property of such defendant within

his county, not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, with costs and disbursements, the amount of which demand must be stated in the warrant in conformity with the complaint, unless the defendant delivers to him an undertaking in favor of the plaintiff with sufficient surety to the effect that he will pay any judgment which the plaintiff may obtain against him in the action, or an undertaking with like surety to the effect that the property of such defendant, which has been or is about to be attached, shall be forthcoming in substantially as good condition as it is at the time of giving the undertaking to answer such judgment, which undertaking shall be in an amount equal to the value of such property according to the sheriff's inventory. Several warrants may be issued at the same time to the sheriffs of different counties.

**SECTION 216.** Before issuing the warrant, the clerk must require a written undertaking, on the part of the plaintiff, with sufficient surety, to the effect that if the defendant recovers judgment or the attachment is set aside by the order of the court, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum named in the undertaking which must be at least the amount of the claim specified in the warrant and in no case less than two hundred and fifty dollars. The defendant may at any time within ten days after a levy under a warrant of attachment except to the sufficiency of the surety upon such undertaking. Thereupon the surety must justify upon the like notice and in like manner as bail upon an arrest; or a new undertaking must be given with new surety which shall be filed as provided in Section 217 and thereupon the same proceedings may be had upon such undertaking as upon the original undertaking. If the defendant does not except as prescribed in this section he is deemed to have waived all objection to the surety. If the attachment is set aside by order of the court the defendant may bring an action upon such undertaking without first obtaining judgment against the plaintiff in the action in which such undertaking was given.

**SECTION 217.** The plaintiff, at the time of procuring the warrant, must file in the office of the clerk of the court in which the action is commenced the complaint, affidavit and undertaking upon which such warrant is issued.

**SECTION 218.** The sheriff must immediately execute the warrant by levying upon so much of the personal and real property of the defendant, within his county, not exempt from execution, as will satisfy the plaintiff's demand, with the costs and disbursements. He must take into his custody all books of account, vouchers, and other papers relating to the personal property at-

tached, and all evidences of defendant's title to the real property attached, which he must safely keep, to be disposed of as prescribed in this article. The sheriff, to whom a warrant of attachment is delivered, may levy from time to time and as often as is necessary, until the amount for which it was issued has been secured, or final judgment has been rendered in the action.

SECTION 219. Immediately upon making such seizure the sheriff shall make a true and complete inventory of all the property so seized, and of the books, vouchers and papers taken into his custody, stating therein the estimated value of the several articles and kinds of personal property, enumerating such of them as are perishable, and giving a description of the real property so attached, which inventory must be signed by the sheriff. Any subsequent execution of the warrant of attachment upon other property of the debtor must be made, and an inventory thereof made in like manner. The sheriff shall within twenty days after making such seizure file such inventory and a return of his doings upon such attachment with the clerk of the district court who issued the warrant. In case a forthcoming undertaking is given by the defendant under the provisions of Section 215 for property before a levy has been made thereon, the sheriff shall make and return an inventory of such property in accordance with the provisions of this section. (Sec. 1, c. 24, 1887.)

SECTION 220. A levy under a warrant of attachment must be made as follows:

1. Upon real property by the sheriff's filing with the register of deeds of the county, in which the property is situated, a notice of the attachment, subscribed by him, stating the names of the parties to the action, the amount of the plaintiff's claim as stated in the warrant, and a description of the property levied upon, which notice must be recorded and indexed by the register of deeds, in like manner and in the same book as a notice of the pendency of an action.

2. Upon personal property which by reason of its bulk, or other cause, cannot be immediately removed, by the sheriff's filing with the register of deeds a notice of the same kind as described in subdivision one of this section; and such levy shall be equally valid and effectual as if the articles had been seized and the possession and control thereof retained by the officer.

Upon cattle or horses, running at large, and commonly known as range stock, between the first day of November and the next succeeding fifteenth day of May, by the sheriff's filing with the register of deeds of the county in which such property is running at large, a notice of the same kind as described in subdivision

one of this section, specifying the number as near as may be, and containing a description of such stock by marks and brands; and such levy shall be equally valid and effectual as if such cattle and horses had been seized and the possession and control thereof retained by the officer.

The register of deeds shall receive and file all such notices, numbering the same consecutively, and must keep the same in his office in regular and orderly file and shall make an entry thereof in a book to be kept for that purpose, and designated as the index of attachments, in the order in which they are received, which entry shall contain in separate columns the names of the defendants alphabetically arranged, the names of the plaintiffs, the number endorsed upon the notice, the amount claimed by the plaintiff and the time of the filing.

Notwithstanding the provisions of this subdivision an attachment may, by direction of the plaintiff or his attorney, be levied upon the property mentioned in this subdivision in accordance with subdivision three of this section; but if additional costs are made by such a levy the same shall not be allowed to the plaintiff, if, in the judgment of the court, the taking of the property into the custody of the sheriff was unnecessary.

3. Upon personal property, capable of manual delivery, including bonds, promissory notes, or other instruments for the payment of money, by taking the same into the sheriff's actual custody. He must thereupon, without delay, deliver a copy of the warrant to the person from whose custody such property is taken.

4. Upon other personal property by leaving a copy of the warrant and a notice showing the property attached with the person holding the same; or, if it consists of a demand other than as specified in the last subdivision, with the person against whom it exists, or if it consists of a right or share in the stock of a corporation or interest or profits thereon, with the president, or other head of the corporation, or the secretary, cashier, or managing agent thereof.

The lien of the attachment shall be effectual from the time when a levy is made in accordance with the foregoing provisions.

**SECTION 221.** When property is pledged or mortgaged for the payment of money or the performance of any contract or agreement, the right and interest in such property of the person pledging or mortgaging the same may be attached and sold on execution, and the purchaser at such sale shall acquire all the right and interest of the defendant therein.

**SECTION 222.** In the cases mentioned in subdivisions one and two of Section 220, the sheriff shall within thirty days after the levy of an attachment serve the warrant of attachment together with a notice of levy, describing the particular property levied on in the manner provided for the service of a summons in Section 109, as follows:

1. If the levy is made upon real property, upon the occupant thereof, if any.

2. If upon personal property mentioned in said subdivision two, upon the person in whose custody the same may be.

The failure of the sheriff to serve such warrant or notice shall not invalidate the levy, but the sheriff shall be liable to the person whose property is attached for any damages which he may sustain by reason of such failure.

**SECTION 223.** If any property levied upon by the sheriff, by virtue of a warrant of attachment, is claimed by any other person than the defendant and such person, his agent or attorney, makes affidavit of his title thereto or right to the possession thereof, stating the value thereof and the ground of such title or right, the sheriff may release such levy unless the plaintiff, on demand, indemnifies the sheriff against such claim by an undertaking executed by a sufficient surety; and no claim to such property by any other person than the defendant shall be valid against the sheriff unless so made; and notwithstanding such claim, when so made, he may retain such property under levy a reasonable time to demand such indemnity.

**SECTION 224.** Upon the application of the sheriff, holding a warrant of attachment, the president or other head of a corporation, or the secretary, cashier or managing agent thereof, or a debtor of the defendant or a person holding property, including a bond, promissory note or other instrument for the payment of money belonging to the defendant, must furnish to the sheriff a certificate, under his hand, specifying the rights or number of shares of the defendant in the stock of the corporation, with all dividends declared or incumbrances thereon; or the amount, nature and description of the property held for the benefit of the defendant or of the defendant's interest in property so held, or of the debt or demand owing to the defendant, as the case requires. If such officer, debtor or individual refuses to furnish such certificate, or if it is made to appear by affidavit or otherwise to the satisfaction of the court or judge thereof that there is reason to suspect that any certificate given by him is untrue, or that it fails to set forth fully the facts required to be shown thereby, he may be required by order of the court or judge to attend before him

and be examined on oath concerning the same and obedience to such order may be enforced by proceedings as for a contempt.

SECTION 225. The sheriff must, subject to the direction of the court or judge, collect and receive all debts, effects and things in action attached by him. He may maintain any action or special proceeding, in his name or in the name of the defendant, which is necessary for that purpose, or to reduce to his actual possession an article of personal property capable of manual delivery, but of which he has been unable to obtain possession and in such action to obtain possession of personal property the defendant may be enjoined from disposing of such property; and he may discontinue such an action or special proceeding at such time and on such terms as the court or judge directs.

SECTION 226. The actions and special proceedings herein authorized to be commenced by the sheriff may be prosecuted by the plaintiff or under his direction upon the delivery by him to the sheriff of an undertaking executed by sufficient surety, to the effect that the plaintiff will indemnify the sheriff from all damages, costs and expenses on account thereof, not exceeding two hundred and fifty dollars in any one action. Such surety shall in all cases, when required by the sheriff, justify in like manner as bail upon an arrest.

SECTION 229. If property attached is perishable the court may by an order made with or without notice, as the urgency of the case may require, direct the sheriff to sell such property at public auction and thereupon the sheriff must sell it accordingly. If the attached property is of such a character that it is liable greatly to depreciate in value during the pendency of the action or consists of live animals, the same proceedings may be had as in the case of perishable property, but such notice of the application for the order shall be given to the parties to the action as the court prescribes. The order directing the sale must fix the time and place of sale, and notice thereof must be given in such manner and for such time as is prescribed in the order.

SECTION 228. The defendant may at any time after he has appeared in the action and before final judgment apply to the clerk who issued the attachment or to the court to discharge the attachment as to the whole or any part of the property attached.

SECTION 229. Upon such an application the defendant must give an undertaking with sufficient surety to the effect that the property of such defendant, which has been attached, shall be forthcoming in substantially as good condition as it is at the time of the application to answer any judgment which the plaintiff may recover against him in the action, which undertaking shall be in

an amount equal to the value of the property according to the sheriff's inventory; or the defendant may at his election give an undertaking with sufficient surety to the effect that he will on demand pay to the plaintiff the amount of any judgment which may be recovered in the action against him, not exceeding a sum specified in the undertaking, with interest. The sum so specified must be at least equal to double the amount of plaintiff's demand, as specified in the warrant of attachment; or, at the option of the defendant, equal to double the appraised value of the property attached according to the sheriff's inventory, or, if the application is to discharge the attachment as to a part only of the property attached, equal to double the appraised value of that part.

SECTION 230. When there are two or more defendants and an application is made, as prescribed in the last two sections, by one or more, but not all of them, the undertaking must provide for the payment of any judgment, which may be recovered against any of the defendants in the action, unless the applicant makes proof by affidavit, to the satisfaction of the court, that the property in respect to which the application is made belongs to him separately; in which case, the undertaking must provide for the payment of any judgment, which may be recovered in the action against the applicant, either alone or jointly with any other defendant. When an application is made, as prescribed in this section, at least two days' notice thereof, with a copy of the affidavit, must be served upon the plaintiff's attorney, who may oppose the application by affidavit, on the ground that one or more of the other defendants own or have an interest in the property.

SECTION 230a. If the warrant of attachment is levied upon the interest of one or more partners in personal property of the firm, the other partners, or one or more of them, may at any time before judgment apply to the court from which the warrant of attachment issued, or a judge thereof, upon affidavit stating such fact, for an order to discharge the attachment as to the partnership property. The applicant must give an undertaking with sufficient surety to the effect, that if judgment shall be rendered in the action in favor of the plaintiff, they will pay to the sheriff on demand the amount of defendant's interest in such partnership property, the amount of such interest to be determined by reference or otherwise, as the court may direct. The amount of such undertaking must be fixed by the court or judge thereof, and must not be less than the value of the interest of the defendant in the personal property of the partnership; and for the purpose of fixing the amount of the undertaking the court may hear affidavits or oral testimony respecting the value of the defendant's interest in the attached property.

SECTION 231. An undertaking given as prescribed in the last three sections must be forthwith filed with the clerk. A copy thereof, with a notice of the filing, must be forthwith served upon the plaintiff's attorney; who may, within three days thereafter, give notice to the sheriff that he excepts to the sufficiency of the surety. Thereupon the surety must justify upon the like notice and in like manner as bail upon an arrest; or a new undertaking must be given with new surety, and thereupon the same proceedings must be had upon such undertaking as upon the original undertaking. If the plaintiff does not except as prescribed in this section he is deemed to have waived all objection to the surety. The sheriff shall be responsible for the sufficiency of the surety upon any undertaking given by the defendant, and may retain possession of the property attached and the proceeds thereof in his hands until the objection to the surety is either waived as above provided, or until he justifies or new surety is substituted and justifies.

SECTION 232. The giving of any of the undertakings mentioned in this article by the defendant shall not operate as a waiver of his right to move to discharge the attachment, and if such attachment is discharged on motion any undertaking given by the defendant shall be null and void and shall be returned to him.

SECTION 233. In all cases the defendant, or any person who has acquired a lien upon or interest in the defendant's property after it was attached, may move to discharge the attachment. If the motion is made upon affidavit on the part of the defendant, or a person who has acquired a lien upon or interest in the defendant's property after it was attached, but not otherwise, the plaintiff may oppose the same by affidavit or other proof in addition to the affidavit upon which the attachment was granted; and in such case the defendant, or person who has acquired a lien upon or interest in the defendant's property after it was attached, may sustain the motion by affidavit or other proof in rebuttal of the affidavits or other proof, offered and submitted on the part of the plaintiff to oppose the motion. And if on such hearing it appears to the satisfaction of the court or judge that the attachment was irregularly issued, or that the affidavit upon which it was issued is untrue, the attachment must be discharged. (Sec. 1, c. 93, 1881.)

SECTION 234. When the warrant of attachment is vacated, or annulled, or the attachment is discharged upon the application of the defendant, or person who has acquired a lien upon or interest in the defendant's property after it was attached, the sheriff must deliver over to the defendant, or to the person entitled thereto, upon reasonable demand, all the attached personal property re-

maining in his hands, or that portion thereof as to which the attachment is discharged; or the proceeds thereof, if it has been sold by him. (5006.)

**SECTION 236.** If the defendant recovers judgment against the plaintiff in the action, any undertaking given by the defendant, all the proceeds of sales and moneys collected by the sheriff and all property attached, remaining in his hands, shall upon the order of the court be delivered by him to the defendant, or his agent, on request, and the warrant shall be discharged and the property released therefrom.

**SECTION 237.** At any time after the warrant of attachment has been vacated or annulled, or the attachment has been discharged, the court may, upon the application of any person aggrieved, and with or without notice in the discretion of the court, direct that any notice filed for the purpose of attaching the property be cancelled of record by the register of deeds of the county where it is filed or recovered. The cancellation must be made by the register of deeds upon a certified copy of the order directing such cancellation being filed in his office, by an entry to that effect on the margin of the record, referring to the order. Such cancellation may in like manner be made by the register of deeds upon a written request, directing such cancellation, signed by the plaintiff or his attorney.

**SECTION 238.** When the warrant shall be fully executed or discharged the sheriff must return the same with his proceedings thereon to the court in which the action was commenced.

**SECTION 239.** A receiver may be appointed by the court in which an action is pending, or by a judge thereof:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and when it is shown that the property or fund is in danger of being lost, removed or materially injured.

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property when it appears that the mortgaged property is in danger of being lost, removed or materially injured, or that the conditions of the mortgage have not been performed, and that the property is probably insufficient to discharge the mortgage debt.

3. After judgment, to carry the judgment into effect.

4. After judgment, to dispose of the property according to the judgment or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply his property in satisfaction of the judgment.

5. In the cases provided in this Code, when a corporation has been dissolved, or is insolvent; or in imminent danger of insolvency, or has forfeited its corporate rights; and in like cases within this State, of foreign corporations. (5017-5024.)

SECTION 248. Judgment may be had if the defendant fails to answer the complaint in the following cases:

1. In an action arising on contract for the recovery of money only the plaintiff may file with the clerk proof of personal service of the summons and complaint on one or more of the defendants, or of the summons according to the provisions of Section 106 and that no answer or demurrer has been received. Judgment shall thereupon be entered for the amount demanded in the complaint, against the defendant or defendants, or against one or more of the several defendants in the cases provided for in Section 118, but if the complaint is not sworn to, and such action is on an instrument for the payment of money only, the court, on its production, shall assess the amount due to the plaintiff thereon, and in other cases shall ascertain the amount which the plaintiff is entitled to recover in such action from his examination under oath, or other proof, and enter the judgment for the amount so assessed or ascertained. In case the defendant gives notice of appearance in the action, he shall be entitled to five days notice of the time and place of such assessment. When the defendant, by his answer in any such action, shall not deny the plaintiff's claim, but shall set up a counter claim amounting to less than the plaintiff's claim, judgment may be had by the plaintiff for the excess of such claim over the said counter claim, in like manner in any such action, upon the plaintiff's filing with the clerk of the court a statement admitting such counter claim, which statement shall be annexed to and be a part of the judgment roll.

2. In other actions the plaintiff may, upon the like proof apply to the court, after the expiration of the time for answering, for the relief demanded in the complaint. If the taking of an account, or the proof of any fact is necessary to enable the court to give judgment, or to carry the judgment into effect, the court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. And when the action is for the recovery of money only, or of specific real or personal property, with damages for the withholding thereof,

the court may order the damages to be assessed by a jury, or, if the examination of a long account is involved, by a reference as above provided. If the defendant gives notice of appearance in the action before the expiration of the time for answering, he shall be entitled to eight days' notice of the time and place of application to the court for the relief demanded by the complaint.

3. In actions when the service of the summons was by publication, the plaintiff may in like manner apply for judgment, and the court must thereupon require proof to be made of the demand mentioned in the complaint; and if the defendant is not a resident of the State, must require the plaintiff or his agent to be examined on oath respecting any payments that have been made to the plaintiff, or to any one for his use, on account of such demand, and may render judgment for the amount which he is entitled to recover. Before rendering judgment the court may, in its discretion, require the plaintiff to cause to be filed satisfactory security, to abide the order of the court, touching the restitution of any estate or effects which may be directed by such judgment to be transferred or delivered, or the restitution of any money that may be collected under or by virtue of such judgment, in case the defendant or his representatives shall apply and be admitted to defend the action, and shall succeed in such defense. (5026-5028.)

SECTION 252. An issue of fact arises:

1. Upon a material allegation in the complaint controverted by the answer; or,

2. Upon new matter in the answer not requiring a reply, or controverted by a reply; or,

3. Upon new matter in the reply, unless an issue of law is joined thereon. (5030-5031.)

SECTION 255. An issue of law must be tried by the court or by the judge. An issue of fact in an action for the recovery of money only, or of specific real or personal property, must be tried by a jury, unless a jury trial is waived, as provided in Section 284, for a reference is ordered as provided in Sections 290 and 291. Every other issue is triable by the court, which, however, may order the whole issue, or any specific question of fact involved therein to be tried by a jury, or by a referee as provided in Sections 290 and 291. (5033-5041. 5046-5047. Sec. 1-2, c. 84, 1893. 5050-5060.)

SECTION 280. The court, in its discretion, may, and when either party at or before the close of the testimony and before any argument to the jury is made or waived, shall so request, shall direct the jury to find a special verdict. Such verdict shall

be prepared by the court in the form of questions in writing, which shall be confined to matters involving the merits of the case and shall admit of direct answer, and the jury shall make their answer thereto in writing. The court may also direct the jury, if they render a general verdict to find in writing upon any particular questions of fact, to be stated as aforesaid. In every action for the recovery of money only, or specific real property, the jury may, in their discretion, when not otherwise directed by the court, render a general or a special verdict. The special verdict or finding must be filed with the clerk and entered upon the minutes. When the special findings of fact are inconsistent with the general verdict, the former controls the latter, and the court must give judgment accordingly.

SECTION 281. When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a counter claim for the recovery of money is established, exceeding the amount of the plaintiff's claim as established, the jury must also find the amount of the recovery; and they may also under the direction of the court assess the amount of the recovery when the court gives judgment on the pleadings for either party.

SECTION 282. In an action for the recovery of specific personal property the jury must find by their verdict the facts, as the case may be, as follows:

1. In case they find against the defendant and the property has not been delivered to the plaintiff, they must find the value of the property, or of the plaintiff's interest therein, if less than its full value, at the time of the taking, and that the plaintiff is entitled to a delivery of the property, and they must also assess the damages, if they are claimed in the complaint, which the plaintiff has sustained by reason of the taking and detention of such property.

2. In case they find against the defendant, and the property has been delivered to the plaintiff, they must find that the plaintiff is entitled to the property, and they must also assess the damages, if any are claimed in the complaint, which the plaintiff has sustained by reason of the taking and detention of such property.

3. In case they find against the plaintiff, and the property has been delivered to him, and the defendant in his answer claims a return of the property, they must find the value thereof, or of the defendant's interest therein, if less than its full value, at the time of the taking, and they must also assess the damages, if any are claimed in the answer, which the defendant has sustained by reason of the taking and detention of such property.

4. In case they find against the plaintiff and the property has been retained by the defendant, they must find that the defendant is entitled to such property.

5. In case the jury find that each party is entitled to specific portions of the property in controversy and such portion has been delivered to the opposite party, and a return is claimed in the complaint or answer, they must find the value of such portion, or of the party's interest therein, if less than its full value, at the time of the taking and also assess the damages, if any are claimed in the complaint or answer, in favor of the plaintiff or defendant as hereinbefore provided, as to the portion to which they find the plaintiff or defendant entitled.

Whenever the jury are so instructed, they must find the value of specific portions of the property in controversy or of the interest of either party therein, if less than its full value at the time of the taking, and shall also assess the damages, if any are claimed by the party in whose favor they find sustained by reason of the taking and detention of such property. (5064, 5065, Sec. 1, c. 89, 1893; 5067, 5070.)

SECTION 290. All or any of the issues in an action, whether of fact or law, or both, may be referred by the court or judge thereof upon the written consent of the parties. The fees of referees shall be fixed by the court and shall in no case exceed ten dollars per day, except upon the written consent of both parties to the reference. (Sec. 1, c. 112, 1889.)

SECTION 291. When the parties do not consent to the reference the court may, upon the application of either party, or of its own motion, direct a reference in the following cases:

1. When the trial of an issue of fact will require the examination of a long account on either side, in which case the referee may be directed to hear and decide the whole issue, or to report upon any specific question of fact therein; or,

2. When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect; or,

3. When a question of fact other than upon the pleadings shall arise upon motion or otherwise in any stage of the action. (5073-5075.)

SECTION 295. The trial by referee shall be conducted in the same manner as a trial by the court. Upon such trial the referee shall have the same power to grant adjournments and allow amendments to any pleading as the court would have and upon

the same terms and with like effect. He shall also have the same power to preserve order and punish all violations thereof upon such trial and compel the attendance of witnesses before him and to punish them as for a contempt for non-attendance or refusal to be sworn or testify as is possessed by the court. He shall give to the parties or their attorneys at least eight days' notice of the time and place of trial. He must state the facts found and conclusions of law separately and report his findings together with all of the evidence taken by him and all exceptions taken on the hearing to the district court, and the district court may review such report, and on motion, enter judgment thereon, or set aside, alter, or modify the same and enter judgment upon the same so altered or modified, and may require the referee to amend his report when necessary. The judgment so entered by the district court may be appealed from to the supreme court in like manner as from judgments in other cases. (5078-5079.)

SECTION 298. The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision finally determining the rights of the parties, or some of them, an order granting or refusing a new trial, an order sustaining or overruling a demurrer, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, refusing a continuance, an order made upon *ex parte* application and an order or decision made in the absence of a party are deemed to have been excepted to and the same may be reviewed both as to questions of law and the sufficiency of the evidence upon motion for a new trial or upon appeal as fully as if exception thereto had been expressly taken. (Sec. 2, c. 21, 1887.)

SECTION 299. A statement of the evidence or a part thereof, settled by the court, for the purpose of reviewing, either errors of law, or the sufficiency of the evidence, or both, is designated in this Code a statement of the case.

SECTION 300. A statement containing exceptions to any ruling may be presented to the judge for settlement at the time the ruling is made, or the exception may be entered on the judge's minutes, and afterward settled. Such statement must be conformable to the truth, or be at the time corrected until it is so, and signed by the judge and filed with the clerk.

SECTION 301. In any trial by a referee either party may take exceptions in the same manner as on trials by the court, and the referee shall note in his minutes any exceptions so taken, as they are taken. The prevailing party shall serve upon the other a copy of the referee's findings of fact and conclusions of law, after the same shall have been filed, with a notice of the time and place of such filing, and either party may except to any finding of fact

or conclusion of law by a referee by filing written exceptions with the clerk at any time before the expiration of twenty days after service of such copy and notice. All such exceptions may be incorporated with the statement of the case, which may be thereafter settled. When the referee's findings of fact or conclusions of law are set aside or modified by the court, no exceptions shall be necessary to enable a full review of such orders upon appeal.

SECTION 302. When a party desires to have a statement of the case settled, he may, within thirty days after the entry of judgment, if the action was tried with a jury, or after receiving notice of the entry of judgment if the action was tried without a jury, or such further time as the court may allow, prepare the draft of a statement and serve the same upon the adverse party. Such draft must contain all the exceptions upon which the party relies, but no particular form of exception is required. The objection must be stated, with so much of the evidence or other matter as is necessary to explain it and no more. Only the substance of the reporter's notes of the evidence shall be stated. Documents on file in the action or proceeding may be copied or the substance thereof stated.

There shall be incorporated in every such statement a specification of the particulars in which the evidence is alleged to be insufficient to justify the verdict or other decision and of the errors of law upon which the party settling the same intends to rely. If no such specification is made the statement shall be disregarded on motion for a new trial and on appeal.

Within twenty days after the service of the draft of a statement the adverse party may propose amendments to the same and serve such amendments upon the other party. The proposed statement and amendments must, within twenty days thereafter, be presented by the party seeking the settlement thereof to the judge who tried or heard the case, upon five days' notice to the adverse party. At the time designated the judge must settle the statement. If no amendments are served, or if served, are allowed, the proposed statement may be presented with the amendments, if any, to the judge for settlement without notice to the adverse party. If the judge is absent from the district at the time when the proposed statement should be presented to him for settlement, the time of such absence shall not be deemed any portion of the time herein limited for the settlement thereof. It is the duty of the judge in settling the statement to strike out of it all redundant and useless matter and to make the statement truly represent the case, notwithstanding the assent of parties to such matter. When settled the statement must be signed by the judge.

with his certificate to the effect that the same is allowed, and shall then be filed with the clerk. (Sec. 4, c. 21, 1887.)

**SECTION 303.** Exceptions to any decision made after judgment may be presented to the judge at the time of such decision and may be settled or noted as provided in Section 300, and a statement thereof may be presented and settled afterward as provided in Section 302, and within like periods after entry of the order, upon appeal from which such decision is reviewable.

**SECTION 304.** If the judge in any case refuses to allow an exception in accordance with the facts the party desiring the statement settled may apply by petition to the Supreme Court to prove the same. The application may be made in the manner and under such regulations as that court may prescribe, and the statement when proven must be certified by a justice thereof as correct, and filed with the clerk of the court in which the action was tried, and when so filed it has the same force and effect as if settled by the judge who tried the cause.

**SECTION 305.** A judge may settle and sign a statement of the case after as well as before he ceases to be such judge. If such judge, before the statement of the case is settled, dies, is removed from office, becomes disqualified, is absent from the State, or refuses to settle the same, or if no mode is provided by law for the settlement of the same, it shall be settled and certified in such manner as the Supreme Court may by its order or rules direct. (Sec. 5, c. 21, 1887. 5087, 5088.)

**SECTION 308.** When the application is made for a cause mentioned in the first, second, third and fourth subdivisions of the preceding section, it must be made upon affidavit; for any other cause it may be made, at the option of the moving party, either upon a statement of the case, or upon the minutes of the court. On such hearing reference may be had in all cases to the pleadings and orders of the court on file; and when the motion is made on the minutes, reference may also be had to any depositions, documentary evidence and stenographic report of the testimony or other papers used upon the trial.

**SECTION 309.** The party intending to move for a new trial must within twenty days after the verdict of the jury, if the action was tried by jury, or after notice of the decision of the court, if the action was tried without a jury, serve upon the adverse party a notice of his intention, designating the statutory grounds upon which the motion will be made and whether the same will be made upon affidavits, or the minutes of the court, or a statement of the case:

1. If the motion is to be made upon affidavit the moving party

must, within thirty days after serving the notice, or such further time as the court in which the action is pending may allow, serve a copy of such affidavits upon the adverse party, who shall have ten days to serve counter affidavits, a copy of which must be served upon the moving party. Motions for new trial on the ground of newly discovered evidence may be made at any time before the close of the term next succeeding that at which the trial was had.

2. If the motion is to be made upon a statement of the case and no statement has already been settled as hereinbefore provided, the moving party shall have the same time after service of the notice of intention to move for a new trial to prepare and obtain a settlement of a statement of the case as is provided in Section 302.

3. When the motion is to be made upon the minutes of the court, and the ground of the motion is the insufficiency of the evidence to justify the verdict or other decision, the notice of intention must specify the particulars in which the evidence is alleged to be insufficient; and, if the ground of the motion is errors in law, occurring at the trial and excepted to by the moving party, the notice of intention must specify the particular errors upon which the party will rely. If the notice does not contain the specifications herein stated, and the motion is made on the minutes of the court, the motion must be denied. If an appeal is taken from the decision on such motion the party appealing shall have the same time after such decision in which to prepare and have settled a statement of the case to be used on appeal as provided in Section 302. (5091.)

**SECTION 311.** The application for a new trial shall be heard at the earliest practicable period after service of the notice of intention, if the motion is to be heard upon the minutes of the court, and in other cases, after the affidavits are served or the statement of the case is filed, and may be brought to a hearing in open court or before the judge at chambers, in any county in the district in which the action was tried, by either party, upon notice of eight days to the adverse party, specifying the time and place of hearing. On such hearing reference may be had in all cases to the pleadings and orders of the court on file, and when the motion is made on the minutes, reference may also be had to any depositions, documentary evidence and stenographic report of the testimony on file.

**SECTION 312.** The court or judge may upon good cause shown, in furtherance of justice, extend the time within which any of the acts mentioned in Sections 302 and 309 may be done, or may, after the time limited therefor has expired, fix another time within which any of such acts may be done.

SECTION 313. A statement of the case settled as provided in Section 302, whether the same is used upon a motion for a new trial or not, may be used on appeal from the final judgment. (Sec. 9, c. 21, 1887. 5095.)

SECTION 315. Within ten days after entry of judgment in an action in which an appearance had been made, notice of such entry, together with a general description of the nature and amount of relief and damages thereby granted, shall be served by the prevailing upon the adverse party. (5096-5098.)

SECTION 319. In an action to recover the possession of personal property the judgment for the plaintiff may be for the possession or for the recovery of possession, or the value thereof in case a delivery cannot be had, and for damages for the taking, or detention thereof. If the property has been delivered to the plaintiff and the defendant claims a return thereof, judgment for the defendant may be for a return of the property, or the value thereof in case a return cannot be had, and damages for the taking and detention thereof. (5100.)

SECTION 321. In all actions arising under Chapter 29 of this Code and in actions commenced for the satisfaction of record of mortgages or other liens upon real property or for the specific performance of contracts relating to real property, the court may by its judgment, without any act on the part of the defendant, transfer the title to real property and remove or discharge a cloud or incumbrance thereon and a certified copy of such judgment may be recorded in the office of the register of deeds of the county in which the property affected is situated. (Sec. 1, c. 111, 1889. 5101-5102.)

SECTION 324. Unless the party or his attorney shall furnish a judgment roll, the clerk immediately after entering the judgment shall attach together and file the following papers, which shall constitute the judgment roll:

1. In case the complaint is not answered by any defendant the summons and complaint, or copies thereof, the affidavit for service of summons by publication, if any, proof of service, and that no answer has been received, the report, if any, and a copy of the judgment.

2. In all other cases, the summons, pleadings or copies thereof, the verdict, decision or report, the offer of the defendant, a copy of the judgment, the statement of the case, if any, and all orders and papers in any way involving the merits and necessarily affecting the judgment. (5104)

SECTION 326. Upon the filing of a transcript of judgment in

the office of any clerk of the district court as provided in the last section, the clerk with whom such transcript is filed shall forthwith by mail notify the clerk issuing the same of the time when such judgment was docketed in the county in which such transcript is filed and a memorandum, showing the time of such docketing, shall be entered by the clerk who issued the transcript upon his judgment docket. (Secs. 1, 2, 3, c. 83, 1890. 5105-5109.)

SECTION 335. The party in whose favor judgment has been given, and, in case of his death, his personal representatives, duly appointed, may at any time within ten years after the entry of judgment proceed to enforce the same by execution as provided in this chapter. (5112-5117.)

SECTION 342. All goods, chattels, moneys and other property both real and personal, or any interest therein of the judgment debtor, not exempt by law, and all property and rights of property, seized and held under attachment in the action, are liable to execution. Shares and interests in any corporation or company, and debts and credits, and all other property, both real and personal, or any interest in real or personal property, and all other property not capable of manual delivery, shall be liable to be taken on execution and sold as hereinafter provided. The levy of an execution shall be made in the same manner as a levy under a warrant of attachment. (5119-5125.)

SECTION 342a. When property is pledged or mortgaged or subject to a lien for the payment of money or the performance of any obligation the right and interest of the execution debtor therein may be sold on execution without taking possession of or removing the property to the place of sale, but the entire right and interest of such debtor in all the property separately pledged or covered by each separate mortgage or lien shall be sold together as a distinct parcel or thing, and the purchaser at such sale shall acquire all the right and interest of such debtor therein.

SECTION 350. Except as hereinafter provided, the property mentioned in this chapter is exempt to the head of a family as defined by Chapter 40 of the Civil Code from attachment or mesne process and from levy and sale upon execution and from any other final process issued from any court. (5127.)

SECTION 352. In addition to the property mentioned in the preceding section, the head of the family may by himself or his agent select from all other of his personal property, not absolutely exempt, goods, chattels, merchandise, money or other personal property not to exceed in the aggregate fifteen hundred dollars in

value, which is also exempt and must be chosen and appraised as hereinafter provided.

SECTION 353. Instead of the exemptions granted in the preceding section, the head of the family may select and choose the following property, which shall then be exempt, viz: (Subdiv. 1-4, 5129, 5130-5135.)

SECTION 360. No personal property except absolute exemptions shall be exempt from execution or attachment in an action for laborers' or mechanics' wages or for a debt incurred for property obtained under false pretenses; and no personal property shall be exempt from such process in an action for the collection of the bills of a legally practicing physician for professional service or medicine, except absolute exemptions and household and kitchen furniture, stoves and two cows, the value of which, exclusive of absolute exemptions, shall not exceed five hundred dollars, which value in case of dispute shall be determined by appraisers to be selected in accordance with the provisions of Section 355. (Sec. 1, c. 34, 1881.)

SECTION 361. No property shall be exempt from execution or attachment in an action brought for its purchase price, or any part thereof. (Sec. 1, c. 50, 1883.)

SECTION 362. A partnership firm can claim but one exemption of fifteen hundred dollars in value, or alternative property, when so applicable, instead thereof, out of the partnership property. All partnership property claimed as exempt shall constitute a part of the exemptions of the several partners, the same being divided in proportion to the interests of the partners in the firm assets, and in no case shall the aggregate exemptions of the several partners exceed the amount which would have been allowed to them if the partnership had not existed. (5138, 5140, 5141-5144.)

SECTION 368. When there are no bidders or when the amount offered is grossly inadequate, or when from any cause the sale of any real or personal property upon execution or upon the foreclosure of a mortgage or other lien is prevented from taking place on the day fixed, the sheriff, or person making the sale, may postpone the sale for not more than three days without being required to give any further notice thereof, but he shall not make more than two such postponements, and such postponements must be publicly announced when and where the sale should have taken place. Such sale may be postponed for a longer period than three days by continuing the publication of the original notice of sale together with notice of such postponement, specifying the time

and place at which such postponed sale will be made. (Sec. 1, c. 136, 1885. 5146.)

SECTION 370. In case of the failure of the sale by reason of irregularities in giving notice thereof, or of its postponement, the property may be sold upon proper notice by virtue of the execution after the expiration of the sixty days allowed for the return thereof, and the officer in his return shall set forth the facts regarding such failure or postponement; or the plaintiff may, in writing filed with the clerk, abandon such levy upon paying the costs thereof; in which case execution may issue with the same effect as if none had been issued. (5148-5187.)

SECTION 408. In all actions or proceedings for the foreclosure of a mortgage upon personal property, or of a mortgage or other lien upon real property, the plaintiff or person commencing such action or proceeding shall be entitled to tax as a part of his costs, when the amount of the debt secured by such mortgage or lien does not exceed the sum of five hundred dollars, the sum of twenty-five dollars; when the amount of the debt so secured exceeds five hundred dollars and does not exceed one thousand dollars, the sum of fifty dollars; when the amount of the debt so secured exceeds one thousand dollars and does not exceed two thousand dollars, the sum of seventy-five dollars; when the amount of the debt so secured exceeds two thousand dollars, the sum of seventy-five dollars and in addition thereto two per cent on the amount so secured in excess of the two thousand dollars.

SECTION 409. In all actions and special proceedings, the clerk must tax as a part of the judgment in favor of the prevailing party, his necessary disbursements, as follows: The legal fees of witnesses and of referees and other officers, the necessary expenses of taking depositions and of procuring evidence necessarily used, or obtained for use on the trial, the legal fees for publication, where publication is made pursuant to law, and the legal fees of the court stenographer for a transcript of the testimony when such transcript is used on motion for a new trial or in preparing a statement of the case. (5191.)

SECTION 411. In actions other than those specified in Section 410, costs may be allowed for or against either party in the discretion of the court. In all actions where there are several defendants, not united in interest and making separate defenses by separate answers, and the plaintiff fails to recover judgment against all, the court may award costs to such of the defendants as have judgment in their favor. (Sec. 3, c. 55, 1883. 5193-5196.)

SECTION 416. The clerk must insert in the entry of judg-

ment, on the application of the prevailing party, upon five days' notice to the other, except when the attorneys reside in the same city, village or town, and then upon two days' notice, the sum of the allowance for costs as provided by this Code. The costs must be stated in detail and verified by the affidavit of the party or his attorney, stating in substance that the items of costs have been, or will necessarily be incurred in the action or proceeding. A copy of the items of the costs and the affidavit must be served with a notice of adjustment. Whenever it shall be necessary to adjust costs in any interlocutory proceeding in an action, or in any special proceeding, the same shall be adjusted by the judge before whom the same may be heard, or the court before which the same may be decided or pending, or in such other manner as the judge or court may direct.

SECTION 417. Costs may also be taxed without notice. But when they are so taxed notice of retaxation thereof must immediately afterwards be given as prescribed in the last section by the party at whose instance they are taxed, in default whereof, the court must, upon the application of a party entitled to notice, direct a retaxation, with costs of the motion, to be paid by the party in default. Any sum deducted upon a retaxation must be credited upon the judgment.

SECTION 418. A taxation or a retaxation of costs may be reviewed by the court upon motion. The order made upon such a motion may allow or disallow any item objected to before the taxing officer, in which case it has the effect of a new taxation.

SECTION 420. Upon a motion in an action or proceeding costs may be awarded, not to exceed twenty-five dollars, either absolutely or to abide the event of the action, to any party, in the discretion of the court.

SECTION 421. When costs are adjudged against a plaintiff, who is an infant or a person of unsound mind, the guardian by whom he appeared in the action, must be responsible therefor, and payment thereof may be enforced in the manner provided in Section 433. (5201-5204.)

SECTION 426. In all actions or proceedings, including criminal actions, when a change of venue is had or made by the order of any court, or of any judge, pursuant to law, except in cases when such change is made because such action was not brought in the proper county, the county in which such action was commenced, shall pay to the county in which the same is tried the following expenses arising out of such change of venue:

1. The per diem fees allowed by law to the clerk and all costs

and fees of such clerk which are a lawful charge against the county.

2. The per diem fees allowed by law to the petit jurors actually in attendance upon said court.

3. The per diem fees allowed by law to the sheriff for attendance upon said court.

4. All lawful charges for boarding the jury.

5. The legal fees of all witnesses in any criminal case or proceeding which are a lawful charge against the county.

6. The fees or compensation allowed by law to the court stenographer in attendance upon said court, and such other fees allowed to such stenographer in criminal proceedings as are a lawful charge against the county.

7. All other lawful costs, fees and disbursements which are a lawful charge against the county.

8. All lawful charges and fees for subpoenaing witnesses in any criminal case or proceeding which are a proper charge against the county.

The fees of such officers, jurors and stenographer are to be estimated for each day and part of a day, not less than half a day, occupied in trying or disposing of any such action; but no costs shall be paid to the county to which a change of venue is had which are not properly chargeable against such county.

SECTION 427. The clerk shall make out a correct bill of all the expenses which shall accrue during any such trial, as aforesaid, and have the same taxed and allowed by the judge of such court; and when so taxed shall, without delay, transmit the same to the auditor of the county in which such action was commenced, who at the first meeting of the board of county commissioners of such county after receiving such bill, shall present the same to such board; and such board shall direct the issuance of a warrant therefor in favor of the county in which such action or proceeding was had or tried, or its assigns. (5207-5212. Secs. 1, 2, c. 120, 1893.)

SECTION 436. An appeal from a judgment may be taken within one year after the entry thereof by default, or written notice of the entry thereof; in case the party against whom it is entered has appeared in the action, and from an order within sixty days after written notice of the same shall have been given to the party appealing; *provided*, that in all actions heretofore or hereafter tried, when the appeal from an order is based upon errors assigned or set out in a statement of the case submitted to the court or

judge thereof for settlement within sixty days after the service of such written notice, and at least eight days prior to the expiration of such time, and such court or judge neglects to settle such statement within the said sixty days, the party appealing shall have thirty days after such statement shall have been settled in which to take an appeal. (Sec. 1, c. 81, 1893.)

SECTION 437. An appeal must be taken by serving a notice in writing, signed by the appellant or his attorney, on the adverse party and filing the same in the office of the clerk of the court in which the judgment or order appealed from is entered, stating the appeal from the same, and whether the appeal is from the whole or a part thereof, and if from a part only, specifying the part appealed from. The appeal shall be deemed taken by the service of a notice of the appeal, and perfected on service of the undertaking for costs, or the deposit of money instead, or the waiver thereof, as hereinafter prescribed. When service of a notice of appeal and undertaking cannot in any case be made within this State the court may prescribe a mode for serving the same.

SECTION 438. Upon an appeal being perfected the clerk of the court from which the appeal is taken shall, at the expense of the appellant, forthwith transmit to the supreme court, if the appeal is from a judgment, the judgment roll; if the appeal is from an order, he shall transmit the order appealed from and the original papers used by each party on the application for such order. The court may, however, in case of either judgment or order, upon motion of either party after notice to the adverse party, for good cause shown, direct copies to be transmitted instead of the originals. The clerk shall also in all cases transmit to the supreme court the original notice of appeal and the undertaking given thereon; and he shall annex to the papers so transmitted a certificate under his hand and the seal of the court from which the appeal is taken, certifying that they are the original papers or copies, as the case may be, and that they are transmitted to the supreme court pursuant to such appeal. No further certificate or attestation shall be necessary; *provided*, that if the appellant does not within thirty days after his appeal is perfected, cause a proper record in the case to be transmitted to the supreme court by the clerk of the district court, the respondent may cause such record to be transmitted by the clerk of the district court to the clerk of the supreme court; and in such case the respondent may recover the expense thereof as costs on such appeal, in case the judgment or order appealed from is in whole or in part affirmed. (Sec. 5, c. 120, 1891; Sec. 6-14, c. 120, 1891.)

SECTION 448. When the appeal is from an order the execution

or performance thereof shall not be delayed, except upon compliance with such conditions as the court or presiding judge thereof shall direct, and when so required an undertaking shall be executed on the part of the appellant, by at least two sureties in such sums and to such effect as the court or presiding judge thereof shall direct; such effect shall be directed in accordance with the nature of the order appealed from, corresponding to the foregoing provisions in respect to appeals from judgments, when applicable, and such provision shall be made in all cases as will properly protect the respondent, and no appeal from an intermediate order before judgment shall stay proceedings, unless the court or presiding judge thereof shall in his discretion so specially order. (Sec. 15, c. 120, 1891; Secs. 16-24, c. 120, 1891; Sec. 1, c. 83, 1893.)

SECTION 458. Upon an appeal from a judgment the supreme court may review any intermediate order or determination of the court below, which involves the merits and necessarily affects the judgment, appearing upon the record transmitted or returned from the district court, whether the same is excepted to or not; nor shall it be necessary in any case to take any exceptions or settle a statement of the case to enable the supreme court to review any alleged error which would without a statement appear upon the face of the record. Any question of fact or law decided upon trials by the court or by a referee and appearing upon the record properly excepted to in a case in which an exception is necessary, may be reviewed by the supreme court whether a motion for a new trial was or was not made in the court below, but questions of fact shall not be reviewed in the supreme court in cases tried before a jury, unless a motion for a new trial is first made in the court below. (Sec. 1, c. 121, 1891; Secs. 26-27, c. 120, 1891; Sec. 1, c. 82, 1893. 5240-5243.)

SECTION 461. In all actions tried by the district court without a jury, in which an issue of fact has been joined, all the evidence offered on the trial shall be received. All testimony which either party desires to offer, or any part thereof, may, at his option, be taken by deposition. In any trial under the provisions of this section either party may have his objection to any evidence noted as the evidence is offered. Any objection so made may be preserved in the statement of the case herein provided for and reviewed in the supreme court upon appeal; but if no objection is made to the introduction of testimony offered on the trial, no objection to its consideration can be urged upon its review upon appeal in the supreme court. For the purpose of reviewing upon appeal questions as to the sufficiency of the evidence to sustain the findings of fact in any action tried under the provisions of this section, a statement of the case may be prepared and settled within the time and in the manner provided in

Article 8 of Chapter 9 of this Code, which statement shall contain in a narrative form without unnecessary repetition, all the evidence offered at the trial.

The supreme court shall try the case anew and render final judgment therein, according to the justice of the case.

SECTION 461a. In civil actions appealed to the supreme court in which the amount of the judgment appealed from, exclusive of costs, does not exceed two hundred dollars, no printed abstracts or briefs shall be required of either party; but in case printed copies of the same are not furnished, three typewritten copies thereof shall be filed with the clerk of the supreme court at such time as may be required by law or the rules of such court.

SECTION 466. The party issuing the summons may demur or reply to the answer, and the party summoned may demur to the reply; and the issues may be tried and judgment may be given in the same manner as in an action, and enforced by execution; or the application of the property charged to the payment of the judgment may be compelled by proceedings under Chapter 33, if necessary. (5245-5252.)

SECTION 475. A party to an action, or in case a corporation is a party, the president, secretary, or other principal officer, or general managing agent of such corporation, may be examined as a witness at the instance of an adverse party, or any of several adverse parties, and for that purpose may be compelled in the same manner and subject to the same rules of examination as any other witness, to testify either at the trial, or conditionally, or upon commission.

SECTION 476. The examination, instead of being had as provided in the last section, may be had at any time before the trial, at the option of the party claiming it, before a judge of the court, on a previous notice to the party to be examined and any other adverse party of at least five days, unless for good cause shown the judge orders otherwise. But the party to be examined shall not be compelled to attend in any other county than that of his residence, or where he may be served with a subpoena for his attendance.

SECTION 477. The party to be examined, as in the last section provided, may be compelled to attend in the manner provided in Article 2 of Chapter 18; and the examination shall be taken and filed with the clerk, and may be read by either party on the trial. (5256-5259.)

SECTION 492. No person offered as a witness in any action or proceeding in any court or before any officer or person having

authority to examine witnesses or hear evidence, shall be excluded or excused by reason of such person's interest in the event of the action or proceeding; or because such person is a party thereto, or because such person is the husband or wife of a party thereto, or of any person in whose behalf such action or proceeding is commenced, prosecuted, opposed or defended, except as hereinafter provided :

1. A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this subdivision does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other.

2. In civil actions or proceedings by or against executors, administrators, heirs at law or next of kin, in which judgment may be rendered or order entered for or against them, neither party shall be allowed to testify against the other as to any transaction whatever with, or statement by, the testator or intestate, unless called to testify thereto by the opposite party. But if the testimony of a party to the action or proceeding has been taken and he shall afterwards die and after his death the testimony so taken shall be used upon any trial or hearing in behalf of his executors, administrators, heirs at law or next of kin, then the other party shall be a competent witness as to any and all matters to which the testimony so taken relates. (5261-5265.)

SECTION 489. Any court may by order require an officer having the custody of any person confined in any prison in this State to produce such person before him for oral examination in the county where he is imprisoned; but in all other cases his examination must be by deposition. (5267 to 5271 repealed; 5273-5283.)

SECTION 501. Either party may commence taking testimony by depositions at any time after service upon or the appearance of the defendant in the action. (5285-5287.)

SECTION 505. Any court of record of this State, or any judge thereof, is authorized to grant a commission to take depositions within or without the State upon the application of either party upon five days' notice to the other. The commission must be issued to a person or persons therein named, by the clerk, under the seal of the court granting the same. Depositions under it must be taken upon written interrogatories, direct and cross, which shall be attached to the commission by the clerk issuing the same. Unless the parties agree as to the form of the interro-

atories the same shall be presented to the court or judge granting the commission for settlement upon five days' notice, at which time the court or judge shall settle the same.

SECTION 506. Prior to the taking of any deposition, unless the same is taken under a commission, a written notice entitled in the action or proceeding in which it is to be used and specifying the time and place of taking the same shall be served upon the adverse party. The notice shall be served a sufficient time before the day specified therein to allow the adverse party time to attend by the usual route of travel, and one day for preparation, exclusive of Sundays and the day of service. The examination may be adjourned from day to day.

SECTION 507. When the summons in an action has been served upon all of the defendants therein in the manner provided by law, and the time allowed such defendants to answer has expired, and they have in no way appeared in such action, the plaintiff may take the deposition of any witness without notice to such defendant, and such deposition may be introduced in evidence in the action, and shall have the same force and effect as a deposition taken upon notice.

SECTION 508. When the party against whom the deposition is to be read is absent from, or is not a resident of the State, and has no agent or attorney therein upon whom service may be made, notice of the taking of a deposition may be served upon him by publishing the same three times, once in each week for three successive weeks, in some newspaper printed in the county where the action or proceeding is pending, if one is printed in such county; and if not, in some newspaper printed at the seat of government of this State. Personal service of the notice on the defendant out of the State shall be equivalent to such publication. (5291.)

SECTION 510. A deposition so taken shall be sealed up and endorsed with the title of the cause and the name of the officer taking the same, and by him addressed and transmitted to the clerk of the district court of the county in which the action or proceeding is pending, if the same is pending in the district court; otherwise to the court, officer or tribunal in which the action or proceeding is pending. It shall remain under seal until opened by order of the court, officer or tribunal, or at the request of a party to the action or proceeding, or his attorney.

SECTION 511. When a deposition has once been taken, it may be read in any stage of the same action or proceeding, or in any other action or proceeding upon the same matter between the same parties, subject, however, to all such exceptions as may be

taken thereto under the provisions of this chapter. A deposition shall be deemed the evidence of the party reading it. (5294-5297.)

SECTION 516. Exceptions to a deposition on the ground of incompetency or irrelevancy may be made at the time the same was offered in evidence; other exceptions to a deposition must be made in writing, specifying the grounds of objection, and filed in the cause before the commencement of the trial. (5300, 5301.)

SECTION 519. Books purporting to be printed or published under the authority of any other state, territory or foreign country, and purporting to contain the statutes, codes, or other written law of such state, territory or country, or proved to be commonly admitted in the tribunals of such state, territory or country as evidence of the written law thereof, are admissible in this State as evidence of such law. The unwritten or common law of any other state, territory or country may be proved as facts by parol evidence; and the books of reports of cases adjudged in their courts may also be admitted as presumptive evidence of such law.

SECTION 520. Copies of the records and judicial proceedings of any court of the United States, or of any state or territory of the United States, shall be admissible as evidence in this State, when attested by the clerk with the seal of the court annexed, if there is a seal; together with a certificate of the judge, chief justice or presiding magistrate, that the attestation is in due form, and the said records and judicial proceedings so authenticated shall have such faith and credit given to them in every court within this State as they have by law or usage in the courts of the United States, or of the state or territory from which they are taken.

SECTION 521. A judicial record of a foreign country may be proved by the attestation of the clerk with the seal of the court annexed, if there is a clerk and seal, or of the legal keeper of the record, with the seal of his office annexed, if there is a seal, together with the certificate of the chief judge or presiding magistrate, that the person making the attestation is the clerk of the court or the legal keeper of the record, and in either case, that the signature of such person is genuine and that the attestation is in due form. The signature of the chief judge or presiding magistrate must be authenticated by the certificate of the minister, ambassador or a consul, vice-consul or consular agent of the United States in such foreign country.

SECTION 522. Proof of the publication of a document or notice required by law or by an order of the court or judge, to be published in a newspaper may be made by the affidavit of the pub-

lisher or printer of the newspaper, or his foreman or clerk or bookkeeper, annexed to a copy of the document or notice, specifying the paper in which and the times when the publication was made.

SECTION 523. A transcript of the docket record of a justice of the peace in an action or proceeding, when certified by such justice or his successor in office, shall be evidence to prove the facts contained in such transcript, in any action or other proceeding in the county or subdivision wherein such record was made.

SECTION 524. Such transcript may be read in evidence in another county or subdivision, when there shall be attached thereto a certificate of the clerk of the district court of the county or subdivision in which such record was made, under the seal of the court, to the effect that the person subscribing such transcript was at the date thereof a justice of the peace of the county; and also, if the judgment was rendered by another, that such other was at the time of the making of the same a justice of the peace of the county.

SECTION 525. Every instrument conveying or affecting real property acknowledged or proved and certified as provided in the Civil Code, may, together with the certificate of acknowledgment or proof, be read in evidence in an action or proceeding without further proof; the record of such instrument or a duly authenticated copy of the record, may also be read in evidence with the like effect as the original on proof by affidavit, or otherwise that the original is not in the possession or under the control of the party producing such record or copy. (5309-5310.)

SECTION 528. Official documents may be proved as follows:

1. The acts of the executive of this State, by a copy of the records of the state department thereof, and of the United States, by a copy of the records of the state department thereof, certified by the heads of those departments respectively. They may also be proved by publications thereof, printed by order of the Legislative Assembly or congress, or either house thereof.

2. The proceedings of the Legislative Assembly of this State or of congress; by the journals of those bodies respectively, or either house thereof, or by copies printed by their order or certified by the clerk.

3. The acts of the executive, or the proceedings of the legislature of a sister state, in the same manner.

4. The acts of the executive, or the proceedings of the legislature of a foreign country, by publications purporting to be made

by their authority and to contain a record of such acts, or commonly received in that country as such, or by a copy of the official record of such act certified under the seal of the country or sovereign, or by a recognition thereof in some public act of the executive of the United States.

5. Acts of a municipal corporation of this State, or of a board or department thereof, by a copy of the official record of such acts, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such corporation and to contain a record of such acts.

6. Documents of any other class in this State by the original or by a copy, certified by the legal keeper thereof.

7. Documents of any other class in a sister state, by the original or by a copy certified by the legal keeper thereof, together with the certificate of the secretary of state, judge of the supreme, superior or county court, or mayor of a city of such state, that the copy is duly certified by the officer who at the date of the certificate had the legal custody of the original.

8. Documents in the departments of the United States government, by the certificate of the legal custodian thereof. (5311.)

SECTION 530. If any person upon whose life any estate in real property depends remains without the United States, or absents himself in the State, or elsewhere, for seven years together, such person must be accounted naturally dead in any action or proceeding concerning such property in which his death shall come in question, unless it is affirmatively proved that he was alive during that time.

SECTION 531. A person cannot be examined as a witness in the following cases:

1. An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

2. A clergyman or priest cannot be examined, without the consent of the person making the confession, as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

3. A physician or surgeon cannot be examined, without the consent of his patient, as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient.

4. A public officer cannot be examined as to communications

made to him in official confidence, when the public interests would suffer by the disclosure. (5314-5316.)

SECTION 535. The testimony of a witness may be taken and perpetuated in the following manner:

The applicant must produce to the judge of the district court a petition verified by the oath of the applicant, stating:

1. That the applicant expects to be a party to an action in a court in this State and the names of the persons whom he expects will be adverse parties; or,

2. That the proof of some fact is necessary to perfect the title to property in which he is interested, or to establish marriage, descent, heirship or any other matter which it may thereafter become material to establish, though no action may at the time be anticipated, or if anticipated, the names of the parties to such action are unknown to the applicant; and,

3. The name of the witness to be examined, his place of residence and a general outline of the facts expected to be proved. The judge to whom such petition is presented shall make an order allowing the examination and designating the officer before whom the same shall be taken and prescribing the notice to be given, which notice, if the parties expectant are known and reside in this State, must be personally served; if the parties reside out of the State or are unknown, such notice shall be served in such manner as the judge shall by order direct. The judge must also designate in his order the clerk of the district court to whom the deposition shall be returned when taken.

SECTION 536. The officer designated by the judge to take the deposition is authorized, if a resident of this State, on receiving a copy of the order of the judge, and of the notice prescribed in the last section, with proof of its service; or if a resident without the State, on receiving the commission mentioned in the next section, with proof of service, to take the deposition of the witnesses named in the order of the judge or in the commission, and the taking of the same may be continued from time to time.

SECTION 537. The examination must be by question and answer, and if the testimony is to be taken in any other state, it must be taken upon a commission to be issued by the judge, allowing the examination, under the seal of the court of which he is judge, and upon interrogatories to be settled in the same manner as in case of depositions taken under commission in pending actions, unless the parties expectant otherwise agree. If such parties are unknown, notice of the settlement of the interrogatories shall be published in some newspaper for such time as the judge may des-

ignite. The deposition, when completed, must be carefully read to and subscribed by the witness and shall then be authenticated and returned in the manner provided in Article 7 of Chapter 18. The order allowing the examination and the petition on which the same was granted, with proof of service of the order and notice, shall be filed with the clerk to whom the deposition is directed to be returned.

SECTION 538. The petition, order and papers filed as provided in the last section, or a certified copy thereof, are *prima facie* evidence of the facts stated therein to show compliance with the provisions of this article.

SECTION 539. If a trial is had between the applicant and the persons named in the petition as parties expectant, or their successors in interest, or between any parties wherein it may be material to establish the facts which such depositions prove or tend to prove, upon proof of the death or insanity of the witnesses, or that they cannot be found, or are unable by reason of age or other infirmity to give their testimony, the depositions, or certified copies thereof, may be used by either party, subject to all legal objections, which shall be taken in the manner prescribed in Section 516; but if the parties attend at the examination, no objection to the form of an interrogatory can be made at the trial, unless the same was stated at the examination.

SECTION 540. The depositions so taken and read in evidence have the same effect as the oral testimony of the witness and no other, and every objection to the witness, or to the relevancy of any question put to him, or of any answer given by him may be made in the same manner as if he were examined orally at the trial. (5322-5323; Sec. 1, c. 85, 1893. 5325-5327.)

SECTION 547. The service may be personal, by delivery to the party or attorney, on whom the service is required to be made; or it may be as follows:

1. If upon an attorney, it may be made during his absence from his office, by leaving the paper with his clerk therein, or with a person having charge thereof; or where there is no person in the office, by leaving it between the hours of six in the morning and nine in the evening, in a conspicuous place in the office; or if it is not open so as to admit of such service, then by leaving it at the attorney's residence with some person of suitable age and discretion.

2. If upon a party, it may be made by leaving the paper at his residence between the hours of six in the morning and nine in the evening, with some person of suitable age and discretion. (5329-5331.)

SECTION 551. Notice of a motion, or other proceeding before a court or judge, when personally served, shall be given at least eight days before the time appointed therefor. (5333-5344.)

SECTION 564. The remedies formerly attainable by the writ of *scire facias*, the writ of *quo warranto* and the proceedings by information in the nature of *quo warranto*, may be obtained by civil action in the district court under the provisions of this chapter and of Chapter 25.

SECTION 565. When the action is prosecuted by the Attorney-General, the State of North Dakota shall be plaintiff; when it is prosecuted by a private person, such person shall be the plaintiff therein and the proceedings in such action shall be the same as in an action by a private person, except as otherwise specially provided.

SECTION 566. An action may be commenced by the State or any person who has a special interest in the action against the parties offending in the following cases:

1. When any person shall usurp, intrude into or unlawfully hold or exercise any public office, civil or military, or any franchise within this State, or any office in a corporation created by the authority of this State; or,

2. When any public officer, civil or military, shall have done or suffered an act which, by the provisions of law, shall make a forfeiture of his office; or,

3. When any association or number of persons shall act within this State as a corporation, without being duly incorporated.

SECTION 567. Before commencing an action under this chapter, at the request of a party having an interest therein, the Attorney General may require as a condition of commencing the same, that satisfactory security be given to indemnify the State against costs and expenses which may be incurred therein.

SECTION 568. The complaint in an action commenced against a person for usurping an office, in addition to the statement of the cause of action, may also set forth the name of the person rightfully entitled to the office, with a statement of his right thereto; and in such case, upon proof by affidavit that the defendant has received fees or emoluments belonging to the office, and by means of his usurpation thereof, an order may be granted by the judge of the court for the arrest of such defendant, and holding him to bail; and thereupon he shall be arrested and held to bail in the manner, and with the same effect, and subject to the

same rights and liabilities as in other civil actions in which the defendant is subject to arrest. (5351-5352.)

SECTION 571. If the defendant refuses or neglects to deliver any of the books or papers, demanded as prescribed in the last section, he is guilty of a misdemeanor; and the court, or a judge thereof, may by order, put the person entitled to the office in possession thereof and of all the books and papers belonging thereto; and any party refusing to deliver the same, when ordered as aforesaid, shall be punished as for a contempt. (5354-5355.)

SECTION 574. When a defendant against whom such action shall have been commenced shall be adjudged guilty of usurping, intruding into or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered that he be excluded from such office, franchise or privilege and also that the plaintiff recover costs against him. The court may also, in its discretion, impose upon such defendant a fine not exceeding five thousand dollars, which fine, when collected, shall be paid into the treasury of the State to the credit of the school fund.

SECTION 575. The State may bring an action to vacate or annul letters patent for lands granted by this State in either of the following cases :

1. When they were obtained by means of a fraudulent suggestion or concealment of a material fact made by or with the knowledge or consent of the person to whom they were issued.

2. When they were issued in ignorance of a material fact or through mistake.

3. When the patentee, or those claiming under him, have done or omitted an act in violation of the terms and conditions upon which the letters patent were granted, or have by any other means, forfeited the interest acquired under the same.

Whenever the Attorney General has good reason to believe that any act or omission specified in this section can be proved and that the person to be made defendant has no sufficient legal defense; he must commence such an action.

## CHAPTER.

### ARTICLE I.—ACTIONS BY AND AGAINST CORPORATIONS.

SECTION 576. In an action by or against a corporation the complaint must aver that the plaintiff, or the defendant, as the case may be, is a corporation. If incorporated under any law of this State, that fact must be averred; if not so incorporated, an

avermment that it is a foreign corporation is sufficient. The complaint need not set forth or specially refer to any act or proceeding by or under which the corporation was formed.

SECTION 577. In an action by or against a corporation, the plaintiff need not prove, upon the trial, the existence of the corporation, unless the answer is verified and contains an allegation positive, and not upon information and belief, that the plaintiff, or the defendant, as the case may be, is not a corporation.

SECTION 578. In actions or proceedings by or against corporations, the defendant is deemed to have waived any mistake in the statement of the corporate name, unless the misnomer is pleaded in the answer, or other pleading in the defendant's behalf.

SECTION 579. A corporation created by or under the laws of any other state, territory or country, or of the United States, may prosecute or defend an action or proceeding in the courts of this State, in the same manner as corporations created under the laws of this State, except as otherwise specially prescribed by law. But such foreign corporation cannot maintain any action founded upon an act, or upon any liability or obligation, express or implied, arising out of, or made, or entered into in consideration of any act which the laws of this State forbid a corporation or any association of individuals to do, without express authority of law.

SECTION 580. An action for the recovery of money may be commenced and prosecuted to judgment against a corporation created by or under the laws of any other state, territory or country, or of the United States, although such corporation may have ceased from any cause whatever to act in whole or in part as a corporation, in the same manner as though it had not so ceased to act; and satisfaction of the judgment may be enforced out of any property in this State, which such corporation owns or has an interest in, or would own or have an interest in, had the same not ceased to act as aforesaid, whether held or controlled by such corporation or by any person or agent for its use and benefit in whole or in part, or by a trustee or assignee for the creditors of such corporation appointed under or deriving his authority from the laws of any other state, territory or country, and an attachment issued in such action may be executed on any such property.

#### ARTICLE II.

SECTION 581. An action may be maintained against one or more trustees, directors, managers, or other officers of a corporation, to procure a judgment for the following purposes, or so much thereof as the case requires:

1. Compelling the defendants to account for their official conduct in the management and disposition of the funds and property committed to their charge.

2. Compelling them to pay to the corporation which they represent, or to its creditors, any money and the value of any property which they have acquired to themselves, or transferred to others, or lost, or wasted by violation of their duties, or to transfer any such property held by them to the corporation.

3. Suspending a defendant from exercising his office when it appears that he has abused his trust.

4. Removing a defendant from his office upon proof or conviction of misconduct and directing a new election to be held by the body or board duly authorized to hold the same, in order to fill the vacancy created by the removal, or, when there is no such body or board, or when all the members thereof are removed, directing the removal to be reported to the Secretary of State, who may fill the vacancy.

5. Setting aside an alienation of property, made by one or more trustees, directors, managers, or other officers of a corporation, contrary to a provision of law, or for a purpose foreign to the lawful business and object of the corporation, where the alienee knew or had notice of the purpose of the alienation.

6. Restraining and preventing such alienation, when it is threatened, or when there is good reason to apprehend that it will be made.

SECTION 582. An action may be commenced as prescribed in the last section by the State or, except when the action is brought for the purpose specified in Subdivisions three and four of said section, by a creditor of the corporation or by a trustee, director, manager or other officer of the corporation having a general superintendent of its concerns, or by a stockholder of the corporation upon the neglect or refusal of such officer so to do, at the request of such stockholder.

SECTION 583. This article does not divest or impair any visitatorial power over a corporation which is vested by statute in a public officer or board.

#### ARTICLE III.

SECTION 584. Whenever a judgment shall be obtained against any corporation incorporated under the laws of this State and an execution issued thereon shall have been returned unsatisfied in whole or in part, the judgment creditor or his legal representatives may maintain an action to procure a judgment sequestering

the property of the corporation, and providing for a distribution thereof.

SECTION 585. In either of the following cases, an action to procure a judgment dissolving a corporation created by or under the laws of this State, and forfeiting its corporate rights, privileges and franchises, may be maintained as prescribed in the next section :

1. When the corporation has remained insolvent for at least one year.
2. When it has neglected or refused for at least one year to pay and discharge its notes or other evidences of debt.
3. When it has suspended its ordinary and lawful business for at least one year.
4. If it has banking powers, or power to make loans on pledges or deposits, or to make insurances, when it becomes insolvent or unable to pay its debts, or shall neglect or refuse to pay its notes or evidences of debt on demand, or has violated any provision of the laws by or under which it was incorporated or of any other law binding upon it.

SECTION 586. The action specified in the last section shall be brought by the State. And whenever a creditor or stockholder of any corporation submits to the Attorney General a written statement of facts, verified by oath, showing grounds for an action under the provisions of the last section, and the Attorney General omits for thirty days after such submission to commence an action specified in the last section, then, and not otherwise, such creditor or stockholder may apply to the proper court for leave to commence such an action, and on obtaining leave may maintain the same accordingly.

SECTION 587. In an action brought as prescribed in this article, the court, or a judge thereof, may upon proof of the facts authorizing the action to be maintained, grant an injunction, restraining the corporation, and its trustees, directors, managers and other officers from collecting or receiving any debt or demand, and from paying out or in any way transferring or delivering to any person any money, property, or effects of the corporation during the pendency of the action, except by express permission of the court. When the action is brought to procure the dissolution of the corporation, the injunction may also restrain the corporation, and its trustees, directors, managers, and other officers, from exercising any of its corporate rights, privileges, or franchises during the pendency of the action, except by express

permission of the court. The provisions of Article 3, of Chapter 8, of this Code, relating to granting, vacating and modifying an injunction apply to an injunction granted as prescribed in this section.

SECTION 588. The court may in any stage of an action under the preceding provisions of this article, appoint one or more receivers to take charge of the property and effects of such corporation, and to collect, sue for, and recover the debts and demands that may be due, and the property that may belong to such corporation, who shall in all respects possess the powers and authority conferred and be subject to all the obligations imposed upon receivers in other cases, and in all respects be subject to the control of the court.

SECTION 589. Whenever an action shall have been brought against a corporation under the provisions of this article the court shall, if the proof is sufficient, proceed to final judgment in such case, dissolving such corporation and forfeiting its corporate rights, privileges and franchises, notwithstanding such creditor may settle with such corporation; and in all such cases any creditor or the Attorney-General shall have the right to appear and prosecute such action. The original plaintiff shall not be liable for the costs of such further prosecution; but the creditor continuing the same, or the State, in case it is continued by the Attorney General, shall be liable therefor.

SECTION 590. In an action against a corporation upon a claim for which its stockholders, directors, trustees, or other officers, or any of them, are liable by law in any event or contingency one or more or all of the persons so liable may be made parties defendant by the original or by an amended or supplemental complaint; and their liability may be declared and enforced by the judgment in such action.

SECTION 591. If any creditor of a corporation whose directors, trustees, or other officers, or stockholders are liable for the payment of his demand, desires to make them, or one or more of them, parties to the action after a judgment therein against the corporation, he may do so by filing a supplemental complaint against them founded upon such judgment.

SECTION 592. Whenever any creditor of a corporation shall seek to charge the directors, trustees, or other officers or stockholders thereof, on account of any liability created by law, he may commence and maintain an action for that purpose in the district court and may, at his election, join the corporation in such action.

SECTION 593. The court shall proceed therein as in other

cases, and when necessary shall cause an account to be taken of the property and debts due to and from such corporation, and appoint one or more receivers, who shall possess all the powers conferred, and be subject to all the obligations imposed on receivers by the provisions of Section 588; but if, upon the filing of the answer, or upon the taking of such account, it shall appear that the corporation is insolvent, and that it has no property or effects to satisfy such creditor, the court may, without appointing any receiver, proceed to ascertain the respective liabilities of such directors, trustees, or other officers and stockholders, and enforce the same by its judgment as in other cases.

SECTION 594. Upon a final judgment being rendered in any action under this article, the court shall cause a just and fair distribution of the property of such corporation and of the proceeds thereof, to be made in the order prescribed in Section 602.

SECTION 595. In all cases in which the directors, or other officers of a corporation, or the stockholders thereof, shall have been made parties to an action in which judgment shall be rendered, if the property of such corporation shall be insufficient to discharge its debts, the court shall proceed to compel each stockholder to pay in the amount due and remaining unpaid on the shares of stock held by him, or so much thereof as shall be necessary to satisfy the debts of the corporation. If the debts of the corporation, or any part thereof, shall still remain unsatisfied, the court shall proceed to ascertain the respective liabilities of the directors, or other officers and of the stockholders and adjudge the amount payable by each and enforce the judgment as in other cases.

SECTION 596. Whenever any action shall be commenced against any corporation, its directors, trustees or other officers, or its stockholders, according to the provisions of this article, the court may, by injunction, on the application of either party and at any stage of the proceedings, restrain all proceedings by any other creditor against the defendants in such action; and whenever it shall appear necessary or proper, may order notice to be published in such manner as the court shall direct, requiring all the creditors of such corporation to exhibit their claims and become parties to the action within a reasonable time, not less than three months from the first publication of such notice, and in default thereof such creditors shall be precluded from all benefit of the judgment which shall be made in such action and from any distribution which shall be made under such judgment.

SECTION 597. In every such action the court may compel such corporation to discover any stock, property, things in action, or

effects alleged to belong or to have belonged to it, the transfer and disposition thereof and the consideration and all the circumstances of such distribution. Every officer, employe, agent or stockholder of such corporation, and every person to whom it shall be alleged that any transfer of property or effects of such corporation has been made, or in whose possession or control the same is alleged to be, may be compelled, in the discretion of the court, to testify in relation thereto, and to answer any questions touching the transfer or possession of such property or effects, although such answer may expose the corporation of which he is a member to a forfeiture of its corporate rights, or any of them, or may tend to criminate such witness or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before the court on such examination; *provided*, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

#### ARTICLE IV.

SECTION 598. An action may be brought by the State against a corporation created by or under the laws of this State for the purpose of vacating or annulling the existence of such corporation, on the ground that its incorporation or the renewal thereof was procured upon some fraudulent suggestion or concealment of a material fact by the persons incorporating, or by some of them, or with their knowledge and consent.

SECTION 599. An action may be brought by the State or by any private person in the name of the State, on leave granted therefor by the district court upon cause shown, for the purpose of annulling the existence of any corporation created by or under the laws of this State, except a municipal corporation, whenever such corporation shall :

1. Offend against any of the provisions of any law by or under which it shall have been created, altered or renewed; or,
2. Violate the provisions of any law by which such corporation shall have forfeited its corporate rights, privileges and franchises by abuse of its powers; or,
3. Whenever it shall have forfeited its privileges or franchises by failure to exercise its powers; or,
4. Whenever it shall have done or omitted any act which amounts to a surrender of its corporate rights, privileges, or franchises; or,

5. Whenever it shall exercise franchises or privileges not conferred upon it by law.

SECTION 600. Whenever the Attorney General shall have reason to believe that any of the acts or omissions specified in the preceding section can be established by proof, he shall apply for leave, and upon leave granted, bring such action in every case of public interest, and in every other case in which satisfactory security shall be given to indemnify the State against the costs and expenses which may be incurred therein. In case the Attorney General on application shall refuse to bring such action, leave to bring the same by a private person shall be granted only on notice to the Attorney General and the proposed defendant; and the court on granting leave in such case may require the prosecutor to give adequate security to the State to indemnify it and the defendant against all taxable costs therein.

SECTION 601. Upon the application by the Attorney General to bring any such action, the court may in its discretion direct notice of such application to be given to the corporation previous to the hearing, and may hear the corporation in opposition thereto.

SECTION 602. If in any such action it shall be adjudged that a corporation has forfeited its corporate rights, privileges and franchises, judgment shall be rendered that such corporation be excluded from such corporate rights, privileges, and franchises, and be dissolved; and thereupon the affairs of said corporation shall be wound up by and under the direction of a receiver, to be appointed by the court, and its property sold and converted into money; and the proceeds, after paying the costs and expenses, shall be distributed in the following order:

1. For the payment of taxes and debts due the United States, the State of North Dakota, and any county, town, or village therein.

2. For the payment of the legal and equitable liens upon the property of such corporation in the order of their priority.

3. The wages of laborers and employes accruing within six months previous to the commencement of the action.

4. For the payment of the other just debts of the corporation.

5. The residue of such moneys, if any, shall be distributed among the stockholders thereof.

When any corporation shall be adjudged to have exercised a franchise or privilege not conferred on it by law, the court may,

in its discretion, instead of rendering a judgment as above provided in this section, render a judgment that such corporation be excluded from exercising such franchise or privilege and that the plaintiff recover costs, and may also, in either case, in its discretion, fine such corporation in a sum not exceeding two thousand dollars, to be collected and paid into the State treasury.

SECTION 603. If such action is pending in the district court the receiver shall be appointed by the judgment of dissolution, or by a subsequent order founded thereon. If it shall be pending in the supreme court, then, upon the entry of such judgment of dissolution, the Attorney General shall forthwith commence an action in the proper district court for the appointment of such receiver and the winding up of the affairs of such corporation; and such corporation shall, notwithstanding such judgment of dissolution, be deemed to exist until a receiver shall be appointed, qualified and duly invested with the property of such corporation, but shall not be able to do any act or thing other than to make over and transfer its assets to such receiver.

SECTION 604. The provisions of the two preceding sections so far as they relate to the distribution of the property of the corporation and actions to appoint receivers therefor, shall apply to any corporation when the law under which it exists is repealed.

SECTION 605. The necessary costs and disbursements, incurred in commencing and prosecuting such action by the Attorney General, in the name of the State, shall, when certified to by him, be audited by the State Auditor, and paid out of the State treasury. The receiver in any such action, or the Attorney General in case such moneys shall be delivered to him by such receiver, shall repay to the State Treasurer any money advanced by the State on account of such costs and disbursements.

SECTION 606. Upon the rendition of such judgment against a corporation, other than an insurance corporation, or for vacating or annulling letters patent, the Attorney General shall cause a copy of the judgment roll to be forthwith filed in the office of the Secretary of State. If such judgment is against an insurance corporation a copy of the judgment roll shall be filed in the office of the Commissioner of Insurance.

SECTION 607. The provisions of this chapter shall not extend to corporations organized under the laws of this State for educational, charitable, religious, or cemetery purposes.

SECTION 608. In all cases not otherwise specially provided for by law, when a forfeiture shall be incurred by any person, and the act or omission for which the same is imposed, shall not also be a misdemeanor, such forfeiture may be sued for and recovered

in a civil action. When such action or omission is punishable by fine and imprisonment, or by fine or imprisonment, or is specially declared by law to be a misdemeanor, it shall be deemed a misdemeanor within the meaning of this chapter. The word forfeiture, as used in this chapter, shall include any penalty in money or goods, other than a fine, imposed by law as a punishment for crime.

SECTION 609. Such action shall be brought as follows:

1. If the entire recovery is payable to the State, by the Attorney General or the state's attorney of the proper county in the name of the State.

2. If the entire recovery is payable to a public corporation the action shall be brought in the name of such corporation by its proper legal officer.

3. If the recovery is payable partly to the State or a public corporation and partly to an individual, an action may be brought by such individual or by the State or public corporation, as the case may be or by such individual, and the State or public corporation.

SECTION 610. The summons, pleadings and proceedings therein shall be the same as in a civil action. It shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed, according to the provisions of the statute which imposes it, specifying the section and chapter containing such statute. And when such section imposes a forfeiture for several offenses or delinquencies it shall specify the particular offense or delinquency for which the action is brought, with a demand for judgment for the amount of such forfeiture. In case the defendant is not a resident of the State, an attachment may be issued in such action in like manner as in ordinary civil actions against non-residents. Any such action may be brought for and the judgment therein may include as many forfeitures as the defendant may have incurred prior to its commencement.

SECTION 611. In an action brought to recover goods or other things forfeited by the provisions of any statute, it shall be sufficient to allege in the complaint, that such goods or other things have been forfeited, specifying the section and chapter containing such statute, with a demand of judgment for the delivery of such goods or other things, or of the value thereof.

SECTION 612. When a forfeiture is imposed, not exceeding a specific sum, or when it is not less than one sum nor more than another, the action may be brought for the highest sum specified:

a judgment may be rendered for such sum as the court of jury shall assess or determine to be proportionate to the offense.

SECTION 613. In all cases when judgment is recovered pursuant to this chapter, it shall also include the costs of the action, and it shall direct that if the same is not paid, the defendant shall be committed to the county jail of the proper county, there to be imprisoned for a specified time, not exceeding six months, which period shall be fixed by the court, in view of all the circumstances of the case, or until otherwise discharged pursuant to law. In such cases a commitment shall issue, as in ordinary criminal actions. This section shall not prevent the enforcement of any such judgment by execution at any time within one year from its rendition.

SECTION 614. All forfeitures imposed by any by-law, ordinance, or regulation of any town, city or village, or of any corporation organized under the laws of this State, when special provision is not otherwise made by law for their recovery, or punishment provided for the act or omission for which they are imposed, may be sued for and recovered, pursuant to this chapter. It shall be sufficient to allege in the complaint, that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed, specifying the by-law, ordinance, or regulation which imposes it. And when such by-law, ordinance, or regulation which imposes a penalty or forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action is brought with a demand for judgment for the amount of such forfeiture. All money collected on such judgment shall be paid to the treasurer of such town, city, village, or corporation.

SECTION 615. All moneys collected on account of any judgment under the provisions of this chapter, except such as are payable by law to an individual, shall be paid by the officer collecting the same to the treasurer of the State, or of the county, town, city or village entitled thereto as the case may be, within twenty days after its collection or receipt by him; and in case of any neglect or failure in such payment, the treasurer to whom such money should be paid may sue and collect the same of such officer by action, in his name of office and upon the official bond of such officer, if any he has given, with interest at the rate of twelve per cent per annum, from the time when it should have been so paid.

SECTION 616. Every town, village and city treasurer shall demand of and recover from each justice of the peace or police justice of his town, village, or city, respectively all moneys received by such justice upon judgments rendered by him in actions

under this chapter, and every such justice shall, on demand of such treasurer, produce to him his docket for examination, and all process and papers concerning or in such actions. In case of refusal or neglect by such justice to pay over promptly such moneys upon such demand, such treasurer shall institute an action therefor in his name of office against such justice and his sureties upon his official bond.

SECTION 617. Whenever by the provisions of law any property, real or personal, shall be forfeited to the State, or to any officer for its use, an action for the recovery of such property, alleging the ground of the forfeiture, may be brought by the Attorney General, or the state's attorney of the county in which the action is triable in any court having jurisdiction thereof. (5362-5366.)

SECTION 623. When service of the summons is made by publication, the summons as published must be accompanied by a notice that the object of the action is to obtain a partition of the property, which is the subject of the action, briefly describing the same. (5368-5410.)

SECTION 666. Every mortgage of real property containing a power of sale may, upon default being made in the conditions of such mortgage, be foreclosed by advertisement, in the cases and manner hereinafter provided.

SECTION 667. When the mortgagee or his assignee has commenced proceedings for the foreclosure of a mortgage by advertisement, and it shall be made to appear by the affidavit of the mortgagor, his agent, or attorney, to the satisfaction of a judge of the district court of the county where the mortgaged property is situated, that the mortgagor has a legal counter-claim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, such judge may by an order to that effect enjoin the mortgagee or his assignee from foreclosing such mortgage by advertisement, and direct that all further proceedings for the foreclosure be had in the district court properly having jurisdiction of the subject matter; and for the purpose of carrying out the provisions of this section, service may be made upon the attorney or agent of the mortgagee or assignee. (Sec. 1, c. 61, 1883.)

SECTION 668. To entitle a party to make such foreclosure it shall be requisite:

1. That default in a condition of such mortgage shall have occurred, by which the power of sale has become operative.
2. That no action or proceedings shall have been instituted at

law to recover the debt then remaining secured by such mortgage, or any part thereof; or, if any action or proceeding has been instituted, that the same has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied, in whole or in part; and,

3. That the mortgage containing such power of sale has been duly recorded, and, if it shall have been assigned, that all the assignments thereof have been duly recorded.

SECTION 669. In case of mortgages given to secure the payment of money by installments, each of the installments mentioned in the mortgage shall be taken and deemed to be a separate and independent mortgage, and the mortgage for each of such installments, may be foreclosed in the same manner, and with like effect, as if a separate mortgage was given for each of such installments, and a redemption of any such sale shall have the like effect as if the sale for such installment had been made upon a prior independent mortgage.

SECTION 670. Notice that the mortgage will be foreclosed, by a sale of the mortgaged premises, or some part thereof, must be given by publishing the same six times, once in each week for six successive weeks, in a newspaper of the county where the premises intended to be sold, or some part thereof, are situated, if there is one, and if not, then in some newspaper published at the seat of government.

SECTION 671. Such notice shall be in substantially the following form:

Notice is hereby given that that certain mortgage, executed and delivered by....., mortgagor, to..... mortgagee, dated the..... day of....., 189., and filed for record in the office of the register of deeds of the county of....., and State of North Dakota, on the..... day of 189... and recorded in book..... of....., at page..... (and assigned by said mortgagee to.....) will be foreclosed by a sale of the premises in such mortgage and hereinafter described at the front door of the court house in the county of....., and State of North Dakota, at the hour of..... o'clock... M., on the..... day of....., 189..., to satisfy the amount due upon such mortgage on the day of sale. The premises described in such mortgage and which will be sold to satisfy the same are described as follows: (Here insert description.)

There will be due on such mortgage at the date of sale the sum of.....dollars.

SECTION 678. If such mortgaged premises are not redeemed, it shall be the duty of the officer, or his successor in office, or other person who sold the same, or some other person appointed by the district court for that purpose, to complete such sale by executing a deed of the premises so sold to the original purchaser, his heirs or assigns or to any person who may have acquired the title and interest of such purchaser by redemption or otherwise. Such deed shall have the same force and effect as if it had been executed pursuant to a sale under a foreclosure of the mortgage by an action in which all persons, having an interest in or lien upon the property subsequent to the mortgage were made parties and duly served with process.

SECTION 679. If after any such sale there remains in the hands of the officer, or other person making the sale, any surplus money after satisfying the mortgage on such real property sold and payment of the costs and expenses of such foreclosure and sale such surplus shall be held by the officer or person making the sale for the period of thirty days after the sale, unless some person who had at the time of sale an interest in or lien upon the property sold, or some part thereof, shall serve a written notice upon the person or officer making the sale of a claim to such surplus, or some part thereof. If no such notice of claim is served within the period aforesaid the officer or person making the sale shall upon the expiration of such period and upon demand pay over such surplus to the mortgagor, his legal representative or assigns. (Sec. 1, c. 29, 1887.)

SECTION 680. If the notice mentioned in the last section is served upon the officer or person making the sale within the time therein provided, such officer or person shall forthwith pay the surplus into the district court of the county in which the sale was made. Any person claiming the surplus or any part thereof, by reason of a lien upon or interest in the property as provided in the last section may at any time before an order is made, as prescribed in the next section but one, file in the office of the clerk of the district court of the county where the sale took place, a petition stating the nature and extent of his claim and praying for an order, directing the payment to him of the surplus money, or a part thereof.

SECTION 681. A person filing the petition as prescribed in the last section may after the expiration of thirty days from the day of sale apply to the district court for an order, pursuant to the prayer of his petition. Notice of the application must be served either by mail or personally upon each person who has filed a like petition, and also upon the mortgagor, and upon the person in actual possession of the property, if any, and also upon every

person having an interest in or lien upon the property sold subsequent to the mortgage foreclosed, and whose interest or lien was at the time of the sale of record in the proper office in the county or counties in which the property sold is situated. Such notice shall be served at least eight days before the application. But if it is shown to the court by affidavit that service upon any person, required to be served, cannot be so made with due diligence, notice may be given to him in any manner which the court directs.

SECTION 682. Upon the presentation of the petition with due proof of the service of the notice of the application the court must ascertain the amount due to the petitioner and to each other person whose claim is a lien upon the surplus money, and the priorities of the several liens; and the court shall thereupon make such order for the distribution of the surplus money as justice requires, and the same shall be distributed accordingly.

SECTION 683. An affidavit made as provided in Section 522 of the publication of the notice of the sale and of any notice of postponement must be filed for record by the officer making the sale in the office of the register of deeds of the county in which the real property is situated within thirty days after the sale.

SECTION 685. A note referring to the page and book where the evidence of any sale made under a mortgage is recorded shall be made by the register in the margin of the record of such mortgage.

SECTION 686. The party foreclosing a mortgage by advertisement shall be entitled to his costs and disbursements out of the proceeds of the sale, and shall also be entitled to such attorney's fee as may be allowed by law. (Sec. 1, c. 28, 1887.)

SECTION 687. An action may be brought in the district court for the foreclosure or satisfaction of a mortgage upon real property in accordance with the provisions of this article.

SECTION 692. If it appears that any judgment has been obtained in an action at law for the moneys demanded by such complaint, or any part thereof, no proceedings shall be had in such case, unless an execution against the property of the defendant in such judgment has been issued, and the sheriff or other officer shall have made return that the execution is unsatisfied in whole or in part, and that the defendant has no property out of which to satisfy such execution.

SECTION 694. Whenever any real property shall be sold under judgment of foreclosure pursuant to the provisions of this article, the officer or other person making the sale must give to the pur-

chaser a certificate of sale, as provided by Section . . . ; and at the expiration of the time for the redemption of such property, if the same is not redeemed the person or officer making the sale, or his successor in office, or other officer appointed by the court must make to the purchaser, his heirs or assigns, or to any person who has acquired the title of such purchaser by redemption or otherwise, a deed or deeds of such property. Such deed shall vest in the graantee all the right, title and interest of the mortgagor in and to the property sold at the time the mortgage was executed, or which was subsequently acquired by him, and shall be a bar to all claim, right, or equity of redemption in or to the property by the parties to such action, their heirs and personal representatives, and also against all persons claiming under them, or any of them, subsequent to the commencement of the action in which such judgment was rendered. (5040.)

SECTION 698. If at any time after judgment and before sale, the defendant shall bring into court the principal and interest due, with costs, the proceedings in such action shall be stayed; but the court may enforce the judgment by a further order upon a subsequent default in the payment of any of the installments, or any part thereof, or of any interest thereafter becoming due on such mortgage. (5442-5444.)

SECTION 702. In such case the proceeds of such sale must be applied as well to the interest or portion or installment of the principal due, as towards the whole residue of the sum secured by such mortgage and not due and payable at the time of such sale, and if such residue does not bear interest, then the court may direct the same to be paid with a rebate of the legal interest for the time during which such residue shall not be due and payable, or the court may direct the balance of the proceeds of such sale after paying the sum due, with costs, to be put out at interest for the benefit of the plaintiff, to be paid to him as the installments or portions of the principal or interest may become due, and the surplus for the benefit of the defendant, his representatives or assigns, to be paid to them by order of the court. (5446 repealed. 5446-5447.)

SECTION 705. A mortgage of personal property containing a power of sale, upon default being made in the conditions of such mortgage, authorizing the exercise of such power, may be foreclosed in the manner and upon the notice in this article provided. (Sec. 1743, C. C.)

SECTION 706. When the mortgagee or his assignee has commenced foreclosure by advertisement, and it shall be made to appear by the affidavit of the mortgagor, his agent or attorney, to the satisfaction of the judge of the district court of the county

where the mortgaged property is situated, that the mortgagee has a legal counter-claim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, such judge may, by an order to that effect, enjoin the mortgagee or assignee from foreclosing such mortgage by advertisement, and direct that all further proceedings for the foreclosure be had in the district court properly having jurisdiction of the subject matter; and for the purpose of carrying out the provisions of this section, service may be made upon the attorney or agent of the mortgagee or assignee. (Sec. 1, c. 62, 1883.)

SECTION 707. Notice that the mortgage will be foreclosed by a sale of the mortgaged property shall be published once, and at least six days prior to the sale, in a newspaper published at the place of sale, if there is one; otherwise, in any newspaper published in the county in which the sale is to be made; and if there is no newspaper published in the county, notice shall be given by posting the same in five public places in such county, for at least ten days prior to the sale. If the mortgagor or his agent shall notify the mortgagee or his agent, in writing, at the time of the seizure of the property of his election that notice be given by posting instead of by publication, it shall be given accordingly as hereinbefore provided. (Sec. 4, c. 26, 1889.)

SECTION 708. Such notice must specify:

1. The names of the mortgagor and mortgagee, and of the assignee, if any.
2. The date of the mortgage.
3. The nature of the default and the amount claimed to be due thereon at the date of the notice.
4. A description of the mortgaged property, conforming substantially to that contained in the mortgage.
5. The time and place of sale.
6. The name of the party, agent, or attorney foreclosing such mortgage. (Sec. 1, c. 32, 1885.)

SECTION 709. All sales under this article shall be commenced between the hours of twelve o'clock noon and four o'clock in the afternoon, on Saturday, within thirty days after the seizure of the property, unless the sale shall be postponed. Any sale may be postponed one week by public announcement at the time of postponement when there are no bidders, or when the amount offered is grossly inadequate, or upon the request of the mortgagor. (Sec. 5, c. 26, 1889.)

SECTION 710. Within ten days after the sale of any mortgaged property as herein provided the person making the sale shall make out in writing a full report, under oath, of all the proceedings in such foreclosure, specifying particularly, the property sold, the amount received therefor, the amount of the costs and expenses itemized, and the disposition made by him of the proceeds of the sale and shall file the same in the office of the register of deeds of the county where the mortgage is filed, which report received in all courts shall be as *prima facie* evidence of the facts therein stated. (Sec. 7, c. 26, 1889.)

SECTION 711. Out of the proceeds arising from the sale the person making the sale shall pay:

1. The costs and expenses of foreclosure.
2. The amount of the mortgage debt to the person entitled thereto; and,
3. The balance, if any, to the owner of the mortgaged property. (Sec. 2, c. 40, 1890.)

SECTION 712. The mortgagee, his assigns, or any other person may in good faith become a purchaser of the property sold. (Sec. 3, c. 32, 1885.)

SECTION 713. Any stipulation or agreement in any chattel mortgage by which any provisions of this article are waived shall be void. (Sec. 9, c. 26, 1889.)

SECTION 714. The fees for the publication of notice under the provisions of this article shall in no case exceed the sum of three dollars. No greater charge shall be valid for the keeping of live stock between the date of its seizure and the date of sale or redemption than is now provided by law for the keeping of live stock when impounded. (Sec. 6, c. 26, 1889.)

SECTION 715. The board of county commissioners of the several counties shall at their regular quarterly meeting in April each year designate not less than five public places in their respective counties, which shall be the only market places for the sale of chattels under the provisions of this article, unless the mortgagor and mortgagee agree upon and designate in writing another place in the county as the place of sale, in which case the sale shall be made at the place so designated, which written agreement or designation shall be attached to and filed with the report of sale. Growing or harvested crops, grain in bulk, lumber, cordwood, buildings or other like articles may be sold under the provisions of this article without moving the same to one of the market places herein provided for. (Sec. 1, c. 40, 1889.)

SECTION 716. Any mortgagor of personal property, or his assignee, may redeem the same from a sale upon foreclosure of any mortgage within five days after such sale, exclusive of the day of sale, by paying or tendering to the owner of the mortgage at the time of sale, his agent or attorney, or to the person making the sale, the amount for which said property was sold, with the costs of sale and interest at the rate of seven per cent per annum from the date of the sale. The mortgagor or his assignee desiring to redeem such property shall, at the time of sale, give written notice to the person making the sale of his desire to make such redemption; otherwise he shall be deemed to have waived his right so to do. In case such notice is served the person making such sale shall retain the possession of the property sold until the expiration of said five days, and shall be entitled to his reasonable expenses in caring for the same. In case only a part of the property sold is redeemed, the redemptioner shall pay or tender in addition to the price for which such part was sold, such a proportion of the costs of sale as said price bears to the entire price of all the property sold and also the reasonable expense of caring for the property redeemed and interest. (Sub. 1, Sec. 1, c. 79, 1892.)

SECTION 717. When written notice of a desire to redeem personal property, as provided in the last section, has been given any person removing such property from the county in which it was sold, prior to the period herein provided for redemption, without the written consent of the owner of said property at the time of sale shall be guilty of a misdemeanor. (Sub. 2; Sec. 1, c. 79, 1893.)

SECTION 718. Upon the payment or tender of the amount necessary to redeem, the mortgage or person to whom the same is paid or tendered shall execute and deliver to the redemptioner a certificate of such redemption, particularly describing the property redeemed and the mortgage under which the same was sold, which certificate may be filed in the office of the register of deeds of the county in which the mortgage was filed and shall operate as a release of said property from the mortgage. (Sub. 3, Sec. 1, c. 79, 1893.)

SECTION 719. An action may be maintained in the district court to foreclose any lien upon personal property.

SECTION 720. If the plaintiff is not in possession of the property a warrant may, at the time of issuing the summons, or any time before judgment, be issued by the clerk of the court in which the action is commenced, commanding the sheriff to seize and safely keep the same to abide the final judgment in the action. Such warrant may be issued upon the filing of a verified com-

plaint with the clerk, setting forth a cause of action in favor of the plaintiff and against the defendant for the foreclosure of a lien upon the property, possession of which is sought to be obtained. The sheriff must immediately execute the warrant by seizing the property and holding the same until disposed of according to law.

SECTION 720a. The warrant mentioned in the last section, exclusive of the venue and title of the action shall be in substantially the following form:

To the sheriff of the county of.....:

The plaintiff in the above entitled action having filed in my office a verified complaint, setting forth a cause of action in favor of the plaintiff and against the defendant, above named, for the foreclosure of a lien upon the personal property hereinafter described, and having given the undertaking required by law.

Now, therefore, you are hereby commanded immediately to seize and safely keep until disposed of according to law, the following described personal property belonging to the defendant, ....., situated in the county of ....., and State of North Dakota, to-wit: (Here insert description of property.)

Such warrant shall be attested and sealed in the same manner as a warrant of attachment.

SECTION 721. Before issuing the warrant, the clerk must require a written undertaking on the part of the plaintiff, with sufficient surety to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of any seizure under the warrant, not exceeding the sum named in the undertaking, which must be at least the amount claimed in the complaint, and in no case less than one hundred dollars.

SECTION 722. In such action judgment in favor of the plaintiff must specify the amount due on the lien and direct a sale of the property to satisfy the same and the costs by a person, appointed thereby, or an officer designated therein, in the manner provided for the sale of personal property under execution; and the application by him of the proceeds of the sale, less his fees and expenses, to the payment of the judgment and costs. It may also provide for the payment of the surplus to the owner of the chattel and for the safe keeping of the surplus if necessary until it is claimed by him. If the defendant, upon whom the summons is personally served is liable for the amount of the lien, or for any part thereof, judgment may be entered against him accordingly.

SECTION 723. The provisions of the chapter on attachment

relative to rebonding, the sale of perishable property and proceedings in case judgment is in favor of the defendant shall apply to proceedings under this chapter so far as the same are applicable.

SECTION 724. This article does not affect any existing right or remedy to foreclose or satisfy a lien upon personal property without action.

## CHAPTER

### ACTIONS TO DETERMINE CONFLICTING CLAIMS TO REAL PROPERTY, AND OTHER ACTIONS CONCERNING REAL ESTATE.

SECTION 725. An action may be maintained by any person having an estate or interest in real property against another who claims an estate or interest therein adverse to him, for the purpose of determining such adverse claim. (5450, 5451.)

SECTION 728. In an action commenced by a person out of possession of real property to determine an adverse claim, interest, or estate therein, the person making such adverse claim and persons in possession under him may be joined as defendants, and if the judgment is for the plaintiff, he may have a writ for the possession of the premises, as against the defendants in the action, against whom the judgment is rendered. (5452-5464.)

## CHAPTER

### ACTION FOR NUISANCE, WASTE AND WILLFUL TRESPASS ON REAL PROPERTY.

SECTION 741. An action may be maintained by any person whose property is injuriously affected, or whose personal enjoyment is lessened by a nuisance as defined in the Civil Code; and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

## CHAPTER

### ACTION FOR THE SUPPORT OF MARRIED WOMEN.

SECTION 744. Any married woman may maintain an action in the district court of the county in which she resides against her husband for failure on his part to provide for her support and the support of her minor children, if any, by said husband living with her. (Sec. 1, c. 167, 1890.)

SECTION 745. If it shall appear to the court upon the trial of such action that the husband is able to support or contribute to the support of his wife and said children, if any, and that he neglects or refuses to perform his duty in that respect, the court shall have power to render such judgment as to the support by said husband of his wife and said children as shall be equitable in view of the circumstances of both parties.

SECTION 746. The practice in such actions shall conform as nearly as may be to the practice in actions for divorce. (Sec. 3, c. 167, 1890.)

SECTION 747. The court may, in its discretion, require the husband to pay any money necessary to enable the plaintiff to prosecute the action and for the support of the plaintiff and her children during its pendency.

SECTION 748. The court may require the husband to give reasonable security for making any payments required under the provisions of this chapter and may enforce the same by the appointment of a receiver, or by any remedy applicable to the case.

SECTION 749. The judgment may be modified or vacated at any time upon the hearing of the parties. (Sec. 4, c. 167, 1890.)

## CHAPTER

### ACTIONS AGAINST THE STATE.

SECTION 750. An action respecting the title to property, or arising upon contract, may be brought in the district court against the State the same as against a private person. When such actions are not of a local nature they shall be brought in the county of Burleigh. The plaintiff at the time of commencing such action shall file an undertaking with sufficient surety, to be approved by the clerk of court, to the effect that he will pay any judgment for costs that may be rendered against him.

SECTION 751. No action upon a claim arising upon contract for the recovery of money only can be maintained against the State, until the claim has been presented to the State Auditor for allowance and allowance thereof refused. The neglect or refusal of the Auditor to act on such claim for a period of ten days after its presentation for allowance shall be deemed a refusal to allow the claim.

SECTION 752. No execution shall issue against the State on any judgment, but whenever a final judgment against the State shall have been obtained in any action, the clerk shall make and

furnish to the State Auditor a duly certified copy of such judgment; and the Auditor shall in due course draw his warrant upon the State Treasurer for such amount and deliver the same to the person entitled thereto.

## CHAPTER

### CONTEMPTS.—ARTICLE I.—CRIMINAL CONTEMPTS.

SECTION 753. Every court of record shall have power to punish as for a criminal contempt persons guilty of any of the following acts, and no other:

1. Disorderly, contemptuous or insolent behavior committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Any breach of the peace, noise, or other disturbance directly tending to interrupt its proceedings.

3. Willful disobedience of any process or order lawfully issued or made by it.

4. Resistance wilfully offered by any person to the lawful order or process of the court.

5. The contumacious and unlawful refusal to be sworn as a witness; or, after being sworn, to answer any legal and proper interrogatory.

6. The publication of a false or grossly inaccurate report of its proceedings; but no court can punish as a contempt the publication of a true, full and fair report of any trial, argument, decision or other proceeding therein.

SECTION 754. Punishment for a contempt, specified in the last section, may be by fine, not exceeding two hundred and fifty dollars, or by imprisonment not exceeding thirty days in the jail of the county where the court is sitting, or both, in the discretion of the court. When a person is committed to jail for the non-payment of such fine, he must be discharged at the expiration of thirty days; but when he is also committed for a definite time, the thirty days must be computed from the expiration of the definite time.

### ARTICLE II.—CIVIL CONTEMPTS.

SECTION 755. Every court of record has power to punish by fine and imprisonment, or either, a neglect or violation of duty.

or other misconduct by which a right or remedy of a party to a civil action or proceeding pending in the court may be defeated, impaired, impeded or prejudiced, in the following cases :

1. An attorney, counselor, clerk, sheriff, coroner or other person in any manner duly elected or appointed to perform a judicial or ministerial service, for a misbehavior in his office or trust, or for a willful neglect or violation of duty therein, or for disobedience to any lawful order or process of the court, or of a judge thereof.

2. A party to an action or proceeding, for putting in fictitious bail, or a fictitious surety, or for any deceit or abuse of the process or proceedings of the court.

3. A party to an action or proceeding, an attorney, counselor or other person, for the nonpayment of a sum of money ordered by the court to be paid, in a case where by law execution cannot be awarded for the collection of such sum, or for any other disobedience to any lawful order, judgment or process of the court.

4. A person for assuming to be an attorney or counselor or other officer of the court and acting as such without authority; for rescuing any property or person in the custody of an officer by virtue of any process or order issued by such court; for fraudulently and willfully preventing or disabling from attendance or testifying a witness or a party to an action or proceeding or unlawfully detaining such witness or party while going to, remaining at or returning from the court where the action or proceeding is noticed for trial or hearing, or is being tried or heard, or for any other unlawful interference with the proceedings therein.

5. A person subpoenaed as a witness for refusing or neglecting to obey the subpoena, or to attend, or to be sworn, or to answer as a witness.

6. A person summoned as a juror in any court, for improperly conversing with a party to an action or proceeding, to be tried at that term, or with any other person, in relation to the merits of such action or proceeding, or for receiving a communication from any person in relation to the merits of such an action or proceeding without immediately disclosing the same to the court.

7. An inferior magistrate, judge, officer or tribunal for proceeding contrary to law in a case or matter, which has been removed from his jurisdiction to the court inflicting the punishment, or for disobedience to any lawful order or process of the latter court.

8. In any other case expressly authorized by the Codes or Statutes of this State, or where an attachment, or any other proceeding to punish for a contempt has been usually adopted and

practiced in a court of record to enforce a civil remedy or to protect a right of a party to an action or proceeding in such court.

ARTICLE III.—PRACTICE IN CONTEMPTS.

SECTION 756. When the offense is committed in the immediate view and presence of the court or of the judge, upon a trial or hearing, it may be punished summarily. For that purpose an order must be made, stating the facts which constitute the offense and reciting that the same occurred in such immediate view and presence and plainly and specifically prescribing the punishment to be inflicted therefor.

SECTION 757. When the offense is not so committed the court or judge must, upon being satisfied by affidavit of the commission of the offense either:

1. Make an order requiring the accused to show cause at a time and place therein specified, why he should not be punished for the alleged offense; or,

2. Issue a warrant of attachment, directed to the sheriff of any county where the accused may be found, commanding him to arrest the accused and bring him before the court or judge, either forthwith, or at a time and place therein specified to answer for the alleged offense.

SECTION 758. An order to show cause may be made in the action or proceeding in or respecting which the offense was committed, either before or after the final judgment or order therein, and is equivalent to a notice of motion; and the subsequent proceedings thereupon shall be taken in the action or proceeding as upon a motion made therein. In case an attachment is issued it shall be deemed an original special proceeding by the State as plaintiff against the accused as defendant.

SECTION 759. A copy of the warrant and of the affidavit, or report of a referee upon which it is issued, must be served upon the accused, when he is arrested by virtue thereof.

SECTION 760. When a warrant of attachment is issued, the court or judge may, in discretion, by an endorsement thereon fix a sum in which the accused may give an undertaking for his appearance to answer.

SECTION 761. If an endorsement is not made upon the warrant, or if such an endorsement is made and an undertaking is not given, as prescribed in the next section, the sheriff after making the arrest must keep the accused in his custody, until the further direction of the court or judge. When from sickness or other

cause the accused is physically unable to attend before the court or judge that fact is a sufficient excuse to the sheriff for not producing him as required by the warrant. In that case the sheriff must produce him as directed by the court or judge after he becomes able to attend. The sheriff need not in any case confine the accused in prison, or otherwise restrain him of his liberty, except so far as is necessary in order to secure his personal attendance.

SECTION 762. When an endorsement is made upon the warrant, as prescribed in the last section but one, the accused must be discharged from arrest upon his executing and delivering to the sheriff, at any time before the return day of the warrant, an undertaking to the State, in the sum specified in the endorsement, with sufficient surety, to the effect that he will appear on the return of such attachment and abide the direction of the court. If required by the sheriff, such surety must justify in the same manner as bail upon an arrest.

SECTION 765. When the accused is produced by virtue of a warrant, or appears upon the return of a warrant, or of an order to show cause, the court or judge must, unless the accused admits the offense charged cause interrogatories to be filed, specifying the facts and circumstances of the offense charged against him. The accused must make written answer thereto, under oath, within such reasonable time as the court or judge allows therefor, and either party may produce affidavits or other proof contradicting or corroborating any answer. Upon the original affidavits, the answer and subsequent proofs, the court or judge must determine whether the accused has committed the offense charged.

SECTION 764. If it is determined that the accused has committed the offense charged and, if it is a contempt defined in Section 755, that it was calculated to, or actually did, defeat, impair, impede, or prejudice the rights or remedies of a party to an action or proceeding pending in the court or before the judge, or a referee, the court or judge must make a final order accordingly, directing that the accused be punished by fine or imprisonment, or both, as the nature of the case requires. A warrant of commitment must issue accordingly.

SECTION 765. If an actual loss or injury has been produced to any party by the misconduct alleged, the court or judge shall order a sufficient sum to be paid by the offender to such party to indemnify him and to satisfy his costs and expenses, instead of imposing a fine upon the accused; and in such case the payment and acceptance of such sum shall be an absolute bar to any action by the aggrieved party to recover damages for such injury or

loss. When no such actual injury or loss has been produced, the fine shall not exceed two hundred and fifty dollars over and above the costs and expenses of the proceedings. A corporation may be fined as prescribed in this section.

SECTION 766. When the misconduct proved consists of an omission to perform an act or duty, which it is yet in the power of the offender to perform, he shall be imprisoned only until he has performed it and paid the fine imposed. In such a case the order and the warrant of commitment, if one is issued, must specify the act or duty to be performed, and the sum to be paid. In every other case when special provision is not otherwise made by law, the offender may be imprisoned for a reasonable time not exceeding six months, and until the fine, if any, is paid; and the order and the warrant of commitment, if any, must specify the amount of the fine, and the duration of the imprisonment.

SECTION 767. When an offender, imprisoned as prescribed in this chapter, is unable to endure the imprisonment, or to pay the sum, or perform the act or duty, required to be paid or performed, in order to entitle him to be released, the court or judge may, in discretion, and upon such terms as justice requires, make an order directing him to be discharged from the imprisonment.

SECTION 768. A person punished as prescribed in this chapter may, notwithstanding, be prosecuted criminally for the same misconduct, if it is a public offense; but the court before which he is convicted must in forming its sentence take into consideration the previous punishment.

SECTION 769. When a person arrested by authority of a warrant of attachment has given an undertaking for his appearance, as prescribed in this chapter, and fails to appear on the return day of the warrant, the court may either issue another warrant or make an order, directing the undertaking to be prosecuted, or both.

SECTION 770. The order directing the undertaking to be prosecuted may, in the discretion of the court or judge, direct the prosecution thereof by and in the name of any party aggrieved by the misconduct of the accused. In such a case the plaintiff may recover damages to the extent of the loss or injury sustained by him by reason of the misconduct, together with the costs and expenses of prosecuting the proceedings in which the warrant was issued, not exceeding the sum specified in the undertaking.

SECTION 771. If no party is aggrieved by the misconduct of the accused the court must, and, in any case when the court thinks proper so to direct, it may direct the prosecution of the

undertaking by the Attorney General, or by the States' attorney of the county in which it was given, in the name of the State. In an action brought pursuant to such direction the State is entitled to recover the entire sum specified in the undertaking. Out of the money collected the court which directed the prosecution must direct that the person at whose instance a warrant was issued be paid such a sum as it thinks proper to satisfy the costs and expenses incurred by him and to compensate him for loss or injury sustained by him by reason of the misconduct. The residue of the money must be paid into the treasury of the State to the credit of the school fund.

SECTION 772. After the return of an execution unsatisfied, issued upon a judgment, rendered in an action upon the undertaking, an action to recover the amount of the judgment may be maintained against the sheriff, when it appears that at the time when the undertaking was given, the surety was insufficient, and the sheriff had reasonable grounds to doubt his sufficiency. Such an action may be maintained by the plaintiff in whose favor the judgment was recovered. If the State was plaintiff, the action must be prosecuted by the Attorney General or the State's attorney; and any money collected therein must be disposed of as prescribed in the last section.

SECTION 773. The commission of any of the offenses which constitute contempt of court upon the trial of an action or issue by a referee appointed by the court shall be deemed a contempt of the court appointing such referee, and the same may be punished by the court in like manner and upon the same proceedings as in this chapter provided, except that the offense may be presented to the court by a report of the referee instead of by affidavit.

SECTION 774. When a witness fails to attend for examination, when duly required so to do, before a notary public, or any other officer, board, or tribunal, authorized by law to require his attendance for examination, or refuses to be sworn, or to answer as a witness, such notary public, officer, board, or tribunal shall certify such fact to the judge of the district court of the judicial district in which the witness resides or may be, who must thereupon by order, require such witness to attend before him at a time and place to be specified in such order for examination. Upon the return day of such order the examination of the witness shall be conducted before the judge and for the failure of the witness to attend, or his refusal to do any act required of him by law, he may be punished as for a contempt upon the same proceedings as are in this chapter provided.

SECTION 774a. Appeals may be taken to the supreme court

from any final order adjudging the accused guilty of contempt and upon such appeal the supreme court may review all the proceedings had and affidavits and other proof introduced by or against the accused. For the purpose of reviewing questions as to the sufficiency of the evidence a statement of the case may be prepared and settled within the time and in the manner provided in Article 8 of Chapter 9 of this Code. Such appeal shall be taken, except as in this section otherwise provided, in the manner prescribed in Chapter 13 of this Code.

To render such appeal effectual:

1. If the appellant has been adjudged guilty of a criminal contempt, an undertaking must be executed to the State of North Dakota on the part of the appellant in the sum of five hundred dollars by at least two sureties to the effect that if the order appealed from, or any part thereof, is affirmed or the appeal is dismissed, the appellant will pay the amount directed to be paid by such order, or the part of such amount as to which the order is affirmed, and if such order also directs that appellant be imprisoned, that he will surrender himself in execution of the order and also pay the costs adjudged against him on such appeal; or,

2. If, of a civil contempt, a like undertaking must be executed in double the amount of the fine imposed and in no case less than two hundred and fifty dollars, to the same effect as prescribed in Subdivision 1 of this section; or,

3. If the appellant does not desire a stay of the execution of the order appealed from, a like undertaking must be executed in the sum of two hundred and fifty dollars to the effect that appellant will pay the costs of the appeal if the judgment is affirmed wholly or in part or the appeal is dismissed.

Unless the undertaking provided for in Subdivision 1 or 2 of this section, as the case may require, is executed on the part of the appellant, the execution of the order appealed from shall not be stayed.

## CHAPTER

### EMINENT DOMAIN.

SECTION 775. Eminent domain is the right to take private property for public use. Private property shall not be taken or damaged for public use without just compensation having been first made to or paid into court for the owner, and in case such property is so taken by a person, firm or private corporation no benefit to accrue from the proposed improvement shall be allowed

in ascertaining the compensation to be made therefor. Such compensation shall in all cases be ascertained by a jury, unless a jury is waived. The right of eminent domain may be exercised in the manner provided in this chapter.

SECTION 776. Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses:

1. All public uses authorized by the government of the United States.

2. Public buildings and grounds for the use of the State and all other public uses authorized by the Legislative Assembly of this State.

3. Public buildings and grounds for the use of any county, incorporated city, village, town or school district; canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city, village, or town; or for draining any county, incorporated city, village or town; raising the banks of streams, removing obstructions therefrom and widening, deepening, or straightening their channels; roads, streets and alleys and all other public uses for the benefit of any county, incorporated city, village or town, or the inhabitants thereof, which may be authorized by the Legislative Assembly; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.

4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, by-roads, plank and turnpike roads, railroads and street railways; canals, ditches, flumes, aqueducts and pipes for public transportation, supplying mines and for irrigating purposes, draining and reclaiming lands.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also mill dams.

6. By-roads leading from highways to residences and farms.

7. Telegraph and telephone lines.

8. Sewerage of any incorporated city, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any public buildings belonging to the State, or to any college or university.

9. Cemeteries and public parks.

SECTION 777. The following is a classification of the estates and rights in lands subject to be taken for public use:

1. A fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams and permanent flooding occasioned thereby, or for an outlet for a flow or a place for the deposit of debris or tailings of a mine;
2. An easement, when taken for any other use;
3. The right of entry upon and occupation of lands and the right to take therefrom such earth, gravel, stones, trees and timber as may be necessary for a public use.

SECTION 778. The private property which may be taken under this chapter includes:

1. All real property belonging to any person;
2. Lands belonging to this State, or to any county, incorporated city, village, or town not appropriated to some public use;
3. Property appropriated to public use; but such property shall not be taken unless for a more necessary public use than that to which it has been already appropriated.
4. Franchises for toll roads, toll bridges, ferries and all other franchises; but such franchises shall not be taken unless for free highways, railroads, or other more necessary public use;
5. All rights of way for any and all the purposes mentioned in Section 776 and any and all structures and improvements thereon and the lands held or used in connection therewith shall be subject to be connected with, crossed, or intersected by any other right of way or improvement or structure thereon. They shall also be subject to a limited use, in common with the owner thereof, when necessary; but such uses, crossings, intersections and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury;
6. All classes of private property not enumerated maybe taken for public use, when such taking is authorized by law.

SECTION 779. Before property can be taken it must appear:

1. That the use to which it is to be applied is a use authorized by law;
2. That the taking is necessary to such use;
3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use.

SECTION 780. In all cases when land is required for public use the person or corporation, or his or its agents, in charge of such use, may survey and locate the same; but it must be located in the manner which will be compatible with the greatest public benefit and the least private injury and subject to the provisions of Section 784. Whoever may be in charge of such public use may enter upon the land and make examinations; surveys and maps thereof, and such entry shall constitute no cause of action in favor of the owner of the land except for injuries resulting from negligence, wantonness or malice.

SECTION 781. All proceedings under this chapter must be prosecuted by civil action brought in the district court of the county in which the property, or some part thereof, is situated.

SECTION 782. The complaint must contain:

1. The name of the corporation, association, commission, or person in charge of the public use for which the property is sought, who must be styled plaintiff;
2. The names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants;
3. A statement of the right of the plaintiff;
4. If a right of way is sought, the complaint must show the location, general route and termini and must be accompanied with a map thereof, so far as the same is involved in the action or proceeding;
5. A description of each piece of land sought to be taken and whether the same includes the whole or only a part of an entire parcel or tract. All parcels lying in the county, and required for the same public use, may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of parties.

SECTION 783. All persons in occupation of, or having, or claiming an interest in any of the property described in the complaint or in the damages for the taking thereof, though not named, may appear, plead and defend, each in respect to his own property or interest, or that claimed by him, in like manner as if named in the complaint.

SECTION 784. The court shall have power:

1. To regulate and determine the place and manner of making connections and crossings, or of enjoying the common use mentioned in the fifth sub-division of section —;

2. To hear and determine all adverse or conflicting claims to the property sought to be condemned and to the damages therefor;

3. To determine the respective rights of different parties seeking condemnation of the same property.

SECTION 785. The jury, or court, or referee, if a jury is waived, must hear such legal testimony as may be offered by any of the parties to the proceedings and thereupon must ascertain and assess:

1. The value of the property sought to be condemned, and all improvements thereon pertaining to the realty, and of each and every separate estate or interest therein; if it consists of different parcels, the value of each parcel and each estate and interest therein shall be separately assessed;

2. If the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned and the construction of the improvement in the manner proposed by the plaintiff;

3. If property, though no part thereof is taken, will be damaged by the construction of the proposed improvement, the amount of such damages;

4. If the property is taken or damaged by the State or a public corporation, separately, how much the portion not sought to be condemned, and each estate or interest therein, will be benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the damages assessed under subdivisions two and three, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit shall be less than the damages so assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value of the portion taken;

5. As far as practicable compensation must be assessed separately for property actually taken and for damages to that which is not taken.

SECTION 786. For the purpose of assessing compensation and damages, the right thereto shall be deemed to have accrued at the date of the trial, and its actual value at that date shall be the measure of compensation for all property to be actually taken, and the basis of damages to the property not actually taken, but injuriously affected, in all cases when such damages are allowed, as provided in Section ——. No improvements put

upon the property, subsequent to the date of service of the summons, shall be included in the assessment of compensation or damages.

SECTION 787. If the title acquired is found to be defective from any cause, the plaintiff may again institute proceedings to acquire the same as in this chapter prescribed.

SECTION 788. The plaintiff must within thirty days after final judgment pay the sum of money assessed.

SECTION 789. Payment may be made to the defendant entitled thereto, or the money may be deposited in court for the defendant, and be distributed to those entitled thereto. If the money is not so paid or deposited, the defendant may have execution as in civil actions, unless execution is stayed by order of the court pending a motion for a new trial or on appeal; and if the money cannot be made on execution, the court upon a showing to that effect must set aside and annul the entire proceedings.

SECTION 790. When payments have been made as required in the last two sections the court must make a final order of condemnation, which must describe the property condemned and the purposes of such condemnation. A copy of the order must be filed in the office of the register of deeds of the county and thereupon the property described therein shall vest in the plaintiff for the purposes therein specified.

SECTION 791. At any time after the entry of judgment, whenever the plaintiff shall have paid to the defendant, or into court for the defendant, the full amount of the judgment, the district court in which the proceeding was tried may upon notice of not less than three days authorize the plaintiff to take possession of and use the property during the pendency of and until the final conclusion of the litigation, and may, if necessary, stay all actions and proceedings against the plaintiff on account thereof. The defendant, who is entitled to the money paid into court for him upon judgment, shall be entitled to demand and receive the same at any time thereafter upon obtaining an order therefor from the court. It shall be the duty of the court, or a judge thereof, upon application being made by such defendant, to order and direct that the money so paid into court for him be delivered to him upon his filing a satisfaction of the judgment, or upon his filing a receipt therefor, and an abandonment of all defenses to the action or proceeding except as to the amount of damages that he may be entitled to in the event that a new trial shall be granted. A payment to a defendant, as aforesaid, shall be held to be an abandonment by such defendant of all defenses interposed by him, excepting his claim for greater com-

pendent. The payment of the money into court as hereinbefore provided for shall not discharge the plaintiff from liability to keep the said fund full and without diminution; but such money shall be and remain as to all accident, defalcations, or other contingencies as between the parties to the proceedings, at the risk of the plaintiff, and shall so remain until the amount of the compensation or damages is finally settled by judicial determination, and until the court awards the money or such part thereof as shall be determined upon to the defendant, and until he is authorized or required by order of court to take it. If for any reason the money shall at any time be lost, or otherwise abstracted or withdrawn, through no fault of the defendant, the court shall require the plaintiff to make and keep the sum good at all times until the litigation is finally brought to an end, and until paid over or made payable to the defendant by order of the court, as above provided, and until such time or times the clerk of court shall be deemed to be the custodian of the money, and shall be liable to the plaintiff upon his official bond for the same, or any part thereof, in case it is for any reason lost, or otherwise abstracted or withdrawn. The court may order the money to be deposited in the State treasury, and in such case it shall be the duty of the State Treasurer, who receives all such moneys, duly receipt for, and safely keep the same in a special fund to be entered on his books as a condemnation fund for such purpose, and for such duty he shall be liable to the plaintiff upon his official bond. The State Treasurer shall pay out such moneys so deposited in such manner and at such times as the court or judge thereof may by order direct. In all cases when a new trial has been granted upon the application of the defendant, and he has failed upon such trial to obtain greater compensation than was allowed him upon the first trial, the costs of such new trial shall be taxed against him.

**SECTION 792.** Except as otherwise provided in this chapter the provisions of this Code relative to civil actions are applicable to and constitute the rules of practice in the proceedings mentioned in this chapter.

**SECTION 793.** The provisions of this Code relative to new trials and appeals, except in so far as they are inconsistent with the provisions of this chapter, apply to the proceedings mentioned in this chapter; *provided*, that upon the payment of the damages assessed the plaintiff shall be entitled to enter into, improve and hold possession of the property sought to be condemned as provided in Section . . . . and devote the same to the public use in question; and no motion for a new trial or appeal shall after such payment in any manner retard the contemplated improvement. Any money which shall have been deposited, as provided in Section . . . ., shall

be applied to the payment of the recovery upon a new trial and the remainder, if there is any, shall be returned to the plaintiff.

## CHAPTER

### DEATH BY WRONGFUL ACT.

SECTION 794. Whenever the death of a person shall be caused by a wrongful act, neglect, or default and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person who, or the corporation or company which, would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

SECTION 795. In such actions the jury shall give such damages as they think proportionate to the injury resulting from the death to the persons entitled to the recovery.

SECTION 796. The action shall be brought by the following persons in the order named:

1. The surviving husband or wife, if any;
2. The surviving children, if any;
3. The personal representative.

If any person entitled to bring the action refuses or neglects so to do for a period of thirty days after demand of the person next in order such person may bring the same.

SECTION 797. The amount recovered shall not be liable for the debts of the decedent, but shall inure to the exclusive benefit of his heirs at law in such shares as the judge before whom the case is tried shall fix in the order for judgment, and for the purpose of determining such shares the judge may, after the trial, make any investigation which he deems necessary.

SECTION 798. The action shall not abate by the death of either party to the record. If the plaintiff dies pending the action the person next in order, entitled to bring the action, shall by order of the court be made plaintiff therein.

SECTION 799. The person entitled to bring the action may compromise the same, or the right thereto, and such compromise shall be binding upon all persons authorized to bring the action or to share in the recovery.

## CHAPTER

## ARBITRATION.

SECTION 800. Persons capable of contracting may submit to the decision of one or more arbitrators any controversy which might be the subject of a civil action between them, except the question of title to real property in fee or for life. This qualification does not include questions relating merely to the partition or boundaries of real property.

SECTION 801. The submission to arbitration must be in writing and acknowledged by the parties thereto in the same manner as a conveyance of real property and may fix the time on or before which the award shall be made and provide that judgment may be entered upon the award by the district court in and for a specified county.

SECTION 802. Arbitrators have power to appoint a time and place for hearing, to adjourn from time to time, to administer oaths to witnesses, to hear the allegations and evidence of the parties and to make the award thereon. All the arbitrators must meet and act together during the investigation, but when met, a majority may determine any question.

SECTION 803. Before acting, the arbitrators must be sworn before an officer authorized to administer oaths, faithfully and fairly to hear and examine the allegations and evidence of the parties in relation to the matters in controversy and to make a just award according to their understanding.

SECTION 804. Witnesses may be compelled to appear before such arbitrators by subpoena to be issued by any justice of the peace, in the same manner and with like effect, and subject to the same penalties for disobedience, as in cases of trials before justices of the peace.

SECTION 805. The award must be in writing, signed by the arbitrators or a majority of them, and acknowledged in the same manner as a conveyance of real property. If the submission provides for the entry of judgment upon the award, the arbitrators shall file the submission together with their award in the office of the clerk of the district court of the county specified in the submission and notify each of the parties to the arbitration thereof in writing. If the submission does not provide for the entry of judgment upon the award the arbitrators shall deliver a copy of the award to each of the parties to the arbitration.

SECTION 806. Any party to the submission, at any time within one year after the award is filed, and upon eight days' notice to

the adverse party, may move the court designated in the submission to affirm the award and the same shall be affirmed accordingly, unless a motion is made to modify or vacate the award, in which case the latter motion shall first be disposed of.

SECTION 807. Any party to such submission may move the court designated therein to vacate the same upon either of the following grounds:

1. That such award was procured by corruption, fraud, or other undue means.
2. That there was evident partiality or corruption in the arbitrators, or either of them;
3. That arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or refusing to hear any evidence, pertinent and material to the controversy, or for any other misbehavior of such arbitrators by which the rights of any party shall have been prejudiced;
4. That the arbitrators exceeded their powers, or that they so imperfectly executed them, that a mutual, final and definite award on the subject matter submitted was not made.

SECTION 808. Any party to such submission may also move the court, designated therein, to modify or correct such award in the following cases:

1. When there is evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in such award;
2. When the arbitrators shall have awarded upon some matter not submitted to them, not affecting the merits of the decision upon the matters submitted;
3. When the award shall be imperfect in some matter of form not affecting the merits of the controversy, and when, if it had been a verdict, such defect could have been amended or disregarded by the court according to the provisions of law.

SECTION 809. On such application the court may vacate such award in any of the cases hereinbefore specified, and if the time within which such award shall have been required to be made by the submission, has not expired, may in their discretion, direct a rehearing by the arbitrators; and in the cases herein specified the court may modify and correct such award, so as to effect the intent thereof, and to promote justice between the parties.

SECTION 810. Upon such award being affirmed or modified the court shall render judgment in favor of the party to whom any sum of money or damages shall have been awarded, that he recover the same; and if the award shall have ordered any act to be done by either party, judgment shall be entered, that such act be done according to such order. The costs of the proceedings shall be taxed as in actions, and if no provisions for the fees and expenses of the arbitrators shall have been made in the submission, the court shall make the same allowance as is provided by law for referees; but no costs shall be taxed for any other services or expenses prior to such application.

SECTION 811. The judgment of the court on such award shall be entered in the judgment book at length as other judgments of said court and the clerk of the court shall immediately after the entry of such judgement, attach to the submission the award of the arbitrators and a copy of the judgment of the court and the same shall constitute the judgment roll.

SECTION 812. Such judgment roll shall be filed and judgment docketed as in other cases, shall have the same force and effect in all respects, be subject to all the provisions of law in relation to judgments in actions and may, in like manner, be reviewed by the supreme court on appeal; an execution shall issue thereupon against the property or person of any property against whom a recovery shall be had in all respects as upon other judgments.

SECTION 813. When an appeal shall be taken from such judgment the original affidavits upon which any application in relation to such award was founded and all other affidavits and papers relating to such application shall be annexed to, form a part of and be transmitted with the record of the judgment, unless the court shall order copies thereof to be returned; and the supreme court shall reverse, modify, amend, or affirm such judgment according to justice.

SECTION 814. When by such judgment any party shall be required to perform any act other than the payment of money, the court rendering such judgment shall enforce the same in the manner provided for enforcing judgments of a similar nature in other cases.

SECTION 815. If upon application made pursuant to the foregoing provisions the court shall vacate and set aside any such award costs shall be awarded to the prevailing party; and judgment may be rendered therefor and enforced by execution.

SECTION 816. Upon any such order vacating an award the party aggrieved may appeal to the supreme court, on which appeal the submission and award and all affidavits and papers

used on such application shall be transmitted to the supreme court, unless the court shall order copies thereof returned; and the court shall proceed to affirm or reverse such order as shall be just.

SECTION 817. If such order is reversed the proceedings shall be remitted to the court from which they were removed to proceed thereon; or the supreme court may modify or affirm the award in the same manner and with like effect, as if application for that purpose had been originally made to such court.

SECTION 818. Nothing in this chapter shall be construed to impair or affect any action upon an award or upon any bond or other engagement to abide by an award.

SECTION 819. Whenever any submission to arbitration shall be revoked by a party thereto before the publication of an award, the party so revoking shall be liable to an action by the adverse party to recover all costs and expenses incurred and damages which he may have sustained in preparing for such arbitration; but neither party shall have power to revoke the powers of the arbitrators, after the cause shall have been finally submitted to them, upon a hearing of the parties, for their decision.

SECTION 820. If the submission so revoked was contained in the condition of any bond, the obligee in such bond shall be entitled to prosecute the same in the same manner as other bonds with condition other than for the payment of money and to assign such revocation as a breach thereof; and for such breach he shall recover as damages the costs and expenses incurred and the damages sustained by him in preparing for such arbitration.

## CHAPTER

### ARTICLE 1—INSOLVENCY. GENERAL PROVISIONS.

SECTION 821. Insolvent debtors, residing in this State, may be discharged from their debts, in the same manner prescribed in and upon compliance with the provisions of this chapter.

SECTION 822. The filing of the petition for an adjudication in insolvency, either by the debtor in his own behalf,

or by any creditor against the debtor, shall be deemed the commencement of proceedings in insolvency.

SECTION 823. The proceedings in all cases of insolvency shall be deemed matters of record, but the same shall not be required to be recorded at large, but shall be carefully filed, copied and numbered in the office of the clerk of the court, and a docket only, or short memorandum thereof, copied in books provided for that purpose, which shall be open to public inspection. Copies of such records, duly certified under the seal of the court, shall in all cases be presumptive evidence of the facts therein stated.

ARTICLE 2.—VOLUNTARY INSOLVENCY.

SECTION 824. Any person residing in this State, and owing debts provable in insolvency to the amount of at least five hundred dollars, may apply by petition to the district court of the county in which he resides, or of the county to which the county in which he resides is attached for judicial purposes, setting forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, except such as is by law exempt from execution, and his desire to obtain a discharge from his debts, and shall annex to his petition a schedule and affidavit in compliance with the next two sections. The filing of such petition shall be an act of insolvency and such petitioner shall be adjudged an insolvent.

SECTION 825. Such schedule must contain:

1. A true and complete list of all his creditors.
2. The place of residence of each creditor, if known to the debtor; and if not known, that fact shall be stated.
3. The sum owing to each creditor and the nature of each demand, whether arising on written security, on account, or otherwise.
4. The true cause and consideration of such indebtedness, in each case, and the place where such indebtedness accrued.
5. A statement of any existing judgment, mortgage, or collateral or other security for the payment of such debt.

6. A full and true inventory of all the estate, both real and personal, and of all choses in action, debts due, and moneys in the hands of such debtor whether the property is claimed as exempt or not; of the incumbrances existing thereon and of all the books, vouchers and securities relating thereto.

SECTION 826. An affidavit in the following form shall be annexed to such petition and schedule, and shall be sworn to and subscribed by the debtor:

I....., do swear (or affirm as the case may be) that the account of my creditor and the inventory of my estate, which are annexed to my petition and herewith delivered, are in all respects, just, true and complete, and that I have not at any time, or in any manner whatever disposed of or made over any part of my estate for the future benefit of myself or family, or in order to defraud any of my creditors; and that I have in no instance created or acknowledged a debt for a greater sum than I honestly or truly owed, and that I have not paid, secured to be paid, or in any way compounded with any of my creditors with a view fraudulently to obtain the prayer of my petition.

SECTION 827. Upon the filing of such petition, schedule and affidavit, the court shall make an order directing that notice be given to all creditors whose names are contained in the schedule filed with the debtor's petition, or are afterwards furnished by the debtor. The contents of such notice and the manner of serving the same are prescribed in Article 4 of this chapter.

SECTION 828. Every person voluntarily petitioning under the provisions of this chapter to be adjudged an insolvent shall be at liberty from time to time, upon oath, to amend and correct his schedule so that the same shall conform to the facts.

### ARTICLE 3.—INVOLUNTARY INSOLVENCY.

SECTION 829. Any person residing in this State and owing debts provable in insolvency to the amount of at least five hundred dollars:

1. Who departs from this State with intent to defraud

his creditors, or, being absent, remains absent with such intent; or,

2. Who conceals himself to avoid the service of legal process in any action for the recovery of a debt or demand provable in insolvency; or,

3. Who conceals any of his property to avoid its being seized on legal process; or,

4. Who makes any assignment, gift, sale, conveyance, or transfer of his property, rights, or credits either within this State or elsewhere, with intent to delay, defraud, or hinder his creditors; or,

5. Who, being insolvent, or in contemplation of insolvency, makes any payments, gift, grant, sale, conveyance, or transfer of property, rights, or credits, or procures or suffers a judgment against himself, or procures or suffers his property to be taken on legal process with intent to give preference to one or more of his creditors, or to any person or persons who are or may be liable for him as indorsers, sureties, or otherwise, or with the intent by such disposition of his property to defeat or delay the operation of this chapter; or,

6. Who, being insolvent, has suffered execution for five hundred dollars or more to be returned unsatisfied, or, being a merchant or tradesman, has suspended and not resumed payment of commercial paper for thirty days for five hundred dollars or more, unless the party or parties holding such paper have, in writing, waived the right to proceed under this subdivision, shall be deemed to have committed an act of insolvency and shall become liable to be adjudged an insolvent.

SECTION 831. Proceedings in insolvency may be instituted by the filing of a verified petition of one or more creditors, the aggregate of whose probable debts amounts to at least four hundred dollars, against any debtor residing in this State, owing debts to the amount of at least five hundred dollars, who has committed an act of insolvency as defined in Section 829, provided such petition is brought within six months after the parties in interest shall have had an opportunity to be advised of the fact that an act of insolvency has been committed. The petition may from

time to time be amended and corrected, so that the same shall conform to the facts, by leave of the court before which the proceedings are pending.

SECTION 832. The petition shall be accompanied by an undertaking with sufficient surety, to be approved by the clerk of the court, in the sum of at least five hundred dollars, conditioned that if the debtor shall not be declared an insolvent, the petitioner will pay all costs and damages, including a reasonable attorney's fee, that the debtor may sustain by reason of the filing of the petition. The court may upon motion direct the filing of an additional undertaking with different surety when deemed necessary.

SEC. 833. Upon the filing of the petition authorized by the preceding section, if it appears therefrom that sufficient grounds exist, the court shall make an order requiring the debtor to show cause, at a time and place to be specified in the order, why the prayer of the petition should not be granted. The court may also by injunction restrain the debtor and any other person in the meantime from making any transfer or disposition of any part of the debtor's property, and from any interference therewith.

SECTION 834. At the time of the filing of the petition in insolvency, either by the debtor or a creditor, or at any time thereafter, if it shall appear that there is probable cause for believing that the debtor is about to leave the State, or to remove or conceal his property or any evidence of his property, or to make any fraudulent conveyance or disposition thereof, or that the best interests of the estate demand such action, the court may issue a warrant to the sheriff, commanding him to arrest and safely keep the alleged debtor, unless he shall give an undertaking to the satisfaction of the court for his appearance from time to time, as required by the court, until its decision upon the petition, or until its further order, and forthwith to take possession provisionally of all the property of the debtor and safely keep the same until the further order of the court, or to take possession of the property as aforesaid without arresting the debtor.

SECTION 835. A copy of the petition and order to show cause shall be served on the debtor. The service shall be

made in the same manner as is prescribed for the personal service of a summons, or, if such service cannot conveniently be made, in such manner as the court may by order direct. No further proceedings, unless the debtor appears and consents thereto, shall be had until proof has been made of the service of the order and petition; and if such proof is not given on the return day of such order, the proceeding shall be adjourned, and an order made that such order and petition be forthwith served.

SECTION 836. If the petitioning creditor does not appear and proceed on the return day, or adjourned day, the court may upon the petition of another creditor to the required amount proceed to adjudicate on such petition without requiring a new service of the order and petition.

SECTION 837. On such return day or adjourned day, if the order and petition have been duly served, or service thereof is waived by the appearance of the debtor the debtor may answer the petition. Such answer shall contain a specific denial of the material allegations of the petition controverted by him and shall be verified in the same manner as pleadings in civil actions. The court shall proceed immediately to try the issues so raised without a jury, unless the debtor at the time of filing his answer demands in writing a trial by jury. Upon a hearing before the court affidavits or other proofs may be used as evidence.

SECTION 838. If the debtor demands a trial by jury the court may adjourn the proceedings to the next term of the district court at which a jury will be in attendance; or may by order direct that eighteen jurors be drawn, in the same manner as petit jurors are drawn, from the jury list of the last preceding term of the district court and that the jurors so drawn be summoned by the sheriff to attend upon the court at a time to be fixed in the order. At the time so fixed a jury of twelve shall be drawn from the persons so summoned in the same manner as jurors are drawn for the trial of civil actions and the provisions of law relating to the selecting, summoning and drawing of jurors shall be applicable to such proceedings. The issues raised by the petition and answer shall be tried in the same manner as issues in civil actions.

SECTION 339. If upon such hearing or trial the debtor proves to the satisfaction of the court or jury, as the case may be, that the facts set forth in the petition are not true, or that the debtor has paid and satisfied all liens on his property, in case the existence of such liens was the sole ground of the proceeding, the proceedings shall be dismissed and judgment shall be entered in favor of the debtor against the petitioner for costs.

SECTION 340. If upon the hearing or trial the facts set forth in the petition are found to be true, or if upon default made by the debtor to appear pursuant to the order, due proof of service thereof is made, the court shall adjudge the debtor to be an insolvent.

SECTION 341. The court shall thereupon make an order requiring the insolvent forthwith, or within such number of days not exceeding three after the date of the order or notice thereof, as shall by the order be prescribed to make and deliver, or transmit by mail postage paid to the clerk of the court a schedule as required by Section 825 and verified by the oath of the debtor. Such debtor shall be allowed from time to time, upon oath, to amend or correct his schedule of creditors and property so that the same shall conform to the facts. If the insolvent is absent or cannot be found in this State, such schedule shall be prepared by some person to be appointed by the court for that purpose according to the best information he can obtain.

SECTION 342. If the debtor has failed to appear in person, or by attorney, a copy of the adjudication shall be forthwith served on him in the manner provided for the service of the order to show cause.

#### ARTICLE 4.—PROCEEDINGS TO REALIZE THE ESTATE FOR CREDITORS.

SECTION 343. Upon an adjudication that a debtor is an insolvent, either upon his own petition or upon the petition of his creditors, a notice shall forthwith be given by the clerk of the district court substantially as follows:

##### NOTICE OF INSOLVENCY.

Notice is hereby given that an adjudication of insolvency has been made against.....;

and that the payment of any debts and the delivery of any property belonging to such debtor; to him, or for his use, and the transfer of any property by him are forbidden by law.

Clerk of the district court in and for the county of.....,  
North Dakota.

SECTION 844. At the same time the clerk of the district court shall give notice of a meeting of the creditors to choose an assignee the time for which shall be fixed by order of the court, which notice shall be in the following form:

ELECTION OF ASSIGNEE.

Notice is hereby given that a meeting of the creditors of ..... , who has been adjudged an insolvent, will be held at the court house in the city of ..... in the county of ..... in the State of North Dakota at .... o'clock .... m. on the ..... day of ..... 189.. for the purpose of choosing one or more assignees of the estate of said insolvent.

.....  
Clerk of the district court in and for the county of.....  
North Dakota.

SECTION 845. The notices mentioned in the last section shall be published four times, once in each week for four successive weeks, in a newspaper published in the county in which the adjudication is made, if there is one, and if not, then in a newspaper published at the seat of government. A copy of the notice of election of an assignee shall also be forthwith served personally or by mail on each creditor named in the schedule, if such creditor's residence or postoffice address is given in the schedule. The expense of the clerk in giving such notices shall be paid by the assignee out of the estate.

SECTION 846. At any time after an adjudication in insolvency the creditors named in the schedule and any other creditors who may appear may choose an assignee in the manner herein provided without waiting for the expiration of the time fixed in the notice and thereupon publication of the notice may be discontinued.

SECTION 847. At the meeting of the creditors the judge

of the court shall preside, and the clerk of the court shall attend and keep a minute of the deliberations of the creditors and of the election of an assignee and enter the same upon his records; if it appears that the notice to creditors has not been given as required by law the meeting shall forthwith be adjourned and a new notice given as required, unless all the creditors have appeared as hereinbefore provided.

SECTION 848. Any creditor may act at all meetings and proceedings in insolvency by his attorney the same as though personally present.

SECTION 849. The creditors shall at the first meeting held after due notice or appearance choose one or more assignees of the property of the debtor; the choice to be made by the greater part in value of the creditors who have proved their debts and are present or represented at such meeting. If no choice is made by the creditors at the meeting, the court shall appoint one or more assignees. If an assignee so chosen or appointed fails within five days to express in writing his acceptance of the trust, the court may fill the vacancy.

SECTION 850. No person who has received any preference contrary to the provisions of this chapter shall vote for or be eligible as assignee; but no title to property, real or personal, sold, transferred, or conveyed by an assignee shall be affected or impaired by reason of his ineligibility.

SECTION 851. The assignee shall give a good and sufficient undertaking in such sum as the court directs to the State of North Dakota, conditioned for the faithful performance and discharge of his duties, which undertaking shall be approved by the clerk of the court and filed with the record of the case, and shall inure to the benefit of all creditors proving their claims, and may be prosecuted in the name and for the benefit of any injured party. If the assignee fails to give the undertaking within ten days after notice of his appointment, the court shall remove him and a new assignee shall be chosen by the creditors at a meeting called for that purpose upon notice to the creditors as hereinbefore provided.

SECTION 852. The court may after a hearing upon not

less than three days' notice to the assignee remove him, if it appears upon the complaint of any person interested in the estate, that the assignee has fraudulently received, concealed, embezzled, or conveyed any of the money, goods, effects, or property of the debtor, or has been interested in any action in relation to the said estate for the purpose of securing to himself a preference or priority over the other creditors, or has in his possession or control any portion of the estate with intent to appropriate the same unlawfully to his own use, or has been guilty of any fraudulent act in relation to the same.

SECTION 853. The court may also remove an assignee who, having removed from the State, unreasonably refuses and neglects to obey any lawful order of the court, or to settle his accounts, or otherwise to discharge his duties.

SECTION 854. An assignee may, with the consent of the court, resign his trust and be discharged therefrom.

SECTION 855. Vacancies caused by death or otherwise in the office of assignee shall be filled by the creditors in the same manner as in the original choice of an assignee, at a regular meeting, or at a meeting called for the purpose, with such notice thereof in writing to all known creditors as the court shall direct.

SECTION 856. The resignation or removal of an assignee shall in no way release him from performing all things requisite on his part for the proper closing up of his trust and the transmission thereof to his successor, nor affect his liability or that of the sureties on his undertaking.

SECTION 857. As soon as an assignee is appointed and qualified, the clerk of the court shall, by an instrument under his hand and the seal of the court, assign and convey to the assignee all the property, real and personal, of the debtor, with all his deeds, books and papers relating thereto, except such property as is by law exempt from execution, and such assignment shall relate back to the commencement of the proceedings in insolvency, and by operation of law shall vest the title to all such property, both real and personal, in the assignee, although the same is then held under any process as the property of the debtor, and shall dissolve any levy made under such pro-

cess within sixty days next preceding the commencement of the insolvency proceedings. Such assignment shall be approved by the court as to its form and manner of execution, and shall be recorded in the office of the register of deeds of every county in which any real estate conveyed thereby is situated.

SECTION 858. The debtor shall be allowed such exemptions as are provided for by law, and shall be permitted to use and occupy his homestead, household furniture and absolute exemptions until his homestead and exemptions shall have been selected in the manner hereinafter prescribed. Insurances upon the life of a debtor do not pass to the assignee by the assignment, unless the debtor by an instrument in writing shall expressly consent thereto. No property held by the insolvent in trust shall pass by the assignment.

SECTION 859. The assignee shall have authority, under the order and direction of the court, to redeem or discharge any mortgage or conditional contract, pledge or lien upon any property of the debtor, whenever payable, and to tender due performance of the conditions thereof, or to sell the same subject to such mortgage, lien or other incumbrance.

SECTION 860. The assignee shall have like remedy to recover all the property, debts and effects in his own name as the debtor would have had if no assignment had been made. If, at the time of the assignment, an action is pending in the name of the debtor for the recovery of a debt or other thing which might or ought to pass to the assignee by the assignment, the assignee shall, if he requires it, be permitted to prosecute the action in his own name, in like manner and with like effect as if it had been originally commenced by him. No action pending in the name of the assignee shall be abated by his death or removal; but on motion of the surviving, remaining or new assignee, as the case may be, he shall be permitted to prosecute the action in like manner and with like effect as if it had been originally commenced by him. In actions prosecuted by the assignee, the assignment made as hereinbefore provided shall be conclusive evidence of his authority.

SECTION 861. If any person before the assignment is

made, having notice of the commencement of proceedings in insolvency, embezzles or disposes of any of the moneys, goods, chattels or effects of the insolvent, he is chargeable therewith and liable to an action by the assignee for double the value of the property so embezzled or disposed of, to be recovered for the benefit of the estate.

SECTION 862. The same penalties, forfeitures and proceedings by citation, examination and commitment, shall be maintainable on the part of the assignee in the district court against persons suspected of having concealed, embezzled, conveyed away, or disposed of any property of the debtor, or of having possession or knowledge of any deeds, conveyances, bonds, contracts or other writings which relate to any interest of the debtor in any real or personal estate as provided in case of the estates of deceased persons in Sections 125, 126 and 127 of the Probate Code.

SECTION 863. Drafts, bills of exchange, promissory notes, claims, demands, and causes of action, which within six months before the filing of the petition by or against a debtor, are assigned, transferred, conveyed, or delivered to any person indebted or liable to the debtor, shall not be set off or pleadable in any action by the assignee to recover such debt or liability; but the assignee may recover the same, notwithstanding such draft, bill of exchange, promissory note, claim, demand, or cause of action, if the person to whom the same are so assigned, transferred, conveyed or delivered has, at the time of such assignment, transfer, conveyance, or delivery reasonable cause to believe the debtor insolvent.

SECTION 864. The assignee shall immediately give notice of his appointment by publishing notice thereof three times, once in each week for three successive weeks, in such newspaper as shall for that purpose be designated by the court.

SECTION 865. The assignee shall immediately make and return upon oath into court a true and complete inventory of all the property of the debtor, real and personal, whether claimed as exempt or not, and of all debts due to the debtor, or any other person for his use, of all his rights of action for property, real or personal, and of all his rights of redeeming property, which the assignment vests in such

assignee and which have come to his possession or knowledge; and the property comprised in such inventory shall be appraised in the same manner as the estates of deceased persons are required by law to be appraised, and the district court shall make all orders necessary for that purpose, and such appraisement shall be made and filed with the clerk of the district court within five days after the appointment of the appraisers, or such further time, as the court may allow. As soon as the inventory and appraisement are filed the assignee shall serve written notice of the filing of the same upon the debtor or other person authorized by law to select the homestead and exemptions and require him within ten days from the date upon which such notice is served to select his homestead and exemptions at the value fixed in the appraisement.

SECTION 866. The assignee shall account for all the property and effects of the debtor that vest in him by the assignment, at the appraisement, except as herein provided. He shall make no profit by the increase and sustain no loss by the decrease or destruction without his fault of any part of the assigned property; if he sells any thereof for more than the appraised value he shall account for the excess and, if he sells for less, he shall be allowed for the loss, if it appears to the court that the sale was expedient and for the interest of all concerned in the property; and in either case the assignee shall exhibit to the court a true account of sale, and shall sell the property at public auction, unless the court for sufficient cause upon petition therefor filed otherwise orders.

SECTION 867. The debtor, or other person authorized by law, shall within ten days after written notice of the filing of the report of the appraisers, provided for in Section 865, is served, select his homestead and exemptions to the amount allowed by law at the value determined by the appraisement. If the selection is not made within the time aforesaid, all right to homestead and exemptions shall be deemed to have been waived. Upon the selection of the homestead and exemptions a report and inventory of the same shall be presented to the district court by the assignee, and the court, if satisfied that the debtor or other person claiming the same as exempt is entitled thereto, shall make an order setting apart such homestead and ex-

emptions to the debtor or other person claiming the same.

SECTION 868. The assignee in such assignment shall forthwith, under the order of the court, convert the property assigned into money, and shall have power to make all necessary transfers and conveyances for that purpose and he shall distribute the funds of the estate among the several creditors of such debtor in the manner hereinafter provided and the court may also make all necessary orders for the payment out of the proceeds of such assigned property of all fees and expenses, including compensation to such assignee for his services.

SECTION 869. The assignee shall as soon as may be after receiving any money belonging to the estate deposit the same in some bank in his name as assignee, or otherwise keep it distinct and apart from all other money in his possession, and shall as far as practicable keep all property and effects belonging to the debtor separate and apart from all other goods in his possession, or designated by appropriate marks so that they may be easily and clearly distinguished and may not be exposed or liable to be taken as his property or for the payment of his debts.

SECTION 870. When it appears that the distribution of the estate may be delayed by litigation or other cause the court may direct the temporary investment of the money belonging to such estate in securities to be approved by the court, or may authorize the same to be deposited in any bank in this State upon such interest as the bank may contract with the assignee to pay thereon.

SECTION 871. The assignee shall be allowed and may retain out of the money in his hands all the necessary disbursements made by him in the discharge of his duty, and in the absence of any order of the court to the contrary is entitled to receive the same commissions as are allowed by law to executors, but he cannot receive more and may by order of the court be restricted to a less amount.

SECTION 872. The assignee may, under the direction of the court, submit any controversy arising in the settlement of demands against the estate, or of debts due to it to the determination of the arbitrators to be chosen by

him and the other party to the controversy; and may under such directions compound and settle any such controversy by agreement with the other party as he thinks proper and most for the interest of the creditors.

SECTION S73. When it appears to the satisfaction of the court that the title to any portion of an estate which has come into the possession of the assignee is in dispute, and that the property is of a perishable nature, or liable to deteriorate in value, it may on the petition of the assignee and after such notice to the claimant, his agent or attorney, as the court deems reasonable, order it to be sold by the assignee or under his direction, who shall hold the funds received in place of the property disposed of; and the proceeds of the sale shall be considered the measure of the value of the property in any action or controversy between the parties. But this provision shall not prevent the recovery of the property from the possession of the assignee by any proper action commenced at any time before the sale.

#### ARTICLE 5.—CLAIMS AGAINST THE ESTATE.

SECTION S74. All debts due and payable from the insolvent at the time of the commencement of the proceedings in insolvency and all debts then existing but not payable until a future day, a rebate of interest being made when no interest is payable by the terms of the contract, may be proved against the estate of the insolvent. All demands against the insolvent for or on account of any personal property wrongfully taken, converted, or withheld by him may be proved and allowed as debts to the amount of the value of the property so taken or withheld with interest. When the insolvent is liable for unliquidated damages arising out of any contract or promise, or on account of any personal property wrongfully taken, converted, or withheld, the court may cause such damages to be assessed in such mode as it may deem best and the sum so assessed may be proved against the estate.

SECTION S75. In all cases of contingent debts and contingent liabilities contracted by the insolvent, and not herein otherwise provided for, the creditor may make claim therefor and have his claim allowed, with a right to share in the dividend, if the contingency happens before the or-

der for final dividend; or he may at any time apply to the court to have the present value of the debt or liability ascertained or liquidated, which shall then be done in such manner as the court shall order and he shall be allowed to prove for the amount so ascertained.

SECTION 876. When the insolvent is bound as drawer, indorser, surety, bail, or guarantor upon any bill, bond, note, or any other contract, or for any debt of another person, but his liability does not become absolute until after the adjudication of insolvency, the creditor may prove the same after such liability becomes fixed and before the final dividend is declared.

SECTION 877. Any person liable as bail, surety, guarantor, or otherwise for the insolvent, who shall have paid the debt, or any part thereof, in discharge of the whole, shall be entitled to prove such debt to the extent of his payment in respect thereof or to stand in the place of the creditor if the creditor has proved the same, although such payment shall have been made after the proceedings in insolvency were commenced. And any person so liable for the insolvent, and who has not paid the whole of such debt, but is still liable for the same, or any part thereof, may, if the creditor fails or omits to prove such debt, prove the same either in the name of the creditor or otherwise as the court shall direct.

SECTION 878. When the insolvent is liable to pay rent or other debt falling due at fixed and stated periods the creditor may prove for a proportionate part thereof up to the time of the insolvency, as if the same grew due from day to day and not at such fixed and stated periods.

SECTION 879. No debts other than those specified in the five preceding sections shall be proved or allowed against the estate.

SECTION 880. If it appears that there has been mutual credit given by the debtor and any other person, or mutual debts between them the account between them shall be stated and one debt set off against the other and the balance shall be allowed or paid, as the case may be, but no set off or counter claim shall be allowed of a claim in its nature not provable against the estate.

SECTION 881. When a creditor has a mortgage or pledge of real or personal property of the debtor, or a lien thereon, for securing the payment of a debt claimed by him, the property so held as security shall, if he requires it, be sold and the proceeds applied toward the payment of his debt, and he shall be admitted as a creditor for the residue. The sale shall be made in such manner as the court orders, and the creditor and assignee respectfully shall execute all deeds and papers necessary or proper for effecting the conveyance. If the creditor does not require such sale and join in effecting the conveyance, he may release and deliver up to the assignee the property held as security and be admitted as a creditor for the whole of his debt. If the property is not so sold, or released and delivered up the creditor shall not be allowed to prove any part of his debt.

SECTION 882. Any person who shall have accepted any preference having any reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this chapter shall not prove the debt or claim on account of which the preference was made or given, nor shall he receive any dividend thereon until he shall first have surrendered to the assignee all property, money, benefit, or advantage received by him under such preference.

SECTION 883. No debt shall be proved or allowed unless the creditor, or his agent or attorney, having knowledge of the facts, makes oath in substance as follows:

I, ....., do swear (or affirm as the case may be) that ....., by (or against) whom proceedings in insolvency have been instituted at and before the date of such proceedings was and still is justly and truly indebted to me in the sum of.....dollars, for which sum, or any part thereof, I have not, nor has any other person to my use, to my knowledge or belief, received any security or satisfaction whatever beyond what has been disposed of agreeably to law. And I do further swear (or affirm as the case may be) that such claim was not procured by me for the purpose of influencing the proceedings in this case, and that I have not directly or indirectly made or entered into any bargain, arrangement, or agreement, express or implied, to sell, transfer, or dispose

of my claim, or any part thereof, against such debtor, nor have I directly or indirectly received or taken, or made or entered into any bargain, arrangement, or agreement, express or implied, to take or receive directly or indirectly, any money, property, or consideration whatsoever to myself, or to any person or persons to my use or benefit, under or with any understanding or agreement, express or implied, whereby the debtor's discharge is or shall be in any way affected, influenced, or controlled, or whereby the proceedings in this case are or shall be affected, influenced or controlled.

In case the above oath is made by an agent or attorney, the court may require such further proof of the truth of the statements therein as it deems expedient.

SECTION 884. The court may on the application of the assignee, of any creditor, or of the debtor examine upon oath any person who has made proof of a claim and may summon any person to give evidence concerning such proof and may alter or expunge such claim when the evidence shows that it is founded in whole or in part in fraud, illegality, or mistake.

SECTION 885. The court may on application of the assignee, or of any creditor, or without any application, at all times require the insolvent upon reasonable notice to attend and submit to an examination on oath upon all matters relating to the disposal or condition of his property, to his trade and dealings with others, his accounts concerning the same, any debts due to or claimed from him and any other matters concerning his property and estate and the due settlement thereof according to law. Such examination shall be in writing and shall be signed by the insolvent and filed with the other proceedings.

SECTION 886. The assignee shall allow all debts duly proved and shall when a claim is presented to him and the same is allowed or rejected give notice personally or by mail to the creditor, or his agent or attorney, presenting the same, as to his action thereon.

SECTION 887. A creditor whose claim is wholly or in part rejected may within thirty days after notice of such rejection appeal from the decision of the assignee to the

district court. Such appeal shall be placed upon the calendar for trial at the term of the district court which shall be first held within the county after the taking of such appeal.

SECTION 888. Upon taking the appeal a creditor shall file in the office of the clerk of the district court, a statement in writing of his claim, setting forth the same substantially as in a complaint in a civil action, and the assignee shall plead thereto in like manner and the practice in such cause shall be the same as in a civil action commenced and prosecuted in the usual manner, except that no execution shall be awarded against the assignee for the amount of a debt found due to the creditor. The party prevailing in the action shall be entitled to costs against the adverse party to be taxed as in other actions. If recovered against the assignee they shall be allowed out of the estate.

#### ARTICLE 6.—DIVIDENDS.

SECTION 889. At the expiration of three months from the appointment of the assignee in any case, or as much earlier as the court may direct, the assignee shall exhibit to the court and to the creditors and file just and true accounts of all his receipts and payments, verified by his oath, and a statement of the property outstanding specifying the cause of its outstanding; also what debts or claims are yet undetermined and stating what sum remains in his possession; and thereupon a dividend shall be made, unless for cause the court shall otherwise order. Thereafter further accounts, statements and dividends shall be made in like manner as often as occasion requires.

SECTION 890. At any time after the assignment on the request of the assignee or a creditor, and upon such notice to the creditors and assignee as the court shall think proper the court may, in its discretion, order the payment in whole or in part of claims entitled to priority or preference.

SECTION 891. The following claims shall be entitled to priority and to be first paid in full in their order:

1. All debts due to the United States and all debts due

to and taxes assessed by this State or any county, city, or town therein.

2. All debts owing for the wages of servants, laborers, mechanics and clerks for labor performed within one year next preceding the commencement of proceedings in insolvency.

3. All debts due to physicians for medical attendance on the debtor or his family rendered within six months prior to the commencement of proceedings in insolvency to an amount not exceeding fifty dollars.

4. All debts due to persons who, by the law of the United States or of this State, are or may be entitled to a priority or preference in like manner as if this chapter had not been enacted.

5. Legal fees, costs and expenses of suit and for the custody of property attached and the costs of such attachment when the attachment has been dissolved by bond given by the defendant, if the claim upon which the action was commenced is proved against the estate of the debtor.

SECTION 892. If at the time of ordering the dividend it appears probable that there are just claims against the estate which by reason of the distant residence of a creditor, or from other sufficient reason, have not been proved, the court in ordering the dividend shall leave in the hands of the assignee a sum sufficient to pay every such absent creditor a proportion equal to what shall be then paid to the other creditors, which sum shall remain thus unappropriated in the hands of the assignee until the final dividend is declared, or until the court orders its distribution.

SECTION 893. The assignee shall at such time as the court directs within eighteen months after the appointment of the assignee, make a second dividend of the estate, if the same was not wholly distributed upon the first dividend, and any balance in the hands of the assignee shall by order of the court be divided among the creditors who have proved their debts in proportion thereto.

SECTION 894. If at any time before the final dividend there remains in the hands of the assignee any outstanding debts or other property due or belonging to the estate,

which cannot in the opinion of the judge be collected and received by the assignee without unreasonable or inconvenient delay, the assignee may, under the direction of the judge, sell and assign such debts or other property in such manner as the judge shall order.

SECTION 895. The second dividend shall be final unless an action relating to the estate is then pending, or part of the estate is outstanding, or unless some other property of the debtor afterwards comes to the hands of the assignee; in which cases another dividend shall be made by order of the court.

SECTION 896. No creditor whose debt is proved at the time of the second or any subsequent dividend shall disturb a prior dividend, but he shall be paid so far only as the funds remaining unappropriated in the hands of the assignee are sufficient therefor.

SECTION 897. Preparatory to the final account and dividend, the assignee shall submit his account to the court and file the same, and shall at the time of filing, accompany the same with an affidavit that notice by mail has been given to all creditors who have proved their claims, that he will apply for the settlement of his account and for a discharge from all liability as assignee at a time specified in such notice, which time shall be not less than ten nor more than twenty days from such filing. At the hearing the court shall audit the account, and any person interested may appear and file exceptions in writing and contest the same. The court thereupon shall settle the account, order a dividend of any portion of the estate remaining undistributed, and shall discharge the assignee, subject to compliance with the order of the court, from all liability as assignee to any creditor of the insolvent.

#### ARTICLE 7.—DISCHARGE OF THE INSOLVENT.

SECTION 898. The debtor shall upon demand deliver to the assignee all the commercial or account books he may have kept and all vouchers, notes, bonds, bills, securities, or other evidences of debt, or writings in any manner relating to or having any bearing upon or connection with the property of such debtor; and he shall at the expense of the estate make and execute such deeds and writings and

indorse such bills, notes and other negotiable papers, draw such checks and orders for moneys deposited in bank or elsewhere and do all such other lawful acts and things as the assignee at any time reasonably requires, and as are necessary or useful for confirming the assignment and enabling the assignee to demand, recover and receive all the estate and property so assigned, especially any part thereof which is without this State.

SECTION 899. If the debtor refuses or unreasonably neglects to execute an instrument when lawfully required pursuant to an order of the court or disobeys any lawful order or judgment he may be proceeded against as for a contempt of court.

SECTION 900. At any time after the expiration of six months from the adjudication of insolvency, or if no debts have been proved against the insolvent, or if no assets have come to the hands of the assignee, at any time after the expiration of sixty days, the insolvent may apply to the court for a discharge from his debts.

SECTION 901. Upon application for the discharge being made the court shall order notice to be given by the assignee by mail to all creditors who have proved their claims and by publication in such manner and for such length of time as the court may direct to appear on a day appointed for that purpose and show cause why a discharge should not be granted to the debtor.

SECTION 902. No discharge shall be granted, or, if granted, shall be valid, in any of the following cases:

1. If such debtor has wilfully sworn falsely in his affidavit annexed to his petition or schedule or upon any examination in the course of the proceedings in insolvency in relation to any material fact;

2. If after the presentation of the petition in insolvency he shall sell or in any way transfer or assign any of his property, or collect any debts due him, and shall not give a just and true account thereof on the hearing of his application and shall not also pay over to the assignee all money so collected, or the value of the property so assigned;

3. If he shall secrete any part of his estate or any books

or writings relative thereto, with intent to defraud his creditors;

4. If he shall fraudulently conceal the names of any of his creditors or the amount of any sum due to any of them;

5. If he shall pay or consent to the payment of any portion of the debt or demand of any of his creditors, or shall grant or consent to the granting of any gift or award to any such creditor, upon any express or implied contract or trust that the creditors so paid or rewarded should abstain or desist from opposing the discharge of such insolvent;

6. If he shall be guilty of any fraud whatever contrary to the true intent of this chapter.

SECTION 903. Any creditor opposing the discharge of an insolvent may file a specification in writing of the grounds of his opposition and the court may in its discretion order any question of fact so presented to be tried at the next term of the district court thereafter.

SECTION 904. Before any discharge is granted, the insolvent must take and subscribe an oath to the effect that he has not done, suffered, or been privy to any act, matter, or thing specified as a ground for withholding such discharge or as rendering it voidable if granted.

SECTION 905. The court shall, if it satisfactorily appears that the creditor has made a full disclosure and delivery of all his estate as herein required, and that he has in all things conformed himself to the directions and requirements of this chapter, grant him a certificate, which shall state all fiduciary debts specially exempt from discharge, and be in substance as follows:

State of North Dakota,                      In District Court,  
 County of.....                      Judicial District.  
 To all to whom these presents shall come, I, .....  
 ....., judge of the district court of the.....  
 judicial district for said county of....., send greet-  
 ing:

Whereas, it has been made to appear to me that.....

of.....in the said county of....., whose estate has been assigned for the benefit of his creditors according to law, has made a full disclosure and delivery of all his estate, and that he has in all things conformed himself to the requirements of law in that behalf made and provided, I do accordingly certify that said..... is absolutely and wholly discharged from all his debts which have been or shall be proved against his estate assigned as aforesaid, and from all debts which are provable against his estate, and which are founded on any contract made by him within this State, or to be performed within the same, and made since the.....day of....., in the year eighteen hundred and ninety-five, and from all debts which are provable as aforesaid, and which are founded on any contract made by him since that date, and due to any persons who were resident within this State on the.....day of.....last, being the day of the first publication of the notice requiring creditors to show cause, and from all demands against him for or on account of any personal property wrongfully obtained, taken, or withheld by him; and I do further certify that said..... is forever exempted and discharged from arrest or imprisonment in any action or upon any proceeding in favor of any such person, arising within the time aforesaid, for or on account of any debt or demand whatever which might have been proved against his estate assigned as aforesaid.

Given under my hand and the seal of said court this.....day of....., in the year.....

**SECTION 906.** The debtor shall thereupon, except as provided in the next section, be absolutely and wholly discharged from debts to and against his estate and from all debts provable under this chapter and founded on any contract made by him subsequently to the..... day of..... in the year eighteen hundred and ninety-five and while a resident of this State, to be performed within the same, or due to any person residing therein at the time of the first publication of the notice requiring creditors to show cause and from all demands against him for or on account of any personal property wrongfully obtained, taken, or withheld by him. Such discharge may be pleaded by a simple averment that on the day of its date it was granted to

the debtor, setting forth a copy of the same, as a full and complete bar to all actions commenced on such debts or demands. The certificate shall be conclusive evidence of the fact and regularity of such discharge.

SECTION 907. No debt created by the debtor's defalcation as a public officer, executor, administrator, guardian, receiver, trustee, or assignee of an insolvent estate, or by the fraud or embezzlement of the debtor, or claim for goods attached, or taken on execution by the debtor as an officer, or for misfeasance in office shall be discharged under this chapter, but the dividend declared thereon shall be payment of so much of said debt or claim. A claim for necessities furnished to the debtor or his family shall not be so discharged unless the claim is proved against his estate.

SECTION 908. A discharge shall not release or discharge a person liable for or with the debtor for the same debt as a partner, joint contractor, indorser, surety, or otherwise.

SECTION 909. A discharge shall not be granted to a debtor a second time insolvent whose assets do not pay fifty per cent of the claims due against the estate, unless the assent in writing of three-fourths in value of his creditors who have proved their claims is filed in the case at or before the time of the hearing of the application for discharge. No discharge shall be granted to a debtor a third time insolvent; except that a debtor who has paid all the debts owing by him at the time of his previous insolvency, or who has been voluntarily released therefrom by his creditors, shall be entitled to a discharge in the same manner and with the same effect as if he had not been previously insolvent.

SECTION 910. If a person, being insolvent or in contemplation of insolvency, within sixty days before the filing of the petition by or against him, with a view to give a preference to a creditor or person who has a claim against him, or is under liability for him, procures any part of his property to be attached or seized on execution, or makes any payment, pledge, assignment, transfer, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, the person receiving such payment, pledge, assignment, transfer, or conveyance, or to

be benefited thereby, having reasonable cause to believe such person is insolvent or in contemplation of insolvency, and that such payment, pledge, assignment, transfer, or conveyance is made in fraud of the laws relating to insolvency, the same shall be void; and the assignee may recover the property or the value of it from the person so receiving it or so to be benefited and the debtor shall not be entitled to discharge, and a discharge, if received by him, shall be void and of no effect. The provisions of this section shall not apply to a payment of money, or a transfer of property in payment, not exceeding fifty dollars in amount, upon a debt contracted for necessaries furnished to the debtor or his family.

SECTION 910a. Any payment by the insolvent of a pre-existing debt or any pledge, assignment, transfer, or conveyance of any part of his property to secure the payment of the same, either directly or indirectly, absolutely or conditionally, made within thirty days before the filing of the petition by or against the insolvent, shall be void, and the assignee may recover the property or the value of it from the person receiving it or to benefited thereby. No judgment rendered in an action which has not been pending for more than six months before the filing of the petition by or against the insolvent and not docketed until within thirty days before the filing of such petition shall be a lien upon the real property of the insolvent.

SECTION 911. Within one year after the granting of the discharge to the insolvent any creditor may apply upon affidavit or proof to the district court upon notice to such an insolvent for a new trial of the application for a discharge. Such insolvent may resist such application by affidavit and other proofs, and if, upon the hearing of the application the court shall be satisfied that any grounds for rendering such discharge voidable, mentioned in Section —, and which have been specified in such application for a new trial exist, it shall make an order vacating such discharge and directing a new trial of such insolvent's application for a discharge. Such new trial shall be had as to the grounds specified in such application only, in the same manner as hereinbefore provided for a trial upon the original application of the insolvent; and if the verdict of the jury or finding of the court shall be in favor of the creditor

so applying the discharge shall be vacated, otherwise it shall be final and conclusive.

SECTION 912. Appeals may be taken to the supreme court by such insolvent from an adjudication of insolvency or from any order denying or vacating his discharge, or by any creditor opposing such discharge from the order granting it, or from the order denying an application for a new trial, or an order in favor of the insolvent upon a new trial of the application for a discharge; which appeal shall be taken as in ordinary appeals in civil actions.

ARTICLE 8.—PROCEEDINGS PECULIAR TO PARTNERSHIPS.

SECTION 913. Two or more persons who are partners in business may be adjudged insolvent either on the petition of such partners, or any one of them, or on the petition of one or more creditors holding debts provable against the firm amounting to at least four hundred dollars. The same proceedings shall be had therein as in the case of an individual, except as hereinafter provided, and in such proceedings an assignee may be appointed who shall take possession of all the property of the firm and also of the separate property of each of the general partners. If the petition is made by one or more, but not by all of the partners, ten days' notice of the time and place of the hearing of the petition shall be given to the other partners, if within the United States. All the creditors of the firm and the separate creditors of each partner may prove their respective debts.

SECTION 914. The assignee shall be chosen by the creditors of the partnership. He shall keep separate accounts of the property of the partnership and of the separate estate of each member thereof; and after deducting out of the whole amount received by him the whole of the expenses and disbursements, the net proceeds of the partnership property shall be appropriated to pay the creditors of the partnership and the net proceeds of the separate estate of each partner shall be appropriated to pay his separate creditors. If there is any balance of the separate estate of any partner, after the payment of his separate debts, such balance shall be added to the partnership estate for the

payment of the partnership estate for payment of the partnership debts, such balance shall be appropriated to and divided among the separate estates of the several partners according to their respective right and interest therein, and the sum so appropriated to the estate of each partner shall be applied to the payment of his separate debts.

SECTION 915. The certificate of discharge shall be granted or refused to each partner as the same would or ought to be if the proceedings had been against him alone. If such partners reside in different judicial districts the court in which the petition is first filed shall retain exclusive jurisdiction over the case. (5506-7.)

SECTION 916. When a special proceeding is prosecuted by one having a special interest in the proceeding it shall not be necessary for the State to be joined as plaintiff therein, but the person prosecuting the same shall be known as the plaintiff and the adverse party as the defendant.

SECTION 918. A writ of *certiorari* may be granted by the supreme and district courts, when inferior courts, officers, boards or tribunals have exceeded their jurisdiction, and there is no appeal, nor, in the judgment of the court, any other plain, speedy and adequate remedy. (5508-9.)

SECTION 921. The writ of *certiorari* shall command the party to whom it is directed to certify fully to the court issuing the writ at a specified time and place, and annex to the writ a transcript of the record and proceedings, describing or referring to them with convenient certainty, and a statement of other matter specified in and required by the writ, that the same may be reviewed by the court, and requiring the party in the meantime to desist from further proceedings in the matter to be reviewed.

SECTION 922. A writ of *certiorari* may be issued to, and a return to a writ of *certiorari* may be made by, an officer, whose term of office has expired. Such an officer may be punished for a failure to make a return to the writ, as required thereby; or to make a further return as required by an order for that purpose.

SECTION 924. If the officer or other person whose duty it is to make a return dies, absconds, or moves from the

State, or becomes insane after the writ is issued and before making a return or after making an insufficient return, and it appears that there is no other officer or person, from whom a sufficient return can be procured by means of a new writ, the court may, in its discretion, permit affidavits or other written proofs relative to the matters not sufficiently returned to be produced and may hear the case accordingly. The court may also, in its discretion, permit either party to produce affidavits, or other written proofs, relative to any alleged error of fact, or any other question of fact, which is essential to the jurisdiction of the body or officer, to make the determination to be reviewed, when the facts in relation thereto are not sufficiently stated in the return, and the court is satisfied that they cannot be made to appear by means of an order for a further return. (5512-13.)

SECTION 927. If the return to the writ is defective the court may order a further return to be made. Any record made by the inferior court, officer, board or tribunal may be impeached by the return to the writ, or in the cases mentioned in Section — by affidavits or other written proof. Upon the final hearing the court must hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment either affirming, or annulling, or modifying the proceedings below. (5515-16, 5517-5523.)

SECTION 937. The motion for new trial must be made in the court in which the issue of fact is tried. (5525 to 5533.)

SECTION 947. Writs of certiorari, mandamus and prohibition may be issued by a judge of the district court in vacation, and when issued by a judge of the district court may be made returnable and a hearing thereon be had in vacation. (5535-5538.)

SECTION 952. The statement must be presented to the district court or a judge thereof, and if the same is found sufficient, the court or judge shall make an order that judgment be entered by the clerk, whereupon the statement and order may be filed in the office of the clerk, who shall enter in the judgment book a judgment for the amount confessed with costs. The statement and affidavit,

with the judgment, shall thenceforth become the judgment roll. Execution may be issued and enforced in the same manner as upon judgments in other cases in such courts. When the debt for which the judgment is recovered is not all due, or is payable in installments, and the installments are not all due, the execution may issue upon such judgment for the collection of such installments as have become due, and shall be in the usual form, but shall have endorsed thereon, by the attorney or person issuing the same, a direction to the sheriff to collect the amount due on such judgment, with interest and costs, which amount shall be stated, with interest thereon, and the costs of said judgment. Notwithstanding the issue and collection of such execution, the judgment shall remain as security for the installments thereafter to become due, and whenever any further installments become due, execution may in like manner be issued for the collection and enforcement of the same. (5540-43.)

SECTION 957. Such person must cause notice in writing to be given to the plaintiff or his attorney when and where he will apply to the judge of the district court of the county in which he is confined, for the purpose of obtaining a discharge from his imprisonment.

SECTION 958. Such notice must be served by delivering to and leaving with the plaintiff or his attorney in the action a copy thereof, if they, or either of them, reside in this State; otherwise notice may be served by mail. The notice shall be served a sufficient time before the time specified therein for the hearing of the application to allow the person upon whom it is served time to attend by the usual route of travel and one day for preparation. (5546-7.)

SECTION 961. After administering the oath, the judge must make a certificate under his hand, as follows:

To the sheriff of the county of.....: I do hereby certify that....., confined in your jail, upon an execution at the suit of..... is entitled to be discharged from imprisonment, if he is imprisoned for no other cause.

SECTION 962. The jailer upon receiving such certificate must forthwith discharge the prisoner, if he is imprisoned

for no other cause. The prisoner, after being so discharged, shall be forever exempt from arrest or imprisonment for the same debt, unless he shall be convicted of having sworn falsely upon his examination, or in taking the oath herein prescribed. (5550-5553.)

SECTION 967. If such judge does not discharge the prisoner, he may apply for his discharge at the end of every succeeding ten days in the same manner as above provided, and the same proceedings must thereupon be had. (5555-5559.)

SECTION 973. When any woman residing in any county in this State is delivered of a bastard child, or is pregnant with a child which, if born alive, will be a bastard, a sworn complaint may be made in writing by any person to the district court of the county or judicial subdivision where she resides, stating that fact, and charging the proper person with being the father thereof. The proceedings shall be entitled in the name of the State as plaintiff against the accused as defendant. (5561-6.)

SECTION 980. The court may at any time enlarge, diminish, or vacate any order or judgment rendered in the proceedings herein contemplated, on the application of either party and notice to the other. (5568.)

SECTION 982. Any person owning or having in his charge or possession any horses, mules, cattle, goats, sheep, or swine, or any such animals, which shall trespass upon the lands of another, whether fenced or not fenced, shall be liable to the party injured for all damages sustained by him by reason of such trespassing, to be recovered in a civil action in the county in which such damage occurred, and the proceeding shall be the same in all respects as in other civil actions, except as herein modified; *provided*, that no property shall be exempt from execution issued upon judgments obtained under this chapter, except absolute exemptions; and *provided further*, that the party claiming damages under the provisions of this chapter shall bring an action to recover the same within sixty days after the infliction of such damages. (5570.)

SECTION 984. The party sustaining damages from the trespass of animals before commencing an action therefor

shall, if he knows to whom such animals belong, notify him or the person having them in charge of such damage and the probable amount thereof.

SECTION 985. The person suffering damages as aforesaid may keep such offending animals in custody until the damages and costs are paid, or until good and sufficient security is given therefor; and whenever any animals are restrained under this chapter, the person restraining the same shall forthwith notify the owner or person in whose custody the animals were at the time the trespass was committed, of their seizure, if he knows such owner or person.

SECTION 986. Upon the trial of an action under the provisions of Section 982 the plaintiff shall prove the amount of damage sustained, and if he has kept in custody the animals committing such damage, the amount of expense incurred therefor. And any judgment rendered in the action against the defendant shall be a lien upon the animals, and they may be sold and the proceeds applied to the satisfaction of the judgment as in other cases of sale of personal property on execution; but if it shall appear upon the trial that no damage was sustained judgment shall be rendered against the plaintiff for costs and for any damages sustained by defendant.

SECTION 987. If upon the trial it appears that the defendant is not the owner or person in charge of the offending animals, the action shall be dismissed as to him and may proceed as against a defendant whose name is unknown. If at the commencement of the action the plaintiff does not know the name of the owner, or keeper of such offending animals, he may bring an action against a defendant unknown. In such case service shall be made by publishing a copy of the summons with a notice stating the nature of the action, in a newspaper, if there is one published in the county, and if not, by posting copies of the summons and notice in three public places within the county, in either case not less than ten days previous to the day of trial.

SECTION 988. After judgment shall have been rendered against the defendant, unknown as aforesaid, the offending animals shall be sold, and after the judgment and costs

have been satisfied, if there is any surplus, it shall be placed in the hands of the county treasurer for the benefit of the owner, and if the owner does not appear and claim the same within one year from the day of sale, it shall be paid into the school fund of said county.

SECTION 989. The following sections and chapters are hereby repealed, to-wit:

1. The following sections of the Code of Civil Procedure:

18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 42, 51, 52, 53, 54, 56, 59, 62, 63, 66, 67, 68, 74, 80, 84, 88, 94, 97, 98, 101, 102, 104, 106, 107, 109, 126, 133, 136, 138, 145, 149, 153, 165, 189, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 229, 233, 236, 261, 262, 263, 271, 276, 277, 279, 280, 281, 282, 283, 284, 287, 288, 290, 295, 299, 306, 307, 314, 322, 324, 325, 332, 333, 339, 341, 378, 379, 380, 382, 387, 388, 390, 395, 396, 430, 439, 440, 441, 446, 453, 454, 455, 456, 457, 458, 470, 474, 475, 476, 478, 479, 484, 485, 488, 489, 490, 491, 492, 493, 494, 498, 499, 503, 504, 505, 506, 507, 514, 518, 531, 532, 533, 534, 535, 536, 539, 542, 543, 544, 545, 546, 547, 553, 597, 598, 599, 600, 601, 603, 609, 610, 611, 613, 614, 615, 616, 621, 623, 627, 631, 632, 635, 651, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 670, 674, 675, 676, 677, 678, 680, 681, 682, 685, 688, 692, 702, 712, 717, 722, 723, 726, 727, 732, 738, 745, 747, 749, 750, 751, 752, 753, 754 and Chapter 39 of said Code.

2. The following chapters of the session laws of 1879: Chapters 1, 17, 50, and 53.

3. The following sections and chapters of the session laws of 1881: Chapters 32, 34, 35, 36, 37, 93, 94 and 95, and Sections 1, 3 and 4 of Chapter 33.

4. The following sections and chapters of the session laws of 1883: Chapters 50, 56, 61, 62, 83, 84, 105 and 115; Section 2 of Chapter 11, and Section 3 of Chapter 55.

5. The following sections and chapters of the session laws of 1885: Chapters 7, 18, 32, 37, 84, 117, 118, 125, 136, 146 and 149; Section 2 of Chapter 39, and Section 3 of Chapter 55.

6. The following sections and chapters of the session laws of 1887: Chapters 22, 24, 27, 28, 29 and 81; and Sections 2, 3, 4, 5, 6, 7, 8 and 9 of Chapter 21.

7. The following sections and chapters of the session

laws of 1889: Chapters 16, 21, 26, 111, and Sections 1 and 3 of Chapter 112.

8. The following sections and chapters of the session laws of 1890: Chapters 20, 40, 104 and 167.

9. The following sections and chapters of the session laws of 1891: Chapter 121, and Sections 3, 4, 5, 15 and 25 of Chapter 120.

10. The following sections and chapters of the session laws of 1893: Chapters 79 and 81.

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APPENDIX.

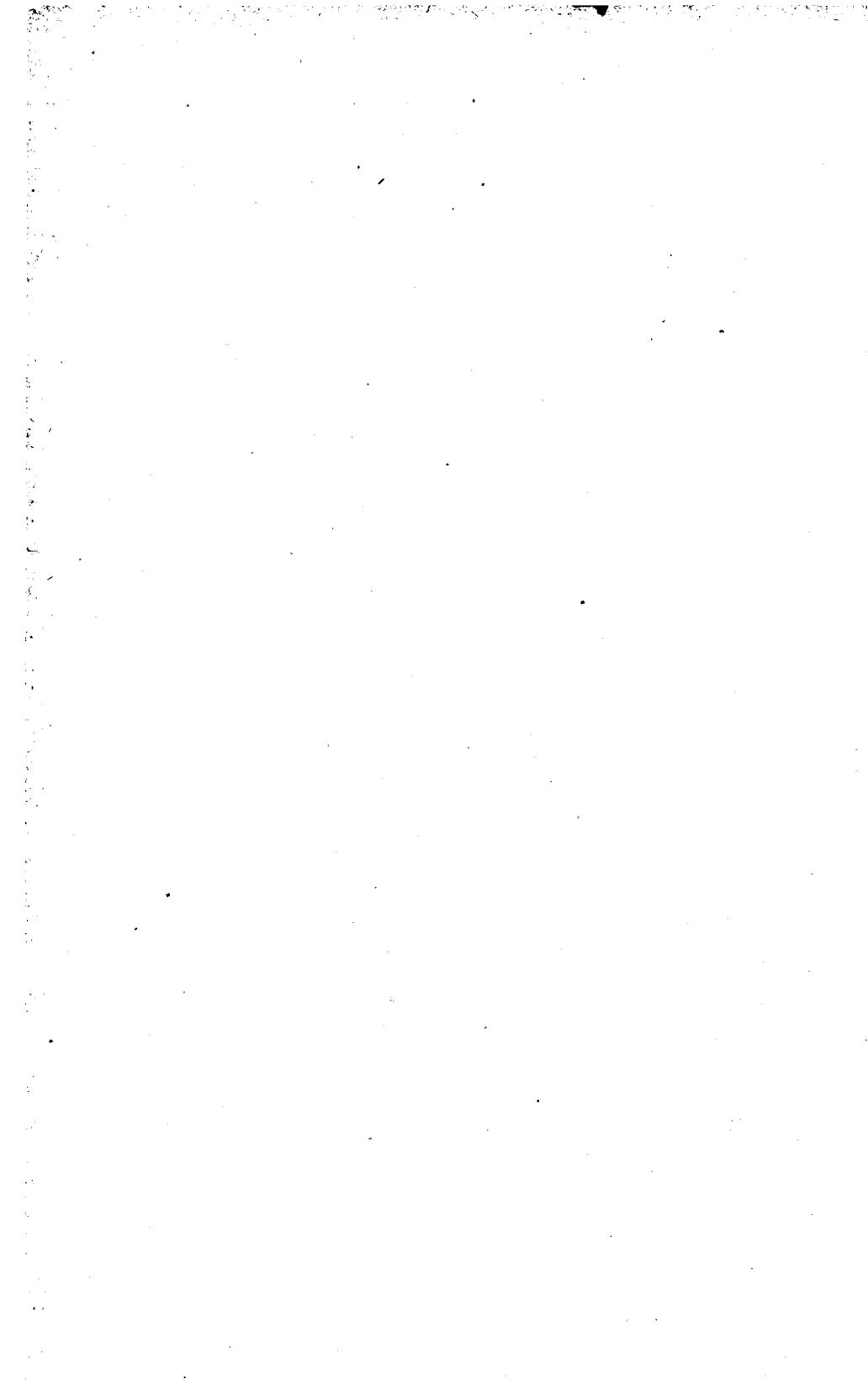
JUSTICES' CODE.

PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

REPORT OF JOINT COMMITTEE.

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## A BILL

For An Act to Establish a Justices' Code for the State of North Dakota.

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

### CHAPTER 1.

SECTION 1. This act shall be known as "The Justices' Code" of the State of North Dakota.

SECTION 2. The provisions of this code are applicable, throughout the State, to all justices of the peace now in office, or hereafter chosen, and to every police magistrate acting ex-officio as justice of the peace. (For Sec. 1, Ch. 129, 1881; C. L. 742 and S. 6, Art. 10, C. 73, 1887; C. L. 930.)

### CHAPTER II.

#### GENERAL POWERS OF JUSTICES OF THE PEACE.

SECTION 3. Every justice of the peace shall keep his office and hold his court at a place by him selected, which must be within the county, civil township, city or town, as the case may be in which he may have been elected or appointed. (For J. C. 1; C. L. 6041.)

SECTION 4. A justices' court is deemed to be always open, and every judicial act of a justice is deemed to be the act of the court. A justice is his own clerk, but when required by law to reduce testimony to writing, he may employ a clerk for that purpose. (For S. 1, J. C. 6041, C. L.)

SECTION 5. Subject to the provisions hereinafter contained, each justice of the peace has power and authority to hold a court, maintain order and decorum, and take cognizance therein, according to law, of all actions or other judicial proceedings within his jurisdiction, and hear, try and determine the same or make such orders therein as may be prescribed by law, and to issue in such action or proceeding, all lawful process which may be necessary, or proper, and require and enforce obedience thereto. [For J. C. 977; C. L. 6137.]

SECTION 6. Justices of the peace and their courts have jurisdiction in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars; but in no case do they have jurisdiction when the boundaries of or title to real estate comes in question. Subject to the foregoing restrictions the jurisdiction of each justice of the peace extends to the following actions and proceedings:

1. An action for the recovery of money only when the sum for which judgment is demanded does not exceed two hundred dollars. In applying this sub-division, a counter claim is to be deemed a separate and distinct action.

2. An action to recover possession of personal property or its value when the value of the property, together with the sum, if any, demanded as damages does not exceed two hundred dollars.

3. An action given by statute to foreclose or enforce a lien upon chattels, or trespassing animals, when the amount of the lien or damages claimed does not exceed two hundred dollars.

4. An action for forcible detainer of real property, irrespective of value, when the amount demanded therein for rents and profits or damages, does not exceed two hundred dollars.

5. The entry of judgment by confession, without action, for an amount not exceeding two hundred dollars, upon the statement of a defendant authorizing judgment in a justices' court. [For J. C. 2, 33; C. L. 6042, 6072.]

SECTION 7. The jurisdiction and authority of justices of

the peace to prevent the commission of public offenses, to institute searches and seizures, to require the arrest and detention of persons charged with crime, to require and accept bail and otherwise act as magistrates in matters of crime, is prescribed by the Code of Criminal Procedure. Each justices' court has also jurisdiction and authority, co-extensive with the county or judicial subdivision, to hear, try and determine every criminal action in which the offense charged is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment, and every other criminal action in which jurisdiction is especially conferred by law. [For J. C. 3; C. L. 6043.]

SECTION 8. The provisions of the Code of Civil Procedure shall govern the proceedings in justices' courts as far as applicable when the mode of procedure is not prescribed by this Code, but the powers of justices' courts are only as herein prescribed. [For J. C. 103; C. L. 6144.]

SECTION 9. Every summons, execution or other process issued by a justice of the peace, except a subpoena must be issued without a blank left to be filled by another, otherwise it is void. [For J. C. 98; C. L. 6138.]

SECTION 10. Every justice of the peace shall keep a docket in which shall be entered in continuous order, with the proper date, and at the time when each act is done;

1. The title of each action or proceeding;
2. The object of the action or proceeding;
3. The issuance of process, stating the particular process issued, when returnable, and the return of the officer;
4. The appearance of the parties, either with or without process, the manner in which they appear, or their non-appearance, according to the facts.
5. A brief minute referring to every pleading or other paper, motion, filed in writing, and a concise statement of each pleading or motion made orally.
6. Every ruling or decision of the court upon the pleadings or upon the motion or application of a party.

7. Every postponement, stating upon whose application and to what time.

8. The demand for trial by jury, by whom made, the agreement of the parties, if any, respecting the jury, the order for the jury, the issuance of a venire, to whom delivered, and the time appointed for the return of the jurors and for trial.

9. The return of the venire, and the names of the jurors who are impaneled and sworn.

10. The names of all witnesses sworn, and at whose request.

11. The verdict of the jury, when received, or, if they are discharged for failure to agree, the fact of such discharge.

12. The judgment of the court, separately stating the amount taxed and allowed as costs.

13. The stay of execution if a stay is taken.

14. The giving of an abstract to be filed in the district court.

15. The issuing of execution, when and to whom issued, the renewal thereof, if any, and the return of the officer.

16. A statement of all moneys received by the justice upon the judgment, from whom received, and the disposition made of the same.

17. A minute of the appeal, referring to the notice, undertaking and other papers therein.

18. Every other matter or proceeding required to be entered by a special provision of statute. [For J. C. 83; C. L. 6(23.)]

SECTION 11. A justice's docket is deemed true and correct as to all matters appearing therein as required by law, and cannot be disputed in a collateral proceeding. The docket or a duly certified transcript thereof is competent evidence of the matters to which it relates.

SECTION 12. A justice must keep an alphabetical index

to his docket, in which must be entered the names of the parties to each judgment, with a reference to the page of entry. The names of the plaintiffs must be entered in the index, in the alphabetical order of the first letter of the family name.

SECTION 13. Every justice of the peace, upon the expiration of his term of office, must deposit with his successor his official dockets, and all papers filed in his office, as well his own as those of his predecessors, or any other which may be in his custody to be kept as public records.

SECTION 14. If the office of a justice becomes vacant by his death, removal or otherwise, before his successor is elected and qualified, the docket and papers in possession of such justice must be deposited in the office of some other justice in the township or county, to be by him delivered to the successor of such justice.

SECTION 15. Any justice with whom the docket of his predecessor, or of any other justice, is deposited as hereinbefore provided, has the same jurisdiction of all actions and proceedings entered in such docket and may exercise the same powers therein as if originally commenced before him. [For J. C. 88; C. L. 612S.]

### CHAPTER 3.

#### ARTICLE 1.—COMMENCEMENT OF AN ACTION.—PROCEDURE IN -CIVIL ACTIONS.

SECTION 16. The county in which a civil action in a justice's court must be commenced and tried is as follows:

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

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

3. Every other action must be tried in the county in which the defendant or one of several defendants resides, or is served with summons, or in which a warrant of attachment is levied on property of the defendant, except as provided in the next subdivision.

4. An action upon a contract stipulating for payment at a particular place may be brought in the county in which such place is situated. [For J. C. 4; C. L. 6044.]

SECTION 17. The parties to a civil action are the same as in the district court; but when a minor is a party, he must prosecute or defend by guardian. If he has no general guardian, a special guardian must be appointed by the court. A special guardian may also be appointed in any case in which it appears to be for the benefit of the minor. If the minor is plaintiff the appointment must be made before issuing the summons. If the minor is defendant the appointment shall be made at or before the time for answering. If the minor is not less than fourteen years of age, he may select the person to be appointed, otherwise such selection may be made by a relative or friend or by the court. [For J. C. 13; C. L. 6052.]

SECTION 18. An action in a justice's court is commenced by the issuance of a summons, or by the voluntary appearance and pleading of the parties. An appearance for any purpose except to interpose or maintain an objection to the jurisdiction assumed under the process is a voluntary appearance. (For J. C. 11; C. L. 6050.)

SECTION 19. The justice shall in all cases where plaintiff is a non-resident of the State, or a corporation, before issuing a summons, require of the plaintiff sufficient surety for costs. The surety must be a resident of the county. His obligation shall be complete by simply indorsing the summons, or signing his name on the complaint, as security for costs. In all other cases the justice may in his discretion, require surety for costs. (For S. 1; Ch. 89, 1881; C. L. 6141.)

SECTION 20. The style of the summons shall be, "The State of North Dakota." It must be addressed to the defendant and be signed by the justice, and shall contain;

1. The name of the county and the title of the court in

which the action is commenced, and the names of the parties thereto.

2. A direction that the defendant appear and answer the complaint of the plaintiff before the justice at his office at a time and place therein specified;

3. A sufficient statement of the cause of action to apprise the defendant of the nature thereof.

4. A notice that unless the defendant shall so appear and answer, the plaintiff will take judgment against him for a sum stated or other relief specified in the summons. (For J. C. 14; C. L. 6053.)

SECTION 21. If the plaintiff appears by attorney the name of the attorney must be indorsed on the summons. [Last clause of J. C. 14.]

SECTION 22. The time specified in the summons for the appearance of the defendant shall be not less than three or more than fifteen days from the date on which it is issued. [For Sec. 1, Ch. 139, 1885; C. L. 6054, and part of J. C. 38.]

SECTION 23. The summons may be served by a sheriff, constable, or any other person not a party to the action, and must be served and returned, with proof of service, in the manner prescribed for personal service of summons, by the Code of Civil Procedure, unless service is made by publication as provided in this Code. [For J. C. 17, S. 1, C. 34, sp. 1883; S. 2, C. 138, 1885; C. L. 6056.]

SECTION 24. In every action triable in the county, as prescribed by the first, second and fourth subdivisions of Section sixteen, the summons may be served in any county of the State. In other actions the summons cannot be served on a defendant out of the county of the justice by whom it was issued except:

1. Where the action is upon the contract or obligation of two or more parties, one of whom resides in the county, and is served therein.

2. Where an attachment issued in the action is levied on property of the defendant within the county. [For J. C. 16; C. L. 6055.]

SECTION 25. Service by delivery of a copy of the summons to the defendant in person within the county must be made at least three days before the time fixed for the appearance of the defendant. Service elsewhere or personal service in any other mode must be made at least seven days before the time fixed for the appearance of the defendant. [For J. C. 16; C. L. 6055, part.]

SECTION 26. In an action to foreclose or enforce a lien upon chattels or trespassing animals, or an action in which an attachment has been levied on personal property of the defendant within the county, if the summons is returned not served, the plaintiff may at the time therein specified for answering, apply for and receive a second summons directing the defendant to appear and answer at a specified time, not less than twenty-five nor more than thirty days from the date thereof. Such application must be made upon a verified complaint alleging the lien or levy relied on and demanding that the property be applied to the satisfaction of his claim; and must be supported by affidavit stating that to the best knowledge, information and belief of the person making it, personal service of the summons cannot be made upon the defendant within the State, and stating his postoffice address or the fact that the same is not known. The summons must be substantially in the following form, filling blanks according to the facts: State of North Dakota, . . . . . County, Before A. B., Justice of the Peace. C. D., Plaintiff, vs. E. F., Defendant. The State of North Dakota to said defendant: By this second summons herein you are directed to appear before me at my office in (designating the place) at . . . . . o'clock . . m. of the . . . day of . . . 18. . . there to answer the complaint of C. D. against you, alleging (here give a sufficient statement of the cause of action to apprise the defendant of the nature of the plaintiff's claim and the particular property in question), and demanding (here state the demand); and you are notified that unless you so appear and answer the plaintiff will take judgment against you accordingly. Given this . . . day of . . . 18. . . (Official signature of the justice.)

The justice shall endorse on the summons a direction to the effect that it may be served by publication in some newspaper of the county, naming it, or in some newspaper

elsewhere in the State, if none is published in the county. Service of the summons may be made by publication of the same in one issue of said newspaper each week for three successive weeks, the last publication being at least three days before the time at which the defendant is directed to appear; and by forthwith mailing a copy of the summons, postage paid and directed to the defendant at his postoffice address, unless it is stated in the affidavit that his address is unknown. But personal service of the summons on the defendant at any place in or out of the State, if made at least ten days before the time at which he is directed to answer, is equivalent to service by publication and mailing. The proof of service must be made by affidavit of some person having knowledge of the facts. (For J. C. 17, as amended by S. I. C. 34, 1883; S. 2, C. 138, 1885; C. L. 6055.)

ARTICLE 2.—APPEARANCE, POSTPONEMENT AND CHANGE OF VENUE.

SECTION 27. In a justice's court the parties may appear and act in person, or by attorney, and any person may act as attorney, except a practicing attorney or other person occupying the same room in which the justice has his office, or a person employed in serving the summons or venire. (For J. C. 12; C. L. 6051.)

SECTION 28. The parties are entitled to one hour in which to appear after the time stated in the summons, or any time fixed for further proceedings in the action, and neither party is bound to wait longer for the other. (For J. C. 18; C. L. 6057.)

SECTION 29. If neither party appears within the time limited by the preceding section the action shall be deemed discontinued, and there shall be no further proceedings therein unless by the consent of both parties; if both parties appear the case may be called when they appear; but if only one or more of the parties appear, the case shall not be called until the expiration of the hour, and in either case shall be disposed of as hereinafter prescribed. (For J. C. 44; C. L. 6084.)

SECTION 30. In case of the sickness or other disability

or necessary absence of a justice, on a return of a summons, or at the time appointed for a trial, another justice of the same township or county may, at his request, attend in his behalf, and thereupon is vested with the power, for the time being, of the justice before whom the summons was returnable. In that case the proper entry of the proceedings before the attending justice, subscribed by him, must be made in the docket, of the justice before whom the summons was returnable. If the case is adjourned, the justice before whom the summons was returnable may resume jurisdiction. (J. C. 100; 6140.)

SECTION 31. The court may, of its own motion or on application of a party postpone the hearing or trial;

1. For not exceeding one day, if at the time specified in the summons or order of the court, the justice is sick or engaged in the trial of another action;

2. For not exceeding two days, if by amendment of a pleading or allowance of time to plead or amend a postponement is rendered necessary;

3. For not exceeding three days when a jury is required for the trial of an issue of fact;

4. For not exceeding thirty days when a second summons is issued as prescribed by Section 26 of this Code. (For J. C. 45; C. L. 6085.)

SECTION 32. ~~The court~~ may, by consent of the parties, given in writing or in open court, postpone the trial to a time agreed upon by the parties. (J. C. 46. 6086.)

SECTION 33. The trial may be postponed upon the application of either party, for a period not exceeding sixty days.

1. The party making the application must prove, by his own oath or otherwise, that he cannot, for want of material testimony, which he expects to procure, safely proceed to trial, and must show in what respect the testimony expected is material, and that he has used due diligence to procure it, and has been unable to do so.

2. The party making the application must, if required by the adverse party, consent that the testimony of any

witness of such adverse party, who is in attendance, may be then taken by deposition before the justice, and that the testimony so taken may be read on the trial, with the same effect, and subject to the same objections as if the witness was produced; but the court may require the party making the application to state, upon affidavit the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed.

3. If the trial be postponed, the depositions of witnesses residing out of the county or State, may be taken either upon commission issued by the justice, or upon notice to take depositions in the same manner as is provided by the Code of Civil Procedure; and such depositions shall, when completed, be directed to the justice and be published by the justice in the same manner as depositions are published by the clerk of the district court. (J. C. 47, as amended by S. 1, C. 86, 1885.)

SECTION 34. No postponement shall be granted, as prescribed in the preceding section, for more than five days, unless the party applying for the postponement files an undertaking executed by a sufficient surety approved by the justice, to the effect that he will pay to the adverse party all costs which he shall recover in the action. If the application is made by the defendant in an action of forcible detainer, the undertaking must be to the effect that the surety will pay to the plaintiff whatever sum he shall recover in the action, including all rents and profits that shall accrue to him during the postponement. (For J. C. 48 and part of 38; C. L. 6088, 6077.)

SECTION 35. The court may at any time before the trial, on motion, change the place of trial in the following cases:

1. Where it appears to the satisfaction of the justice before whom the action is pending, by affidavit of either party, that such justice is a material witness for either party.

2. Where either party makes and files an affidavit that he believes he cannot have a fair and impartial trial before

such justice by reason of the interest, prejudice or bias of the justice.

3. When from any cause the justice is disqualified from acting.

4. When the justice is sick or unable to act. (J. C. 5; C. L. 6045.)

SECTION 36. The place of trial cannot be changed on motion of the same party more than once. When the court orders the place of trial to be changed, the action must be transferred for trial to a justices' court the parties may agree upon; and if they do not so agree, then to the next nearest justices' court in the same county. (J. C. 6 as amended by S. 1, C. 88, 1881; C. L. 6046.)

SECTION 37. After an order has been made transferring the action for trial to another court the following proceedings must be had :

1. The justice ordering the transfer must immediately transmit to the justice of the court to which it is transferred, on payment by the party applying of one dollar for the transcript, all the papers in the action, together with a certified transcript from his docket of the proceedings therein.

2. Upon the receipt by him of such papers the justice of the court to which the case is transferred must issue a notice stating when and where the trial will take place, which notice must be served upon the parties at least one day before the time fixed for trial, unless such notice is waived by consent of the parties entered on the docket. (S. 1, Ch. 42, 1879. 6047.)

SECTION 38. From the time the order changing the place of trial is made, the court to which the action is thereby transferred, has the same jurisdiction over it as though it has been commenced in such court. (J. C. 9. 6048.)

#### ARTICLE 3.—PLEADINGS AND ISSUES.

SECTION 39. A pleading in a justices' court is not required to be in any particular form, but must be so expressed as to enable a person of common understanding

to know what is intended. The pleadings may be oral or written, and need not be verified unless otherwise specially prescribed. (For J. C. 19; C. L. 6058.)

SECTION 40. The pleadings are as follows:

1. The complaint of the plaintiff;
2. The demurrer of the defendant to the complaint;
3. The answer of the defendant to the complaint;
4. The demurrer of the plaintiff to the answer;
5. The reply of the plaintiff;
6. The demurrer of the defendant to the reply. (For J. C. 20; C. L. 6059.)

SECTION 41. An issue arises upon the pleadings when a fact or conclusion of law is maintained by one party and controverted by the other. Issues are of two kinds: first, of law; and second, of fact. (For J. C. 49; C. L. 6089.)

SECTION 42. An issue of law arises upon a demurrer to the complaint, answer or reply, or to some part thereof. (For J. C. 50; C. L. 6090.)

SECTION 43. Issues of law must be determined by the court and be disposed of in the order in which they are presented, before the trial of an issue of fact. (For J. C. 52; C. L. 6092.)

SECTION 44. The complaint is a concise statement of the facts constituting the plaintiff's cause of action, with a demand for judgment, specifying the sum of money or the relief claimed. (For J. C. 21; C. L. 6060.)

SECTION 45. The defendant may before answering demur to the complaint, or to any cause of action therein alleged, upon one or more of the grounds enumerated in Section 113 of the Code of Civil Procedure. When any of the matters therein enumerated do not appear upon the face of the complaint the objection may be taken by answer. (For J. C. 22; C. L. 6061.)

SECTION 46. If a demurrer to the complaint, or to any cause of action therein, is sustained, the plaintiff may amend within such time, not exceeding two days, as the

court allows. If the demurrer is overruled, the defendant must answer forthwith. (For J. C. 25, Sub. 1 and 2; C. L. 6064.)

SECTION 47. The answer may contain a general denial of each allegation of the complaint, or any distinct cause of action therein, or a specific denial of one or more of the material allegations thereof. It may also state in a plain and direct manner, new matter constituting one or more defenses or counterclaims cognizable in a justices' court. (J. C. 23; C. L. 6062.)

SECTION 48. The plaintiff may demur to the answer, or to the new matter alleged therein because it does not state facts sufficient to constitute a defense or counterclaim, as the case may be. (For J. C. 24; C. L. 6063.)

SECTION 49. If the demurrer is sustained, the defendant may amend his answer within such time, not exceeding two days, as the court allow. If the demurrer is overruled, the plaintiff may reply forthwith; but no reply is necessary except to a counterclaim. (For J. C. 25, Sub. 3 and 4; C. L. 6054.)

SECTION 50. Either party may be allowed to amend his pleading at any time before the conclusion of the trial, or on appeal, if substantial justice will be promoted thereby; but when an amendment is offered after issue joined and it appears to the satisfaction of the court that a postponement will become necessary to the adverse party in consequence of such amendment, the court shall allow the amendment only upon payment of costs, to the adverse party, in such sum as may be deemed just. (For J. C. 26; part C. L. 6065.)

SECTION 51. When a pleading is amended the adverse party may demur, answer, or reply forthwith, or within such time, not exceeding two days, as the court allows. (For J. C. 27; C. L. 6066.)

SECTION 52. If the plaintiff annexes to his complaint or files with the justice at the time of issuing the summons, the original or a copy of the promissory note, bill of exchange, or other written obligation for the payment of money, upon which the action is brought, the defendant is deemed to admit the genuineness of the signature of the

makers, indorsers, guarantors, acceptors or assignors thereof, unless he specifically denies the same in his answer, and verifies the answer by his oath. (For J. C. 61; C. L. 6101.

SECTION 53. The pleadings must be in writing, and in an action of forcible detainer, or an action to recover damages for an injury to real property must be verified. No issue arises upon an allegation of title or boundary set forth in the complaint in such action, unless the same is specifically denied in the answer.

SECTION 54. A question of title or boundary to real estate cannot be determined in a justices' court; and where such question arises upon a material issue joined as prescribed in the preceding section, the justice must order a dismissal of the complaint, and render judgment against the plaintiff for costs. Where the question is not disclosed by the issue but is manifested by controversy in the evidence as to a fact which is material to the plaintiff's case under a denial in the answer, the justice must discontinue the trial and order a dismissal of the complaint, specifying the reason for such dismissal and give judgment against the plaintiff for costs, to which end he may take the case from a jury if necessary.

SECTION 55. The defendant may, with or without other matter of defense, set forth in a verified answer facts showing that the title or boundary to real estate will come in question as a defense to the action, or any distinct cause of action alleged in the complaint and may thereupon have the same transferred to the district court for the purpose of enabling him to maintain his defense, by paying the justice a fee of one dollar for making a transcript and filing an undertaking, executed by sufficient sureties, to be approved by the justice, to the effect that he will pay all costs that may be adjudged against him in the district court not exceeding one hundred dollars. When the foregoing requirements are complied with the justice must immediately transfer the action accordingly and certify the pleadings and other papers with a transcript of his docket, showing the reason of such transfer, to the district court of his county; but if the action is transferred in part only he must retain copies of the original papers. The district court acquires jurisdiction from the time when the

papers are filed with the clerk and the action is deemed to be at issue therein ten days after the docketing. In other respects the proceedings therein shall be the same as if the action was originally commenced in that court. (For J. C. 10; 6049.)

#### ARTICLE 4.—PROVISIONAL REMEDIES.

SECTION 56. In a case mentioned in Section 197 of the Code of Civil Procedure, a writ to attach the personal property of the defendant may be issued by the justice at the time of or after issuing the summons and before answer, on receiving an affidavit by or on behalf of the plaintiff, stating the same facts as are required to be stated by the affidavit specified in Section 199 of the Code of Civil Procedure. (J. C. 28; C. L. 6067.)

SECTION 57. Before issuing the writ, the justice must require a written undertaking on the part of the plaintiff, with two or more sufficient sureties, in a sum not less than fifty nor more than three hundred dollars, to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking. (J. C. 29; C. L. 6068.)

SECTION 58. The writ may be directed to the sheriff or any constable of the county, and must require him to attach and safely keep all the personal property of the defendant within his county, not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which must be stated in conformity with the complaint, unless the defendant gives him security, by the undertaking of two sufficient sureties, in an amount sufficient to satisfy such demand, besides costs, in which case, to take such undertaking. (J. C. 30; C. L. 6969.)

SECTION 59. The writ may be served by the sheriff or any constable of the county in which it is issued, and returned in the same manner as warrants of attachment are served and returned in actions in the district court, and with the same force and effect. (J. C. 31; C. L. 6070.)

SECTION 60. In an action to recover possession of personal property, the plaintiff may, at the time of issuing summons, or at any time thereafter before answer, claim the delivery of such property to him; and Article 2, of Chapter 11, of Part 2 of the Code of Civil Procedure is applicable to such claim when made in justices' court, the powers therein given and duties imposed on sheriffs being extended to constables, and the word "justice" substituted for "judge."

ARTICLE 5.—FORCIBLE DETAINER.

SECTION 61. This action is maintainable:

1. Where a party has by force, intimidation, fraud, or stealth, entered upon the prior actual possession or real property of another, and detains the same.

2. Where a party, after entering peaceably upon real property turns out by force, threats or menacing conduct the party in possession; or

3. Where he by force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise; or

4. Where a lessee in person or by sub-tenant holds over after the termination of his lease or expiration of his term, or fails to pay his rent for three days after the same shall be due; or

5. Where a party continues in possession after a sale of the real property under mortgage, execution, order, or any judicial process, after the expiration of the time fixed by law for redemption, and after the execution and delivery of a deed.

6. Where a party continues wrongfully in possession after a judgment in partition or after a sale under an order or decree of a county court. (J. C. 34; C. L. 6073.)

SECTION 62. In all cases arising under Subdivisions 4, 5 and 6 of the preceding section, three days' written notice to quit must be given to the lessee, sub-tenant, or party in possession, before proceedings can be instituted, and may

be served and returned in like manner as a summons is served and returned. (J. C. 35; C. L. 6074.)

SECTION 63. The legal representative of a person who might have been plaintiff, if alive, may bring this action after his death. (J. C. 36; C. L. 6075.)

SECTION 64. An action under the provisions of this article cannot be brought in connection with any other except for rents and profits accrued, or damages arising by reason of the defendant's possession. No counterclaim can be interposed, except as a set-off to a demand made for damages or rents and profits. (For Sec. 2, Ch. 87, 1881, C. L. 6080.)

#### ARTICLE 6.—TRIAL OF ISSUES OF FACT.

SECTION 65. An issue of fact arises:

1. Upon a material allegation in the complaint, controverted by the answer, or
2. Upon new matter in the answer not admitted in the reply; or,
3. Upon new matter in the reply. (For J. C. 51; C. L. 6091.)

SECTION 66. Issues of fact must be tried by jury, unless a jury is waived. When a jury is waived the court must try the issues, hear the allegations and proofs of the respective parties, and render judgment thereon. (For J. C. 53; C. L. 6093.)

SECTION 67. Subject to the provisions of Article 2 of this chapter the trial must commence as soon as the issues are joined, or as soon as the jury is impanelled, and continue until concluded without an intermission for more than twenty-four hours at any one time; if either party fails to appear at the time fixed for the trial, it may proceed at the request of the adverse party. (For J. C. 55; C. L. 6095.)

SECTION 68. A jury is waived—

1. If neither party before the commencement of the trial demands a jury as prescribed in the next section.

2. If either party fails to appear at the time fixed for the trial. (For J. C. 54; C. L. 6094.)

SECTION 69. When an issue of fact is joined either party may demand a trial by jury on depositing with the justice a sum sufficient to pay the jurors their fees for one day's attendance. (For S. 1, Ch. 33, 1879, in part; C. L. 6096.)

SECTION 70. The jury shall be composed of six residents of the county having the qualifications of jurors or of any number less than six, if the parties so agree, who shall be selected, summoned and impannelled as hereinafter prescribed. (For S. 1, Ch. 33, 1879, part.)

SECTION 71. Unless the persons to be summoned are named in the agreement of the parties, the justice shall write down the names of eighteen residents of the county competent to sit as jurors, and from the list so prepared, the parties alternately, beginning with the party demanding the jury, shall strike out one name each until there remains only the number required to constitute the jury. If either party refuses to strike out a name, the justice shall act for him. The justice shall thereupon issue his venire to the sheriff, or any constable of the county, commanding him to summon the persons so selected or agreed upon, as the case may be, to appear forthwith or at a fixed time and place stated therein, to serve as jurors in the trial of the action. (For S. 1, Ch. 33, 1879, part.)

SECTION 72. The officer shall, without unnecessary delay, serve the venire upon each of the persons therein named by reading the same to him, and shall state in his return the name of each person served and the name of each person who cannot be found. A person disobeying a venire may be compelled to appear or punished for a failure to appear in the same manner as a witness who disobeys a subpoena.

SECTION 73. If the persons so summoned do not all appear at the proper time the justice must require the absentees to be brought in, or cause others to be substituted, or if any person appearing as a juror is excused for legal cause before the jurors are sworn to try the issue, others must be substituted, until the required number of jurors is obtained. The persons so required must be

selected and summoned forthwith, as hereinbefore prescribed, from a list containing three times as many names as there are jurors to be substituted. (For J. C. 57; part C. L. 6097.)

SECTION 74. Upon the appearance of a sufficient number, the jurors must, at the request of either party, be first sworn to answer truly all questions that may be propounded to them by the court or by the parties as to their qualifications to set as jurors in the trial of the action, and may thereupon be examined accordingly. (For J. C. 57; part 6097.)

SECTION 75. Challenges to individual jurors are allowed for the same causes as in a civil action in the district court, but must be taken before the jurors are sworn to try the issue, and every challenge must be tried in a summary manner, by the justice, on the examination of the juror or other witnesses under oath. (For J. C. 57; part C. L. 6097.)

SECTION 76. As soon a sufficient number are secured and accepted, the justice shall administer to the jurors the following oath: "You, and each of you, do solemnly swear (or affirm as the case may be) that you will well and truly try the matters in issue between the plaintiff and defendant, and a true verdict render according to the evidence." (For J. C. 59; C. L. 6099.)

SECTION 77. After the jurors are sworn to try the issue, they must sit together and hear the allegations and proofs of the parties, which must be delivered in public, in the presence of the justice, and as nearly as may be, in accordance with the practice in the district court. (For J. C. 119; C. L. 6160.)

SECTION 78. The jury cannot be discharged after they are sworn, until they have agreed upon and returned their verdict, unless, for good cause, the court sooner discharges them. (For J. C. 124; C. L. 6165.)

SECTION 79. The justice must decide all questions of law arising in the progress of the trial, but must not instruct the jury upon the law of the case, or express an opinion as to any matters of fact in controversy therein. (For J. C. 120; C. L. 6161a.)

SECTION 80. After hearing the proofs and allegations, the jury may decide in court, or may retire for consideration. If they do not immediately agree, an officer must be sworn to the following effect:

You do swear that you will keep this jury together in some quiet and convenient place; that you will not permit any person to speak to them, nor speak to them yourself, unless by order of the court, or to ask them whether they have agreed upon a verdict; and that you will return them into court when they have so agreed, or when ordered by the court. (J. C. 12; C. L. 6162.)

SECTION 81. The verdict of the jury must be in writing, and be signed by all the jurors or by one of them as foreman. When they have agreed upon their verdict they must render it publicly to the justice, and it must be entered in the docket immediately, but if the verdict is not in proper form the justice may inform the jury accordingly and require them to correct the same. [For J. C. 122; C. L. 6163.]

SECTION 82. The verdict shall be as follows:

1. In an action to recover possession of personal property, to the effect that the jury find the plaintiff or defendant entitled to possession, or if not in possession to a delivery, of the property therein described, specifying its value, article by article and to damages, if claimed for its detention in a sum therein stated as assessed by the jury. If the finding is in favor of the plaintiff as to part of the property the verdict shall contain a like finding in favor of the defendant, as to the residue.

2. In an action of forcible detainer, when in favor of the plaintiff, to the effect that he is entitled to a delivery of possession, and to rents, profits and damages, if claimed, in a sum assessed by the jury. If in favor of the defendant a finding to that effect is sufficient.

3. In other actions, when in favor of the plaintiff, or plaintiffs to the effect that the jury find for him, or them, and assess the amount of the recovery at a sum therein stated in dollars and cents; or if there are several defendants, to the effect that the jury find for the plaintiff and assess his recovery at a sum stated as against all or against

one or more of the defendants by name, as the case requires. When in favor of the defendant, or one of several defendants, to the effect that the jury find for him or them designating each by name, if necessary, and assessing the amount of his recovery if determined in his favor, upon a counterclaim.

4. Where the plaintiff is entitled to satisfaction of the amount expressed in the verdict, out of personal property of the defendant, by virtue of a mortgage or other lien, the verdict shall contain a further finding to that effect, with a particular description of the property.

SECTION 83. If the jurors are discharged without rendering a verdict, or because they cannot agree, the court shall proceed again to trial, as in the first instance until a verdict is rendered. (For J. C. 125; C. L. 6166.)

SECTION 84. No motion in arrest of judgment or to set aside a verdict can be entertained in a justice's court.

#### ARTICLE 7.—JUDGMENT AND COSTS.

SECTION 85. Judgments upon confession may be entered up in any justice's court specified in the confession. (J. C. 62; C. L. 6102.)

SECTION 86. When the defendant fails to appear and answer or demur, at the time specified in the summons, or within one hour thereafter, then upon proof of service of the summons, the following proceedings must be had:

1. If the action is based upon a contract and is for the recovery of money or damages only, the court must render judgment in favor of plaintiff for the sum specified in the summons.

2. In all other actions the court must hear the evidence offered by the plaintiff, and must render judgment in his favor for such a sum, not exceeding the amount stated in the summons, as appears by such evidence to be just. (J. C. 42; C. L. 6082.)

SECTION 87. In the following cases judgment must be rendered in favor of the plaintiff in like manner as upon failure of the defendant to answer or demur.

1. Where the complaint has been amended and the defendant fails to answer it as amended within the time allowed by the court.

2. Where a demurrer to the complaint has been overruled and the defendant fails to answer forthwith.

3. Where a demurrer to the answer has been sustained and the defendant fails to amend the answer within the time allowed by the court. (For J. C. 43; C. L. 6083.)

SECTION 88. When service of the summons has been made under the provisions of Section 26 of this Code, and the defendant has not appeared, no money judgment shall be rendered, but the court shall find the amount due, and the particular property liable therefor and render judgment for the satisfaction of said amount, out of said property, by execution.

SECTION 89. Judgment that the action be dismissed without prejudice to another action may be entered, with costs to the defendant, in the following cases:

1. When the plaintiff voluntarily dismisses the action before it is finally submitted.

2. When he fails to appear at the time specified in the summons, or to which the action has been postponed, or within one hour thereafter.

3. Where a demurrer to the complaint has been sustained and the plaintiff fails to amend within the time allowed by the court.

4. When it appears at the trial that the action is brought in the wrong county. [For J. C. 63; C. L. 6103.]

SECTION 90. The court may relieve either party from a judgment taken against him by reason of his failure to appear or plead or amend. Application for such relief must be made within thirty days after the entry of such judgment upon affidavit showing good cause therefor, and after three days' notice to the opposite party. If the application is granted, the court shall set aside the judgment and fix a new day for further proceedings in the action and cause notice thereof to be given to the other party if he is not present at the hearing, which notice may be

served either personally or by mail. The court may in its discretion before setting aside the judgment require the applicant to pay the costs of the action which have already accrued. [For J. C. 26; part C. L. 6065.]

SECTION 91. When a trial by jury has been had, judgment must be entered by the justice at once, in conformity with the verdict. [J. C. 64; C. L. 6104.]

SECTION 92. When the trial is by the court, judgment must be entered at the close of the trial. [J. C. 65; C. L. 6105.]

SECTION 93. When the amount found due to either party exceeds the sum for which the justice is authorized to enter judgment, such party may remit the excess, and judgment may be rendered for the residue. (J. C. 67; C. L. 6107.)

SECTION 94. In actions to recover the possession of personal property, the judgment must be entered substantially in the form required by Section 5099, Code of Civil Procedure. (J. C. 66; C. L. 6106.)

SECTION 95. The judgment in an action in which specific personal property is held liable to the plaintiff's demand by reason of a lien or the levy of an attachment thereon, shall state what particular property is liable, and why, and the judgment operates as a lien on the property so designated.

SECTION 96. A judgment in favor of the plaintiff in an action of forcible detainer shall be for delivery of possession to the plaintiff, and for the amount of rents and profits and damages found in his favor, when claimed by the complaint. (For Sec. 1, Ch. 87, 1881; C. L. 6078.)

SECTION 97. If the defendant, at any time before the trial offers in writing to allow judgment to be taken against him for a specific sum, the plaintiff may, upon producing and filing such offer with the justice, immediately have judgment therefor, with the costs then accrued, but if he does not accept such offer before the trial, and fails to recover in the action a sum greater than the offer, he cannot recover costs, but costs must be adjudged against him, and if he recovers, be deducted from his recovery.

The offer and failure to accept it cannot be given in evidence, nor affect the recovery otherwise than as to costs. (For J. C. 68; C. L. 6108.)

SECTION 98. The justice must tax and include in the judgment the costs allowed by law to the prevailing party. (J. C. 69; C. L. 6109.)

SECTION 99. A party cannot recover as costs any expenses by him incurred for the service of summons or other process by any person not an officer. The party demanding a jury cannot recover any costs thereby incurred :

1. In an action for the recovery of specific personal property when the value of the property which he recovers is less than twenty-five dollars.

2. In any other action if he is the plaintiff and recovers judgment for less than twenty-five dollars, exclusive of costs, or if he is the defendant and the sum which he recovers, if any, exclusive of costs, together with the sum demanded by the plaintiff, is less than twenty-five dollars. But this subdivision does not apply to an action of forcible detainer.

SECTION 100. Where the party entitled to costs has appeared in the action by an attorney duly authorized to practice in the courts of this State, but not otherwise, there shall be allowed for his reimbursement and included in the costs a sum to be ascertained as follows :

1. In an action of forcible detainer, to either party, recovering judgment, ten dollars;

2. In any other action, to the plaintiff if he recovers twenty-five dollars or less, a sum equal to twenty per cent of the judgment, exclusive of costs; if he recovers more than twenty-five dollars and not more than fifty dollars, five dollars; if he recovers more than fifty dollars, a sum equal to ten per cent of the judgment, exclusive of costs; or,

3. The defendant recovering judgment, a sum determined in like manner upon the judgment demanded by the plaintiff.

4. In an action for the recovery of personal property the value of the property as determined in the action shall be deemed part of the judgment recovered or demanded, for the purposes of this section. (For Sec. 1, Ch. 18, 1881; C. L. 6143.)

SECTION 101. The justice, on demand of a party recovering judgment and payment of a fee of one dollar, must deliver to him a certified abstract of the judgment to be filed in the district court, if there is outstanding no execution issued thereon. A minute of the delivery of the abstract must be entered in the docket, and thereafter no execution shall be issued by the justice. Such abstract may be in the following form, filling blanks according to the facts:

State of North Dakota, ..... County. Before A. B., Justice of the Peace, C. D., Plaintiff, vs. E. F., Defendant. Judgment entered (giving date thereof) in favor of plaintiff (or defendant) and against defendant (or plaintiff) for ..... dollars, and costs, taxed at ..... dollars, of which ..... dollars remains unsatisfied. I certify that the foregoing is a true and correct abstract of the judgment in said action (as appears upon the docket of said justice now in my custody). (Date of certificate and official signature of justice.) (For J. C. 70; C. L. 6110.)

#### ARTICLE 8.—STAY OF EXECUTION.

SECTION 102. Execution upon a judgment for money only may be stayed in the manner hereinafter provided, for a period of time from and after the date of the judgment, determined as follows:

1. For two months if the amount of the judgment, including costs, does not exceed fifty dollars.

2. For four months if the amount of judgment, including costs, exceeds fifty and does not exceed one hundred dollars.

3. For six months if the amount of the judgment, including costs, exceeds one hundred dollars.

But no stay is allowed under the provisions of this section without the consent of the owner and holder of the

judgment when it is rendered for wages of a mechanic or laborer, or for moneys received in a fiduciary capacity or for breach of any official duty or against a corporation, or awards execution against specific personal property.

SECTION 103. The stay is effected by an undertaking on the part of the judgment defendant, entered and signed, on the docket of the justice, by one or more sufficient sureties of the county having the qualifications of bail in civil actions, and justifying thereto to the effect that in consideration of the stay allowed by law, each acknowledges himself indebted to the plaintiff by virtue of the judgment, for the amount of the same, including costs, and undertake that payment thereof will be made at or before the expiration of such stay. Such stay operates to suspend the execution of the judgment if executed within ten days after the rendition thereof, but not otherwise.

SECTION 104. When a stay is effected, if execution has been issued, the justice must deliver to the judgment debtor an order directing the officer holding the execution to stay all proceedings on the same. On presentation of the order and payment of his fees accrued on the execution, the officer must suspend proceedings accordingly, and deliver or relinquish to the debtor all property levied on, or money collected, under or by virtue thereof; but if his fees are not paid he may retain so much of the property or money as may be necessary to satisfy the same.

SECTION 105. If the judgment is not satisfied in full at the expiration of the stay, execution shall issue against the judgment debtor and the surety in said undertaking, describing him as such with the same effect as though the judgment were against all. The officer receiving the execution shall certify in his return the amount, if any, collected or received from the surety; and thereupon, after five days notice to the principal debtor, the surety may, on motion, have judgment entered by the justice in his favor for the amount so certified against said debtor unless he files an affidavit stating that he has a valid defense or counterclaim against the surety making the application; but no judgment shall be so entered after the expiration of three months from the return of the execution.

SECTION 106. A party cannot appeal after taking a stay of execution as herein provided.

## ARTICLE 9.—EXECUTION.

SECTION 107. The judgment of a justice's court is enforced by process of execution. When the process is not stayed or suspended by any provision of this Code, execution may issue at any time within five years after entry of judgment, but not afterwards, on application of the party in whose favor it was rendered or his legal representative, to the justice who entered the same, or his successor in office, or other justice who has custody of the docket. (For J. C. 71; C. L. 6111.)

SECTION 107a. No execution shall be issued upon a judgment for the recovery of money until after the expiration of ten days from the time of the entry of judgment, unless there is filed with the justice before the issuance of the execution an affidavit made by the judgment creditor, his agent or attorney, stating that unless an execution is issued before the expiration of such ten days the judgment creditor is in danger of losing the amount of his claim.

SECTION 108. The execution must be directed to the sheriff or any constable within the county, and must be subscribed by the justice and bear the date of its delivery to the officer. It must intelligibly refer to the judgment, stating the names of the parties thereto, in whose favor, against whom, the time when, the county where and the name of the justice before whom the judgment was rendered; and it must be made returnable to the justice within thirty days after its date. [J. C. 72; C. L. 6112.]

SECTION 109. An execution issued upon a judgment for a sum of money must state in the body thereof the sum actually due on the judgment, and must substantially require the officer to satisfy the same, together with interests and costs, out of the personal property of the debtor, and bring the money before the justice by the return day of the execution. [For J. C. 73; C. L. 6113.]

SECTION 110. When judgment is rendered for any cause appearing therein upon which the exemptions allowed by law are expressly restricted or prohibited, the execution shall state the facts; accordingly; and when the judgment designates personal property specifically liable thereto, the execution shall contain a description of such property.

SECTION 111. An execution issued upon a judgment for the delivery of the possession of personal property, shall substantially require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto; and may, at the same time require the officer to satisfy any costs or damages recovered by the judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered to be specified therein, if a delivery cannot be had. [J. C. 74; C. L. 6114.]

SECTION 112. An execution issued upon a judgment in favor of the plaintiff in an action of forcible detainer shall substantially require the officer to deliver possession of the premises, particularly describing them, to the plaintiff; and may at the same time require the officer to satisfy the money judgment and costs as in other cases. The process must be executed, as respects the delivery of possession, only in the day time. (For J. C. 75; C. L. 6115.)

SECTION 113. An execution which describes the specific personal property liable for the satisfaction of the judgment, may be levied on other property for the debtor not exempt, when for any cause it appears that full satisfaction cannot be obtained from the property so described.

SECTION 114. The provisions of Chapter 13, Part 2, of the Code of Civil Procedure, relating to the levy and sale or delivery of personal property, so far as the same are applicable, and not inconsistent with the provisions of this chapter, apply to and govern the levy, sale and delivery of personal property under an execution issued by a justice of the peace. And the constable, when the execution is directed to him, is vested for that purpose with all the powers of the sheriff; *provided*, that notice shall not be published in a newspaper, but shall be given by posting for ten days, in five public places within the county, one of which shall be at the office of the justice issuing the execution. [J. C. 77; C. L. 6117.]

SECTION 115. An execution may at the request of the judgment creditor, be renewed before the expiration of the time fixed for its return, by the word "renewed" written thereon, with the date thereof, and subscribed by the justice. Such renewal has the effect of an original

issue, and may be repeated as often as necessary. If an execution is returned unsatisfied, another may be afterwards issued. [J. C. 76; C. L. 6116.]

SECTION 116. A justice of the peace must receive all moneys collected by the sheriff, constable or other officer upon any process or order issued from his court, and must pay the same over to the parties or persons entitled thereto without delay.

## CHAPTER IV.

### CONTEMPTS IN JUSTICES' COURTS.

SECTION 117. A justice may punish as for contempt, persons guilty of the following acts, and no other :

1. Disorderly, contemptuous or insolent behavior toward the justice while holding the court, tending to interrupt the due course of a trial or other judicial proceeding ;

2. A breach of the peace, boisterous conduct or violent disturbance in the presence of the justice, or in immediate vicinity of the court held by him, tending to interrupt the due course of a trial or other judicial proceeding ;

3. Disobedience or resistance to the execution of a lawful order or process, made or issued by him ;

4. Disobedience to a subpoena duly served, or refusing to be sworn or to answer as a witness ;

5. Rescuing any person or property in the custody of an officer by virtue of an order or process of the court held by him. (J. C. 78; C. L. 6118.)

SECTION 119. When the act or omission is not committed in the immediate view and presence of the justice, an affidavit alleging the facts may be filed, and a warrant of arrest may thereupon issue, on which the person accused may be arrested and brought before the justice immediately, when he must be given a reasonable opportunity to employ counsel and excuse or defend against the alleged contempt, and after hearing the allegations and proofs, the justice may discharge him or adjudge him guilty and

direct that he be punished accordingly. [For J. C. 80; C. L. 6128.]

SECTION 120. A justice may punish for contempts, by fine or imprisonment, or both; such fine not to exceed, in any case, one hundred dollars, and such imprisonment one day. [J. C. 81; C. L. 6121.]

SECTION 121. The conviction, specifying particularly the offense and the judgment thereon, must be entered by the justice in his docket. [For J. C. 82; C. L. 6122.]

## CHAPTER V.

### PROCEDURE IN CRIMINAL ACTIONS.

SECTION 122. A criminal action which a justices' court is empowered to hear, try and determine, may be prosecuted, in pursuance of the provisions of this chapter, upon a complaint entered before any justice of the peace of the county in which the offense is laid. [For J. C. 104; C. L. 6145.]

SECTION 123. All proceedings in the action must be entered by the justice in his docket as nearly as may be in the manner and form prescribed in a civil action, with the modifications prescribed by this chapter. [For J. C. 109; C. L. 6150.]

SECTION 124. The complaint must be in writing and must state the facts constituting the offense in ordinary and concise language, with sufficient certainty, and with such particulars of time, place, person and property, as will enable a person of common understanding to know what is intended and authorized the court to pronounce judgment. [For J. C. 106; C. L. 6147.]

SECTION 125. The complaint must be sworn to before the justice, who may, if he deems proper, examine the complainant, or other persons under oath concerning the grounds of the accusation; and if the justice is satisfied that sufficient grounds exist for the prosecution he shall issue a warrant for the arrest of the defendant. [For J. C. 107; C. L. 6148.]

SECTION 126. A complaint may be substantially in the following form: State of North Dakota, County of (naming it), in justices' court, before (name of justice). The State of North Dakota against (name of accused). Complaint. (Name of complainant), being first duly sworn, says that on the (time of offense), at said county, the above named defendant did (here state the offense), against the peace and dignity of the State of North Dakota. Wherefore complainant prays that said defendant may be arrested and dealt with according to law. (Signature of complainant.) Subscribed and sworn to before me (giving date). (Official signature of the justice.)

SECTION 127. A warrant may be substantially in the following form, filling blanks according to the facts: The State of North Dakota to the sheriff or any constable of ..... county. Complaint upon oath having been made before me (name of justice) a justice of the peace of said county, by (name of complainant), accusing (name of defendant) of the commission of a public offense, to-wit: here designate the offense by name or general description); You are therefore commanded to arrest said (name of defendant) forthwith, and bring him before me, at (stating the place), there to be dealt with according to law. Witness my hand this.....day of.....18.... (Official signature of the justice.) (For J. C. 107; part C. L. 6148.)

SECTION 128. An officer who receives a warrant must execute the same with diligence by taking the defendant into his custody and bringing him without unnecessary delay before the justice who issued the same.

SECTION 129. The warrant may be served in any other county in the manner prescribed by Section .. of the Code of Criminal Procedure. (J. C. 108; C. L. 6149.)

SECTION 130. When the defendant is brought before the justice he must be allowed a reasonable time and opportunity to procure counsel.

SECTION 131. A reasonable postponement of the hearing or trial may also be ordered at any time, to enable the complainant or defendant to procure the attendance or testimony of a witness, or for any other good cause. (For J. C. 114; C. L. 6155.)

SECTION 132. The defendant, at any time before conviction, may be admitted to bail, by giving an undertaking with sufficient surety, in an amount to be fixed by the justice, for his appearance before the justice to answer the complaint. (For J. C. 34; C. L. 6175.)

SECTION 133. Where the defendant, before the trial commences, files an affidavit in writing, stating that he has reason to believe and does believe that he cannot have a fair and impartial trial of the action before the justice about to try the same, by reason of the bias or prejudice of said justice, the action must be transferred to a justice of the county agreed upon by or in behalf of the parties, or if there be such agreement, to the next nearest justice within the county, and an order must be made transferring the same accordingly. But the place of trial cannot be changed more than once under the provisions of this section. (For S. 1, C. 82, 1887; Ch. 81, 1893; C. L. 6153.)

SECTION 134. When a change of the place of trial is ordered, the justice must forthwith attach to the original papers a certified copy of his docket entries in the action and deliver the same to an officer, who must execute the order without delay by taking the defendant before the justice named, and delivering to him the papers so received. (For J. C. 113; C. L. 5154, part.)

SECTION 135. The justice to whom the action is transferred, as provided in the last section, must proceed with the trial in the same manner as in an action originally commenced before him. (For J. C. 113; part 6154.)

SECTION 136. Before the trial commences the complaint must be distinctly read to the defendant, and he must be asked if he is designated therein by his right name and be required to plead.

SECTION 137. If the defendant objects that he is wrongly named in the complaint, and gives his right name, the proceedings shall be amended accordingly. If he does not give his right name, he is thereafter precluded from making any objections on the grounds that he is not designated by his right name.

SECTION 138. The defendant may make the same pleas as to an information or indictment. His plea may be oral,

and must be entered in the docket. If he refuses to plead, a plea of "not guilty" must be entered. (For J. C. 110; part C. L. 6151.)

SECTION 139. If the defendant pleads guilty, the court, before accepting the plea, may examine witnesses to ascertain the gravity of the offense; and, if it appears from the testimony that the offense committed is of a higher grade than that charged in the complaint, the court may refuse to accept the plea, and direct a complaint to be filed, charging the offense accordingly and proceed with a preliminary examination of the defendant as prescribed in the Code of Criminal Procedure. (For J. C. 110 part; C. L. 6151.)

SECTION 140. When the defendant makes any plea, other than a plea of guilty, the issue shall be tried by the court, unless a jury is demanded; but, if either party demands a jury before the court hears any testimony, the issue must be tried by a jury of twelve persons. (For J. C. 111; C. L. 6152.)

SECTION 141. The provisions of Article Six of Chapter Three of this Code apply to the formation of the jury and the conduct of the trial, except as otherwise prescribed by this chapter. (For J. C. 116; C. L. 6157.)

SECTION 142. Challenges may be taken by either party to individual jurors for the same causes as on a trial in the district court, for a criminal offense. (For J. C. 117; C. L. 6158.)

SECTION 143. The court must administer to the jury the following oath: You do swear or affirm that you will well and truly try this issue between the State of North Dakota and A. B., the defendant, and a true verdict render according to the evidence; so help you God. (For J. C. 118; C. L. 6159.)

SECTION 144. The defendant must be personally present during the progress of the trial. [J. C. 115; C. L. 6156.]

SECTION 145. The verdict of the jury on a plea of not guilty must be to the effect that the jury find the defendant 'guilty,' or 'not guilty,' as the case may be. On any

other plea the verdict must be 'for the state,' or 'for the defendant.' (For J. C. 122, C. L. 6163.)

SECTION 146. When several defendants are tried together, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the rest may be tried by another jury. (For J. C. 123, C. L. 6164.)

SECTION 147. When the verdict is received the court must immediately render judgment thereon and enter the same in the docket. (For J. C. 129; C. L. 6170.)

SECTION 148. When the defendant is acquitted by the court, or by a verdict of 'not guilty,' or, 'for the defendant', a judgment of acquittal must be rendered, and if the defendant is not detained on legal process for any other cause, he must be immediately discharged. (For J. C. 128, 130; C. L. 6169, 6171.)

SECTION 149. When the defendant is convicted by the court, or by a verdict of 'guilty,' or a verdict 'for the state' which does not also find the defendant not guilty, the court shall render judgment that he be punished by a fine, or by imprisonment in the county jail, or by both fine and imprisonment, specifying the amount of the fine or time of imprisonment. A judgment of fine only may also direct that the defendant be imprisoned until the same is satisfied. In a case in which the court has a discretion as to the extent of the punishment, it may, upon the suggestion of either party before rendering judgment, hear testimony as to circumstances proper to be considered in aggravation or mitigation of punishment. (For J. C. 126; C. L. 6167.)

SECTION 150. If the defendant is convicted, the justice when he renders judgment, must inform him of his right to appeal, and prescribe the amount in which he may give bail for his appearance in the district court in case of an appeal.

SECTION 151. A judgment which imposes a fine, without directing that the defendant be imprisoned until the same is satisfied, may be enforced in the same manner as a judgment in a civil action, and execution shall issue accordingly, at the request of the State's Attorney. [For J. C. 127; C. L. 6168.]

SECTION 152. A judgment of imprisonment must be executed by delivering the defendant into the custody of the sheriff or other officer in charge of the county jail, who shall safely keep him therein until the expiration of the time specified in the judgment charged. A judgment of fine which directs that the defendant be imprisoned until the fine is paid must be executed in like manner, except that the time of imprisonment shall be at the rate of one day for each two dollars of the fine and the defendant must be discharged on payment of the fine. [For J. C. 132; C. L. 6173.]

SECTION 153. A copy of the judgment duly certified by the justice is a sufficient warrant for the doing of every act necessary or proper in the due execution thereof as prescribed in the preceding section, by an officer receiving the same. The officer shall, upon discharging the defendant, return such copy to the justice, with an account of his doings indorsed thereon, and must at the same time pay over to the justice all money which he may have received from the defendant in payment of the fine. (For J. C. 131; C. L. 6172.)

SECTION 154. When the fine is paid, the justice must apply the money in payment of the legal costs and expenses of the prosecution, and pay over the residue, if any, to the county treasurer. (For S. 2, C. 111, 1885; J. C. 133, 6174.)

## CHAPTER VI.

### ARTICLE I.—APPEALS FROM JUSTICES' COURTS—APPEALS IN CIVIL ACTIONS.

SECTION 155. Any party dissatisfied with a judgment rendered in a civil action in a justice's court, whether the same was rendered on default or after a trial, may appeal therefrom to the district court of the county or subdivision at any time within thirty days after the rendition of the judgment. The appeal is taken by serving the notice of appeal on the adverse party, or his attorney, and by filing the notice of appeal together with the undertaking required by law with the clerk of the district court of the county to which the appeal is taken.

SECTION 156. To render an appeal effectual for any purpose, an undertaking must be executed on the part of the appellant by sufficient surety to the effect that the appellant will pay all costs which may be awarded against him on the appeal, not exceeding one hundred dollars, which undertaking shall be approved by and filed in the office of the clerk of the district court of the county to which the appeal is taken.

SECTION 157. If the appellant desires a stay of execution an undertaking must be executed on his part by sufficient surety to the effect, that if the appeal is dismissed the appellant will pay the amount of the judgment appealed from and all costs, or if judgment is rendered against him in the appellate court, that he will pay the amount of such judgment and all costs, not exceeding a sum specified in the undertaking, which must be at least one hundred dollars, and not less than twice the amount of the judgment appealed from; or, if the judgment appealed from is for the recovery of specific personal property, an undertaking must be executed on the part of the appellant by sufficient surety to the effect that if the appeal is dismissed, or if judgment is rendered against the appellant in the appellate court, the appellant will deliver the property described in the judgment and pay the damages awarded for the taking or detention thereof and all costs, or pay the sum fixed by the judgment as the value of the property, together with the damages awarded for the taking or detention thereof and all costs. Such undertaking shall be approved and filed as provided in the last section.

SECTION 158. In judgments for the delivery of possession in actions of forcible detainer the execution of the same shall not be stayed, unless a written undertaking is executed on the part of the appellant with sufficient surety to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the appeal is dismissed, or judgment is rendered against the appellant in the appellate court he will pay all rents for the use and occupation of the property and all damages from the time of the appeal until the delivery of the possession thereof. Such undertaking is in addition to the undertaking provided for in the

last section and shall be approved and filed in the manner provided in Section 156.

SECTION 159. When the appellant is required under any provision of this article to give an undertaking he may in lieu thereof deposit with the clerk of the district court in whose office the notice of appeal is required to be filed, who shall give a receipt therefor, a sum of money equal to the amount for which such undertaking is required to be given and in lieu of the service of such undertaking serve a notice of the making of such deposit. Such deposit and notice shall have the same effect as the service of the required undertaking and be held to answer the event of the appeal upon the terms prescribed for the undertaking in lieu of which the same is deposited.

SECTION 160. The undertaking given on appeal and appellant's pleading, if the judgment appealed from was taken by default, must be served with the notice of appeal. The adverse party may except to the sufficiency of the surety upon any undertaking on appeal within five days after its service upon him. Thereupon the surety must justify upon like notice and in like manner as bail upon an arrest; or a new undertaking must be given with new surety and thereupon the same proceedings may be had as upon the original undertaking. Unless such surety justifies or a new undertaking with new surety is given and justifies, if required, the appeal must on motion of the respondent be dismissed; but the liability of the surety upon any undertaking given on appeal shall not be thereby released.

SECTION 161. Upon the filing of the notice of appeal and undertaking, or the making of the deposit prescribed in Section 159 in the office of the clerk of the district court such clerk shall immediately mail to the justice of the court in which the judgment appealed from was rendered a written notice thereof, specifying the court in which the judgment was rendered, the names of the parties, the date and amount of the judgment appealed from and stating whether the undertaking filed or deposit made entitles the appellant to a stay of execution and requiring such justice to transmit to such clerk the record required by law. Such justice must within ten days after the receipt of such notice transmit to the clerk of the district

court a record which shall contain a certified copy of the justice's docket, the pleadings, all notices, motions and other papers filed in the cause. The justice may be compelled by the district court by order entered upon motion to transmit such record and may be fined for neglect or refusal so to do. A certified copy of such order may be served on the justice by the party or his attorney.

SECTION 162. If an execution has been issued the justice must, if the written notice received from the clerk states that the undertaking filed or deposit made entitles the appellant to a stay of execution, by order direct a stay of all proceedings on the same. The officer in whose hands such execution may be must upon payment of his fees for services rendered upon the execution relinquish all property levied upon and deliver the same to the judgment debtor together with all moneys collected from sales or otherwise. If his fees are not paid the officer may retain so much of the property or proceeds thereof as may be necessary to pay the same.

SECTION 162 a. The action shall be tried anew in the district court in the same manner as actions originally commenced therein. No notice of trial and note of issue shall be required to be served or filed in order to bring the case upon the trial calendar in the district court, but the record of such appeal shall be filed by the clerk of the district court and the action entered upon the calendar.

SECTION 162 b. When an appeal to the district court is dismissed and no appeal is taken to the supreme court from the judgment for costs rendered in the district court upon the dismissal thereof a certified copy of the order dismissing the same shall be filed in the justice's court in which the judgment was rendered and thereafter the judgment appealed from shall have the same force and validity, and may be enforced in the same manner as if no appeal had been taken. In case an appeal is taken to the supreme court after a certified copy of the order aforesaid is filed in the justice's court the judgment therein shall be suspended until the further order of the district court.

#### ARTICLE 2.—APPEALS IN CRIMINAL ACTIONS.

SECTION 163. A defendant in a criminal action may

appeal from the judgment of a justice of the peace at any time within thirty days by giving notice of the appeal and giving bail for his appearance in the district court as prescribed in this article. (For J. C. 136; C. L. 6177.)

SECTION 164. The notice may be given by stating orally to the justice, at the time of rendering judgment, that the defendant appeals, or by filing with the justice a written notice of appeal, and serving a copy thereof on the State's Attorney of the county within the prescribed time. (For J. C. 137; C. L. 6178.)

SECTION 165. Bail must be given in the sum fixed by the justice to the effect that the defendant shall appear in the district court on the first day of the next term convening within the county, there to answer the complaint and abide the further orders of the court. Such bail may be given by the written undertaking of one or more sufficient sureties approved by the justice, or by a deposit of money in lieu of sureties. (For J. C. 138; C. L. 6179.)

SECTION 166. If the justice refuses to approve the undertaking, it may be approved by the clerk of the district court, and filed with the justice with the same effect as if approved by him. [For J. C. 139; C. L. 6180.]

SECTION 167. When an appeal is taken, the justice must, if application is made by the State's Attorney, cause all material witnesses on behalf of the prosecution to enter into an undertaking in like manner as in a case where a defendant is held to answer on a preliminary examination. (J. C. 140; C. L. 6181.)

SECTION 168. The justice must, within five days after an appeal is taken, transmit to the clerk of the district court a certified copy of his docket, and all papers relating to the case, as on appeal in a civil action, and may be compelled to do so, or make a further return in like manner. If money has been deposited in lieu of bail it must accompany the return. (For J. C. 142; C. L. 6182.)

SECTION 169. An appeal duly perfected transfers the action to the district court for trial anew, regardless of any ruling or decision of the justice. But the defendant may move to dismiss the complaint on the ground that the

justice did not have jurisdiction of the offense. He may also demur to the complaint because more than one offense is charged therein, or because the facts stated do not constitute a public offense. If he does not object to the complaint for the causes above specified, or if his objections are overruled he must be required to plead as to an indictment or information, without regard to any plea entered before the justice. In other respects the proceedings shall be the same as in criminal actions originally commenced in the district court, and judgment shall be rendered and carried into effect accordingly.

SECTION 170. No appeal from the judgment of a justice of the peace in a criminal action shall be dismissed. But if the appeal was not taken in time, or if the defendant fails to appear in the district court when his presence is required, the judgment of the justice shall be summarily affirmed and entered as the judgment of the district court and carried into effect as such. (For J. C. 142; C. L. 6183.)

## CHAPTER VII.

### ACCOUNTING BY JUSTICES OF THE PEACE.

SECTION 171. Every justice of the peace shall, on the first Monday of January, April, July, October in each year make to the county commissioners of his county, a full report, under oath, of all his doings in actions or proceedings in which the county or state is a party, or is in any manner interested. (For S. 1, c. 3, J. C.; C. L. 6184.)

SECTION 172. Such report shall contain the names of the parties to each action or proceeding, and a statement of the final order or judgment of the justice therein, and of all orders relating to costs an itemized statement of all fees, taxed or allowed as costs in each action or proceeding, and the names of the persons or officers entitled thereto, including all costs of the prosecution or defense, in a criminal proceeding, which are payable by the county, also a statement of each payment made on such judgment, and the disposition thereof made by the justice. (For S. 2, ch. 3, J. C.; C. L. 6185.)

SECTION 173. Each justice of the peace, shall, at the time of making his report, pay over to the county treas-

urer of his county all fines or other moneys collected or received by him in behalf of the county or state and remaining in his hands; but whenever the amount of money so collected and received exceeds one hundred dollars, he must pay the same over to the treasurer forthwith. (For S. 3. c. 3, J. C.; C. L. 6186.)

SECTION 174. Any justice of the peace violating any of the provisions of this act shall be liable to a fine of not less than ten nor more than one hundred dollars, to be recovered in a civil action by the county. [S. 4, c. 3, J. C.; C. L. 6187.]

SECTION 175. If any justice of the peace shall neglect or refuse to make such report, or neglect or refuse to pay over the aforesaid moneys collected by them, or shall refuse to allow the county commissioners or any of them to examine the records in regard to such matters, he shall be deemed guilty of willful and corrupt misconduct in office. [S. 5, c. 2, J. C.; C. L. 6188.]

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APPENDIX.

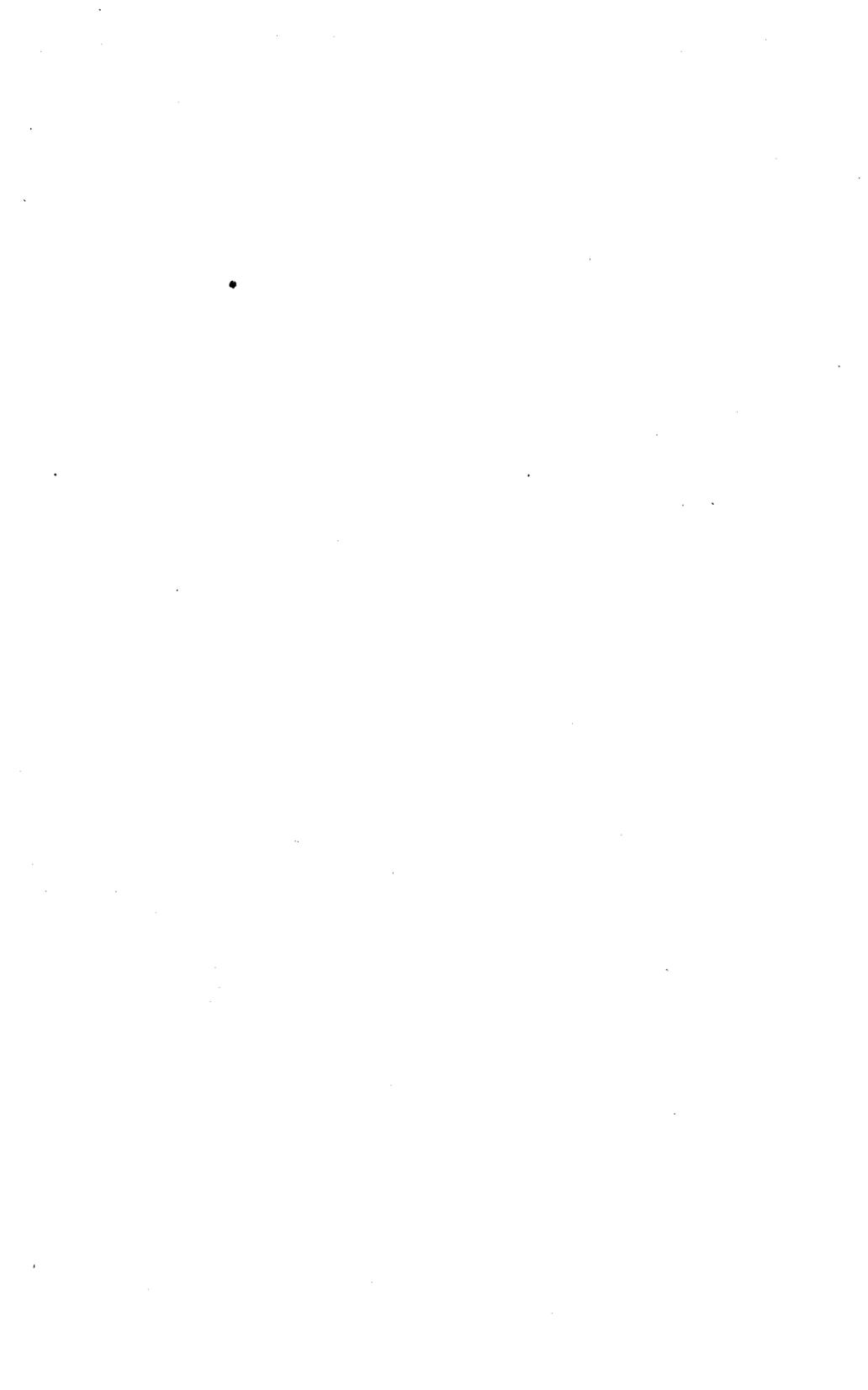
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PENAL CODE.  
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PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

—————  
REPORT OF JOINT COMMITTEE.  

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## A BILL

For An Act to Establish a Penal Code for the State of  
North Dakota.

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

## PENAL CODE.

## CHAPTER I.

## PRELIMINARY PROVISIONS.

SECTION 1. This act shall be known as The Penal Code of the State of North Dakota.

SECTION 2. No act or omission begun after the beginning of the day on which this Code takes effect as a law shall be deemed criminal or punishable except as prescribed or authorized by this Code or other Statutes of this State or by some of the Statutes which this Code specifies as continuing in force and as not affected by its provisions, or by some ordinance or municipal, county or township regulation passed or adopted under any such Statutes. Any act or omission begun prior to the beginning of the day on which this Code takes effect as a law may be inquired of, prosecuted and punished in the same manner as if this Code had not been enacted.

SECTION 3. A crime or public offense is an act committed in violation of a law forbidding or commanding it,

and to which is annexed, upon conviction, either of the following punishments.

1. Death.
2. Imprisonment.
3. Fine.
4. Removal from office.
5. Disqualification to hold or enjoy any office of honor, trust or profit under this State ; or
6. Other penal discipline.

SECTION 4. Crimes are divided into :

1. Felonies.
2. Misdemeanors.

SECTION 5. A felony is a crime which is or may be punishable with death or imprisonment in the penitentiary; every other crime is a misdemeanor. When a crime punishable by imprisonment in the penitentiary is also punishable by fine or imprisonment in a county jail, in the discretion of the court or jury, it is, except when otherwise specially declared by law to be a felony, a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the penitentiary.

SECTION 6. This Code specifies the classes of persons who are deemed capable of crimes, and liable to punishment therefor ; and defines the nature of the various crimes ; and prescribes the kind and measure of punishment to be inflicted for each. The manner of prosecuting and convicting criminals is regulated by the Code of Criminal Procedure.

SECTION 7. The punishments prescribed by this Code can be inflicted only upon a legal conviction in a court having jurisdiction.

SECTION 8. Whenever a crime is distinguished into degrees, the jury, if they convict the prisoner, shall find degree of the crime of which he is guilty.

SECTION 9. The rule of the common law that penal

statutes are to be strictly construed, has no application to this Code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its objects and to promote justice.

SECTION 10. Except as limited in cases where the jury is authorized to determine the punishment, the several sections of this Code which declare certain crimes to be punishable as therein mentioned, devolve a duty upon the court authorized to pass sentence, to determine and impose the punishment prescribed.

SECTION 11. Whenever in this Code the punishment for a crime is left undetermined between certain limits the punishment to be inflicted in a particular case must be determined by the jury, when so authorized, or by the court authorized to pass sentence, within such limits as may be prescribed in this Code.

SECTION 12. Except in cases where a different punishment is prescribed by this Code, or by some existing provision of law, every offense declared to be a felony is punishable by a fine not exceeding one thousand dollars, or by imprisonment in the penitentiary not less than one year nor exceeding five years or by both such fine and imprisonment. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable, as for a felony, and there is no other punishment prescribed by law, such corporation is punishable by a fine of not less than five hundred and not exceeding five thousand dollars.

SECTION 13. Except in cases where a different punishment is prescribed by this Code, or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

## CHAPTER II.

### OF PERSONS LIABLE TO PUNISHMENT FOR CRIME.

SECTION 14. The following persons are liable to punishment under the laws of this State :

1. All persons who commit, in whole or in part, any crime within this State.

2. All persons who commit larceny or robbery as defined in this Code, out of this State and bring to, or are found with the property stolen within this State.

3. All persons who, being out of this State, abduct or kidnap, by force or fraud, any person, contrary to the laws of the place where such act is committed, and bring, send or convey such person within the limits of this State, and are afterwards found therein.

4. All persons who, being out of this State, cause or aid, advise or encourage another person to commit a crime within this State, and are afterwards found therein.

5. All persons who, being out of this State and with intent to cause within it a result contrary to the laws of this State, do an act which, in its natural and usual course, results in an act or effect contrary to its laws.

SECTION 15. All persons are capable of committing crime, except those belonging to the following classes:

1. Children under the age of seven years.

2. Children over the age of seven years but under the age of fourteen years, in the absence of clear proof that at the time of committing the act or neglect charged against them, they knew its wrongfulness.

3. Idiots.

4. Lunatics, insane persons and all persons of unsound mind, including persons temporarily or partially deprived of reason, upon proof that at the time of committing the act charged against them they were incapable of knowing its wrongfulness.

5. Persons who commit an act or make an omission, otherwise criminal or punishable, through misfortune or by accident, or under an ignorance or mistake of fact, which disproves any criminal intent. But ignorance of the law does not excuse from punishment for its violation.

6. Persons who commit an act or make an omission, otherwise criminal or punishable, without being conscious thereof.

7. Persons who commit an act or make an omission, otherwise criminal or punishable, while under involuntary subjection to the power of superiors.

### CHAPTER 3.

#### OF PARTIES TO CRIMES.

SECTION 25. The parties to crimes are classified as:

1. Principals; and,
2. Accessories.

SECTION 26. All persons concerned in the commission of a crime, whether it is a felony or a misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counseling, advising or encouraging children under the age of fourteen years, lunatics or idiots, to commit any crime, or who, by fraud, contrivance or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command or coercion compel another to commit any crime, are principals in any crime so committed.

SECTION 27. All persons who, after the commission of any felony, conceal or aid the offender, with knowledge that he has committed a felony, and with intent that he may avoid or escape from arrest, trial, conviction or punishment, are accessories.

SECTION 28. In misdemeanor, there are no accessories.

SECTION 29. Except in cases where a different punishment is prescribed by law, an accessory to a felony is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or in a county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

## CHAPTER 4.

## OF CRIMES AGAINST RELIGION AND CONSCIENCE.

SECTION 30. Blasphemy consists in wantonly uttering or publishing words, casting contumelious reproach or profane ridicule upon God, Jesus Christ, the Holy Ghost, the Holy Scriptures, or the Christian religion.

SECTION 31. If it appears beyond reasonable doubt that the words complained of were used in the course of serious discussion, and with intent to make known or recommend opinions entertained by the accused, such words are not blasphemy.

SECTION 32. Blasphemy is a misdemeanor.

SECTION 33. Profane swearing consists in any use of the name of God, or Jesus Christ, or the Holy Ghost, either in imprecating divine vengeance upon the utterer, or any other person, or in light, trifling or irreverent speech.

SECTION 34. Every person guilty of profane swearing is punishable by a fine of one dollar for each offense.

SECTION 35. Whenever any profane swearing is committed in the presence and hearing of any justice of the peace, or other magistrate, while holding a court, or under any other circumstances such as in the opinion of the magistrate amount to a gross violation of public decency, such magistrate may, in his discretion, immediately convict the offender, without any other proof.

SECTION 36. If the offender does not forthwith pay the penalties incurred, with the costs, or give security for their payment within six days, he shall be committed by warrant to the county jail for every offense, or for any number of offences whereof he was convicted at one and the same time, for not less than one day, nor more than three days; there to be confined in a room separate from all other prisoners.

SECTION 37. Any person who shall utter or speak any obscene or lascivious language or words, in any public place, or in the presence of females, or of children under ten years of age, shall be deemed guilty of a misdemeanor,

and upon conviction thereof before any justice of the peace of this State, or before a county court exercising increased jurisdiction, as provided in Section III of the Constitution of this State, shall be liable to a fine of not more than one hundred dollars, or imprisonment in the county jail not more than thirty days, or both, at the discretion of the court.

SECTION 38. The first day of the week being by general consent set apart for rest and religious uses, the law prohibits the doing on that day of certain acts hereinafter specified.

SECTION 39. Any violation of the foregoing prohibition is Sabbath breaking.

SECTION 55. No prosecution for any of the offenses mentioned in this chapter shall be maintained unless commenced within thirty days next after the commission thereof.

## CHAPTER V.

### CRIMES AGAINST THE ELECTIVE FRANCHISE.

SECTION 56. Every person who, by force, threats, bribery or by offering to give or by giving a bribe to any elector, or by any corrupt means whatever, either directly or indirectly, attempts to influence or influences any such elector in giving his vote at any election; or who attempts to deter or deters him from giving his vote at such election, or attempts by any means whatever to awe, restrain, hinder or disturb any elector in the free exercise of the right of suffrage, or defrauds any elector at any such election by deceiving and causing such elector to vote for a different person for any office than he intended or desired to vote for, or who, being an inspector, member of the board of election, judge or poll-clerk of any election, while acting as such, or during the continuance of an election, induces or attempts to induce any elector, either by menaces or reward or promises thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars and not less than one hundred dollars and

by imprisonment in the county jail not exceeding one year and not less than three months.

SECTION 58. Every person who makes, offers or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any particular person or persons, or upon the decision to be made by any inspector of election, board of election, or any member thereof, or any canvasser, board of canvassers or other election officers, or any question arising in the course of an election, or upon any event whatever depending upon the conduct or result of an election; or upon the conduct or decision of any officer of an election or board of such officers, is guilty of a misdemeanor.

SECTION 62. Every person who fraudulently alters the ballot of any elector or substitutes one ballot for another, or furnishes any elector with a ballot otherwise than as provided and authorized by law, or with a ballot containing more than the proper number of names, or who intentionally practices any fraud upon any elector to induce him to deposit a ballot as his vote, and to have the same thrown out and not counted, or otherwise to defraud him of his vote, is guilty of a misdemeanor.

SECTION 80. Every person who willfully disobeys a lawful command of an inspector or judge of election or board of election, or board of judges of an election, or election officers, given in the execution of his or their duty as such at any election, is guilty of a misdemeanor.

SECTION 81. Every person who is guilty of any riotous conduct, or causes any disturbance or breach of the peace, or uses any disorderly violence, or threats of violence, whereby any elector is impeded or hindered, or whereby the lawful proceedings of any inspector or judge of election or poll clerk or other officer of election, or election officer, or board of election, or canvassers at such election, in the discharge of his or their duty, are interfered with, is guilty of a misdemeanor.

SECTION 82. Whenever, at an election, any person refuses to obey the lawful command of an inspector or judge of

election, or of a board of election, or other officer of election, or election officer, or board of canvassers or by any disorderly conduct in his or their presence interrupts or disturbs his or their proceeding, he or they may make an order directing the sheriff or any constable of the county, or one or more special constables, to be appointed by him or them, to take the person so offending into custody and detain him until the final canvass of the votes shall be completed. But such order shall not prohibit the person taken into custody from voting at such election.

SECTION 85. Every person who falsely makes, or makes oath to or fraudulently destroys any certificate of nomination, or any part thereof, or files or receives for filing any certificate of nomination, knowing the same or any part thereof to be falsely made, or suppresses any certificate of nomination which has been duly filed, or any part thereof, or forges or falsely makes the official indorsement on any ballot, or willfully neglects properly to indorse said ballot, shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one and not exceeding five years.

SECTION 86. Every person who, during an election, willfully removes or destroys any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to or on the day of an election willfully defaces or destroys any list of candidates posted in accordance with the provisions of law, or any copy of the printed ticket so posted, or who, during an election, tears down or defaces the cards printed for the instruction of voters, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars.

SECTION 87. Every poll-clerk, or clerk of the poll at any election, who willfully keeps a false poll-list, or who knowingly inserts in his poll-list any false statement, is guilty of a misdemeanor.

SECTION 88. Every inspector or judge of an election, who willfully excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election, or who willfully receives a vote from

any person who has been duly challenged in relation to his right to vote at such election without exacting from such person such oath or other proof of qualification as may be required by law, or who willfully omits to challenge any person offering to vote whom he knows or suspects not to be duly entitled to vote and who has not been challenged by any other person, is guilty of a misdemeanor.

SECTION 89. Every inspector or judge of election, member of any board of election, or of canvassers, poll-clerk, messenger or other officer authorized to take part in or perform any duty in relation to any canvass or official statement of votes cast at any election, who willfully makes any false canvass of such votes, or makes, signs, publishes or delivers any false returns of such election, knowing the same to be false, or willfully defaces, destroys or conceals any statement or certificate entrusted to his care, is guilty of a misdemeanor.

SECTION 90. Every person who gives or offers a bribe to any inspector, judge, clerk, canvasser or other officer of any election, or of any board of election, as a consideration for some act done or omitted to be done, contrary to his official duty in relation to such election, shall be punished by a fine not exceeding five hundred dollars and imprisonment in the county jail not exceeding six months.

SECTION 99. Every person who is not a qualified elector of the ward or election precinct in which any caucus or primary meeting is held and having for its object either immediately or ultimately, the nomination or selection of any delegate, or of any candidate for a public office to be voted for at any election in this State, who in any manner votes upon any question or issue pending before or submitted to such caucus or primary meeting, is guilty of a misdemeanor.

SECTION 100. Every person who, at a political convention, or a convention of a political character, called, convened or held within this State, uses or attempts to use the proxy of a delegate sent or elected thereto from a political subdivision designated or recognized as the unit of representation therein, unless he is an actual resident of such political subdivision, is guilty of a misdemeanor, and upon conviction thereof, is punishable by a fine of not less

than twenty and not exceeding one hundred dollars or by imprisonment in the county jail not less than ten days and not not exceeding one year or both, at the discretion of the court.

SECTION 119. Every person being Governor of this State, who asks, receives, or agrees to receive any bribe, upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers or promises his official influence in consideration or upon condition that any member of the Legislative Assembly, or either House thereof, shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity; or who menaces any member of the Legislative Assembly, or either House thereof, by the threatened use of his veto power; or who offers or promises any member of the Legislative Assembly, or either House thereof, that he, the said Governor, will nominate for appointment, or appoint any particular person or persons to any office created, or thereafter to be created, in consideration, or upon condition that any such member shall give his official vote or influence on any matter pending, or thereafter to be introduced into either House of the Legislative Assembly; or who threatens any member of the Legislative Assembly, or either House thereof, that he, the said Governor will remove any person or persons from any office or position held by such person or persons under the laws of this State, with intent in any manner to influence the action of said member, shall be punished by imprisonment in the penitentiary not less than one year and not exceeding ten years, or in the county jail not exceeding one year, or by a fine not exceeding five thousand dollars, or both, and, upon conviction of any or either of the offenses mentioned in this section shall forfeit any and all right to hold any office of trust or honor in this State.

SECTION 128. Every member of either of the Houses composing the Legislative Assembly of this State, who asks, receives, or agrees to receive, any bribe upon any understanding that his official vote, opinion, influence, judgment or action shall be influenced thereby, or shall be given in any manner or upon any particular side of any question or matter upon which he may be required to act

in his official capacity, is punishable by imprisonment in the penitentiary not less than one year and not exceeding ten years, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars or both.

SECTION 129. Every person elected to either House of the Legislative Assembly who shall offer or promise to give his official vote or influence in favor of or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, or either House thereof, in consideration or upon condition that any other person elected to the same Legislative Assembly, or either House thereof, will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such Legislative Assembly, or House, shall be deemed guilty of solicitation of bribery and shall, upon conviction thereof, be punished by imprisonment in the penitentiary not less than one and not exceeding five years, or by fine not exceeding five thousand dollars, or both, and shall not thereafter be eligible to the Legislative Assembly, or either House thereof.

SECTION 130. Every member of the Legislative Assembly, or either House thereof, who shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or either House thereof, or offer, or promise, or assent so to do, upon condition than any other member will give, promise or assent to give his vote, or influence in favor of or against any other such measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or House, or in consideration that any other member has given his vote or influence for or against any other measure or proposition in such Legislative Assembly, or House, shall be deemed guilty of bribery and, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one and not exceeding five years or by a fine not exceeding five thousand dollars, or both, and shall not thereafter be eligible to the Legislative Assembly, or either House thereof.

SECTION 131. Every person elected to either House of the Legislative Assembly who gives or offers or promises

to give his official vote or influence in favor of or against any measure or proposition pending or proposed to be introduced into or that has already passed or been passed by either House of the Legislative Assembly in consideration or upon condition that any person, being Governor of this State, shall approve or disapprove, veto or sign or agree to approve or disapprove, veto or sign any such measure or proposition, or any measure, proposition, bill or act or proposed law that has already passed or been passed by said Legislative Assembly, or either House thereof, or in consideration or upon condition that any person, being or acting Governor of this State, shall nominate for appointment or appoint or remove any person or persons to or from any office or position under the laws of this State, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one and not exceeding ten years, or in the county jail not exceeding one year, or by a fine not exceeding two thousand dollars, or both, and upon conviction of any or either of the offenses mentioned in this section, shall forfeit any and all right to hold or exercise any office of trust or honor in this State.

SECTION 132. Every person elected to the Senate of this State who shall offer or agree to give his official vote or influence for or against the confirmation of any person or persons nominated or to be nominated for appointment or appointed or to be appointed to any office in this State, in consideration or upon condition that the person being Governor of this State shall nominate for appointment or appoint or refuse to appoint or nominate for appointment any person or persons to or for any office or position in this State, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one and not exceeding ten years, or in the county jail not exceeding one year, or by a fine not exceeding two thousand dollars, or both, and upon conviction of any or either of the offenses mentioned in this section shall forfeit any and all right to hold or exercise any office of trust or honor in this State.

SECTION 6323. Every person, who, being duly summoned to attend as a witness before either House of the Legislative

Assembly or any committee thereof authorized to summon witnesses, refuses or neglects without lawful excuse to attend pursuant to such summons, is guilty of a misdemeanor.

SECTION 6324. Every person who, being present before either House of the Legislative Assembly or any committee thereof authorized to summon witnesses, wilfully refuses to be sworn or affirmed, or to answer any material and proper question, or to produce upon reasonable notice any material and proper books, papers, or documents in his possession or under his control, is guilty of a misdemeanor.

SECTION 6325. The conviction of a member of the Legislative Assembly of either of the crimes defined in this chapter, involves as a consequence, in addition to the punishment prescribed by this Code, a forfeiture of his office, and disqualifies him from ever afterwards holding any office under this State.

## CHAPTER X.

### OF ESCAPES AND AIDING THEREIN.

SECTION 147. Every person, in custody under sentence of imprisonment for any crime, who escapes from custody, may be recaptured and imprisoned for a term equal to that portion of his original term of imprisonment which remained unexpired upon the day of his escape.

SECTION 148. Every person who, being confined in the penitentiary or other prison, or being in the lawful custody of an officer or other person, by force or fraud escapes from such prison or custody, is guilty of a felony if such custody is upon a charge, arrest, commitment or conviction for a felony; and of a misdemeanor if such custody or confinement is upon a charge, arrest, commitment or conviction for a misdemeanor.

SECTION 149. Every person confined in the penitentiary for a term less than for life, who attempts by force or fraud, although unsuccessfully, to escape from such prison, is guilty of felony.

SECTION 150. Every person confined in any prison other

than the penitentiary, who attempts by force or fraud, although unsuccessfully, to escape therefrom, is punishable by imprisonment in the county jail not exceeding one year.

SECTION 151. Every person who wilfully, by any means whatever, assists any person confined in any prison to escape therefrom, is punishable as follows:

1. If the person assisted was held or confined upon a charge, arrest, commitment or conviction of felony, by imprisonment in the penitentiary not less than one and not exceeding ten years.

2. If the person assisted was held or confined otherwise than upon a charge, arrest, commitment or conviction of felony, by imprisonment in the county jail not exceeding one year or by fine not exceeding five hundred dollars or both.

SECTION 152. Every person who, with intent to effect or facilitate the escape of a prisoner, whether the escape is effected or attempted or not, enters a prison, or conveys to a prisoner any information, or sends into a prison any disguise, instrument, weapon, or other thing, is punishable as follows:

1. If such prisoner is held or confined upon a charge, arrest, commitment or conviction for a felony, by imprisonment in the penitentiary not less than one and not exceeding ten years.

2. If such prisoner is held or confined otherwise than upon a charge, arrest, commitment or conviction for felony, by imprisonment in the county jail not exceeding one year, or by a fine of five hundred dollars.

SECTION 153. Every person who aids or assists a prisoner in escaping or attempting to escape, from the lawful custody of a sheriff, or other officer or person, is guilty of a felony, if the prisoner is held under arrest, commitment or conviction for a felony, or upon a charge thereof; and of a misdemeanor, if the prisoner is held under arrest, commitment or conviction for a misdemeanor or upon a charge thereof.

SECTION 154. Every sheriff, or other officer or person, who

allows a prisoner, lawfully in his custody, in any action or proceeding, civil or criminal, or in any prison under his charge or control, to escape or go at large, except as permitted by law, or connives at or assists such escape, or omits an act or duty whereby such escape is occasioned or contributed to, or assisted, is,

1. If he corruptly and wilfully allows, connives at or assists the escape, guilty of a felony;

2. In any other case, he is guilty of a misdemeanor.

SECTION 155. Every officer who is convicted of the offence specified in the first subdivision of the last section, forfeits his office, and is forever disqualified to hold any office or place of trust, honor or profit under the laws of this State.

SECTION 156. Every person who knowingly or wilfully conceals, or harbors for the purpose of concealment, a person who has escaped or is escaping from custody, is guilty of a felony if the prisoner is held upon a charge or conviction of felony, and of a misdemeanor if the person is held upon a charge or conviction of misdemeanor.

SECTION 6346. The term prison in this chapter includes county jails, and every place designated by law for the keeping of persons held in custody under process of law or under any lawful arrest.

SECTION 6347. The term prisoner in this chapter includes every person held in custody under process of law issued from a court of competent jurisdiction, whether civil or criminal, or under any lawful arrest.

SECTION 159. Whenever a prosecution takes place of any person for any crime or public offense committed by, or charged against him while such person was, or is under sentence to be or is confined in the penitentiary, the clerk of the district court, where such trial is had, shall make out a detailed statement of all the costs incurred by the county for the trial of such person, including his preliminary examination, and for keeping and guarding him, and the judge of said court shall certify that the same is correct. The said clerk shall thereupon transmit said certified statement to the State Auditor, and said State Auditor

shall audit said expenses and statement and draw his warrant in favor of the treasurer of the county for the amount allowed, to be paid out of the State treasury.

SECTION 171. Every person who wilfully makes or gives under oath or affirmation a false list of his taxable property, or a false list of the taxable property in his use or possession or under his control and required by law to be listed by him is guilty of perjury.

SECTION 234. Every person who, not being authorized by law or by consent of the warden, deputy warden or other person in charge of the penitentiary, communicates with any inmate of the penitentiary or brings into, or conveys out of, the penitentiary any letter or printing, to, or from, any such inmate, is guilty of a misdemeanor.

## CHAPTER XV.

### CONSPIRACY.

SECTION 237. If two or more persons conspire, either

1. To commit a crime; or
2. Falsely and maliciously to indict another for a crime, or to procure another to be complained of or arrested for a crime; or
3. Falsely to institute or maintain an action or special proceeding; or
4. To cheat and defraud another out of property, by any means which are in themselves criminal or which, if executed, would amount to a cheat, or obtain money or any other property by false pretenses; or
5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements or property belonging to or used by another, or with the use or employment thereof; or
6. To commit any act injurious to the public health to public morals or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws: each of them is guilty of a misdemeanor.

SECTION 239. No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

SECTION 6427. No agreement except to commit a felony upon the person of another, or to commit arson or burglary amounts to a conspiracy, unless some act besides such agreement be done to effect the object thereof, by one or more of the parties to such agreement.

SECTION 241. Every person, corporation, or agent thereof, who maliciously interferes or hinders, in any way, any citizen of this State from obtaining employment or enjoying employment already obtained, from any other person or corporation, is guilty of a misdemeanor.

SECTION 242. Every corporation, officer, agent, or employe thereof, and every person of any corporation on behalf of such corporation, who exchanges with or furnishes or delivers to any other corporation or any officer, agent, employe or person thereof, any "black list" is guilty of a misdemeanor.

## CHAPTER XVI.

### TREASON AND MISPRISION OF TREASON.

SECTION 244. Every person owing allegiance to this State who levies war against it, or adheres to its enemies, or gives them aid or comfort within this State or elsewhere, is guilty of treason. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or his confession thereof in open court. Every person guilty of treason shall, upon conviction thereof, be punished by death, or, at the discretion of the court, shall be imprisoned in the penitentiary not less than five years and be forever incapable of holding any office under this State.

SECTION 245. Every person owing allegiance to this

State and having knowledge of any treason against it, who conceals and does not, as soon as may be, disclose the same and make the same known to the Governor or the Attorney General, or to some judge of this State or of some district thereof, or to the state's attorney of some county, or a magistrate thereof, is guilty of misprision of treason and, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than and not exceeding five years.

## CHAPTER XVIII.

### HOMICIDE.

SECTION 254. Homicide is the destruction of the life of one human being by the act, agency, procurement, or culpable omission of another.

SECTION 6438. Homicide is either:

1. Murder.
2. Manslaughter.
3. Excusable homicide; or,
4. Justifiable homicide.

SECTION 256. No person can be convicted of murder, or manslaughter, or of aiding suicide, unless the death of the person alleged to have been killed, and the fact of the killing by the accused as alleged are each established as independent facts; the former by direct proof, and the latter beyond a reasonable doubt; but in no case upon a plea of not guilty, shall the confession or admission of the accused, in writing or otherwise, be admissible to establish the death of the person alleged to have been killed.

SECTION 260. The word felony in the last section imports any act or omission declared or defined to be a felony by any law of this State or by this Code without regard to the effect thereon of the punishment actually imposed.

SECTION 6443. A design to effect death is inferred from the fact of killing, unless the circumstances raise a reasonable doubt whether such design existed.

SECTION 6444. A design to effect death sufficient to constitute murder, may be formed instantly before committing the act by which it is carried into execution.

SECTION 6445. Homicide committed with a design to effect death is not the less murder because the perpetrator was in a state of anger or voluntary intoxication at the time.

SECTION 264. Homicide perpetrated by an act imminently dangerous to others and evincing a depraved mind regardless of human life, is not less murder because there was no actual intent to injure others.

SECTION 265. According to the facts and circumstances attending the killing, or as specially declared by law, murder is deemed either;

1. Murder of the first degree, or
2. Murder of the second degree.

SECTION 266. Every murder perpetrated by means of poison, or by lying in wait, or by torture, or by other wilful, deliberate or premeditated killing, or in committing or attempting to commit any sodomy, rape, mayhem, arson, robbery, or burglary, shall be deemed murder of the first degree.

All other kinds of murder shall be deemed murder of the second degree.

SECTION 267. Homicide, not excusable or justifiable, but perpetrated in a manner not constituting murder, is manslaughter.

SECTION 268. According to the facts and circumstances attending the killing, or as specially declared by law, manslaughter is either:

1. Manslaughter of the first degree, or
2. Manslaughter of the second degree.

SECTION 269. Every person convicted of murder of the first degree shall suffer death or be imprisonment in the penitentiary for life.

SECTION 270. Every person convicted of murder in the

second degree shall be imprisoned in the penitentiary not less than ten and not exceeding thirty years.

SECTION 271. Every person convicted of manslaughter of the first degree shall be punished by imprisonment in the penitentiary not less than five and not exceeding fifteen years.

SECTION 272. Every person convicted of manslaughter of the second degree shall be punished by imprisonment in the penitentiary not less than one nor exceeding five years, or by imprisonment in the county jail not exceeding one year or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

SECTION 273. The jury before whom any person prosecuted for murder is tried, shall, if they find such person guilty thereof, determine by their verdict, whether it is of murder of the first degree or of murder of the second degree.

SECTION 274. The jury before whom any person prosecuted for murder is tried, shall if they find such person guilty thereof, fix and determine by their verdict, the punishment to be inflicted, within the limits prescribed by law: As, for example; if they find such person guilty of murder of the first degree, they must designate in their verdict whether he shall be punished by death or imprisonment in the penitentiary for life; or, if they find such person guilty of murder of the second degree, they must designate in their verdict the term of his imprisonment in the penitentiary not less than ten and not exceeding thirty years.

SECTION 275. Whenever any person is convicted of murder by the verdict of a jury, it shall be the duty of the court to enter judgment against such person, in accordance with such verdict, or otherwise as provided by Section . . . of the Code of Criminal Procedure.

SECTION 276. The jury before whom any person is prosecuted for murder, may, according to the facts and circumstances disclosed by the evidence, find such person guilty of manslaughter. Whenever the jury finds any person guilty of manslaughter, either upon a prosecution for murder or a prosecution for manslaughter, they shall determine by their verdict whether it is manslaughter of

the first degree or manslaughter of the second degree, and shall also fix and determine by their verdict the punishment to be inflicted, within the limits prescribed by law, and it shall be the duty of the court to enter judgment against such person in accordance with such verdict, or otherwise as provided by Section . . . . of the Code of Criminal Procedure.

SECTION 277. Whenever any person prosecuted for murder or manslaughter pleads guilty, he shall, in his plea, designate whether he is guilty of murder of the first degree, or of the second degree, or of manslaughter of the first degree or of the second degree and the court shall, if said plea is accepted, determine the punishment to be inflicted therefor, within the limits prescribed by law, and enter judgment against such person in accordance with such determination. But the court may, in its discretion, examine witnesses to aid in the determination of the punishment to be inflicted, or submit the same to a jury to determine the punishment, or, at its discretion, may refuse to receive a plea of guilty and submit the whole case to a jury.

SECTION 278. Whenever the court or jury shall designate that a person convicted of treason or of murder of the first degree shall be punished by death, it shall be the duty of the court entering judgment to fix the day of the execution thereof, which day shall not be less than three months after the day on which the judgment and sentence are entered and not longer than six months.

SECTION 280. Every person who by previous appointment or engagement fights a duel within the jurisdiction of this State, and in so doing inflicts a wound upon any person, whereof the person so injured dies, is guilty of murder of the second degree.

SECTION 281. Every person who acts as a second or surgeon at any such duel as is mentioned in the preceding section and is present when a wound is inflicted whereof death ensues, is guilty of manslaughter of the first degree.

SECTION 282. Every person, being an inhabitant or resident of this State, who, by previous appointment or engagement made within the same, fights a duel without

the jurisdiction of this State, and in so doing inflicts a mortal wound upon a person, whereof he afterwards dies within this State, shall be deemed guilty of murder of the second degree within this State, and may be tried, convicted and sentenced in the county where the death happens.

SECTION 283. Every person, being an inhabitant of this State, who acts as a second or surgeon at any such duel as is mentioned in the preceding section, and is present when a wound is inflicted whereof death ensues, is guilty of manslaughter of the first degree.

SECTION 284. A person prosecuted under the last two preceding sections may plead a former conviction or acquittal of the same offense in any other State or country, and such plea, if admitted and established, shall be a bar to all further or other proceedings against him for the same offense within this State.

SECTION 295. Every person guilty of making or keeping gun powder, saltpeter, gun cotton, nitro-glycerine or dynamite, or any compound of the same, or any fulminate or substance, which is intended to be used by exploding or igniting the same, in order to produce a force to propel missiles or to rent apart substances, within any city or village, in any quantity or amount prohibited by law: or by any ordinance of said city or village, in consequence whereof any explosion occurs whereby any human being is killed, is guilty of manslaughter of the second degree.

SECTION 296. Every person who sets any spring or other gun or trap or device operating by the firing or exploding of gun powder or any other explosive, and leaves or permits the same to be left, except in the immediate presence of some competent person, shall be deemed to have committed a misdemeanor; and the killing of any person by the firing of a gun or other device so set shall be deemed to be manslaughter of the first degree.

SECTION 296. Every person who wilfully and maliciously burns, in the night time, the dwelling house of another, or of which he is a lessee or tenant, whereby the life of any person is destroyed, or who, in the night time, wilfully and maliciously sets fire to any other building, owned by

himself or another, by the burning whereof such dwelling house shall be burnt in the night time, whereby the life of any person is destroyed, shall be deemed guilty of murder of the second degree.

SECTION 297. To make the killing either murder or manslaughter, in prosecutions for homicide, it is requisite that the party dies within a year and a day after the stroke received, or the cause of death administered, in the computation of which the whole of the day on which the act was done shall be reckoned the first. No prosecution for aiding suicide shall be maintained unless the death of the person aided ensues within one year, computed as above.

SECTION 301. Whenever any person is prosecuted for a homicide, and upon his trial the killing shall be found to have been excusable or justifiable, the jury shall find such person not guilty and he shall be fully acquitted and discharged.

SECTION 328. Whenever two or more persons conjointly commit a robbery, or where the whole number of persons conjointly committing a robbery and persons present and aiding such robbery, amount to two or more, each and either of such persons is punishable by imprisonment in the penitentiary not less than five and not exceeding twenty years.

## CHAPTER XXVI.

### LIBEL.

SECTION 348. Any malicious publication, by writing, printing, picture, effigy, sign or otherwise than by mere speech, which exposes any living person, or the memory of any person deceased, to hatred, contempt, ridicule or obloquy, or which causes, or tends to cause any person to be shunned or avoided, or which has a tendency to injure any person, corporation or association of persons, in his or their business or occupation, is a libel.

SECTION 349. Every person who publishes a libel, is guilty of a misdemeanor.

SECTION 350. A publication having the tendency or effect, mentioned in Section —, is to be deemed malicious.

if no justification or excuse therefor is shown. The publication is justified when the matter charged as libelous is true and was published with good motives and for justifiable ends. The publication is excused when it is honestly made, in the belief of its truth and upon reasonable grounds for belief, and consists of fair comments upon the conduct of a person in respect of public affairs, or upon a thing which the proprietor thereof offers or explains to the public.

SECTION 351. To sustain a charge of publishing a libel, it is not necessary that the matter complained of should have been read or seen by another. It is enough that the accused knowingly displayed it, or parted with its immediate custody under circumstances which exposed it to be read or seen or understood by another person than himself.

SECTION 352. Every editor, or proprietor of a book, newspaper or serial publication, and every manager of a partnership or incorporated association, by which a book, newspaper or serial publication is issued is chargeable with the publication of any matter contained in such book, newspaper or serial. But in every prosecution for libel the accused may show in his defense that the matter complained of was published without his knowledge or fault and against his wishes, by another who had no authority from him to make the publication, and whose act was disavowed by him as soon as known.

SECTION 353. A prosecution for libel cannot be maintained against a reporter, editor, publisher or a proprietor of a newspaper, for the publication therein, of a fair and true report of any judicial, legislative or other public and official proceeding, or of any statement, speech, argument or debate in the course of the same, without proving actual malice in making the report.

SECTION 354. The last section does not apply to a libel contained in the heading of the report, or in any other matter added by any other person concerned in the publication, or in the report of anything said or done at the time and place of the public and official proceeding, which was not a part thereof.

SECTION 355. A communication made to a person inter-

ested in the communication, by one who was also interested or who stood in such a relation to the former as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious, and is called a privileged communication.

SECTION 356. Every person who threatens another with the publication of a libel, concerning the latter or concerning any parent, husband, wife, child or other member of the family of the latter, and a person who offers to prevent the publication of a libel upon another person upon the condition of the payment of, or with intent to extort money or other valuable consideration from any person, is guilty of a misdemeanor.

SECTION 357. Every person who wilfully states, delivers or transmits by any means whatever to any manager, editor, publisher, reporter or other employes of a publisher of any newspaper, magazine, publication, periodical or serial, any statement concerning any person or corporation, which if published therein would be a libel, is guilty of a misdemeanor.

## CHAPTER XXVII.

### RAPE, ABDUCTION, CARNAL ABUSE OF CHILDREN, AND SEDUCTION.

SECTION 358. Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. Where the female is under the age of sixteen years.
2. Where she is incapable, through lunacy or any other unsoundness of mind, whether temporary or permanent, of giving legal consent.
3. Where she resists, but her resistance is overcome by force or violence.
4. Where she is prevented from resisting, by threats of immediate and great bodily harm, accompanied by apparent power of execution.
5. Where she is prevented from resisting by any intoxicating, narcotic or anesthetic agent, administered by or with the privity of the accused.

6. Where she is at the time unconscious of the nature of the act, and this is known to the accused.

7. Where she submits under a belief that the person committing the act is her husband, and this belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

SECTION 359. No conviction for rape can be had against one who was under the age of fourteen years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact and beyond a reasonable doubt.

SECTION 360. The essential guilt of rape consists in the outrage to the person and feeling of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

SECTION 361. Rape committed upon a female under the age of ten years, or incapable, through lunacy or any other unsoundness of mind, of giving legal consent, or accomplished by means of force overcoming her resistance, is rape in the first degree.

SECTION 362. In all other cases rape is of the second degree; but no conviction can be had in case the female is over the age of ten years and the male under the age of twenty years at the time of the act of intercourse, or attempted intercourse, and it appears to the satisfaction of the jury that the female was sufficiently matured and informed to understand the nature of the act and consented thereto.

SECTION 363. Rape in the first degree is punishable by imprisonment in the State penitentiary not less than ten years.

SECTION 364. Rape in the second degree is punishable by imprisonment in the State penitentiary not less than five years.

SECTION 365. Every person who takes any woman against her will, and by force, menace or duress, compels her to marry him or to marry any other person, is punishable by imprisonment in the State penitentiary not less than ten years.

SECTION 366. Every person who takes any woman unlawfully against her will, with the intent to compel her by force, menace or duress to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the State penitentiary not exceeding ten years.

SECTION 367. Every person who inveigles or entices any unmarried female of previous chaste character under the age of twenty-five years, into any house of ill fame or of assignation, or elsewhere, for the purpose of prostitution, and every person who aids or assists in such abduction for such purpose, is punishable by imprisonment in the State penitentiary not exceeding five years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

SECTION 368. Every person who takes away any female under the age of eighteen years, from her father, mother, guardian, or other person, having the legal charge of her person, without the consent of such father, mother, guardian, or other person, having the legal charge of her person, either for the purpose of concubinage or prostitution, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both.

SECTION 369. Every male person over twenty-one years of age, who, under promise of marriage, seduces and has illicit connection with an unmarried female under twenty years of age, and of previous chaste character, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

SECTION 370. If the parties marry each other at any time before the conviction of the defendant, no prosecution shall take place, or, if begun, it shall be dismissed, or if the defendant, at any time after the illicit connection and before the case is submitted to the jury, in good faith offers to marry the female seduced, and the jury so finds from the evidence, the defendant must be acquitted. But the benefits of this section shall not apply to a defendant

who was in fact married at the time of the committing of the offense; *provided*, that no person who was married at the time of committing the offense, and the fact of the marriage was known to the female shall be held liable for the offense defined in section . . . . .

## CHAPTER XXVIII.

### ADULTERY AND UNLAWFUL COHABITATION.

SECTION 371. Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife and when the intercourse is between a married woman and a man that is unmarried the man is also guilty of adultery. No prosecution for adultery shall be commenced except on the complaint of the husband or of the wife of the accused, and no such prosecution shall be commenced after one year from the time of the committing of the offense.

SECTION 372. Every person convicted of the crime of adultery is punishable by imprisonment in the penitentiary not less than one and not exceeding three years, or in the county jail not exceeding one year, or by fine, not exceeding five hundred dollars, or by both.

SECTION 373. Every person who lives openly and notoriously and cohabits as husband or wife with a person of the opposite sex without being married to such person, is guilty of a misdemeanor and upon conviction thereof is punishable by imprisonment in the county jail not less than thirty days and not exceeding one year or by a fine of not less than one hundred and not exceeding five hundred dollars.

## CHAPTER XXIX.

### ABANDONMENT AND NEGLECT OF CHILDREN.

SECTION 374. Every parent of any child under the age of six years, and every person to whom any such child has been confided for nurture or education, who deserts such child in any place whatever, with intent wholly to abandon

it, is punishable by imprisonment in the State penitentiary not exceeding seven years, or in a county jail not exceeding one year.

SECTION 375. Every parent of any child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law to furnish necessary food, clothing, shelter, or medical attendance for such child is guilty of a misdemeanor.

SECTION 376. Every person who, either

1. Wilfully abandons and leaves his minor child in a destitute condition, or who,

2. Is of sufficient ability to provide such child's support, or

3. Is able to earn the means of such child's support, unreasonably refuses or neglects to provide for such minor child, is guilty of a misdemeanor.

SECTION 377. Every husband who either,

1. Wilfully abandons and leaves his wife in a destitute condition, or who

2. Is of sufficient ability to provide such wife's support, or

3. Is able to earn the means of such wife's support, unreasonably refuses or neglects to provide for such wife, is guilty of a misdemeanor.

SECTION 378. Every person convicted of any of the offenses mentioned in the last two sections is punishable by imprisonment in the county jail not less than thirty days and not exceeding six months.

## CHAPTER XXXII.

### BIGAMY, INCEST AND SODOMY.

SECTION 384. The last section does not extend:

1. To any person by reason of any former marriage, whose husband or wife has been absent for five successive years without being known to such person within that time to be living; nor

2. To any person by reason of any former marriage, whose husband or wife by such marriage has absented himself or herself from his wife or her husband and has been continually remaining without the United States for the space of five years together; nor

3. To any person by reason of any former marriage, which has been pronounced void, annulled or dissolved by the judgment of a competent court; nor

4. To any person by reason of any former marriage, with a husband or wife who has been sentenced to imprisonment for life.

SECTION 385. Every person guilty of bigamy is punishable by imprisonment in the penitentiary not less than one and not exceeding five years.

SECTION 386. Every person who knowingly marries the husband or wife of another, in any case in which such husband or wife would be punishable according to the foregoing provisions, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

SECTION 387. Persons who, being within the degrees of consanguinity within which marriages are, by the laws of this State, declared incestuous and void, intermarry, cohabit with, or have sexual intercourse with such other so related person, knowing her or him to be within said degree of relationship shall be deemed guilty of incest, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one and not exceeding ten years.

SECTION 388. Every person who carnally knows in any manner any animal or bird; or carnally knows any male or female person by the anus or by or with the mouth; or voluntarily submits to such carnal knowledge; or attempts sexual intercourse with a dead body, is guilty of sodomy, and is punishable by imprisonment in the penitentiary not less than one and not exceeding ten years, or in the county jail not more than one year.

SECTION 389. Any sexual penetration, however slight, is sufficient to complete the crime specified in the last section.

## CHAPTER XXXV.

### SALE OF OBSCENE LITERATURE TO MINORS.

SECTION 415. Every person who either

1. Sells, lends, gives away or shows to a child, or
2. Has in his possession with intent to sell, lend, give away or show to a child, or
3. Advertises or otherwise offers for loan, gift or distribution to a child, or
4. Exhibits upon any street or highway, or in any place within the view of a child, or
5. Hires, uses, or employs a child to sell, give away, or in any manner to distribute, or
6. Having the care, custody or control of a child, permits such child to sell, give away or in any manner to distribute any work, pamphlet, magazine, newspaper, story paper, or other print or publication devoted to the dissemination or principally made up of criminal news, police reports, or accounts of criminal deeds or pictures and accounts or stories of deeds of bloodshed, lust or crime, is guilty of a misdemeanor.

SECTION 416. Every person convicted of any of the offenses mentioned in the last section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars or both.

SECTION 417. The term "child" employed in this chapter, imports any person not exceeding eighteen years of age.

SECTION 458. Every person who, either,

1. Uses or causes to be used any brand, mark, name, print, designation or description, the same as or similar to any recorded to any other person, or on the place recorded to another; or,

2. Uses or causes to be used any second-hand sack, box, barrel, can, package or other article on which has been placed any brand, mark, name, print, designation or description, the property of another, for purposes of deception or profit, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than one hundred and not exceeding one thousand dollars.

SECTION 472. Every person who, being judge of the county court, either:

1. Signs or issues a marriage license, except as provided by law; or,

2. Neglects to record as prescribed by law any marriage license or the certificate of the person performing the marriage ceremony for thirty days after the return of the same, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than fifty dollars and not exceeding five hundred dollars.

SECTION 472a. Every person who, being authorized by law to solemnize marriages within this State, either:

1. Joins any person in marriage before the license prescribed by law therefor is produced to him; or,

2. Fails to execute as prescribed by law the certificate of any marriage solemnized by him; or,

3. Neglects for thirty days after joining in marriage the persons named in such license, to return such license and certificate to the judge of the county court issuing the license, is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than fifty and not exceeding five hundred dollars.

SECTION 472b. Every person who attempts to join others in marriage or to perform the marriage ceremony for another within this State without being authorized by law so to do is guilty of a misdemeanor and upon conviction thereof is punishable by imprisonment in the county jail not less than ninety days and not exceeding one year, or by a fine of not less than one hundred and not exceeding five hundred dollars, or by both.

SECTION 472c. No marriage shall be void by reason of

being performed without authority, if otherwise lawful and the parties thereto or one of them believed it lawful.

SECTION 477. Every person who is not a registered pharmacist, or has not a registered pharmacist in his employ, and who, either

1. Takes, uses, or exhibits, the title or certificate of a registered pharmacist; or,

2. Retail, compounds or dispenses medicine; or,

3. Permits the compounding or dispensing of prescriptions, or the vending of drugs, medicines or poisons in his store or place of business except under the supervision of a registered pharmacist; or,

4. Violates or fails or neglects to comply with and observe any provision of law relating to or regulating the practice of pharmacy, and every person who,

5. Wilfully makes any false representation to procure registration as a pharmacist for himself or for any other person, is guilty of a misdemeanor, and upon conviction thereof, is punishable by a fine not exceeding fifty dollars.

SECTION 478. The provisions of the last section shall not be construed to interfere in any manner with the business of a physician in regular practice; nor to prevent such physician from supplying his patients with whatever he may deem necessary; nor to prevent him from receiving a certificate as a registered pharmacist as provided by law; nor to interfere with the making or compounding of proprietary medicines or medicines placed in sealed packages with the name of the contents and of the person by whom prepared, or compounded; nor to prevent shop keepers from dealing in or selling the commonly used medicines and poisons if such medicines or poisons are put up by a regular pharmacist, or from dealing in and selling patent or proprietary medicines; nor to interfere with the exclusive wholesale business of any dealer.

SECTION 479. Every person who, at retail, sells, furnishes or delivers to another, either,

1. Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury,

cyanide of potassium, hydrocyanic acid, strychnia and all other poisons, vegetable alkaloids and their salts, essential oil of bitter almonds, opium or its preparations, except paregoric and other preparations of opium with less than two grains to the ounce; or,

2. Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid; without affixing to the bottle, box, vessel or package containing the same, the name of the contents, the word "poison" and his name and place of business is guilty of a misdemeanor.

SECTION 480. The provisions of the last section shall not be construed to include or apply to the dispensing of physicians, prescriptions specifying or containing poison.

SECTION 481. Every person who, at retail, sells, furnishes or delivers to another any of the articles or preparations mentioned in Section . . . ., or any drug, chemical or preparation which according to the standard marks on medicines or materia medica is liable, in quantities of sixty grains or less, to destroy adult human life, and who, either,

1. Fails or neglects, before delivering the same, to enter or cause to be entered in a book kept for that purpose, the date of sale, the name and address of the person to whom delivered or sold, the name, quantity and quality of the article or preparation delivered or sold, and the name of the dispenser, or,

2. Fails, neglects or refuses during business hours to exhibit such book and every part thereof for inspection and to permit the same and every part thereof, upon demand, to be inspected by any physician, coroner, sheriff, constable or magistrate of the county, is guilty of a misdemeanor.

SECTION 482. Every person convicted of any of the offenses mentioned in Sections . . . . and . . . . ., is punishable by a fine not less than five and not exceeding one hundred dollars.

SECTION 483. Every person who knowingly, wilfully or fraudulently, either,

1. Falsifies or adulterates, or causes or permits to be falsified or adulterated, any drug, or medicinal preparation, authorized or recognized by any standard work on pharmacy, or used or intended to be used medicinally, or,

2. Mixes or causes or permits to be mixed with any such drug or medicinal preparation, any foreign or inert substance for the purpose or with the intent of destroying or weakening its medicinal power or effect, or of lessening its cost, or,

3. Sells, furnishes or delivers, or causes or permits any such falsified or adulterated drug or medicinal preparation to be sold, furnished or delivered for medicinal purposes, is guilty of a misdemeanor.

SECTION 487. Every person who makes or keeps gunpowder, saltpetre, gun-cotton, nitro-glycerine or dynamite, or any compound of the same, or any fulminate or substance, which is intended to be used by exploding or igniting the same, in order to produce a force to propel missiles or to rend apart substances, within any city, town or village, and any person who carries any of such explosives through the streets thereof, in any quantity or manner prohibited by law or by any ordinance, by-law or regulation of said city, town or village, is guilty of a misdemeanor.

## CHAPTER XLI.

### IMPORTATION, SALE AND EXPOSURE OF INFECTED STOCK.

SECTION 528. Every person who either

1. Imports or brings into this State any horse, mule or ass, or

2. Suffers the same to run at large upon any common highway, or uninclosed land, or

3. Uses, ties or keeps the same in any public place, stable or barn, or

4. Sells, trades or offers to sell or trade the same,

Knowing, or having good reason to believe such horse, mule or ass to be infected with the disease known as glanders, or button-farcy, is guilty of a misdemeanor, and upon conviction thereof is punishable by imprisonment in the county jail, not exceeding one year, or by a fine of not less than fifty and not exceeding five hundred dollars, or by both.

SECTION 529. Every person who owns or has in charge any sheep infected with scab, or other infectious or contagious disease, and who either

1. Does not keep such sheep securely within some inclosure, or

2. Does not herd them at a distance of not less than six miles from all farms, corrals, sheds or other established headquarters where sheep are kept or being herded, or

3. Drives or permits any such sheep to be driven upon any public highway, or within the distance of one mile from any such highway or within the distance of six miles from any farm, corral, shed or other established headquarters where sheep are kept or being herded, is guilty of a misdemeanor.

SECTION 530. The provisions of the last section shall not be construed to prevent a person who had established headquarters prior to March 11th, 1887, from allowing such sheep to range upon the public domain within a radius of six miles from such headquarters; *Provided* such radius does not reach nearer than three miles from the headquarters of any other such person.

SECTION 531. Every person who is in charge of any band of sheep that is being driven or kept within six miles of the headquarters where sheep belonging to any other person are kept or corralled and who fails, neglects or refuses, upon demand by such other person or any one in his employ, to stop such band and allow them to be examined, or to aid and assist in catching and examining them, is guilty of a misdemeanor.

SECTION 532. Every person who wilfully, either,

1. Carries or drives, or causes to be carried or driven

any sheep infected with scab or any infectious or contagious disease among sheep belonging to another, or,

2. Carries or places, or causes to be carried or placed the parasite which causes such scab or disease where sheep not his own are being herded or corralled, with intent that such sheep shall become infected thereby, is guilty of a felony and upon conviction thereof is punishable by imprisonment in the penitentiary not less than one, and not exceeding five years, or by a fine of not less than one thousand dollars or by both.

SECTION 533. Every person violating any of the provisions of this chapter shall be liable in a civil action to any person injured by such violation for all damages directly or indirectly suffered thereby.

## CHAPTER XLII.

### SALE OF CIGARETTES AND TOBACCO TO MINORS.

SECTION 534. Every person who sells, delivers or gives to a child actually or apparently under the age of sixteen years, either,

1. Any cigar or cigarette of any kind or form, or,

2. Any tobacco in any form, without the written order of the parent or guardian of such child, is guilty of a misdemeanor and, upon conviction thereof, is punishable by imprisonment in the county jail not exceeding thirty days or by fine not exceeding fifty dollars, or by both.

SECTION 561. Every assessor or county commissioner who enters into any contract, agreement or understanding with the owner of any personal property, or his agent, whereby and pursuant to which such property is to be assessed at less than its cash value, in consideration that the owner of such property, or his agent, shall remove or cause to be removed said property, for the purposes of taxation, into the county, district or township of such assessor or commissioner, is guilty of a misdemeanor.

SECTION 562. Every owner of personal property, or his agent, who enters into any contract, agreement or understanding such as is mentioned in the last section and every

person aiding or abetting the same, is guilty of a misdemeanor.

SECTION 563. Every person convicted of violating any of the provisions of the last two sections is punishable by imprisonment in the county jail not less than three and not exceeding six months, or by a fine not exceeding five hundred dollars, or by both.

SECTION 613. Every person who, with intent to defraud, forges or counterfeits the Great Seal of this State, the seal of any public office authorized by law, the seal of any court of record, including the seal of the judge of the county court, or the seal of any corporation created by the laws of this State, or of any state, government or country, or any other public seal authorized or recognized by the laws of this State or of any other state, government or country, or who falsely makes, forges or counterfeits any impression, purporting to be the impression of any such seal, is guilty of forgery in the second degree.

## CHAPTER LI.

### TRUSTS, POOLS AND COMBINATIONS REGARDING GRAIN AND STOCK.

SECTION 677. Every person who is a dealer in, or buyer of grain, hogs, cattle or stock, of any kind, and who enters into any contract, agreement, understanding or combination with any other person, not his partner, who is a like dealer or buyer, either,

1. For the pooling of the price of grain, hogs, cattle or stock, of any kind, between himself and such other person, or others, or,

2. For the division between them of the aggregate or net proceeds of the earnings or profits of such dealers or buyers or any portion thereof, or,

3. For fixing or establishing the price which such dealers or buyers shall pay or offer for grain, hogs, cattle or stock of any kind, is guilty of a misdemeanor.

SECTION 678. Every person who creates, enters into or becomes a member of or party to any pool, trust, combina-

tion or confederation, or makes, or enters into any contract, agreement or understanding therefor, with another person, either,

1. To limit or fix the price of any commodity, article or merchandise, or,

2. To limit or fix the amount or quantity of any commodity, article, or merchandise to be manufactured, mined, produced or sold in this State, is guilty of a misdemeanor.

SECTION 679. Every corporation whether organized under the laws of this, or any other state, or country, and doing business in this State, and every partnership or association of individuals, so doing business, which shall violate any of the provisions of the last two sections, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than one and not exceeding twenty per centum of the capital stock of such corporation or of the amount invested in such company, firm or association.

SECTION 680. Every person who, as president, manager, director, stockholder, receiver or agent or other person of any corporation, on behalf of such corporation, such as is mentioned in the last section, or as a member of any partnership or association of individuals, violates any of the provisions of this chapter, is guilty of a misdemeanor.

SECTION 681. No person not a defendant on trial shall be excused or claim any immunity from testifying, or producing his records, contracts, books or papers, or the records, contracts, books or papers in his possession or under his control belonging to any other person, partnership, corporation or association upon the trial of a prosecution for the violation of any of the provisions of this chapter, but such testimony or evidence shall not be used against the person so testifying or producing records, contracts, books or papers upon a prosecution for violating any of the provisions of this chapter.

SECTION 685. Every person who is found wearing the badge of the Grand Army of the Republic and who is not entitled so to do by being a member thereof, is guilty of a misdemeanor and, upon conviction thereof, is punishable by a fine of not less than ten and not exceeding twenty-five

dollars for each and every offense. One-fourth of any fine imposed under the provisions of this section, when collected, shall be paid to the complainant. Justices of the Peace shall have jurisdiction to try and determine complaints hereunder, subject to the right of the defendant to appeal to the district court.

## CHAPTER LVI.

### ILLEGAL BRANDING OF STOCK.

SECTION 703. Every person who wilfully either

1. Marks, brands, kills or sells, or
2. Causes to be marked, branded, killed or sold, or
3. Steals, takes, drives or leads away any horse, mule, cow, calf, sheep, swine or other animal, the property of another, is guilty of a felony and, upon conviction thereof, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or by a fine of not less than five hundred and not exceeding one thousand dollars, or by both.

SECTION 704. Every person who wilfully cuts off either or both ears of any horse, colt, mule, cow, calf, ox, sheep or swine, is guilty of a misdemeanor and, upon conviction thereof, is punishable by imprisonment in the county jail not exceeding thirty days, or by a fine of not less than twenty-five and not exceeding one hundred dollars for each and every animal so maimed.

SECTION 705. Every person who wilfully drives or causes to be driven any horses, mules, cattle, sheep or swine from the customary range of such animals, without the permission of the owner thereof, is guilty of a misdemeanor and, upon conviction thereof, is punishable by imprisonment in the county jail not less than thirty days and not exceeding six months, or by a fine of not less than fifty and not exceeding one hundred dollars, or by both.

SECTION 706. Every person who, at any time between the first day of November and the first day of May following, brands or marks any horse, colt, mule, ass, cow, calf, sheep, swine or other animal that is running at large, is guilty of a misdemeanor and, upon conviction thereof, is punishable

by imprisonment in the county jail not exceeding thirty days, or by a fine of not less than twenty-five and not exceeding one hundred dollars, or by both.

SECTION 707. The provisions of the last section shall not be construed to prevent the owner of any such animals as are mentioned therein from branding them on his own premises at any time in the presence of two or more responsible citizens of this State as witnesses of such branding.

## CHAPTER LXII.

### OF MALICIOUS MISCHIEF.

SECTION 757. Every person who negligently or wilfully, either,

1. Overdrives, overloads, drives when overloaded, overworks, tortures, deprives of necessary food or water or cruelly beats any animal, or,

2. Causes or procures any animal to be so overdriven, overloaded, overworked, tortured, or deprived of necessary food or water or cruelly beaten, or,

3. Works any animal or causes the same to be worked when unfit for work, or,

4. Unnecessarily exposes any animal to heat or cold or leaves the same hitched and uncovered in cold weather or storm or in the night time, is guilty of a misdemeanor.

SECTION 758. Any peace officer of this State who finds any animal maltreated, abused or unsheltered in any manner specified in the last section shall cause the same to be released and properly cared for, and the charges therefor shall be a lien upon such animal to be collected as in case of pledge.

SECTION 759. Every person who, either

1. Keeps or maintains any house, pit or other place to be used in permitting any fight between birds, dogs or other animals, or,

2. Establishes, promotes, or encourages any exhibition of the fighting of birds, dogs or other animals, is guilty of a misdemeanor.

SECTION 761. It is hereby made the duty of every sheriff, deputy sheriff, constable, marshal or police officer within this State upon request of any citizen thereof, to arrest, without a warrant, any person found violating any of the provisions of Section 757 and any such officer failing, neglecting or refusing to perform such duty is guilty of a misdemeanor.

## CHAPTER LXIV.

### SELLING AND SMOKING OPIUM.

SECTION 821. Every room, building, cellar or other place or premises used or permitted to be used for the smoking of opium, or any of its preparations, is deemed and hereby declared to be a public nuisance.

SECTION 822. Every person who either

1. Lets or permits to be used any building or portion of a building, knowing that it is intended to be used for committing or maintaining a public nuisance; or

2. Owns or maintains a place where opium, or any of its preparations, is smoked by other persons; or

3. At such place sells or gives away any opium, or its said preparations, to be there smoked or otherwise used; or,

4. Visits or resorts to any such place for the purpose of smoking opium or its preparations, is guilty of a misdemeanor and, upon conviction thereof, is punishable by imprisonment in the county jail not exceeding thirty days, or by a fine not exceeding one hundred dollars, or by both.

SECTION 823. Any justice of the peace within his county shall have concurrent jurisdiction with the district court to hear, try and determine any prosecution arising under the provisions of this chapter and, upon conviction, to impose the punishment prescribed, subject to defendant's right to appeal to the district court as provided by law.

## CHAPTER LXV.

### SPECULATION IN OFFICE.

SECTION 824. Every person who,

1. While Treasurer of the State, or the deputy or clerk

of such Treasurer, directly or indirectly, buys or traffics in, or in any wise becomes a party to the purchase of any State warrant, order or scrip, or any bill, account, claim or evidence of indebtedness against the State, or

2. While treasurer of any city of this State, or the deputy or clerk of such treasurer, directly or indirectly, buys or traffics in, or in anywise becomes a party to the purchase of any city warrant, order or scrip, or any bill, account, claim or evidence of indebtedness against his city, or

3. While an officer of any county of this State, or the deputy or clerk of such officer, directly or indirectly, buys or traffics in, or in any wise becomes a party to the purchase of any county warrant, order or scrip, or any bill, account, claim or evidence of indebtedness of his county, or,

4. While an officer of any school district or corporation, or the deputy or clerk of such officer, directly or indirectly, buys or traffics in, or in any wise becomes a party to the purchase of any school warrant, order or scrip, or any bill, account, claim or evidence of indebtedness against his school district, or corporation, for any sum less than the full face value thereof, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than fifty and not exceeding five hundred dollars.

SECTION 825. Any justice of the peace within his county shall have concurrent jurisdiction with the district court to hear, try and determine any prosecution arising under the provisions of the last section, and upon conviction to impose the punishment prescribed, subject to defendant's right to appeal to the district court as provided by law.

SECTION 826. Every state's attorney who shall receive any fee or reward from or on behalf of any prosecutor or other individual for services or on account of any prosecution or business to which it shall be his official duty to attend, or who shall be concerned as attorney or counsel for either party other than the State or county, in any civil action depending on the same state of facts, or arising out of said facts, or any of them, upon which a criminal prosecution commenced but undetermined shall depend, is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred and not exceeding five hundred dollars and may be removed from his office.

## CHAPTER LXVI.

## ALLOWING STALLION, BULL, OR RAM TO RUN AT LARGE.

SECTION 827. Every person who permits or allows, either,

1. A stallion or jack over the age of one year, or
2. Any bull over the age of eight months, or
3. Any ram during the months of September, October and November of each year, to run at large is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than ten, and not exceeding fifty dollars.

SECTION 828. The provisions of the last section shall not be construed to include any stallion, jack, bull or ram kept in any herd.

SECTION 829. Any justice of the peace within his county shall have concurrent jurisdiction with the district court to hear, try and determine any prosecution arising under the provisions of this chapter, and upon conviction to impose the punishment prescribed, subject to defendant's right to appeal to the district court as provided by law.

SECTION 830. Any person violating any of the provisions of this chapter shall be liable in a civil action to any person, directly or indirectly injured thereby for all damages resulting therefrom.

## CHAPTER LXVII.

## SELLING ADULTERATED AND UNWHOLESOME FOOD.

SECTION 831. Every person who, knowingly, sells, offers for sale, or has in his possession with intent to sell, either,

1. Any article, substance, or compound in imitation of cheese or butter, or as a substitute for cheese or butter, and not made exclusively and wholly of milk or cream, or containing any fats, oils, or grease not produced from milk or cream, without the words "imitation cheese" or "adulterated butter" or "oleomargerine" if such substance is a compound known as oleomargerine, stamped, labeled or marked in printed letters in plain Roman type not less than one inch in length, and so that such words cannot be

easily defaced upon the side of any cheese-cloth or band around the same or upon the top and side of every tub, firkin, box, or package containing any of such article, substance or compound, or,

2. At retail, sells, or offers for sale, any of such articles, substances or compounds not in the original packages without attaching to each package so sold and delivered therewith, to the purchaser thereof, a label or wrapper, bearing in a conspicuous place upon the outside of such package the words, "imitation cheese," "imitation butter" or "oleomargarine," as the fact may be, in printed letters of plain Roman type not less than one-half inch in length, is guilty of a misdemeanor.

SECTION 832. Every person who, wilfully, either,

1. Defaces, erases, cancels or removes any mark, stamp, brand, label or wrapper, provided for by the last section, or,

2. Changes the contents of any box, tub or package marked, stamped or labeled as provided in the last section, with intent to deceive as to the contents thereof; is guilty of a misdemeanor.

SECTION 833. Any health officer, sheriff, deputy sheriff or constable upon receiving information that any person is violating the provisions of the last two sections, may take specimens of such suspected butter or cheese of not more than one pound, and cause the same to be analyzed or otherwise satisfactorily tested, the expense of such analysis or test not to exceed twenty dollars in any one case, and may be included and paid as costs of the prosecution and taxed and allowed to the officer paying the same.

SECTION 834. For the purposes of the three preceding sections the terms "butter" and "cheese" mean the products which are known by those names and which are manufactured exclusively from milk or cream, or both, with salt and rennet, and with or without coloring matter.

SECTION 835. Every person who, either,

1. Upon demand of any health officer, sheriff, deputy sheriff or constable, neglects or refuses to deliver to him

at least one pound of any butter or cheese not marked as in this chapter provided, or

2. Removes or conceals any butter or cheese not so marked for the purpose of preventing any such officer from taking a specimen thereof, is guilty of a misdemeanor.

SECTION 836. Every person who, either,

1. With intent that the same may be used as food, drink, or medicine for man, sells or offers, or exposes for sale, any article whatever, which, to his knowledge, is tainted or spoiled, or for any cause unfit to be used as such food, drink, or medicine; or,

2. Knowingly sells any article intended as food or drink for man which contains a sufficient quantity of any drug or other substance to render such article injurious to health, or compound the same; or,

3. Adulterates or dilutes so as to render it injurious to health, for the purpose of sale as unadulterated or undiluted any substance intended as food, drink, or medicine for man: is guilty of a misdemeanor.

SECTION 837. Every person, who knowingly, either,

1. Kills, or causes to be killed, for the purpose of sale, as food for man, a calf less than four weeks old, or,

2. Sells, or has in his possession with intent to sell, as food for man the meat of any calf killed when less than four weeks old: is guilty of a misdemeanor and upon conviction thereof, is punishable by imprisonment in the county jail not exceeding thirty days or by fine not exceeding fifty dollars, or by both.

SECTION 838. The meat of any calf killed when less than four weeks old and exposed for sale or kept with intent to sell for food, may be seized without warrant and destroyed by any health officer, sheriff, deputy sheriff, or peace officer.

SECTION 839. Any magistrate having reasonable cause to believe by complaint on oath made to him, that the

meat of any calf killed when less than four weeks old, is kept or concealed within his county, by any person, contrary to the provisions of Section 837, may issue his warrant to any peace officer of such county commanding him, in the day time only, to search for and, if found, to seize such meat and to notify such owner or keeper of such seizure and that he appear forthwith before the magistrate issuing such warrant to show cause why such meat should not be destroyed. If such owner or keeper does not appear or if upon investigation before such magistrate it is determined that such meat is kept in violation of such section, the magistrate shall issue his warrant to such officer commanding him forthwith to destroy such meat and such officer shall proceed accordingly, or if it is determined that such meat is not kept contrary to the provisions of such section the same shall be returned to the place where seized. The costs of the proceedings, if contested, shall be taxed against the person claiming such meat if defeated and collected upon execution issued against him, as in a civil action, but if such proceedings are not contested the costs shall be taxed and paid by the county, wherein such proceedings are had.

## CHAPTER LXVIII.

### FOULING THE WATERS OF CERTAIN RIVERS.

SECTION 840. Every person who deposits or places or causes to be deposited or placed any dead animal, offal or other refuse matter, offensive to the sight or smell or deleterious to health, upon the banks or in the waters of any lake or stream so far as the same is within the jurisdiction of this State, is guilty of a misdemeanor and, upon conviction thereof, is punishable by a fine of not less than twenty and not exceeding one hundred dollars.

SECTION 841. The provisions of the last section shall be construed to include privies any privy vaults and any stable, shed, pen, yard or corral wherein is kept any horse, cattle, sheep or swine located nearer than sixty feet from the top of the bank of such lake or stream, and also any slaughter house, grave, grave-yard or cemetery located nearer than eighty feet therefrom. But the provisions of

said section shall not be construed to prevent any incorporated city within this State from running its sewers into any river; *provided* that where there is a dam across said river within the corporate limits of any such city, any such sewer shall connect with such river below such dam.

SECTION 842. Any justice of the peace within his county shall have concurrent jurisdiction with the district court to hear, try and determine any prosecution arising under the provisions of Sections 831, 832, 835, 836, 837 and 840, and, upon conviction, to impose the punishment prescribed, subject to defendant's right to appeal to the district court as provided by law.

## CHAPTER LXIX.

### UNLAWFUL INTERFERENCE WITH TELEGRAPH AND TELEPHONE LINES.

SECTION 843. Every person who wilfully or fraudulently either

1. Makes any connection with or cuts, breaks or taps in any unauthorized manner any telegraph or telephone line, wire or cable under the control of any other person or company, or
2. Reads or copies by the use of telegraph or telephone instruments, or otherwise in an unauthorized manner, any authorized communication or message being sent, transmitted, conveyed or delivered by telegraph or telephone under the control of any other person or company, or
3. Prevents, obstructs or delays by any unauthorized means or contrivance whatever, the sending, conveyance, transmission or delivery in this State of any such communication or message by telegraph or telephone, or
4. Aids, employs, agrees or conspires with any other person to do any of such acts or things, is guilty of a felony and, upon conviction thereof, is punishable by imprisonment in the penitentiary not less than one and not exceeding five years, or by a fine of not less than two hundred and not exceeding five hundred dollars, or by both.

SECTION 856. Every person having in his possession or under his control any personal property upon which there is known to him to be a subsisting lien, either by operation of law or by contract, who wilfully destroys, removes from the county, conceals, sells, or in any manner disposes of otherwise than as prescribed by law, or materially injures such property, or any part thereof, without the written consent of the then holder of such lien, is guilty of:

1. A misdemeanor, if the value of the property does not exceed five hundred dollars; or,
2. A felony if the value of the property exceeds such sum.

SECTION 856a. Every person who having procured upon credit under the provisions of Chapter . . . of the civil code, any seed to be sown or planted upon any designated tract or piece of land, either:

1. Uses the same or any part thereof for any other purpose; or,
2. Sows or plants the same or any part thereof upon any tract or piece of land other than that designated, without the written consent of the party who furnished such seed, is guilty of a misdemeanor.

SECTION 857a. Every person who takes any obligation in writing for any lightning rod or any of its attachments, or for any patent right, or right claimed to be a patent right, or for which any stallion shall form the whole or any part of the consideration, shall before it is signed by the maker stamp or write in red ink across the face of such written obligation in plain legible writing or print the words "given for a lightning rod" or "given for a patent right" or "given for a stallion" as the case may require. Such obligation so stamped shall not be negotiable and shall be subject to defenses in the hands of every owner or holder thereof. Any person who shall violate the provisions of this section is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than two hundred and fifty and not exceeding one thousand dollars, or by imprison-

ment in the county jail not more than one year, or by both such fine and imprisonment and shall be liable in a civil action to the party injured for all damages sustained by him.

SECTION 858. Every person who sends or causes to be sent any pauper or person who is or is likely to become an object of public charity, into any county of this State other than the county where such pauper or person properly belongs with intent to relieve the county from which such pauper or person is sent from his support, or to cause the county to which he is sent to support him, is guilty of a misdemeanor.

SECTION 859. Prosecutions for any violation of the last section may be commenced and prosecuted either in the county from which such pauper or person is sent or in the county to which he is sent.

SECTION 860. Every person who has the care of an insane person or is restraining such person either with or without authority and treats such person with wanton severity, harshness or cruelty or in any way abuses such person, is guilty of a misdemeanor.

SECTION 860a. All birds and animals, wild by nature, and all fish in the public waters within the jurisdiction of this State are, except as prescribed in Section 161 of the Civil Code, the property of the State.

SECTION 861. Every person who either

1. Shoots or kills any prairie chicked, pinnated grouse, sharp-tailed grouse, ruffed grouse, woodcock, plover, wild duck, wild goose or brant between the 1st day of December and the 1st day of September following, or any song bird at any time, or

2. At any time kills or shoots any wild duck, goose or brant with any swivel gun or other gun, except such as is commonly shot from the shoulder, or in hunting such birds makes use of any artificial light or battery, or

3. Uses or employs any trap, snare, net or bird-lime or medicated, drugged or poisoned grain or food to capture or kill any of the birds mentioned in Subdivision 1 of this section, or

4. Wantonly destroys any nest of eggs of any of the birds mentioned in Subdivision 1 of this section, or

5. Shoots or kills any buffalo, elk, deer, antelope, caribou or mountain sheep between the 15th day of December and 1st day of November following, or

6. At any time uses or employs any hound or dog in running or driving any of the animals mentioned in Subdivision 5 of this section, or

7. Sets any spring or other gun trap, snare or other device to kill, wound or destroy any of the animals as mentioned in Subdivision 5 of this section, or

8. Knowingly hunts in any way upon the enclosed or cultivated lands of another without the consent of the owner, or his agent or tenant, or

9. Shoots or kills in any one day more than twenty-five of the game birds mentioned in Subdivision 1 or more than five of the animals mentioned in Subdivision 5 of this section, is guilty of a misdemeanor and, upon conviction thereof before any justice of the peace of the county, is punishable by a fine of ten dollars for each of the birds mentioned in Subdivision 1 of this section so shot or killed or nest of eggs so destroyed and for each violation of Subdivisions 2, 6 or 8 of this section ; and one hundred dollars for each animal mentioned in Subdivision 5 of this section so shot or killed, and one hundred dollars for each violation of Subdivisions 6, 7 or 9 of this section.

SECTION 862. Every person who has in his possession any of the birds or animals mentioned in the last section, killed during the time in which the killing of the same is, by the last section, prohibited, whether killed by himself or another person, is guilty of a misdemeanor and, upon conviction thereof before any justice of the peace of the county, punishable in the manner and to the extent provided in the last section for the killing of the same.

SECTION 862a. Every person who, either:

1. Takes, catches, kills, or destroys any fish of any kind in any of the lakes, streams or other waters of this State, except the Missouri river, in any manner other than by angling with hook and line; or,

2. Between the first day of November and the following first day of May in each year takes, catches, kills, or destroys in any manner or by any device in any of the waters of this State, except the Missouri, any pike, pickerel, perch, bass or muscalonge for any purpose other than for propagating or breeding the same; or,

3. Exposes any such fish for sale during such period, is guilty of a misdemeanor and upon conviction thereof, is punishable by a fine of not less than five and not exceeding twenty-five dollars and for every subsequent offense by imprisonment in the county jail not exceeding thirty days, or by a fine of not less than ten and not exceeding one hundred dollars, or by both.

SECTION 862b. Every person who within this State ships or receives for shipment beyond the limits of this State any of the game birds or animals mentioned in Section 861 or any of the fish mentioned in Section 862a is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of ten dollars for each game bird or fish so shipped or received and one hundred dollars for each animal so shipped or received.

## CHAPTER LXXI.

### GENERAL PROVISIONS.

SECTION 863. An act or omission which is made punishable in different ways by different provisions of this Code or other penal statute may be punished under either of such provisions except that in the cases specified in Sections 875 to 878, inclusive when the previous conviction is charged in the information or indictment and found from the evidence by the jury, the punishments therein prescribed are substituted for those prescribed for a first offense, but in no case can it be punished under more than one. And an acquittal or conviction and sentence under either one bars a prosecution for the same act or omission under any other.

SECTION 865. But whenever it appears upon the trial of an information or indictment that the accused has already been acquitted or convicted upon any criminal prosecu-

tion under the laws of another state, government or country founded upon the act or omission in respect to which he is upon trial, it shall be a sufficient defense.

SECTION 869. In addition to the penalty affixed by express terms to every neglect or violation of official duty on the part of public officers, county, city, town or township, or State officers not liable to impeachment, where it is not so expressly provided, they may, in the discretion of the court, be removed from office.

SECTION 870. In the various cases in which the sending of a letter is made criminal by this Code, or by any statute of this State, the offense is deemed completed from the time when such letter is deposited in any postoffice, or in any other place, or delivered to any person with intent that it shall be forwarded; and the party may be prosecuted and tried in any county or judicial district in which said letter is so deposited, or delivered, or in which it shall be received by the person to whom it is addressed.

SECTION 872. An act done with intent to commit a crime and tending but failing to effect its commission, is an attempt to commit that crime. Any person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime intended or attempted was perpetrated by such person in pursuance of such attempt, unless the court, in its discretion, discharges the jury and directs such person to be prosecuted for such crime.

SECTION 881. Whenever a person is sentenced to be imprisoned in the penitentiary for a longer period than one year, it is the duty of the court, before which the conviction is had to limit the time of the sentence so that it will expire, as near as may be, between the month of March and the month of November, unless the exact period of the sentence is fixed by law.

SECTION 884. The term of imprisonment fixed by the judgment in a criminal action commences to run only from the time of the sentence of the defendant; but if thereafter, during such term, the defendant escapes or by any legal means is temporarily released from such imprisonment and subsequently returned thereto the time during

which he was at large must not be computed as part of such term.

SECTION 887. The provisions of the last two sections must not be construed to render the person therein mentioned incapable of making and acknowledging a sale or conveyance of property.

SECTION.... No conviction of any person for crime works any forfeiture of any property, except in cases where a forfeiture is expressly imposed by law.

SECTION.... The term "wilfully" when applied to the intent with which an act is done or omitted implies simply a purpose or willingness to commit the act or omission referred to.

SECTION.... The term "corruptly" when so employed, imports a wrongful design to acquire, or causes some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

SECTION.... The term "malice" or "maliciously," when so employed, imports a wish to vex, annoy or injure another person, or an intent to do a wrongful act, establish either by proof or presumption of law.

SECTION 900. The term "magistrate" signifies any judge of the supreme court or of the district court, justice of the peace, police magistrate and such other officer or officers as are authorized and empowered to issue warrants for the arrest of persons accused of crime.

SECTION 917. The provisions of this Code, so far as they are the same as existing Statutes, must be construed as continuations thereof, and not as new enactments.

SECTION 918. The provisions of this Code shall not apply nor extend to any act done or offense committed prior to the taking effect hereof, except as specially provided herein; but the provisions of law now in force and applicable to the crimes to which this act relates, as well in respect to the penalty affixed as in all other respects (except matters of procedure and any provisions alleviating the punishment to be imposed upon conviction in any case), shall hereafter be and remain in full force and

effect as to any such offense committed before the taking effect of this act.

SECTION 919. That the Board of Revising Commissioners of this State are hereby authorized and empowered to re-number the sections of this act, so as to conform with the provisions of Chapter 74 of the laws passed at the third session of the Legislative Assembly of the State of North Dakota, and so as to form, with the other laws of this State, consecutive numbers in the Revised Codes, and otherwise to compile the several sections of this act in all regards as provided in said Chapter seventy-four.

SECTION 920. This Code takes effect at twelve o'clock midnight on the.....day of....., 1895.

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# APPENDIX.

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## CRIMINAL PROCEDURE.

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PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

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## REPORT OF JOINT COMMITTEE.

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## A BILL

For An Act to Establish a Code of Criminal Procedure for  
the State of North Dakota.

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

## CHAPTER I.

## CRIMINAL PROCEDURE.—PRELIMINARY PROVISIONS.

SECTION 1. This act shall be known as the Code of Criminal Procedure of the State of North Dakota.

SECTION 2. A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, either of the following punishments:

1. Death.
2. Imprisonment.
3. Fine.
4. Removal from office.
5. Disqualification to hold and enjoy any office of honor, trust or profit under this State ; or
6. Other penal discipline.

SECTION 3. Crimes or public offenses are divided into,

1. Felonies.
2. Misdemeanors.

SECTION 4. A felony is a crime which is or may be, punishable with death, or imprisonment in the penitentiary; every other crime is a misdemeanor. When a crime punishable by imprisonment in the penitentiary is also punishable by fine, or imprisonment in a county jail, in the discretion of the court or jury, it is, except when otherwise specifically declared by law to be a felony, a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the penitentiary.

SECTION 6. Every public offense must be prosecuted by information or indictment, except:

1. Where proceedings are had for the removal of a civil officer of the State, or an officer of some political subdivision thereof.

2. Breaches of military discipline arising in the militia, when in actual service, and in the land and naval forces in time of war or public danger, or which this State may keep, with the consent of Congress, in time of peace.

3. Offenses tried in justice's, police and county courts in cases concerning which lawful jurisdiction, is or may be conferred upon such courts.

SECTION 8. A criminal action is prosecuted in the name of the State of North Dakota as a party, against the party charged with the offense.

SECTION 9. The party prosecuted in a criminal action is designated in this Code as the accused or as the defendant.

SECTION 10. In all criminal prosecutions the party accused shall have the right:

1. To appear and defend in person and with counsel.
2. To demand and be informed of the nature and cause of the accusation.
3. To meet the witnesses against him face to face.
4. To have the process of the court to compel the attendance of witnesses in his behalf.
5. To a speedy and public trial, and by an impartial jury of the county in which the offense is alleged to have

been committed or is triable, but subject to the right of the State to have a change of the place of trial for any of the causes for which the party accused may obtain the same.

SECTION 11. No person can be twice put in jeopardy for the same offense; nor can any person be subjected to a second prosecution for a public offense for which he has once been prosecuted and convicted or acquitted or put in jeopardy, except as provided by law for new trials.

SECTION 13. No person can be convicted of a crime or public offense unless by the verdict of a jury, accepted and recorded by the court, or upon a plea of guilty, or upon a judgment against him, his demurrer having been overruled, or upon a judgment of a justice's court, or such other courts as are or may be created by law for cities, incorporated towns and villages, or county courts exercising increased jurisdiction as provided in Section 111 of the Constitution in cases in which such judgment may be lawfully given without the intervention of a jury, or by the judgment of a court, a jury having been waived, upon a criminal charge not amounting to a felony.

## CHAPTER II.

### OF COURTS HAVING JURISDICTION IN CRIMINAL ACTIONS.

SECTION 14. There is in each of the judicial districts of this State a court denominated the district court, with jurisdiction conferred by the Constitution of this State and the laws passed in pursuance thereof, and having, among other things, common law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this State, affecting persons or property.

SECTION 15. Each of the said district courts may be held for the trial of criminal actions in any organized county or in any judicial subdivision in the same district as is or may be provided by law.

SECTION 16. The said district courts are always open for the purpose of hearing and determining all questions, motions and applications of every kind and character in

criminal actions or proceedings of which they have original or appellate jurisdiction, except issues of fact; and said questions, motions and applications may be heard and determined at any place within the judicial district in which is situated the county or judicial subdivision wherein the action or proceeding is brought or is pending. But issues of fact in all criminal actions or proceedings must be tried at a regular term of the court in the county or judicial subdivision in which the same is legally brought or to which the place of trial is changed as provided by law.

SECTION 17. Each of the said district courts has and must exercise jurisdiction and authority:

1. To inquire, by the intervention of a grand jury when required by law, of all public offenses committed or triable in the county or judicial subdivision for which the court may be held;

2. To inquire into the cause of the detention of all persons imprisoned in the jail of the county or judicial subdivision, or otherwise detained, and to make an order for their re-commitment or discharge or other disposition according to law.

3. To hear, try and determine, as limited by law, all accusations in writing presented by a grand jury or otherwise as provided and for the causes specified in Section 84 of this Code, against any district, county, township, city or municipal officer or State officer not liable to impeachment for misconduct in office or for habitual drunkenness or gross incompetency, and, upon conviction, to enter judgment as prescribed by law.

4. To hear, try and determine, upon information or indictment or otherwise as provided by law, prosecutions for crimes or public offenses committed against the laws of this State and to issue writs and process and do all other acts therein according to law as may be necessary in the exercise of said jurisdiction and authority, whether original or appellate, and, upon conviction of any such crime or public offense, to impose the punishment prescribed by law therefor.

SECTION 18. The final decisions of the district courts, in criminal actions, are reviewable and determinable by

the supreme court, according to law, on appeals bringing up for review the record and proceedings therein.

SECTION 19. As limited by law directing the place of exercising their jurisdiction and authority, county, city, township and other justices of the peace, police magistrates and, when authorized by law, the judges of the county courts and the county courts shall have jurisdiction and authority throughout the counties or the judicial subdivisions in which the county, city, township or municipality, for which they are respectively elected, are located.

1. To act as committing magistrates under the provisions of this Code or other laws of this State conferring the same:

2. To hear, try and determine such petit misdemeanors as, by the Constitution of this State and the Justice's Code or this Code or other laws, jurisdiction is now or may hereafter be conferred upon them to punish;

3. To adjudge and impose the punishment prescribed by law, upon conviction, in all cases within their jurisdiction to hear, try and determine.

### ARTICLE 3.—SECURITY TO KEEP THE PEACE.

SECTION 25. A complaint may be laid before any of the magistrates mentioned in Section 128, authorized by law to act within the county or judicial subdivision that a person has threatened to commit an offense against the person or property of another.

SECTION 26. A complaint within the meaning of this article, is a statement in writing, made to a magistrate, that a person has threatened to commit an offense against the person or property of another, and subscribed and sworn to by the complainant.

SECTION 27. If it appears from such complaint that there is just reason to fear the commission of the offense threatened, by the person complained of, the magistrate must issue a warrant, directed generally to the sheriff of the county, or any constable, or marshal, or policeman of the city or town, reciting the substance of the complaint, and

commanding the officer forthwith to arrest the person complained of, and bring him before such magistrate.

SECTION 32. If the person complained of is committed for not giving security, he may, upon giving the same, be discharged by any justice of the peace of the county, or of the city or township, or by any police magistrate of the county, or by the judge of the county court of the county when authorized to act as a committing magistrate, or by the judge of the district court of the county.

#### CHAPTER IV.

##### ARTICLE 1.—OF PROCEEDINGS FOR THE REMOVAL OF PUBLIC OFFICERS. REMOVAL BY IMPEACHMENT.

SECTION 57. The Governor and other State and judicial officers of the State, except county judges, justices of the peace and police magistrates shall be liable to, and may be impeached for habitual drunkenness, crimes, corrupt conduct or malfeasance or misdemeanor in office. The articles of impeachment may contain charges and specifications, or either, predicated upon or on account of any crime, corrupt conduct, malfeasance or misdemeanor in office committed by the accused during any previous term of the same office.

SECTION 58. The sole power of impeachment is vested in the House of Representatives and a concurrence of a majority of all the members is necessary to the exercise thereof. All impeachments shall be tried by the Senate sitting for that purpose, and the senators shall be upon oath, or affirmation, to do justice according to law and the evidence. When the Governor or Lieutenant Governor is on trial, the Chief Justice of the Supreme Court shall preside, or in case he is disqualified or unable to preside, then some other judge of said court to be selected by the Senate. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SECTION 59. Every impeachment must be originated by resolution adopted by the House of Representatives, and the prosecution thereof conducted by at least five managers selected therefor by such House. Said managers, or committee of the House, must prepare the articles of impeach-

ment in accordance with the resolution of the House and submit them to the House for approval, and when approved, the managers must present the same at the bar of the Senate and immediately deliver them to the presiding officer thereof. The House may authorize the managers to employ counsel to assist them in the preparation and prosecution of the articles of impeachment.

SECTION 60. The articles of impeachment shall be divided into separate charges and specifications thereunder. The charges shall be numbered consecutively by themselves and each shall set forth in a general way, the facts claimed to constitute one of the offenses named in Section 57 of this Code. The specifications under each charge shall immediately follow it, and be consecutively numbered, and each shall set forth the facts claimed to constitute an offense of the kind named in the charge under which it is placed. There may be as many charges and as many specifications under each as the circumstances may require. No objection shall be made on account of the form of the articles of impeachment, and the same shall be deemed sufficient in substance if their allegations enable the accused to understand the nature of the accusations against him, and to make his defense.

SECTION 61. The Senate must whenever articles of impeachment are presented to it by or on behalf of the House of Representatives, assign a day for the hearing of the impeachment and inform such House thereof. The day so assigned shall not be earlier in the session than that at which the completion of the business of the Legislative Assembly may be effected. But all steps and preparations necessary may be taken and made from time to time during the session to enable the trial to begin immediately upon the completion of the business of the Legislative Assembly. The President of the Senate, or other person presiding therein, must cause a copy of the articles of impeachment with a notice to answer the same, at the time and place appointed, to be served upon the accused not less than twenty days before the day set for the trial.

SECTION 62. The service must be made upon the accused personally, or, if he cannot, upon diligent inquiry, be found within the State, the Senate, upon proof of that

fact, may order the notice to be served by publication, or otherwise, in such manner as it may deem proper; and the notice as published must require the accused to appear at the specified time and place to answer the articles of impeachment. When the notice to the accused is served by publication, or otherwise than personally within the State, the articles of impeachment may be served upon the accused by mail or otherwise as the Senate may deem proper.

SECTION 63. If the accused does not appear, the Senate upon proof of service of the notice and articles of impeachment in any manner provided in the last two sections, as the circumstance may require, may, of its own motion, or for cause shown, assign another day for the hearing of the accused, or may proceed in the absence of the accused to trial and judgment.

SECTION 64. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal. Whenever upon the impeachment of an officer there is no one authorized by law to perform the duties of the office, and the Senate shall, by resolution, declare that the public service may suffer by reason thereof, the Governor shall designate some suitable person to perform the duties of the office until the end of the trial upon the articles of impeachment, and the person so designated shall receive the salary, fees, and emoluments of such officer during his incumbency. If the accused is acquitted, he shall, thereby, be immediately restored to the office, but if he is convicted, the office shall be deemed vacant and be immediately filled as provided by law.

SECTION 65. It shall be the duty of the Senate and each member thereof, unless excused for cause, to meet at the Senate chamber on the day assigned to hear the impeachment and organize as a court for the trial of the same, and such organization shall be held and deemed to be perfected when the presiding officer of the Senate and all members thereof, not excused, shall have taken the oath or affirmation prescribed. No member shall sit in the trial, or give his vote upon such trial, until he shall have taken such oath or affirmation. The oath, or affirmation, shall be administered by the secretary of the Senate to the presid-

ing officer thereof, and by the presiding officer, to each of the members of the Senate. The Senate sitting as a court upon the trial of an impeachment shall have the same power to compel the attendance of its members as when engaged in the ordinary business of legislation.

SECTION 66. If the accused appears and is unable to procure the assistance of counsel, it is the duty of the president of the Senate, or other person presiding, to appoint some suitable person to assist him in his defense. If he is served by publication and fails to appear, it is the duty of the president of the Senate, or other person presiding to appoint some person as counsel to appear in his behalf and make defense for him.

SECTION 67. When the defendant appears he may in writing object to the sufficiency of the articles of impeachment, or he may answer the same by an oral plea of not guilty. Such plea must be entered upon the journal, and puts in issue every material allegation of the articles of impeachment and the specifications thereunder, or the accused may answer the articles in writing.

SECTION 68. If the accused makes objections to the sufficiency of the articles of impeachment and such objections are not sustained by a majority of the members of the Senate, the accused must be ordered forthwith to answer the articles. If he then pleads guilty, the Senate must render judgment of conviction against him. If he pleads not guilty, or refuses to plead, the Senate must at such time as it may appoint, proceed to try the impeachment.

SECTION 69. It shall be the duty of the secretary of the Senate in all cases of impeachment, to keep a full and correct record of all proceedings and said record shall be held and become a public record. The secretary of the Senate shall also have power to administer all requisite oaths and affirmations.

SECTION 70. The Senate sitting as a court of impeachment shall have power, from time to time, to appoint such subordinate officers, clerks and reporters as may be necessary for the convenient transaction and dispatch of business, and may at any time remove such officers or any of them.

SECTION 71. The managers selected by the House of Representatives and the person impeached and his counsel, shall, severally, be entitled to process for compelling the attendance of persons and witnesses, or the production of papers or records required for the trial of the impeachment.

SECTION 72. The Senate sitting as a court of impeachment shall have full power and authority to establish such rules and regulations for the trial of the accused as may be necessary and shall have power to adjourn from time to time and dissolve when its work is concluded and to compel obedience to its process and orders. Its process including subpoenas shall run into every part of the State and may be served by the same officers as other process, or by any person authorized by the presiding officer of the court, to serve the same, and shall have the same force and effect as subpoenas from district courts in criminal actions.

SECTION 73. The Senate while sitting as a court of impeachment shall have all the powers and privileges conferred upon it by the Constitution as a House of the Legislative Assembly or the laws passed in pursuance thereto, provided imprisonment shall not extend beyond the dissolution of the court of impeachment.

SECTION 74. The vote upon the charges and specifications shall be taken by yeas and nays, beginning with the first specification under the first charge and continuing until all the specifications under the first charge have been disposed of; a vote shall be taken in the same way upon each specification and all specifications and other charges in the articles of impeachment until they are all disposed of. If two-thirds of the members elected confer in favor of a conviction upon any of the charges or specifications the accused must be convicted, otherwise he shall be acquitted.

SECTION 75. If the accused is convicted the Senate must, at such time as it may appoint, pronounce judgment, in the form of a resolution entered upon the Journal of the Senate.

SECTION 76. On the adoption of the resolution by a majority of the members present who voted on the ques-

tion of acquittal or conviction, it becomes the judgment of the Senate.

SECTION 77. The judgment may be that the defendant be removed from office, or that he be removed from office and disqualified to hold any office of trust or profit in the State.

SECTION 78. If a judgment of conviction is given, the defendant shall be disqualified from exercising any of the functions of the office and from receiving the salary, fees or emoluments thereof, and the office shall be filled for the remainder of the term as upon a vacancy.

SECTION 79. If the Lieutenant Governor is impeached, notice of the impeachment must be immediately given to the Senate by the House of Representatives, that another president may be chosen.

SECTION 80. If the offense for which the defendant is impeached or convicted is also the subject of an information or indictment, the information or indictment is not barred thereby.

SECTION 81. The presiding officer (except the Chief Justice when presiding) and members of the Senate while sitting as a court of impeachment, and of the House of Representatives, shall each receive their regular per diem and mileage while attending the court of impeachment, and the compensation of the secretary of the Senate, sergeant-at-arms and all subordinate officers, clerks and reporters of the court and counsel employed to assist the managers, shall be such amount as shall be determined upon by a vote of the members of such court. The State Auditor, upon presentation of a certificate or certificates signed by the presiding officer and secretary of the Senate, shall draw his warrants upon the State Treasurer to pay the expenses of the Senate and the compensation of the officers, clerks and reporters and counsel under the provisions of this chapter.

SECTION 82. The same fees shall be allowed to witnesses, officers and other persons serving process or orders as are allowed for like services in criminal actions, but no fees can be demanded in advance. Such fees shall be certified and paid as provided in the preceding section for the pay-

ment of the Senate, officers, clerks, reporters and counsel, but subject to the right of the Senate to disallow all fees and charges which it shall deem unreasonable or unnecessary.

ARTICLE 2.—REMOVAL BY JUDICIAL PROCEEDINGS.

SECTION 7080. In addition to the proceedings mentioned in Chapter . . . . . of the Code of Civil Procedure and Article . . . . ., Chapter . . . . ., of the Political Code, and apart and distinct from any other criminal action or proceedings, the following provisions are adopted to obtain a judgment of removal from office.

SECTION 84. An accusation in writing against any district, county, township, city or municipal officer, or State officer not liable to impeachment, except representative to Congress, and members of the Legislative Assembly for misconduct, malfeasance, crime, or misdemeanor in office, or for habitual drunkenness or gross incompetency may be presented by the grand jury to the district court of the county in, or for which, the officer accused is elected or appointed, *provided*, that when such proceedings are against a State officer not liable to impeachment, the accusation may be presented by the grand jury of the county or judicial subdivision in which such officer resides, or in which he has his place of office for the transaction of his official business.

SECTION 92. If the defendant pleads guilty the court must render judgment of conviction against him. If he denies the matters charged or refuses to answer the accusations, the court must immediately, or at such time as it may appoint, proceed to try the accusation.

SECTION 93. The trial must be by a jury and conducted in all respects in the same manner as the trial of an information or indictment for a misdemeanor.

SECTION 95. The state's attorney, or other person appointed to prosecute, and the defendant are respectively entitled to such process as may be necessary to enforce the attendance of witnesses, as upon a trial of an information or indictment.

SECTION 96. From a judgment of removal an appeal

may be taken to the Supreme Court, in the same manner as from a judgment in a civil action; but until such judgment is reversed, the defendant is suspended from his office, and pending the appeal, the office must be filled as in case of vacancy.

SECTION 98. When an accusation in writing, verified by the oath of any person, is presented to the district court, alleging that an officer within the jurisdiction of the court has been guilty of charging and collecting illegal fees for services rendered or to be rendered, in his office, or has refused or neglected to perform the official duties pertaining to his office, or has rendered himself incompetent to perform his said duties by reason of habitual drunkenness, or other cause, the judge of the court to whom it is delivered must forthwith cause it to be transmitted to the state's attorney of the county, or in case it is against the state's attorney of the county, the accusation must be delivered by the judge to the clerk of the court and by him to such person as may be appointed by the judge to act as prosecuting officer in the matter. and the state's attorney of the county, or person appointed to prosecute, must cause a copy of said accusation to be served upon the accused and, by written notice require him to appear before the court at a time specified, not more than twenty days nor less than five days from the time the accusation was presented, and answer said accusation. On the day named in said notice, or on some subsequent day not more than thirty days from that on which the accusation was presented, to be fixed by the judge, the court must proceed to hear the accusation and evidence offered in support of the same and the answer, if any is made, and the evidence offered by the party accused. The court may try and determine the issues unless the accused requires that they be submitted to a jury. If a jury be required the court must forthwith in a summary manner cause a jury to be impaneled, and the matter submitted to them. Challenges shall be allowed and the trial conducted in the same manner as a trial by jury in a civil action. If the charge is tried by the court it shall proceed as a civil action tried by the court. The decision of the court or the verdict of the jury shall be "guilty" or "not guilty." Costs shall be awarded as in a civil action.

If the accused is found guilty either by the decision of the court or by the verdict of the jury, the court shall render judgment that the accused be removed from his office, and for the costs of the action. Statements of the case may be settled and appeals taken as provided by law in civil actions.

The court may, in its discretion, if the accused is found guilty, award triple costs against him. If the court finds that the accusation was made without probable cause, it must tax the costs of the prosecution and trial against the complainant.

SECTION 98a. Any unmarried woman who is delivered of a bastard child or is pregnant with a child which, if born alive, may be a bastard, may make a complaint in writing under oath before a justice of the peace or police magistrate against the person who is the father of such child. Such proceeding must be entitled in the name of the State as plaintiff against the accused as defendant. The complaint shall be in substantially the following form :

County of..... Before.....  
Justice of the Peace (or Police Magistrate).  
State of North Dakota, Plaintiff,  
against

..... Defendant.  
....., being first duly sworn on oath  
says that she is an unmarried woman and was on the  
.....day of....., 18....., delivered of a  
bastard child (or is pregnant with a child which, if born  
alive, may be a bastard), begotten by the defendant  
.....on or about the.....day of  
....., 18....., at.....

Wherefore she asks that a warrant may be issued for the  
arrest of the defendant.....that he may  
answer to such charge.

Subscribed and sworn to, etc.

SECTION 98b. Upon the filing of the complaint the mag-  
istrate shall issue a warrant which, exclusive of the venue  
and title, shall be in substantially the following form :

The State of North Dakota to any sheriff, constable, marshal or policeman in the county of.....: Complaint on oath having been made to me by..... that she is an unmarried woman and has been delivered of a bastard child (or is pregnant with a child which, if born alive, may be a bastard) and accusing the defendant.....with being the father of such child.

You are therefore commanded forthwith to arrest the above named.....and, unless he gives an undertaking in the sum of.....dollars, to be approved by the clerk of the district court of the county where arrested, to bring him before me at.....; or, in case of my absence or inability to act, before the nearest or most accessible magistrate authorized to act in this county.

Dated at.....this.....day of..... 18....

Justice of the Peace (or Police Magistrate).

The officer to whom such warrant is delivered may execute the same in any part of this State by arresting the defendant and taking him before a magistrate as in such warrant directed. The undertaking required by the warrant shall be conditioned for the defendant's appearance as prescribed in Section 98d.

SECTION 98c. If the defendant shall at any time after his arrest pay or secure to be paid to the complainant such sum of money as she may agree in writing to receive in full satisfaction and as shall be approved by the board of county commissioners of the county in which she resides and shall execute and give an undertaking with sufficient sureties to be approved by such board to the county in which she resides, conditioned to secure and indemnify such county from all charges for the maintenance of such child, and shall also pay all expenses incurred by such county for the support of the mother during her lying in or of the child, and the costs of prosecution, he shall be discharged.

SECTION 98d. Upon the arrest of the defendant, unless he complies with the provisions of the last section or gives

an undertaking as provided in Section 98b, the magistrate before whom the defendant is taken shall require him to execute and give an undertaking in a sum not less than five hundred and not exceeding one thousand dollars, with sufficient sureties, payable to the State of North Dakota and conditioned that he will appear at the next term of the district court of such county and from term to term until the final disposition of the proceeding to answer the complaint and abide the judgment and orders of the court therein; if the defendant fails to execute and give such undertaking the magistrate shall make an order committing him as in criminal actions.

SECTION 98e. The warrant when executed together with any undertaking given by the defendant shall be returned by the officer making the arrest to the magistrate who issued the warrant, or his successor in office and the magistrate shall transmit any undertaking given by the defendant together with a transcript of his proceedings and all other papers in the case, without delay, to the clerk of the district court of the proper county.

SECTION 98f. Any person imprisoned for failure to give such undertaking may be discharged by giving the same with sufficient sureties at any time after his commitment; such undertaking may be taken and approved by the magistrate before whom such proceeding was had or by the judge of the district court before whom the same is pending.

SECTION 98g. The trial of such proceeding shall, except as herein otherwise provided, be governed by the law regulating civil actions. The clerk shall place such proceeding upon the calendar for trial at the first term of the district court after the papers therein received by him. No notice of trial and note of issue need be served or filed.

SECTION 98h. If the defendant answers, denying the charge, the issue shall be tried by the court, unless a jury is demanded by either party, in which case the issue shall be tried by a jury.

SECTION 98i. If the court or jury finds that the defendant is the father of such child, or if the defendant fails to answer the charge, he shall be adjudged the father of such

child and the court shall render such judgment as may seem necessary to secure, with the assistance of the mother, the maintenance and education of such child, until such time as the child is likely to be able to support itself, which judgment shall be docketed by the clerk as judgments in civil actions. Such judgment shall direct the person to whom and the times at which any parts of the same shall be paid and shall also require the defendant to secure the payment thereof by an undertaking executed by him with sufficient sureties and in default thereof the defendant shall be committed to jail until discharged according to law. The court may at any time upon the motion of either party, upon ten days' notice to the other party, vacate or modify such judgment as justice may require.

SECTION 98j. Any person who shall have been so imprisoned ninety days may apply for his discharge from imprisonment in the manner provided in the Code of Civil Procedure for the discharge from imprisonment of persons confined in jail upon executions against the person.

SECTION 98k. Executions may issue on such judgment whenever any amount is due on the same and shall be executed as an execution on a judgment in a civil action and no property, except absolute exemptions, shall be exempt from such execution.

SECTION 98l. If any woman mentioned in Section 98a fails to prosecute the father of her child and such child is likely to become a public charge, any member of the board of county commissioners of the county where she resides may apply to a justice of the peace or police magistrate of such county, who shall thereupon examine her under oath as to who is the father of such child, the time when and place where such child was begotten and as to such other circumstances as are deemed necessary; the magistrate shall thereupon issue a warrant for the arrest of the person charged with being the father of the child and the same proceedings shall be had thereon and with like effect as in cases of complaint made by the woman.

SECTION 98m. No proceedings under this chapter shall be instituted unless commenced within one year after the birth of such child, but no time during which the defendant is not an inhabitant of or usually residing within this

State is a part of the time limited for the commencement of such proceeding.

SECTION 98n. The provisions of Articles 8 and 9 of Chapter 9 and of Chapter 13 of the Code of Civil Procedure are applicable to proceedings under this chapter.

SECTION 98o. The several state's attorneys within their respective counties shall prosecute all proceedings under this chapter.

SECTION 98p. If the defendant fails to appear in accordance with the terms of the undertaking provided for in Section 98d the state's attorney of the county shall commence an action thereon in the name of the State for the recovery of the full amount specified in such undertaking, which amount is declared to be liquidated damages. The judgment in such action shall direct the payment of such money as provided in Section 98i so far as the same is applicable and the court may also direct the clerk to issue a bench warrant for the arrest of the defendant and the provisions of Sections 309 and 310 of this Code, so far as the same are applicable, shall govern the proceedings under such warrant.

SECTION 98q. If at any time after having given the undertaking provided for in Section 98i the defendant shall be in default in the payment of any sum provided for in the judgment, the court may upon motion of the state's attorney, upon ten days' notice to the defendant and his sureties enter up judgment on such undertaking and award execution for the amount of money due upon such judgment at the time such motion is heard.

SECTION 98r. The defendant instead of giving any undertaking required under the provisions of this chapter may deposit with the clerk of the district court of the county in which such proceeding is commenced a sum of money equal to the amount for which such undertaking is required to be given. Such deposit shall be held to answer the event of such proceeding to the same extent and upon the same conditions as the undertaking in lieu of which such deposit is made.

## CHAPTER V.

ARTICLE 1.—OF THE PROCEEDINGS IN CRIMINAL ACTIONS PROSECUTED BY INFORMATION OR INDICTMENT, TO THE COMMITMENT INCLUSIVE. LOCAL JURISDICTION OF PUBLIC OFFENSES.

SECTION 99. Every person is liable to punishment by the laws of this State, for a crime or public offense committed by him therein, or as otherwise prescribed by the Penal Code, except where it is by law cognizable exclusively in the courts of the United States.

SECTION 100. When the commission of a public offense, commenced without this State, is consummated within its boundaries, the defendant is liable to punishment therefor in this State, though he was out of the State at the time of the commission of the offense charged if he consummated it in this State through the intervention of an innocent or guilty agent, or by any other means proceeding directly from himself; and in such case, the jurisdiction is in the county or judicial subdivision in which the offense is consummated.

SECTION 101. When an inhabitant or resident of this State, by previous appointment or engagement fights a duel, or is concerned as a second or surgeon therein, out of the jurisdiction of this State, and in the duel a wound is inflicted upon a person, whereof he dies in this State, the jurisdiction of the offense is in the county or judicial subdivision where the death happened.

SECTION 102. When an inhabitant or resident of this State leave the same for the purpose of evading the operation of the provisions of the statutes relating to dueling, and challenges to fight, with the intent or for the purpose of doing any of the acts prohibited therein, the jurisdiction is in the county or judicial subdivision of which the offender was an inhabitant or resident when the offense was committed.

SECTION 103. When a crime or public offense is committed in part in one county or judicial subdivision and in part in another, or the acts or effects thereof, constituting

or requisite to the consummation of the offense occur in two or more counties or judicial subdivisions, the jurisdiction is in either or any of said counties or judicial subdivisions.

SECTION 104. When a public offense is committed on the boundary of two or more counties or judicial subdivisions, or within five hundred yards thereof, the jurisdiction is in either county or judicial subdivision.

SECTION 105. When an offense is committed in this State on board a vessel navigating a river, lake or canal, or lying therein in the prosecution of her voyage, the jurisdiction is in any of the counties or judicial subdivisions through which the vessel is navigated in the course of her voyage, or in the county or judicial subdivision where the voyage terminates.

SECTION 106. The jurisdiction of a criminal action :

1. For forcibly and without lawful authority seizing and confining another or inveigling or kidnapping him with intent against his will, to cause him secretly or forcibly to be confined or imprisoned in this State, or to be sent out of this State or from one county to another ; or,

2. For maliciously, forcibly or fraudulently taking or enticing away a child under the age of twelve years with intent to detain and conceal such child from its parent, guardian or other person having lawful charge of the child ; or;

3. For inveigling, enticing or taking away any unmarried female of previous chaste character, under the age of twenty-five years, for the purpose of prostitution, or for aiding or assisting in such abduction, for such purpose; or,

4. For taking away any female under the age of eighteen years, from her father, mother, guardian or other person having the legal charge of her person, without his consent, either for the purpose of concubinage or prostitution, is in any county or judicial subdivision in which the offense is committed, or into or out of which the person upon whom the offense was committed, may, in the commission of the offense, have been brought or in which an act was done by the accused instigating, procuring, pro-

moting, aiding or assisting or in being an accessory to the commission of the offense or in abetting the parties concerned therein.

SECTION 108. When property taken in one county or judicial subdivision by burglary, robbery, larceny or embezzlement has been brought into another, the jurisdiction of the offense is in either. But if, before the conviction of the defendant in the latter, he is indicted in the former county or judicial subdivision, the sheriff of the latter must, upon demand, deliver him to the sheriff of the county or judicial subdivision where the indictment was found, upon being served with a certified copy of the indictment and a receipt indorsed thereon, of the delivery of the body of the defendant, and is, on filing the copy of the indictment and the receipt, exonerated from all liability in respect to the custody of the defendant. The sheriff having the custody of the accused shall not surrender him except upon an indictment by a grand jury.

SECTION 109. The jurisdiction of criminal action for treason, when the overt act is committed out of this State, is in any county, or judicial subdivision of the State.

SECTION 110. In the case of an accessory in the commission of a public offense, the jurisdiction is in the county or judicial subdivision where the offense of the accessory was committed, notwithstanding the principal offense was committed in another county or judicial subdivision.

SECTION 111. When an act charged as a public offense is within the jurisdiction of another state, country or territory as well as in this State, a conviction or acquittal thereof in the former is a bar to a prosecution or indictment therefor in this State.

SECTION 112. When an offense is in the jurisdiction of two or more counties, a conviction or acquittal thereof in one county is a bar to a prosecution or indictment thereof in another.

SECTION 113. The jurisdiction of a criminal action for escaping from or breaking the penitentiary with intent to escape therefrom, or for attempting by force or violence or in any other manner to escape from said prison, is in the county where the same is located.

SECTION 114. The jurisdiction of a criminal action for breaking or escaping from the jail of any county is in the county where said jail is located.

SECTION 115. The jurisdiction of a criminal action for stealing in any state, country, or territory, the property of another, or receiving it, knowing it to have been stolen, and bringing the same into this State, is in any county or judicial subdivision into which such stolen property has been brought.

SECTION 116. The jurisdiction of a criminal action for murder, or manslaughter, when the injury which caused the death was inflicted in one county, or judicial subdivision and the party injured dies in another or out of the State, is in the county or judicial subdivision where the injury was inflicted.

SECTION 117. The jurisdiction of a criminal action against a principal in the commission of a public offense, when such principal is not present at the commission thereof, is in the same county or judicial subdivision in which it would be under this Code, if he was so present and aiding and abetting therein.

SECTION 118. The jurisdiction of a criminal action for the violation of any of the provisions of Sections . . . and . . . of the Penal Code is in any county or judicial subdivision; either,

1. In which any act is done toward the commission of the offense; or,
2. Into, out of or through which the offender passed to commit the offense; or,
3. Where the offender is arrested.

#### ARTICLE 2.—OF THE TIME OF COMMENCING CRIMINAL ACTIONS.

SECTION 120. An information for any other felony than murder must be filed, or an indictment found, within three years after its commission, provided; that nothing in this section contained shall be construed to bar or prevent a person prosecuted for murder from being found guilty of manslaughter and punished accordingly.

SECTION 121. An information, or a complaint, for a misdemeanor, except as otherwise specially limited, by law, must be filed, or an indictment found, within the two years after its commission.

SECTION 122. If, when the crime or public offense is committed, the defendant is out of the State, the information may be filed, or the indictment found, within the time herein limited, after his coming within the State, and no time during which the defendant is not an inhabitant of, or usually resident within this State, is part of the limitation.

SECTION 123. An information is filed or an indictment found within the meaning of this article when it is presented, if an information by the State's Attorney or person appointed to prosecute, or if an indictment, by the grand jury, in open court and there received and filed, or if a complaint, when filed by a magistrate having jurisdiction to hear, try and determine the action.

ARTICLE 3.—THE COMPLAINT, INFORMATION OR INDICTMENT  
AND MAGISTRATES.

SECTION 124. A complaint is a statement in writing made to a magistrate that a person has been guilty of some designated crime or public offense, and subscribed and sworn to by the complainant.

SECTION 125. An indictment is an accusation in writing, presented by a grand jury to a competent court, charging a person with a crime or public offense.

SECTION 126. An information is an accusation in writing, in form and substance like an indictment for the same offense, charging a person with a crime or public offense, signed and verified by some person and presented to a police magistrate or to the district court, and filed by said police magistrate, if presented to him, or if presented to the district court, then in the office of the clerk of said court.

SECTION 127. A magistrate is an officer authorized by law, to issue a warrant for the arrest of a person charged with a crime or public offense.

SECTION 128. The following officers are magistrates:

1. The judges of the supreme court, with authority to act as such throughout the State.

2. The judges of the district court, with authority to act as such throughout the judicial districts for which they are respectfully elected.

3. As limited by law directing the place of exercising their jurisdiction and authority, county, city, township and other justices of the peace, police magistrates and, when authorized by law, the judges of the county courts, with authority to act as such throughout the counties or the judicial sub-divisions in which the county, city, township or municipality for which they are respectfully elected are located.

#### ARTICLE 4.—OF THE COMPLAINT.

SECTION 129. The complaint must state:

1. The name of the person accused, if known, or if not known and it is so stated, he may be designated by any other name.

2. The county or judicial subdivision in which the offense was committed.

3. The general name of the crime or public offense.

4. The acts or omissions complained of as constituting the crime or public offense named.

5. The person against whom, or against whose property the offense was committed, if known, and

6. If the offense is against the property of any person, a general description of such property. The complaint must be subscribed and sworn to by the complainant.

SECTION 130. Every person who has reason to believe that a crime or public offense has been committed, must make complaint against such person before some magistrate having authority to make inquiry of the same.

SECTION 131. When a complaint is made before a magistrate, charging a person with the commission of a crime or public offense, such magistrate may examine the complainant, under oath, as to his knowledge of the com-

mission of the offense charged, and he may also examine any other persons.

SECTION 132. When any officer or other person shall bring any person he has arrested, without a warrant, before a magistrate, it is the duty of such officer or person to specify the charge upon which he has made the arrest. It is then the duty of the magistrate or State's attorney to make a complaint of the offense charged, and cause the officer or person, or some other person, to subscribe and make oath to such complaint and file it.

SECTION 133. Every person making complaint, charging the commission of a crime or public offense must inform the magistrate of all persons, whom he believes to have any knowledge of its commission, and the magistrate, at the time of issuing the warrant, must issue subpoenas for such persons, requiring them to attend, at a specified time, and place, as witnesses.

#### ARTICLE 5.—THE WARRANT OF ARREST.

SECTION 134. When a complaint, verified by oath or affirmation, is laid before a magistrate, charging the commission of a crime or public offense, he must, if satisfied therefrom, or otherwise, that the offense complained of has been committed, and that there is reasonable ground to believe that the accused committed it, issue a warrant for his arrest; but when the magistrate before whom a complaint is made is a justice of the peace, before issuing the warrant, the complaint, if made by any other person than the State's Attorney of the county, and other evidence taken by such magistrate relating to the offense charged, must be submitted to such State's Attorney and he must examine into the charge and enter either his approval or disapproval of the issuance of a warrant upon such complaint. If the State's Attorney disapproves no warrant shall be issued, but if he approves the issuance of a warrant such magistrate shall proceed accordingly; PROVIDED, However, that in cases where it appears from statements of the complaint or other written evidence submitted to the magistrate that the accused is liable to escape from the county before the approval of the State's Attorney can be had as hereinbefore prescribed and such magistrate so certifies on the complaint, and in all cases

mentioned in Section 132 of the Code, a warrant may issue without the approval of the State's Attorney. No justice of the peace shall receive any fees or allowances whatever for any act done or services rendered in a criminal action or proceeding commenced or prosecuted in disregard of the provisions of this section.

SECTION 138. A peace officer is a sheriff of a county or his deputy, or a constable, marshal or policeman of a township, city, village or town.

SECTION 139. If the warrant is issued by a judge of the supreme court or by a judge of the district court, it may be directed generally to any sheriff, constable, marshal or policeman in the State, and may be executed by any of such officers to whom it may be delivered in any part of the State.

SECTION 140. If it is issued by any other magistrate, it may be directed generally to any sheriff, constable, marshal or policeman in the county or judicial subdivision in which it is issued, and may be executed by such officer in any part of the State.

SECTION 141. An officer arresting a person for whom he has a warrant, in a county or judicial subdivision other than the one in which he holds office, may in the county or judicial subdivision where he finds such person, call for assistance, and command aid, and exercise authority as if in his own county.

SECTION 142. If the offense charged in the warrant is a felony, the officer making the arrest must take the accused before the magistrate who issued the warrant, or some other magistrate in the same county, as provided in the warrant of arrest.

SECTION 143. If the offense charged in the warrant is a misdemeanor, not within the jurisdiction of the magistrate who issued it to punish, and the accused is arrested in another county or judicial subdivision, the officer must, upon being required by the accused, take him before a magistrate in that county or judicial subdivision who must admit him to bail and take bail from him accordingly. But if there is no magistrate residing within the county or judicial subdivision wherein the accused is arrested and

the accused required it, the officer must take him before a magistrate of any other county nearer or more accessible than the magistrate issuing the warrant, and said magistrate must admit him to bail and take bail from him accordingly.

SECTION 144. On taking bail, the magistrate must certify that fact on the warrant, and deliver the warrant and undertaking of bail to the officer having charge of the accused. The officer must then discharge the accused from arrest, and must, without delay, deliver the warrant and undertaking to the clerk of the court at which the accused is required to appear.

SECTION 145. If, on the admission of the accused to bail, the bail is not forthwith given, the officer must take the accused before the magistrate who issued the warrant, or, in case of his absence or inability to act, before the nearest or most accessible magistrate in the same county, and must at the same time deliver to the magistrate the warrant with his return thereon indorsed and subscribed by him.

SECTION 146. If the offense charged is within the jurisdiction of the magistrate to try and punish, upon conviction, the accused, if arrested in another county or judicial subdivision, must be taken before the magistrate who issued the warrant, or, if he is absent, then before some other magistrate, as provided in the last preceding section.

SECTION 147. The accused must in all cases be taken before the magistrate without unnecessary delay, and any attorney-at-law entitled to practice in the courts of record of North Dakota, may, at his request visit such person after his arrest.

SECTION 148. If the accused be taken before a magistrate other than the one who issued the warrant, the complaint on which the warrant was granted must be sent to that magistrate, or if it cannot be procured, the prosecutor and his witnesses must be summoned to give their testimony anew.

SECTION 149. When a complaint is laid before a magistrate of the commission of a crime or public offense, triable in another county of this State, but showing that the

accused is in the county or judicial subdivision where the complaint is laid, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the accused to be taken before the nearest and most accessible magistrate of the county in which the offense is triable, and the complaint of the complainant, with the depositions, if any, of the witnesses who may have been produced, must be delivered by the magistrate to the officer to whom the warrant is delivered.

SECTION 150. The officer who executes the warrant must take the accused before the nearest or most accessible magistrate of the county or judicial subdivision in which the offense is triable, and must deliver to him the complaint and the depositions if any, and the warrant with his return endorsed thereon, and the magistrate must then proceed in the same manner as upon a warrant issued by himself.

SECTION 151. If the offense charged in the warrant issued pursuant to Section 149 is a misdemeanor not within the jurisdiction of the magistrate to try and punish, the officer must, upon being required, by the accused, take him before a magistrate of the county in which the warrant was issued, who must admit the accused to bail and immediately transmit the warrant and complaint and depositions, if any, and undertaking, to the clerk of the court, in which the accused is required to appear.

SECTION 152. An officer who has arrested a person charged with a crime or public offense in any county or judicial sub-division, may take and convey such person through such parts of this State as shall be in the ordinary route of travel from the place where he shall have been arrested to the place where he is to be conveyed and delivered under the process by which the arrest shall have been made, and such conveyance shall not be deemed an escape.

SECTION 153. While having in charge any person arrested in a criminal action or proceeding, neither the officer, nor any his assistants, shall be liable to arrest on civil process; and such officer is authorized to require any citizen to aid in securing the accused, and to retake him, if he escapes, in any part of the State, as if he was within his own county;

and a refusal or neglect to render such aid shall be an offense, in the same manner as if he was an officer of the county or judicial sub-division where such aid is required.

SECTION 154. Any person arrested for a misdemeanor not within the jurisdiction of a magistrate to hear, try and punish, in any county or judicial sub-division other than the county or judicial sub-division wherein the offense is triable, shall, if admitted to bail and released thereon, be deemed to have waived all and every right to a preliminary examination upon said charge before any magistrate and such person may be informed against, tried and punished, upon conviction of such offense, in all respects as if such preliminary examination had been had.

ARTICLE 6.—ARREST, BY WHOM AND HOW MADE.

SECTION 155. An arrest is the taking of a person into custody in the manner authorized by law.

SECTION 156. An arrest may be made, either:

1. By a peace officer, under a warrant.
2. By a peace officer, without a warrant; or
3. By a private person.

SECTION 157. Any officer making an arrest may orally summon as many persons as he deems necessary to aid him therein.

SECTION 158. Every person when required must aid an officer in the making of an arrest.

SECTION 162. If the person making the arrest is acting under the authority of a warrant, he must so inform the defendant, and he must also show the warrant, if required.

SECTION 163. An officer making an arrest, in obedience to a warrant, must proceed with the person arrested as commanded in the warrant, or otherwise as provided by law.

SECTION 173. A private person making an arrest must, upon making the arrest, inform the person to be arrested of his intention to arrest him, and of the cause of the arrest, and require him to submit, except when he is in the

actual commission of the offense or when he is arrested on pursuit immediately after its commission.

SECTION 177. When an arrest is made without a warrant by a peace officer or by a private person, the person arrested must, without unnecessary delay be taken:

1. Before the nearest or most accessible magistrate in the county or judicial subdivision where the arrest is made; or,

2. If there is no magistrate in said county or judicial subdivision qualified to act, then before the nearest or most accessible magistrate authorized to act for the county or judicial subdivision where the arrest is made. A complaint, stating the charge against the person arrested, must be made before such magistrate, as provided by Section 106 of this Code.

SECTION 178. Any person who has lawfully entered a house for the purpose of making an arrest, or being therein makes an arrest, may break open the door or window thereof, if detained therein, when necessary for the purpose of liberating himself, and an officer may do the same when necessary for the purpose of liberating a person who, acting in his aid, lawfully enters for the purpose of making an arrest, and is detained therein.

#### ARTICLE 7.—OF WARRANTS AND SERVICE THEREOF BY TELEGRAPH.

SECTION 179. Whenever a warrant for the arrest of a person accused of a crime or public offense is issued by the judge of the supreme or district court or by a magistrate of the county wherein such offense is triable, the delivery of such warrant by telegraph may be authorized by a judge of the supreme or district court by an indorsement authorizing such delivery at any place within this State, upon the warrant of arrest under the hand of such judge, directed generally to any sheriff, constable, marshal or policeman in the State. After such indorsement a telegraphic copy of such warrant may be sent by telegraph to one or more of such officers within the State and such copy is as effectual in the hands of any such officer and he must

serve the same and in all regards proceed thereunder in the same manner as though he held an original warrant issued by the magistrate making the indorsement thereon.

SECTION 180. Every officer causing telegraphic copies of a warrant to be sent must certify as correct and file in the telegraph office from which such copies are sent, a copy of the warrant and indorsement thereon and must return the original with a statement of his action thereunder and signed by him.

SECTION 181. Every person arrested by warrant for any offense, where no other provision is made for his examination, must be taken before some magistrate of the county in which the warrant was issued, and the warrant with the proper return thereon, signed by the person who made the arrest, must be delivered to such magistrate. Any telegraphic copy of a warrant under which an officer has acted in making an arrest shall be deemed the original warrant.

SECTION 182. If the offense charged in the warrant is a misdemeanor within the jurisdiction of a magistrate to try and, upon conviction to punish, a trial must be had as provided by law.

SECTION 183. In all cases where by law a peace officer of this State may arrest a person without a warrant or, having a warrant for the arrest of a person accused of a crime or public offense and such person may otherwise escape from this State, such officer may by telegraph direct any sheriff, constable, marshal or policeman in this State to arrest such person and designate the accused in said order by name or description, or both.

Such order may be directed generally to any of such officers and executed by the officer receiving it. The officer executing any such order shall take into his custody the person designated therein and detain him upon such order for such length of time as shall be necessary for the officer ordering the arrest to reach the place of detention by the ordinary course and means of travel, or until sooner demanded by an officer having a warrant for the arrest of such person, but in no case shall the officer arresting such person upon such order detain him longer than the time hereinbefore mentioned.

## ARTICLE 8.—OF RAILWAY POLICE.

SECTION 184. Each conductor of a railway or railroad train carrying passengers, while on duty in this State as such conductor, is hereby invested with and possesses the authority of a peace officer of the State.

SECTION 185. Every railway or railroad company doing business within this State is hereby authorized to appoint, and at its own expense, to employ such persons as peace officers, at its stations or other places along the line of its road within the State, as may be, by it, deemed necessary for the protection of its property or the preservation of order on its premises or in or about its cars, depots, grounds, yards, buildings or other structures, or any of the same under its control or in its possession.

When any railway or railroad company doing business in this State is in the hands of or being operated by a receiver appointed by a court of this State or of the United States, the authority conferred by this section upon such company is conferred upon and may be exercised by such receiver.

SECTION 186. Every conductor mentioned in Section 184 and every person employed as provided in Section 185 of this Code, shall have and may exercise the authority of a peace officer of the State, to arrest with or without warrant, as other peace officers, any person committing an offense against the laws of the State, or the ordinances of any city, village, town or municipality, upon the premises occupied by the company by which he is employed, or in or about its cars, depots, grounds, yards, buildings or other structures or any of the same under its control or in its possession.

SECTION 187. Every person arrested by any conductor, or other person exercising authority conferred by this article, must be thereafter proceeded with in all respects as is or may be required by law, in cases of arrests made by other peace officers of the State, except that a conductor may cause a person so arrested by him to be so proceeded with by any other person, or officer.

SECTION 188. Nothing in this article contained shall be

construed to restrict, in any way, any right, authority or privilege conferred by law upon any other peace officer of the State within his lawful jurisdiction.

SECTION 189. No person authorized by the provisions of this article to make arrests, shall receive or be allowed any fees or expenses for so doing.

SECTION 190. Each of such railway or railroad companies is, and shall be held responsible for the acts of all conductors or other persons employed by it while acting as peace officers under the provisions of this article to the same extent as for the acts of its general agents or employes.

#### ARTICLE 10.—PRELIMINARY EXAMINATIONS.

SECTION 195. The magistrate before whom the accused is brought, must, unless a change of the place of trial is had under the provisions of the next section, immediately after the appearance of counsel, or if none appears and the accused requires the aid of counsel, after waiting a reasonable time therefor, proceed to examine the case.

SECTION 196. Whenever a person accused of a public offense is brought before a justice of the peace for examination and, at any time before such examination is commenced, he files with such justice his affidavit stating that by reason of the bias or prejudice of said justice, he believes he cannot have a fair and impartial examination before him, such justice must transfer said action, and all the papers therein including a certified copy of his docket entries, to another justice of the same county, if there is another justice in said county qualified to act; provided, that unless the parties agree upon the justice to whom said action shall be transferred, it shall be sent to the nearest justice of the county, but no more than one change of the place of examination under this section shall be had by the same party in an action.

SECTION 197. The examination must be completed at one session unless the magistrate for good cause adjourns it. The adjournment can not be for more than three days at each time, nor more than fifteen days in all, unless by the consent, or on the motion of the defendant.

SECTION 198. If an adjournment is had for any cause and the defendant is charged with a capital offense, he must be committed in the meantime, otherwise the magistrate must commit the defendant for examination, or discharge him from custody, upon sufficient bail or the deposit of money, as provided in this Code, as security for his appearance at the time to which the examination is postponed.

SECTION 200. At the examination the magistrate must, in the first place, read to the accused the complaint on file before him. He must also, after the commencement of the prosecution, issue subpoenas for any witnesses required by the prosecution or the defendant.

SECTION 201. While a witness is under examination, the magistrate may exclude all witnesses who have been examined. He may also cause the witnesses to be kept separate, and to be prevented from conversing with each other until they are all examined.

SECTION 202. The magistrate may also, upon the request of the defendant, exclude from the examination every person except his clerk, the prosecutor and his counsel, the Attorney General of the State, the state's attorney of the county, the defendant and his counsel, and such other persons as he may designate, and the officer having the defendant in custody.

SECTION 205. The magistrate or his clerk must keep the depositions taken, and exhibits admitted as evidence on the examination until returned to the proper court, and must not permit such testimony to be examined or copied by any person except a judge of the court having jurisdiction of the offense or authorized to issue writs of *habeas corpus*, the Attorney General of the State, the state's attorney of the county or judicial subdivision or other prosecuting attorney and the defendant and his counsel.

SECTION 206. Every violation of the last section is punishable as a misdemeanor.

SECTION 207. After hearing the evidence on behalf of the respective parties, if it appears either that a public offense has not been committed or that there is no sufficient cause to believe the defendant guilty thereof, the

magistrate must order the defendant to be discharged by an indorsement on the complaint over his signature to the following effect: "There being no sufficient cause to believe the within named ..... guilty of the offense within mentioned, I order him discharged."

SECTION 209. If, however, it appears from the examination that a public offense has been committed and that there is sufficient cause to believe the defendant guilty thereof, the magistrate must in like manner indorse on the complaint an order signed by him to the following effect: "It appearing to me that the offense in the within complaint mentioned (or any other offense, according to fact, stating generally the nature thereof), has been committed and that there is sufficient cause to believe the within named ..... guilty thereof, I order that he be held to answer the same."

SECTION 217. When a married woman or a minor is a material witness, any other person may be allowed to give an undertaking for the appearance of such witness; or the magistrate may, in his discretion take the undertaking of such married woman or minor in a sum not exceeding fifty dollars, which is valid and binding in law, notwithstanding the disability of minority.

SECTION 219. When, however, in pursuance of Section 215, any material witness on the part of the prosecution has been discharged on his undertaking, without surety, if afterwards, on the sworn application of the state's attorney, or other person on behalf of the State, made to the magistrate or to any judge, it satisfactorily appears that the presence of such witness or any other person on the part of the prosecution is material or necessary on the trial in court, such magistrate or judge may compel such witness, or any other material witness on the part of the State, to give an undertaking, with sureties, to appear on the said trial and give his testimony therein, and for that purpose, the said magistrate or judge may issue a warrant against any such person, under his hand, with or without seal, directed to a sheriff, marshal, or other peace officer, to arrest such person and bring him before such magistrate or judge.

SECTION 220. And in case the person so arrested shall

neglect or refuse to give said undertaking in the manner required by said magistrate or judge, he may issue a warrant of commitment against such person, which shall be delivered to said sheriff or other peace officer, whose duty it shall be to convey such person to the jail mentioned in said warrant, and the person shall remain in confinement until he shall be removed to the grand jury or to the court, for the purpose of giving his testimony, or until he shall have given the undertaking required by said magistrate or judge or until he is otherwise discharged according to law.

SECTION 221. When a magistrate has discharged a defendant or has held him to answer, as provided in Sections 207 and 209, he must return immediately to the district court of the county or judicial subdivision, the warrant, if any, the complaint, the depositions of all the witnesses examined before him, if any, have been taken, and exhibits and all undertakings of bail, or for the appearance of witnesses, taken by him, together with a certified copy of the record of the proceeding as it appears on his docket.

## CHAPTER VI.

### ARTICLE 1.—OF PROCEEDINGS ON INFORMATION OR INDICTMENT —PRELIMINARY PROVISIONS.

SECTION 222. All crimes or public offenses triable in the district courts must be prosecuted by information or indictment, except as provided in the next section.

SECTION 223. When the proceedings are for the removal of a district, county, township, city or municipal officer, or of a State officer not liable to impeachment, they may be commenced by an accusation in writing as provided in Article 2, Chapter 4, of this Code.

SECTION 224. All accusations against, district, county, township or municipal officers, or State officers not liable to impeachment, must be found, or presented to and filed in the district courts; but nothing herein shall be construed to prevent said officers from being proceeded against for a crime or public offense in the same manner as now is or

may hereafter be provided by law for proceeding against other persons accused of a crime or public offense; or to limit the power of the court to remove such officers from office, upon conviction, when authorized by law so to do.

ARTICLE 2.—OF THE INFORMATION.

SECTION 225. During each term of the district court held in and for any county or judicial subdivision in this State at which a grand jury has not been summoned and impaneled, the states' attorney of the county or judicial subdivision, or other person appointed by the court, as provided by law, to prosecute a criminal action, shall file an information, or informations, as the circumstances may require, respectively, against all persons accused of having committed a crime or public offense within such county or judicial subdivision or triable therein:

1. When such person or persons have had a preliminary examination before a magistrate for such crime or public offense and, from the evidence taken thereat, the magistrate has ordered that said person or persons be held to answer to the offense charged or some other crime or public offense disclosed by the evidence.

2. When a crime or public offense is committed during the continuance of the term of the district court in and for the county or judicial subdivision in which the offense is committed, or triable.

3. When a person accused of a crime or public offense is arrested and waives, in writing, a preliminary examination therefor.

4. When a person accused of a misdemeanor not within the jurisdiction of a magistrate to try and punish, has been arrested and admitted to bail at a place other than the county or judicial subdivision in which said offense is triable; or,

5. At any time, when the person accused of a crime or public offense is a fugitive from justice and such information may be needed by the Governor of this State, to demand such person from the executive authority of any other state or territory within the United States, or to aid

the proper executive authority of the United States to demand such person of any foreign government.

SECTION 226. The states' attorney of the county or judicial subdivision in which any person charged with the commission of a crime or public offense has been held to answer, or other person appointed by the court as provided by law to prosecute, must make full examination and inquiry into the facts and circumstances touching any crime or public offense committed by the accused and triable in said county or judicial subdivision, and must file an information setting forth the crime committed according to the facts ascertained on such examination and inquiry and from the written testimony taken before the magistrate, whether it be the offense charged in the complaint upon which the examination was had or some other offense.

SECTION 227. If the state's attorney or other person appointed to prosecute in any such case, determines that an information ought not to be filed, he must make, subscribe and file with the clerk of the district court of the county or judicial subdivision a statement in writing setting forth his reasons in fact and in law for not filing an information; such statement must be filed at and during the term of the court to which the accused is held to appear for trial. The court must thereupon examine such statement together with the evidence filed in the case and if, upon such examination the court is not satisfied with such statement, the state's attorney or person appointed to prosecute must be directed and required by the court to file the proper information and bring the case to trial. But if the court does not require that an information be filed and the defendant is not held or wanted to answer for any other crime or public offense, he shall be discharged and his bail exonerated or money deposited refunded to him.

SECTION 228. All informations filed under the provisions of this article shall be by the state's attorney of the county or judicial subdivision or by the person appointed to prosecute as informant; and said state's attorney or person appointed to prosecute shall subscribe his name to said information and indorse or otherwise exhibit thereon the names of all witnesses for the prosecution known to

him to be such at the time of the filing of the same, but other witnesses may testify, in behalf of the prosecution, on the trial of said action the same as if their names had been indorsed upon the information.

SECTION 229. The information must be verified by the state's attorney or by the person appointed to prosecute, or by the prosecuting witness, or by some other person, and said verification, must be signed by the person verifying and may be to the effect that the person verifying has read, or heard the information read, and knows the contents thereof, and that he is informed and verily believes that the facts set forth therein are true, and from said knowledge, information and belief he states the same to be true.

SECTION 230. The information must conform to the requirements of the article of this Code and entitled: "Rules of Pleading and Form of the Information or Indictment," and may be amended in matter of form, without a new verification, or of substance with a new verification at any time before the defendant pleads, without leave of the court. The information may be amended at any time thereafter or during the trial as to all matters of form, at the discretion of the court, where the same can be done without prejudice to the rights of the defendant. No amendment must cause any delay of the trial unless for good cause shown by affidavit.

### ARTICLE 3.—OF THE CALLING OF THE GRAND JURY.

SECTION 231. A grand jury is a body of men, consisting of not less than sixteen nor more than twenty-three persons of the county possessing the qualifications prescribed by law, and impaneled and sworn to inquire into and true presentment make to the district court of all crimes or public offenses against the laws of this State committed or triable within the county or judicial subdivision for which the court is holden.

SECTION 232. No grand jury shall be drawn or summoned to attend at any session of the district courts within this State unless the judge thereof shall so direct by order in writing under his hand and filed with the

clerk of the court at which said grand jury is required to attend. The judge of the district court in and for any county or judicial subdivision must, in the manner herein provided, direct that a grand jury be drawn and summoned to attend at a term of the said court, whenever:

1. He shall deem the attendance of such jury necessary for the due enforcement of the laws of this State.

2. The board of county commissioners of the county wherein the court is to be held, in writing, requests him so to do; or,

3. A petition in writing, signed by at least twenty-five resident freeholders or taxpayers of said county or judicial subdivision and requesting the same is presented to such judge. The request provided for in Subdivision 2 of this section and the petition mentioned in Subdivision 3 hereof must be presented to such judge at least fifteen days before the commencement of the term at which the attendance of the grand jury is requested.

#### ARTICLE 4.—FORMATION OF THE GRAND JURY.

SECTION 233. The State or a person held to answer a charge for a public offense, may challenge the panel of a grand jury, or an individual grand juror.

SECTION 234. Whenever a challenge to the panel or to an individual grand juror is allowed, the court shall make an order to the sheriff, or other officer to summon without delay, from the body of the county a sufficient number of persons to complete or to form a grand jury.

SECTION 258. The grand jury shall upon the request of the accused and may of their own motion hear the evidence of the accused. It is their duty to weigh all the evidence submitted to them and when they have reason to believe that there is other evidence they may order such evidence to be produced and for that purpose the state's attorney shall issue process for the witnesses.

## CHAPTER VIII.

RULES OF PLEADING AND FORM OF THE INFORMATION OR  
INDICTMENT.

SECTION 281. The first pleading on the part of the State is the information or the indictment.

SECTION 282. The information or the indictment must contain:

1. The title of the action, specifying the name of the court to which the information or the indictment is presented, and the names of the parties.

2. A statement of the acts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended.

SECTION 283. The allegations of the information of the indictment must be direct and certain as regards:

1. The party charged.

2. The offense charged.

3. The particular circumstances of the offense, charged, when they are necessary to constitute a complete offense.

SECTION 284. When a defendant is informed against, indicted or prosecuted by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it must be inserted in the subsequent proceedings, referring to the fact of his being prosecuted by the name mentioned, in the information or indictment.

SECTION 285. The information or the indictment must charge but one offense, but the same offense may be set forth in different forms or degrees under different courts; and when the offense may be committed by the use of different means, the means may be alleged in the alternative in the same court.

SECTION 286. The precise time at which the offense was committed need not be stated in the information or in the indictment; but it may be alleged to have been commit-

ted at any time before the filing thereof, if an information, or, if an indictment, before the finding thereof, except where the time is a material ingredient in the offense.

SECTION 288. The words used in an information or in an indictment must be construed in their usual acceptance in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.

SECTION 289. Words used in a statute to define a public offense need not be strictly pursued in the information or indictment, but other words conveying the same meaning may be used.

SECTION 290. The information or indictment is sufficient if it can be understood therefrom:

1. That it is entitled in a court having authority to receive it, though the name of the court is not stated.

2. That it was presented by a person authorized by law so to do, if an information; or if an indictment, that it was found by a grand jury of the county or judicial subdivision in which the court was held.

3. That the defendant is named or, if his name cannot be discovered, that he is described by a fictitious name with the statement that his true name is to the informant or, as the case may be, to the grand jury, unknown.

4. That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county or judicial subdivision is triable therein.

5. That the offense was committed at some time prior to the time of the presenting of the information or of the finding of the indictment.

6. That the act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended.

7. That the act or omission charged as the offense, is stated with such a degree of certainty as to enable the

court to pronounce judgment upon a conviction, according to the right of the case.

SECTION 291. No information or indictment is insufficient, nor can the trial, judgment, or other proceedings thereon be effected, by reason of a defect or imperfection in matter of form, which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

SECTION 292. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an information or in an indictment.

SECTION 295. An information or an indictment for libel need not set forth any intrinsic facts for the purpose of showing the application to the party libeled of the defamatory matter on which the information or indictment is founded, but it is sufficient to state generally that the same was published concerning him, and the fact that it was so published must be established on the trial.

SECTION 296. When the instrument, which is the subject of an information or indictment for forgery, has been destroyed or withheld by the act or procurement of the defendant, and the fact of the destruction or withholding is alleged in the information or indictment and established on the trial, the misdescription of the instrument is immaterial.

SECTION 297. In an information or indictment for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter, in respect to which the offense was committed, and in what court or before whom the oath alleged to be false was taken, and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the information or indictment need not set forth the pleadings, record, or procurings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.

SECTION 298. In an information or an indictment for larceny or embezzlement of money, bank notes, certificates of stock, or valuable securities, or for a conspiracy to cheat and defraud a person of any such property, it is sufficient to

allege the larceny or embezzlement, or the conspiracy to cheat and defraud, to be of money, bank notes, certificates of stock, or valuable securities, without specifying the coin, number, denomination or kind thereof.

SECTION 299. An information or indictment for exhibiting, publishing, passing, selling or offering to sell, or having in possession with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper, or writing, but is sufficient to state generally the fact of the lewdness or obscenity thereof.

SECTION 300. When an offense is committed upon, or in relation to, any personal property belonging to several partners, or owners, the information, or indictment for such offense is sufficient, if it alleges such property to belong to any one or more of such partners or owners without naming them all.

SECTION 301. Upon an information or indictment against several defendants, any one or more may be convicted or acquitted.

SECTION 302. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated; and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offense, or aid or abet in its commission, though not present, must be prosecuted, tried, and punished as principals, and no other facts need be alleged in the information or indictment against such an accessory, than are required in an information or indictment against his principals.

SECTION 303. An accessory to the commission of a felony may be prosecuted, tried and punished, though the principal felon may be neither prosecuted nor tried, and though the principal may have been acquitted.

SECTION 304. A person may be prosecuted, tried and convicted, for having, with the knowledge of the commission of a public offense, taken money or property of another, or a gratuity or reward, or an engagement or

promise therefor, upon the agreement or understanding, express or implied, to compound or conceal the offense, or to abstain from a prosecution therefor, or to withhold any evidence thereof, though the person guilty of the original offense has not been prosecuted.

## CHAPTER IX.

### ARTICLE 1.—OF THE ARRAIGNMENT OF THE DEFENDANT.—OF PLEADINGS AND PROCEEDINGS AFTER INFORMATION OR INDICTMENT AND BEFORE THE COMMENCEMENT OF THE TRIAL.

SECTION 305. When the information or indictment is filed, the defendant must be arraigned thereon before the court to which it is presented, if any information, or if an indictment, in which it is found, if triable therein, if not, before the court to which it is removed or transmitted.

SECTION 306. If the information or indictment is for a felony the defendant must be personally present, but if a misdemeanor only, his personal appearance is unnecessary, and he may appear upon the arraignment by counsel.

SECTION 310. The bench warrant, upon the information or indictment, must if the offense is a felony, be substantially in the following form:

County of.....  
The State of North Dakota.

To any sheriff, constable, policemen or marshal in this State :

An information (or indictment as the case may be) having been filed on the.....day of..... 18....., in the district court in and for the county (or judicial subdivision of.....) charging..... with the crime of.....(designating it generally); You are therefore commanded forthwith to arrest the above named.....and bring him before that court (or before the court to which the information or indictment may have been removed, naming it), to answer said information (or indictment) or if the court have ad-

journed for the term, that you deliver him into the custody of the sheriff of the county of.....

Given under my hand, with the seal of said court affixed, this ..... day of....., 18....

By order of the court.

(Seal)

..... Clerk.

SECTION 311. If the offense is a misdemeanor or a bailable felony, the bench warrant must be in a similar form adding to the body thereof a direction to the following effect: "or if he requires it, that you take him before any magistrate of that county or in the county in which you arrest him, that he may give bail to answer the information (or indictment)."

SECTION 313. The defendant, when arrested under a warrant for an offense not bailable, must be held in custody by the sheriff of the county or judicial subdivision in which the information is filed or indictment found.

SECTION 314. The bench warrant may be served in any county or judicial subdivision of the State in the same manner as a warrant of arrest.

SECTION 316. When the information or indictment is for a felony, and the defendant, before the filing or finding thereof, has given bail for his appearance to answer the charge, the court to which the information or indictment is presented, or sent, or removed for trial, may order the defendant to be committed to actual custody either without bail, or unless he gives bail in an increased amount, to be specified in the order.

SECTION 319. The arraignment must be made by the court, or by the clerk or state's attorney, under its direction and consists of reading the information or indictment to the defendant, and asking him whether he pleads guilty or not guilty to the information or indictment.

SECTION 320. When the defendant is arraigned, he must be informed that if the name by which he is informed against or indicted is not his true name, he must disclose his true name or be proceeded against by the name in the information or indictment.

SECTION 322. If he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignments, and the subsequent proceedings on the information or indictment may be had against him by that name, referring also to the name by which he is informed against or indicted.

SECTION 323. If, on the arraignment, the defendant requires it, he must be allowed until the next day, or such further time may be allowed him as the court may deem reasonable, to answer the information or indictment.

SECTION 324. If the defendant does not require time, as provided in the last section, or if he does, then on the next day, or at such further day as the court may have allowed him, he may, in answer to the arraignments, either move the court to set aside the information or indictment, or may demur, or plead thereto.

#### ARTICLE 2.—SETTING ASIDE THE INFORMATION OR INDICTMENT.

SECTION 325. The information or indictment must be set aside by the court in which the defendant is arraigned upon his motion, in either of the following cases:

If it is an information:

1. In all cases where the defendant is entitled to a preliminary examination before a magistrate, before the filing of such information, when he has not had such examination and been held to answer before the district court, or has not waived such examination in writing.

2. When the information is not subscribed by a person authorized to act as informant.

3. When the information is not verified; or,

If it is an indictment:

1. When it is not found, indorsed and presented or filed as prescribed by this Code.

2. When the names of the witnesses examined before the grand jury are not inserted at the foot of the indictment or otherwise exhibited thereon.

3. When a person is permitted to be present during the session of the grand jury, while the charges embraced in the indictment are under consideration, except as provided in Section.....

4. When the defendant had not been held to answer before the finding of the indictment, on any ground which would have been good ground for challenge, either to the panel or to any individual grand juror.

SECTION 326. The motion to set aside the information or indictment must be in writing, subscribed by the defendant or his attorney, and must specify clearly the ground of objection to the information or indictment, and said motion must be made before the defendant demurs or pleads, or the objection is waived.

SECTION 328. If the motion is denied, the defendant must immediately answer the information or indictment, either by demurring or pleading thereto.

SECTION 329. If the motion is granted the court must order that the defendant, if in custody, be discharged therefrom, or if admitted to bail, that the bail be exonerated, or, if he has deposited money instead of bail, that the same be refunded to him, unless the court directs that another or an amended information be filed or that the case be submitted to the same or another grand jury; or, if the case be such that an information might have been filed against the defendant had a grand jury not been called at the time, or the defendant at any time waives a preliminary examination, in writing, the court may direct an information to be filed for the offense charged in the indictment set aside.

SECTION 330. If the court directs that another or an amended information be filed, or that the case be resubmitted to the same or another grand jury, the defendant, if already in custody, must so remain, unless he is admitted to bail; or, if already admitted to bail or money has been deposited instead therefor, the bail or money is to be answerable for the appearance of the defendant to answer a new information or indictment, and unless another or an amended information, or an information in the place of the indictment set aside, as provided in the last section, is

filed within ten days from the date of the order, or the filing of the defendant's waiver of a preliminary examination, or a new indictment is found at the same or next term of the district court, as the case may be, the defendant must be discharged and his bail exonerated or money refunded as provided in the preceding section.

SECTION 331. An order setting aside an information or indictment, as provided in this article, is no bar to a future prosecution for the same offense.

### ARTICLE 3.—DEMURRER.

SECTION 334. The defendant may demur to the information or indictment when it appears upon the face thereof, either:

1. That the court has no jurisdiction of the offense charged therein; or, if an indictment, that the grand jury by which it was found had no authority to inquire into the offense charged, by reason of its not being within the jurisdiction of the county or judicial subdivision.

2. That it does not substantially conform to the requirements of this Code.

3. That more than one offense is charged herein.

4. That the facts stated do not constitute a public offense.

5. That it contains any matter, which if true, would constitute a legal jurisdiction or excuse of the offense charged, or other legal bar to the prosecution.

SECTION 335. The demurrer must be in writing, signed either by the defendant or his counsel, and filed. It must distinctly specify the grounds of the objection to the information or indictment, or it must be disregarded.

SECTION 338. If the demurrer is sustained the judgment is final upon the information or indictment demurred to, and is a bar to another prosecution for the same offense, unless the court, being of the opinion that the objection on which the demurrer is sustained may be avoided in a new information or indictment, directs another or an amended

information, or an information in the place of the indictment demurred to as provided by law in case an indictment is set aside, to be filed, or that the case be submitted to the same or another grand jury.

SECTION 339. If the court does not permit the information to be amended nor direct that another information be filed or that the case be resubmitted as provided in the preceding section, the defendant, if in custody, must be discharged, or, if admitted to bail, his bail is exonerated, or, if he has deposited money instead of bail, the money must be refunded to him.

SECTION 340. If the court directs that another or an amended information or an information in place of the indictment demurred to, as provided by law in case the indictment is set aside, be filed, or that the case be resubmitted to the same or another grand jury, the defendant, if already in custody, must so remain, unless he be admitted to bail, or, if already admitted to bail, or money has been deposited instead therefor, the bail or money is to be answerable for the appearance of the defendant to answer to a new information or indictment; and unless another or an amended information or an information in place of the indictment demurred to, is filed within ten days from the date of the order sustaining the demurrer, or the filing of the defendant's waiver of a preliminary examination, or a new indictment is found at the same or the next term of the district court, as the case may be, the defendant must be discharged and his bail exonerated or money refunded as provided in the preceding section.

SECTION 342. When the objections mentioned in Section . . . ., appear upon the face of the information or indictment, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the information or indictment, or that the facts stated do not constitute a public offense, may be taken at the trial, under the plea of not guilty, and in arrest of judgment.

#### ARTICLE 4.—PLEA.

SECTION 343. There are fewer kinds of pleas to an information or indictment. A plea of:

1. Guilty.

2. Not guilty.

3. A former judgment of conviction or acquittal of the offense charged, which may be pleaded either with or without the plea of not guilty.

4. Over in jeopardy, which may also be plead with or without the plea of not guilty.

SECTION 345. The plea must be entered in substantially the following form:

1. If the defendant pleads guilty:

“The defendant pleads that he is guilty of the offense charged in this information (or indictment).”

2. If he pleads not guilty:

“The defendant pleads that he is not guilty of the offense charged in this information (or indictment).”

3. If he pleads a former conviction or acquittal :

“The defendant pleads that he has already been convicted (or acquitted, as the case may be) of the offense charged in this information (or indictment) by the judgment of the court of.....(naming it) rendered at .....(naming the place), on the.....day of ....., 18....

4. If he pleads once in jeopardy :

“The defendant pleads that he has been once in jeopardy for the offense charged in this information (or indictment) (specifying the time, place and court).”

SECTION 346. A plea of guilty can in no case be put in, except by the defendant himself, in open court, unless upon an information or indictment against a corporation, in which case it may be put in by counsel.

SECTION 348. The plea of not guilty puts in issue every material allegation in the information or indictment.

SECTION 349. All matters of fact tending to establish a defense other than those specified in the third and fourth

subdivisions of Section 343 may be given in evidence under the plea of not guilty.

SECTION 350. If the defendant was formerly acquitted on the ground of evidence between the information or indictment and the proof, or the information or indictment was dismissed upon an objection to its former substance, or in order to hold the defendant for a higher offense, without a judgment or acquittal, it is not an acquittal of the same offense.

SECTION 351. When, however, the defendant was acquitted on the merits, he is deemed acquitted of the same offense, notwithstanding a defect in form or substance in the information or indictment on which he was acquitted.

SECTION 352. When the defendant is convicted or acquitted or has been once placed in jeopardy upon an information or indictment, the conviction, acquittal or jeopardy is a bar to another information or indictment for the offense charged in the former or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under the information or indictment.

SECTION 353. If the defendant refuses to answer the information or indictment by demurrer or plea, a plea of not guilty must be entered.

#### ARTICLE 5.—REMOVAL OF THE ACTION BEFORE TRIAL.

SECTION 354. The defendant in a criminal action prosecuted by information, or indictment in any district court of this State, may be awarded a change of the place of trial, upon his petition on oath, or upon oath of some creditable person, setting forth that he has reason to believe and does believe, and the facts upon which such belief is based, that he cannot receive a fair and impartial trial in the county or judicial subdivision where said action is pending, upon any of the following grounds:

1. That the prosecuting witness, or state's attorney, or other person appointed by the court to prosecute, or any person or corporation promoting said prosecution, has an

undue influence over the minds of the people of the county or judicial subdivision where the action is pending; or,

2. That the people of the county or judicial subdivision are so prejudiced against the defendant or the offense of which he is accused, that he can not have a fair and impartial trial; or,

3. That it is impossible to obtain a jury in the county or judicial subdivision that has not formed an opinion, as to the guilt or innocence of the defendant, such as would disqualify them as jurors; or,

4. That any other cause exists in the county or judicial subdivision, where the action is pending, whereby the defendant would probably be deprived of a fair and impartial trial.

SECTION 355. The petition must be presented at the first term of the court at which the action can be tried and before the trial is begun, or, if the action has been continued, at any time before the term to which it is continued, upon reasonable notice to the state's attorney or the attorney appointed to prosecute. The court must, upon request of the defendant or his counsel, grant the defendant at least twenty-four hours after he has been arraigned in which to prepare and present such petition.

SECTION 356. The court being satisfied that cause exists therefor, as defined in Section 354 must order a change of the place of trial to some county or judicial subdivision where the cause complained of does not exist. But the defendant shall be entitled to only one change of the place of trial.

SECTION 360. If the order of removal is made at a term of the court it is notice to every person who has entered into an undertaking to appear at such term, to appear at the trial of the action before the court to which the same is removed. In other cases the witnesses must be subpoenaed as provided by this Code, or the court may require the witnesses, on the part of the State, to give security for their appearance before the court in which the defendant is to be tried, as provided by law in other cases.

SECTION 362. If the clerk of the district court neglects or refuses to perform any duty in relation to the removal of a cause, it shall be deemed a breach of his official bond and he forfeits a sum not exceeding five hundred dollars, to be recovered by an action on his official bond in the name of and for the use of the State or in the name of and for the use of the person injured, as the facts may be.

SECTION 363. If there are several defendants in a criminal action and the place of trial is changed as to one or more of the and not as to the others, the others must be tried as if the place of trial had not been changed as to any defendant.

SECTION 364. Whenever the defendant, or a defendant, in a criminal action shall file his affidavit stating that he has good reason to believe and does believe that he can not have a fair and impartial trial of such action on account of the prejudice of the judge of the district court in which said action is pending, the court shall thereafter proceed in said action, as follows:

1. If the defendant or a defendant asks for a change of the place of trial of said action on any of the grounds specified in Section 354 of this Code and also for the cause mentioned in this section, it shall be the duty of the court to order said action removed for trial to some other county or judicial subdivision in this State as provided in this article, and to request, arrange for and procure some other judge than the one objected to, to preside at the trial of said action ; or,

2. If a change is asked for only on account of the cause mentioned in this section, the court in which said action is pending may order said action removed to a county or judicial subdivision in an adjoining judicial district in which it can be conveniently and expeditiously tried before another judge, or may request, arrange for and procure the judge of another judicial district to preside at said trial in the county or judicial subdivision in which the action is pending. A change upon the ground in this section provided for, must be asked before the trial is begun, and not more than one change can be granted therefor; but if a trial has been had without a verdict, a change for any of the causes mentioned in this article may

be had if asked for at the term at which said trial was had, and before another trial of the action is begun.

SECTION 365. When the place of trial of a criminal action is changed, as in this article provided, the states' attorney of the county or judicial subdivision, or other person appointed to prosecute, where the action was commenced, shall prosecute the case for the State.

The court to which the action is removed for trial shall have full jurisdiction and authority to hear, try and determine the action, and upon conviction to impose the punishment prescribed by law; and the trial shall be conducted in all respects as if the action had been commenced in said court, and the costs accruing from a change of the place of trial and the costs of the trial shall be paid by the county or judicial subdivision where the offense was committed, or otherwise as provided by law. It is hereby made the duty of each judge of the several judicial districts of this State, whenever requested by another judge of the district court, to preside at the trial of a criminal action, to respond as speedily as may be, and to preside at any trial to which he may be called under the provisions of this article, and all rulings, orders and acts made or done in carrying out the provisions of this article, in any criminal action, shall have the same force and validity as if said action had been tried or said rulings, orders and acts made or done in the judicial district for which such judge was elected.

#### ARTICLE 6.—THE MODE OF TRIAL.

SECTION 367. An issue of fact arises:

1. Upon a plea of not guilty.
2. Upon a plea of former conviction or acquittal of the same offense; or,
3. Upon a plea of once in jeopardy.

SECTION 368. Issues of fact must be tried by a jury, unless a trial by jury is waived in criminal cases not amounting to felony, by the consent of both parties expressed in open court and entered on the minutes.

SECTION 369. If the information or indictment is for a felony, the defendant must be personally present at the trial; but if it is for a misdemeanor, the trial may be had in the absence of the defendant; if his presence is necessary for any purpose, the court may, on application of the states' attorney or person appointed to prosecute, by an order or warrant, require the personal attendance of the defendant at the trial.

SECTION 370. After his plea, the defendant, if he requests it, is entitled to at least one day to prepare for trial.

#### ARTICLE 8.—POSTPONEMENT OF THE TRIAL.

SECTION 385. When a criminal action is called for trial, or at any time previous thereto, the court may, upon sufficient cause shown by either party, direct the trial to be postponed to another day in the same term or to the next term. Any cause that would be considered a good one for a postponement in a civil action, is sufficient in a criminal action, whether urged by the State or by the defendant.

### CHAPTER X.

#### ARTICLE 1.—CHALLENGING THE JURY.—OF PROCEEDINGS AFTER THE COMMENCEMENT OF THE TRIAL AND BEFORE JUDGMENT.

SECTION 392. If the sufficiency of the facts alleged as a ground of challenge is controverted by the adverse party, he may except to the challenge. The exception need not be in writing, but must be entered upon the minutes of the court, and thereupon the court must proceed to try the sufficiency of the challenge, assuming the facts therein alleged to be true.

SECTION 394. If the facts alleged as the grounds of the challenge are denied, the denial may, in like manner, be oral and must be entered upon the minutes of the court, and the court must proceed to try the question of fact.

SECTION 397. If upon an exception to the challenge, or

a denial of the facts, the challenge is allowed, the court must discharge the jury, and another jury can be summoned for the same term forthwith from the body of the county; or, the judge may order a jury to be drawn and summoned in the regular manner. If it is disallowed, the court must direct the jury to be impaneled.

SECTION 408. A challenge for implied bias may be taken for all or any of the following causes, and for no other:

1. Consanguinity or relationship to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

2. Standing in the relation of guardian and ward, attorney and client, master and servant, landlord and tenant, or debtor and creditor, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in the employ of either.

3. Being a party adverse to the defendant in a civil action, or having complained against, or been accused by him in a criminal prosecution.

4. Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the action.

5. Having served on a trial jury which has tried another person for the offense charged.

6. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict, after the cause was submitted to it.

7. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

8. If the offense charged is punishable with death, the entertaining of such conscientious opinions would preclude his finding the defendant guilty, in which case he shall neither be permitted nor compelled to serve as a juror.

## ARTICLE 2.—THE TRIAL.

SECTION 419. The jury having been impaneled and sworn, the trial must proceed in the following order:

1. If the information or indictment is for a felony, the clerk or states' attorney must read it, and state the plea of the defendant to the jury. In all other cases this formality may be dispensed with.

2. The states' attorney or other counsel for the State must open the case and offer the evidence in support of the information or indictment.

3. The defendant or his counsel may then open his defense, and offer his evidence in support thereof.

4. The parties may then, respectively, offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, or to correct an evident oversight, prompts them to offer evidence upon their original case.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the counsel for the State shall commence, and the defendant or his counsel shall follow; then the counsel for the State shall conclude the argument to the jury.

6. The judge must then charge the jury.

SECTION 420. In charging the jury, the court shall only instruct as to the law of the case, and all instructions must first be reduced to writing, unless by consent of both parties entered in the minutes the instructions are given orally and taken down by the stenographer of the court in shorthand. Either party may request instructions to the jury. Each instruction so requested must be written on a separate sheet of paper, and may be given or refused by the court, and the court shall write on the margin of such requested instructions, which he does not give the word "refused," and all instructions asked for by either party shall be given or refused by the court without modifications or change, unless modified or changed by the consent of the counsel asking the same.

SECTION 421. All instructions given to the jury must be read to them by the court without disclosing to them whether such instructions were requested or not, and must be signed by the judge and may be delivered to the jury, and be taken by them in their retirement and returned into court with the verdict. But when oral instructions are given the jury shall not take any part of the charge in their retirement unless so ordered by the court.

SECTION 422. Upon the close of the trial all instructions given or refused together with those prepared by the court, if any, must be filed with the clerk, and, except as otherwise provided in the next section shall be deemed excepted to by the defendant. If the charge of the court, or any part thereof is given orally, the same must be taken down by the official stenographer and shall be deemed excepted to by the defendant, and the same, as soon as may be after the trial must be written out at length and filed with the clerk of the court by the stenographer thereof, *provided*, that in case the defendant is acquitted by the jury the oral instructions need not be transcribed or filed with the clerk. But exceptions in writing to any of the instructions of the court in any manner given, or to the refusal of the court to give instructions requested, may be filed by the defendant at his discretion, with the clerk of the court within twenty days after the instructions are all filed as herein provided. The stenographer of the court shall receive for writing out the oral instructions of the court the same fees as for making transcripts.

SECTION 423. The court may at its discretion, submit the written instructions which it proposes to give to the jury, to the counsel in the case for examination, and require such counsel after a reasonable examination thereof, to designate such parts thereof as he may deem objectionable, and such counsel must thereupon designate such parts of such instructions as he may deem improper and thereafter only such parts of said written instructions so designated shall be deemed excepted to, or subject to exception.

SECTION 426. On the trial of an information or indictment for libel, the jury have the right to determine the law and the fact.

SECTION 427. On the trial of an information or indict-

ment for any other offense than libel, questions of law are to be decided by the court, and questions of fact are to be decided by the jury, and, although the jury have the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive as law what is laid down as such by the court.

SECTION 428. If the information or indictment is for an offense punishable with death, three counsel on each side may argue the case to the jury. If it is any other offense the court may, in its discretion, restrict the argument to one counsel on each side.

SECTION 431. When two or more defendants are jointly charged with a felony in a criminal action, any defendant requiring it may be tried separately. In other cases defendants jointly prosecuted may be tried separately or jointly, in the discretion of the court.

SECTION 432. When two or more persons are included in the same information or indictment, the court may at any time before the defendants have gone into their defense, on the application of the state's attorney, direct any defendant to be discharged from the information or indictment, that he may be a witness for the State.

SECTION 433. When two or more persons are included in the same information or indictment and the court is of the opinion that in regard to a particular defendant there is not sufficient evidence to put him on his defense, it must order him to be discharged before the evidence is closed, that he may be a witness for his co-defendant.

SECTION 434. The discharge of a defendant under either of the last two sections is an acquittal of the offense charged in the information or indictment or any offense for which he might have been found guilty thereunder, and is a bar to another prosecution therefor.

SECTION 435. In the trial of a criminal action or proceeding before any court or magistrate of this State, whether prosecuted by information, indictment, complaint or otherwise, the defendant shall, at his own request and not otherwise, be deemed a competent witness; but his neglect or refusal to testify shall not create or raise any

presumption of guilt against him, nor shall such neglect or refusal be refused to by any attorney prosecuting the case, or considered by the court or jury before whom the trial takes place.

SECTION 436. Upon a trial for treason the defendant cannot be convicted unless upon the testimony of two witnesses to the same overt act or upon his confession in open court; nor can evidence be admitted of an overt act not expressly charged in the information or indictment, nor can the defendant be convicted unless one or more overt acts are expressly charged therein.

SECTION 437. Upon a trial for conspiracy in a case where an overt act is necessary to constitute the offense, the defendant cannot be convicted unless one or more overt acts are expressly alleged in the information or indictment, nor unless one or more of the acts alleged are proved, but any other overt act not alleged in the information or indictment may be given in evidence.

SECTION 440. Upon a trial for procuring or attempting to procure an abortion, or aiding or assisting therein, or for inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of twenty-five years for the purpose of prostitution, or aiding or assisting therein, or for having, under promise of marriage, seduced and had illicit connection with an unmarried female, under twenty years of age, of previous chaste character, the defendant can not be convicted upon the testimony of the person injured unless she is corroborated by other evidence.

SECTION 441. When it appears, at any time before verdict or judgment, that a mistake has been made in charging the proper offense, the defendant must not be discharged if there appears good cause to detain him in custody; but the court must commit him, or require him to give bail for his appearance to answer to the offense, and may also require the witness to give bail for their appearances. The provisions of Section . . . . of this Code as to the manner and time of prosecution, so far as applicable, shall govern the further proceedings under this section.

SECTION 442. Upon the trial of an information filed or

indictment found, under the provisions of the last section, neither a plea of former acquittal nor of once in jeopardy shall be sustained by the fact of the discharge of the jury on the first information or indictment.

SECTION 443. If a new information is not filed, or a new indictment found within the times limited in Section . . . . and the sections therein referred to, of this Code, the court must again proceed to try the defendant on the original charge.

SECTION 444. The court may direct the jury to be discharged, where it appears that it has not jurisdiction of the offense, or that the facts charged in the information or indictment do not constitute an offense punishable by law.

SECTION 445. If the jury is discharged because the court has not jurisdiction of the offense charged, and it appears that it was committed out of the jurisdiction of this State, the defendant must be discharged, unless the court orders that he be detained for a reasonable time, to be specified in the order, to enable the states' attorney to communicate with the chief executive officer of the country, state, territory or district where the offense was committed.

SECTION 446. If the offense was committed within the jurisdiction of another county of this State, the court may direct the defendant to be committed for such time as it deems reasonable to await a warrant from the proper county for his arrest, or if the offense be a misdemeanor only, it may admit him to bail in an undertaking, with sufficient sureties, that he will, within such time as the court may appoint, render himself amenable to a warrant for his arrest from the proper county, and if not sooner arrested thereon, will attend at the office of the sheriff of the county where the trial was had, at a time particularly specified in the undertaking, to surrender himself upon the warrant, if issued, or that his bail will forfeit such sum as the court may fix, and to be mentioned in the undertaking, and the clerk must forthwith transmit a certified copy of the information or indictment, and of all the papers filed in the action, to the states' attorney of the proper county, the expense of which transmission is chargeable to that county.

SECTION 449. If the jury is discharged because the facts as charged do not constitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged therefrom, or if admitted to bail that his bail be exonerated, or if he has deposited money instead of bail, that the money deposited be refunded to him, unless in its opinion a new information or indictment can be framed, upon which the defendant can be legally convicted, in which case it may direct the noted attorney to file a new information, or (if an information cannot be sooner legally filed) direct that the case be submitted to the same or another grand jury; and the provisions of Sections 330 and 340 of this Code, so far as applicable, as to the time and manner of the prosecution, shall govern the further proceedings under this section.

SECTION 453. The jurors sworn to try a criminal action, may, at any time before the cause is submitted to the jury, in the discretion of the court, be permitted to separate, or be kept in charge of proper officers. The officers must be sworn to keep the jurors together until the next meeting of the court, to suffer no person to speak to or communicate with them, nor to do so themselves, on any subject connected with the trial, and to return them into court at the next meeting thereof.

SECTION 460. After hearing the charge, the jury may either decide in court, or may retire for deliberation. If they do not agree without retiring, one or more officers must be sworn to keep them together in some private and convenient place, without refreshment except water unless otherwise ordered by the court, and not to permit any person to speak to or communicate with them, nor to do so himself, unless by order of the court, or to ask them whether they have agreed upon a verdict, and to return them into court where they have so agreed, or when ordered by the court.

SECTION 461. When the defendant has been convicted or acquitted upon an information or indictment for an offense consisting of different degrees, the conviction or acquittal is a bar to another information or indictment for the offense charged, or for any lower degree of that offense, or for an offense necessarily included therein.

ARTICLE 3.—CONDUCT OF THE JURY AFTER THE CAUSE IS SUBMITTED TO THEM.

SECTION 466. Upon retiring for deliberation, the jury may take with them all papers (except depositions) which have been received as evidence in the cause, or copies of such public records or private documents given in evidence as ought not, in the opinion of the court, to be taken from the person having them in possession. They may also take with them such parts of the written instructions as the court may direct and notes of the testimony, or other proceedings on the trial, taken by themselves, or any of them but now taken by any other person.

SECTION 470. In all cases where a jury is discharged or prevented from giving a verdict, by reason of an accident or other cause, except where the defendant is discharged from the information or indictment during the progress of the trial, or after the cause is submitted to them, the cause may be again tried at the same or another term, as the court may direct.

ARTICLE 4.—THE VERDICT.

SECTION 473. If the information or indictment is for a felony, the defendant must, before the verdict is received, appear in person. If it is for a misdemeanor, the verdict may, in the discretion of the court, be rendered in his absence.

SECTION 475. The jury may either render a general verdict, or where they are in doubt as to the legal effect of the facts proved, they may, except upon an information or indictment for libel, find a special verdict.

SECTION 476. The verdict of the jury may be rendered orally or in writing as the jury may elect, unless the court, at the time the case is submitted to the jury, requires that it be rendered in writing. When the court so requires, the clerk of the court shall, under the direction of the court, provide blank verdicts of suitable form for any verdict the jury may return in the action and said blank verdicts shall be taken by the jury when it retires.

SECTION 477. A general verdict upon a plea of not guilty, is either "guilty" or "not guilty," which imparts a conviction or acquittal of the offense charged in the information or indictment. Upon a plea of a former conviction or acquittal of the same offense, or once in jeopardy, it is either "for the state," or "for the defendant." When the defendant is acquitted on the ground that he was insane at the time of the commission of the act charged, the verdict must be "not guilty by reason of insanity." When the defendant is acquitted on the ground of variance between the information or indictment and the proof, the verdict must be "not guilty by reason of variance between information (or indictment) and proof."

SECTION 482. The court must give judgment upon the special verdict as follows:

1. If the plea is not guilty, and the facts prove the defendant guilty of the offense charged in the information or indictment, or of any other offense of which he could be convicted under the information or indictment, judgment must be given accordingly; but if otherwise, judgment of acquittal must be given.

2. If the plea is a former conviction or acquittal of the same offense, or once in jeopardy, the court must give judgment of conviction or acquittal, according as the facts prove or fail to prove the plea.

SECTION 485. Whenever a verdict of guilty is rendered against the accused upon a prosecution for homicide, the jury must find the degree thereof and determine by their verdict the punishment to be inflicted within the limits prescribed by law.

SECTION 486. Whenever the fact of a previous conviction of another offense is charged in the information or indictment, the jury if they find a verdict of guilty of the offense with which the defendant is charged must also, unless the answer of defendant admits the charge, find whether or not he has suffered such previous conviction. In addition to the verdict of "guilty" the verdict of the jury upon a charge of previous conviction may be: "We also find the charge of previous conviction true," or, "We also find the charge of previous conviction not true,"

as they find that the defendant has or has not suffered such conviction.

SECTION 487. The jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged in the information or indictment, or of an attempt to commit the offense.

SECTION 489. If the jury returns a verdict of guilty against the accused, the court must before it is accepted ascertain whether it conforms to the law of the case. If in the opinion of the court the verdict does not conform to the requirements of the law of the case, the court must, with proper instructions as to the error, direct the jury to reconsider the verdict and the verdict cannot be accepted or recorded until it is rendered in proper form. But if the punishment imposed by the jury in the verdict, in cases where the jury are authorized by law to determine the punishment, is not in conformity to the law of the case in that regard, the court may proceed as follows :

1. If the punishment imposed by the jury in the verdict is under the limit prescribed by law for the offense of which the defendant is found guilty, the court may receive the verdict and thereupon render judgment and pronounce sentence for the lowest limit prescribed by law in such cases ; or,

2. If the punishment imposed by the jury in the verdict is greater than the highest limit prescribed by law for the offense of which the defendant is found guilty, the court must disregard the excess and render judgment and pronounce sentence according to the highest limit prescribed by law in the particular case.

SECTION 490. The court has the power in all cases of conviction to reduce the extent or duration of the punishment imposed by a jury if in its opinion the conviction is proper and the punishment imposed is greater than under the circumstances of the case ought to be inflicted.

SECTION 496. If the judgment of acquittal is given on a general verdict, and the defendant is not detained for any other legal cause, he must be discharged as soon as judgment is given, except that when the acquittal is for a variance between the proof and the information or indictment

which may be obviated by a new information or indictment, the court may order his detention to the end that a new information or indictment may be preferred in the same manner and with like effect as provided in Section 340 and the sections of this Code therein referred to.

## CHAPTER XI.

### ARTICLE 1.—OF PROCEEDINGS AFTER VERDICT AND BEFORE JUDGMENT.—STATEMENT OF THE CASE AND EXCEPTIONS.

SECTION 497. A statement of the case is a statement, in writing setting forth or showing particularly, one or more of the rulings, decisions or acts excepted to in an action or proceeding, together with the facts and circumstances of the ruling, decision or act and the exception thereto, and settled, certified and filed as provided in this article.

SECTION 500. The office of a statement of the case is to make such parts of the proceedings or of the evidence in an action, appear of record as otherwise would not so appear.

SECTION 501. Except as otherwise provided in this chapter, a statement containing the exceptions must be settled, and certified by the judge who presided at the trial, and filed with the clerk of the district court of the county in which the action was tried.

SECTION 502. The decision of the court, in a criminal action or proceeding upon a matter of law is deemed excepted to by either party in the following cases:

1. In granting or refusing a motion to set aside an information or indictment.
2. In allowing or disallowing a demurrer to an information or indictment.
3. In granting or refusing a motion in arrest of judgment.
4. In granting or refusing a motion for a new trial.
5. In making or refusing to make an order after judgment affecting any substantial right of the parties.

SECTION 503. The decision of the court in a criminal action or proceeding upon a matter of law is deemed excepted to by the defendant in the following cases:

1. In refusing to grant a motion for a change of the place of trial.
2. In refusing to postpone the trial on motion of the defendant.
3. In charging or instructing the jury upon the law, upon the trial of the issue, except as otherwise provided in Section . . . . of this Code.

SECTION 504. It shall be the duty of the clerk of the district court in which any criminal action or proceeding is pending or tried, to enter carefully and correctly in the minutes of such court, each ruling or decision of the court made in open court, upon any matter by Section 502 and Subdivision 1 and 2 of Section 503 of this article, declared to be deemed excepted to, and a certified copy of any or all such entries shall be and become a part of the record of said action.

SECTION 505. Upon a trial of a criminal action or proceeding, exceptions may be taken by the defendant to a decision of the court:

1. In disallowing a challenge to a panel of the jury, or to an individual juror for implied bias.
2. In admitting or rejecting witnesses or testimony, on the trial of a challenge of a juror for actual bias.
3. In admitting or rejecting witnesses or evidence or in deciding any matter of law, not purely discretionary, on the trial of the issue.

SECTION 506. Nothing in this Code contained is to be construed so as to deprive either party of the right of excepting to any action or decision of the court in a criminal action or proceeding which affects any other material or substantial right of either party, whether before or after the trial, or on such trial.

SECTION 507. In all cases where the court is proceeding without a stenographer, the exceptions must be settled and certified at the trial, unless the court otherwise

directs. If the exceptions are settled at the trial, the point of the exception must be particularly stated in writing and delivered to the court, and must immediately be corrected or added to, until it is made conformable to the truth. The exceptions so settled and certified shall constitute the statement of the case.

SECTION 508. If the exceptions are not settled at the trial and in all cases where the testimony is taken down by an official stenographer, a statement of the case, containing the exceptions, must be prepared and served within thirty days thereafter on the states' attorney or other person appointed to prosecute, who may within five days thereafter, serve on the defendant or his attorney, amendments thereto. The defendant may then, within five days, serve the states' attorney or other person appointed to prosecute with a notice to appear before the judge who presided at the trial at a specified place and time, not less than five nor more than ten days thereafter, to have the statement of the case settled. At the place and time appointed, or as soon thereafter as the same can be done, the judge must settle the statement of the case, and certify the same to be correct, and thereupon the same must be filed with the clerk of the district court of the county in which the action was tried. The judge who presided at the trial may settle and certify a statement of the case after as well as before he ceases to be such judge.

SECTION 509. If the judge who presided at the trial in any case refuses to allow an exception in accordance with the facts, or to settle, or certify a statement of the case or has died or removed from the State, the party desiring the statement settled may apply by petition to the supreme court at any term thereof, or to any judge of said court in vacation, to settle and approve the same. The application may be made in the manner and under such regulations as the court may prescribe by order or in its rules, or as may be required by the judge of said court to whom application is made. The statement of the case or any exception when allowed, must be certified by the chief justice of the court (if application is made to the court) or by the judge allowing the same, (when made to a judge) as correct, and filed with the clerk of the district court of the county in which the action was tried, and when so filed, it has the

same force and effect as if settled by the judge who presided at the trial of the action. In all other cases where there is no provision of law governing the allowance and settlement of statements or exceptions, the same shall be allowed, settled and certified as directed in this section.

SECTION 510. The times for preparing the statement of the case, or the amendments thereto, or for settling and certifying the same, may be extended before or other times fixed, after, they have elapsed, by the agreement of the parties or by the judge who presided at the trial, or in the cases provided for in Section . . . of this Code, by the supreme court, or by a judge thereof.

SECTION 511. The statement of the case must contain so much of the evidence only as is necessary to present the questions of law upon which the exceptions were taken, and the judge must upon the settlement of the statement, whether agreed to by the parties or not, strike out all other matters therein. No particular form of exception is required, but the objection must be stated, with so much of the evidence or other matter as is necessary to explain it, and no more: only the substance of the stenographer's notes of the evidence shall be stated, documents on file in the action or proceeding may be copied, or the substance thereof stated, or a reference thereto sufficient to identify them may be made.

SECTION 512. The instructions requested by the defendant and refused, or by the prosecutor and given, and all the instructions given to the jury by the court in writing or orally and written out by the stenographer of the court and filed with the clerk, except as otherwise provided in Section 423 of this Code, are deemed excepted to and need not be embodied in the statement of the case, but the same and each of them with the indorsements, if any, showing the action of the court thereon, form a part of the record of this action. The decision of the court upon any matters of law in this article declared to be deemed excepted to need not be embodied in any statement of the case and forms a part of the record of the action. Any statement of the case or exception settled, certified and filed as provided in this article also forms a part of the record of the action. Any error committed by the court in or by any

decision, ruling, instruction or other act and appearing in the record of the action may be taken advantage of upon a motion for a new trial or in the supreme court on an appeal.

ARTICLE 2.—NEW TRIALS.

SECTION 513. A new trial is a re-examination of the issue in the same court, before another jury, after a verdict has been given. The granting of a new trial places the parties in the same position as if no trial had been had. All the testimony must be produced anew and the former verdict cannot be used or referred to either in evidence or in argument or be pleaded in bar of any conviction which might have been had under the information or indictment.

SECTION 514. When a verdict has been rendered against the defendant, the court in which the trial was had may, upon his application, grant a new trial in the following cases only :

1. When the trial has been had in his absence, if the information or indictment is for a felony.

2. When the jury has received out of court any evidence other than that resulting from a view of the premises or any communication, document or paper referring to the case.

3. When the jury have separated without leave of the court, after retiring to deliberate upon their verdict, or have been guilty of any misconduct by which a fair and due consideration of the case has been prevented.

4. When the verdict has been decided by law or by any other means than a fair expression of opinion on the part of all the jurors.

5. When the court has misdirected the jury in a matter of law or has erred in the decision of any question of law arising during the course of the trial or has done or allowed any act in the action prejudicial to the substantial rights of the defendant

6. When the verdict is contrary to law or clearly against the evidence.

7. When new evidence is discovered material to the defense and which the defendant could not, with reasonable diligence, have discovered and produced at the trial.

When the application for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits of the persons by whom such evidence is expected to be given; and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable. But the court may, when the affiants are residents of this State, compel their personal attendance before it; and they may be examined and cross-examined under oath, touching the matters set forth in their affidavits.

SECTION 515. The application for a new trial must be made upon not less than one nor more than five days' written notice, and if based upon any of the grounds mentioned in Subdivisions 2, 3, 4 and 7, of the last section, such written notice must be served and filed within thirty days after the discovery of the facts upon which the party relies in support of his application; and in all other cases the notice must be served and filed within ten days after the rendition of the verdict, or within such further or other time as the court may allow, or fix.

SECTION 516. The application for a new trial, if made for any of the causes mentioned in Subdivisions 1, 2, 3, 4, and 7, of Section 514 must be based upon affidavits which must be filed before the notice is served; in all other cases the application may be made upon the minutes of the court or upon the record of the action and the notice must designate generally the grounds upon which the motion will be made as near as may be in the language of Section —. When the application is made upon the minutes of the court, the notice must specify particularly the errors relied upon and upon the hearing reference may be had to any and all papers on file in the action, the clerk's minutes and the stenographer's notes of the testimony. The application must be heard on the day specified in the notice, or as soon as practicable thereafter. In all cases where the notice is served before judgment, the court may in its discretion,

stay all further proceedings in the action until such application is disposed of. When the application is made upon the minutes of the court and a statement of the case becomes necessary, the draft thereof, and amendments thereto may be proposed and served and the statement settled, certified and filed in the manner and times and after the notices in this article specified. If a review of the decision upon such application is sought on appeal, the errors specified in the notice must be embodied in the statement as settled and certified.

SECTION 517. The application for a new trial, except in case of a sentence of death, must be made before the time for an appeal has elapsed. In case of a sentence of death, the application may be made at any time before the execution.

### ARTICLE 3.—ARREST OF JUDGMENT.

SECTION 518. A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea or verdict of guilty, or on a verdict against the defendant on a plea of former conviction or acquittal or once in jeopardy. It may be founded on any of the defects in the information or indictment mentioned in Section . . . ., unless the objection has been waived by a failure to demur, and must be made before or at the time the defendant is called for judgment.

SECTION 519. The court may also, in its own view of any of these defects, arrest the judgment without motion. The effect of allowing a motion in arrest of judgment, is to place the defendant in the same situation in which he was before the information was filed or the indictment found.

SECTION 520. If, from the evidence in the trial, there is reason to believe the defendant guilty, and a new information or indictment can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper county, or admitted to bail anew, to answer the new information or indictment. If the evidence shows him guilty of another offense, he must be committed or held thereon, and in neither case shall the verdict be a bar to another prosecution. But if no evi-

dence appears sufficient to charge him with any offense, he must, if in custody, be discharged, or if admitted to bail, his bail must be exonerated, or if money has been deposited instead of bail, it must be refunded; and the arrest of judgment shall operate as an acquittal of the defendant of the charge upon which the information or indictment was founded.

## CHAPTER XII.

### ARTICLE 1.—OF JUDGMENT AND EXECUTION.—THE JUDGMENT.

SECTION 521. After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal or once in jeopardy, if the judgment is not arrested or a new trial granted, the court must appoint a time for pronouncing judgment.

SECTION 523. For the purpose of judgment, if the conviction is for a felony, the defendant must be personally present; if for a misdemeanor, judgment may be pronounced in his absence.

SECTION 528. The bench warrant may be served in any county of the State, and in the same manner as a warrant of arrest.

SECTION 530. When the defendant appears for judgment, he must be informed by the court, or by the clerk under its direction, of the nature of the charge against him, and of his plea, and the verdict, if any thereon, and must be asked whether he has any legal cause to show why judgment should not be pronounced against him.

SECTION 532. If no sufficient cause be alleged, or appears to the court why judgment should not be pronounced, it must thereupon be rendered.

SECTION 533. Upon a plea of guilty of a crime distinguished or divided into degrees, the court must, if said plea is accepted and the defendant does not designate in his plea the degree thereof, before passing sentence, determine the degree, and the provisions, so far as applicable, of Sections 535 and of 536 of this Code shall govern in said determination.

SECTION 538. A judgment that the defendant pay a fine and costs, may also direct that he be imprisoned until both the fine and costs are satisfied, specifying the extent of the imprisonment, which must not exceed one day for every two dollars of the fine and costs, but such imprisonment does not discharge the judgment for fine and costs or either and said judgment may at any time thereafter within the time limited by law, be collected upon execution issued thereon.

SECTION 539. A judgment that the defendant pay a fine and costs, or either, must be docketed and thereafter constitutes a lien upon the real estate of the defendant in like manner as judgment for money rendered in a civil action.

SECTION 540. When judgment upon a conviction is rendered, the clerk must enter the same upon the minutes, stating briefly the offense for which the conviction has been had and must as soon as may be annex together and file the following papers, which constitute a record of the action :

1. The information or indictment and all the papers filed in the action, together with a copy of the minutes of the plea or demurrer.
2. A copy of the minutes of the trial.
3. The written charges given or refused, with indorsements, if any, thereon ; the written instructions given by the court and the copy of any oral instructions by the court and filed with the clerk.
4. A copy of the judgment.

## ARTICLE 2.—THE EXECUTION.

SECTION 541. When a judgment, other than of death, has been pronounced, a certified copy of the entry thereof upon the minutes must be forthwith furnished to the officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution.

SECTION 542. If the judgment is for a fine and costs, or

either alone, execution may issue thereon as on a judgment in a civil action.

SECTION 547. In all cases where by law a person is sentenced to imprisonment in the penitentiary, it shall be at hard labor, whether so designated by the jury or court, or not.

SECTION 548. When judgment of death is rendered, the judge must sign and deliver to the sheriff of the county a warrant duly attested by the clerk under the seal of the court, stating the conviction and judgment and appointing a day on which the judgment is to be executed, which must not be less than three months after the day on which the judgment is entered and not longer than six months thereafter.

SECTION 555. If it is found by the inquisition that the defendant is sane, the sheriff must execute the judgment; but if it is found that he is insane, the sheriff must suspend the execution of the judgment until he receives a warrant, from the Governor or from the judge of the court by which the judgment was rendered, directing the execution of the judgment.

SECTION 563. When there is no jail within the county, or whenever the officer having in charge any person under judgment of death, deems the jail of the county where the conviction was had, insecure, unfit or unsafe for any cause, such officer may confine such person in the jail of any other convenient county of the State, and the jailer of any such convenient county shall receive and keep such person in the same manner as if he had been delivered to him by an officer of his own county; and the county in which said person was convicted shall pay all expenses of keeping and maintaining him in said jail.

SECTION 564. A judgment of death must be executed within the walls or yard of the jail of the county in which the conviction was had, or within some convenient enclosure within said county.

SECTION 565. A judgment of death must be executed by the sheriff of the county where the conviction was had, or by his deputy, or in the presence of said sheriff or his deputy, one of whom at least must be present at the

execution. The said sheriff or deputy sheriff must invite the presence, by at least three days' notice, of the state's attorney of the county together with one physician and twelve reputable citizens to be selected by him. He must also at the request of the defendant permit any minister or ministers of the gospel whom the defendant may name, and any of his friends and relatives, not exceeding five, to attend the execution, and also such peace officers as the sheriff or deputy sheriff may deem proper. But no person other than those mentioned in this section can be present at the execution, nor must any person under age be allowed to witness the same.

SECTION 566. The sheriff or deputy sheriff must prepare and sign with his name of office and attach to the warrant under which he acted, a certificate setting forth that the judgment was executed upon the defendant according to the provisions of the last three sections, and the time, manner and place of the execution, and also the names of the twelve persons, not relatives of the defendant, whom he invited to be present and the names of those invited, and who attended such execution. The sheriff or deputy shall request and allow such number of said persons as may be willing so to do, to attest said certificate by their signature.

SECTION 567. The sheriff or deputy sheriff who executed the warrant must return the same together with the certificate provided for in the last section, to the clerk of the district court from which it was issued, and the clerk of said court must file and retain the same in his office with the other papers in the action.

### CHAPTER XIII.

#### ARTICLE 1.—OF APPEALS.—NOTICE OF APPEAL AND SERVICE.

SECTION 568. Either the defendant or the State may take an appeal as provided in this article.

SECTION 569. An appeal to the supreme court may be taken by the defendant as a matter of right from any judgment against him.

SECTION 570. The party appealing is known as the

appellant and the adverse party as the respondent; but the title of the action is not changed in consequence of the appeal.

SECTION 571. An appeal may be taken by the defendant:

1. From a final judgment of conviction.
2. From an order refusing a motion in arrest of judgment.
3. From an order denying a motion for a new trial.
4. From an order made after judgment affecting any substantial right of the party.

SECTION 572. An appeal may be taken by the State:

1. From a judgment for the defendant on a demurrer to the information or indictment.
2. From an order granting a new trial.
3. From an order arresting judgment.
4. From an order made after judgment affecting any substantial right of the State.
5. From an order of the court directing the jury to find for the defendant.

SECTION 573. An appeal from a judgment may be taken within one year after its rendition, and from an order within sixty days after it is made.

SECTION 574. An appeal is taken by the party taking it or the attorney of such party, serving upon the adverse party, or the attorney of the adverse party who acted as attorney of record in the district court at the trial, or at the time the order was made or judgment rendered, a copy of the notice of appeal, and by filing the original thereof with the clerk of the district court of the county in which the order or judgment appealed from is taken, entered or filed.

SECTION 575. If personal service cannot be made, the judge of the district court in which the action is pending or was tried, upon proof thereof, may make an order for

publication of the notice in some newspaper for a period not exceeding thirty days. Such publication is equivalent to personal service.

SECTION 576. The appeal is deemed to be taken when notice thereof, as required by Sections 574 or 575, is filed in the office of the clerk of the district court of the county in which the order or judgment appealed from is made, entered or filed, with evidence of the service or publication thereof indorsed thereon or attached thereto.

SECTION 577. An appeal taken by the State in no case stays or affects the operation of the judgment in favor of the defendant until the judgment is reversed.

SECTION 578. An appeal to the supreme court from a judgment of conviction, stays the execution of the judgment in all capital cases, and in all other cases upon filing with the clerk of the district court of the county in which the conviction was had, a certificate of the judge who presided at the trial, or of a judge of the supreme court, that in his opinion there is probable cause for the appeal, but not otherwise, except as hereinafter provided.

SECTION 579. If the certificate provided for in the last section is filed, the sheriff must, if the defendant is in his custody, upon being served with a copy thereof, keep the defendant in his custody without executing the judgment, and detain him to abide, the judgment on the appeal.

SECTION 580. If, before the granting of the certificate, the execution of the judgment has commenced, the further execution thereof is suspended, and upon service of a copy of such certificate upon the sheriff of the county in which such judgment was entered, the defendant must be restored, by the officer in whose custody he is, to his original custody.

SECTION 581. Upon the appeal being taken, it shall be the duty of the clerk of the district court with which the notice of appeal is filed, without charge and without unnecessary delay, to make out a full and perfect transcript of all the papers in the case on file in his office, except the papers returned by the committing magistrate on the preliminary examination where there has been one,

and of all the entries made in his minutes, and certify the same under his hand and the seal of the court, and transmit the same to the clerk of the supreme court, and upon receipt thereof, the clerk of the supreme court must file the same and perform the same service as in civil cases without charge.

SECTION 582. Where several defendants are prosecuted and tried jointly, any one or more of them may join in taking an appeal, but those who do not join shall take no benefit therefrom, yet they may appeal afterwards.

SECTION 583. An appeal taken by the defendant does not stay the execution of the judgment in any case not capital, unless bail is put in, except where the judgment is imprisonment in the penitentiary, and an appeal is taken during the term at which the judgment is rendered, and the defendant is unable to give bail, and that fact is satisfactorily shown to the court, it may, in its discretion, order the sheriff or other officer having the defendant in custody to detain him in custody without taking him to the penitentiary, to abide the judgment on appeal, if the defendant desires it.

SECTION 584. When an appeal is taken by the defendant and bail is put in, it is the duty of the clerk to give forthwith to the defendant, his agent or attorney, a certificate under his hand and the seal of the court, stating that an appeal has been taken and bail put in, and the sheriff or other officer having the defendant in custody, must, upon the delivering of such certificate to him, discharge the defendant from custody where imprisonment forms a part of the judgment, and cease all further proceedings in execution of the judgment, and return forthwith to the clerk of the court who issued it, the execution or certified copy of the entry of judgment under which he acted, with his return thereon, if such execution or certified copy has been issued, and if such execution or certified copy has not been issued, it shall not be issued, but shall abide the judgment on the appeal.

#### ARTICLE 2.—DISMISSING AN APPEAL FOR IRREGULARITY.

SECTION 585. If the appeal is regular in any substantial

particular, but not otherwise, the supreme court may on any day, on motion of the respondent, upon five days' notice accompanied with the copies of the papers upon which the motion is founded, order it to be dismissed. The dismissal of an appeal affirms the judgment. But if the irregularities complained of are corrected in a reasonable time, the appeal shall not be dismissed and the supreme court must fix the time and direct the manner of correcting the irregularity.

SECTION 586. An appeal must not be dismissed for any informality or defect in the taking thereof. If the same is corrected within a reasonable time after an appeal has been dismissed, another appeal may be taken. If an undertaking has been given which is defective in any respect, a new one may be filed on appeal in the supreme court.

#### ARTICLE 3.—ARGUMENT OF THE APPEAL.

SECTION 587. An appeal in a criminal action shall stand for argument at the first term after the record is filed, unless for good cause shown the hearing is postponed to a subsequent term, but the parties or their attorneys may by stipulation fix an earlier day for the hearing with the approval of the supreme court.

SECTION 588. The judgment may be affirmed if the appellant fails to appear, but may be reversed only after argument, though the respondent fails to appear.

SECTION 589. Upon the argument of the appeal if the offense is punishable with death, three counsels upon each side must be heard if they require it. In any other case, the court may, in its discretion, restrict the argument to one counsel on each side.

SECTION 590. The personal appearance of the defendant in the supreme court on the hearing of an appeal is in no case necessary.

#### ARTICLE 4.—JUDGMENT IN SUPREME COURT.

SECTION 591. After hearing the appeal, the court, must

give judgment without regard to technical errors or defects or exceptions which do not affect the substantial rights of the parties.

SECTION 592. Upon an appeal taken by the defendant from a judgment, the court may review any intermediate order, or ruling involving the merits, or which may have affected the judgment adversely to the defendant.

SECTION 593. The supreme court may reverse, affirm or modify the judgment or order appealed from, and may set aside, affirm or modify any or all the proceedings subsequent to, or dependant upon such judgment, or order, and may if proper, order a new trial. In either case the action must be remanded to the district court with proper instructions, together with the opinion of the court.

SECTION 594. When a new trial is ordered it must be had in the district court of the county from which the appeal was taken or in some other county, as directed by the supreme court.

SECTION 596. If a judgment against the defendant is affirmed, the original judgment must be enforced.

SECTION 597. When the judgment of the supreme court is given, it must be entered in the minutes and a certified copy of the entry forthwith remitted to the clerk of the district court from which the appeal was taken.

SECTION 598. After the certificates of the judgment has been remitted to the court below, the appellate court has no further jurisdiction of the appeal or of the proceedings therein and all orders necessary to carry the judgment into effect must be made by the district court to which the certificate is remitted.

SECTION 599. If the appeal is taken by the State, the supreme court cannot reverse the judgment or modify it so as to increase the punishment, but may affirm it, and shall point out any errors in the proceedings or in the measure of punishment and its opinion shall be obligatory on the district court as the correct exposition of the law.

SECTION 600. If a defendant has during the pendency of an appeal been imprisoned in the execution of the judgment appealed from and upon a new trial ordered by the

supreme court shall again be convicted, the period of his former imprisonment shall be deducted by the district court from the period of imprisonment to be fixed on the last verdict of conviction.

## CHAPTER XIV.

### ARTICLE I.—WITNESS AND EVIDENCE.—COMPELLING THE ATTENDANCE OF WITNESSES.

SECTION 608. A subpoena may be served by any person, but a peace officer must serve in his county any subpoena delivered to him for service, either on the part of the State or of the defendant, and must without delay make a written return of the service, subscribed by him, with the title of his office, stating the time, place and manner of service.

SECTION 609. A subpoena is served by showing the original to the witness personally and informing him of its contents.

SECTION 610. When a person attends before a magistrate, grand jury, or court, as a witness in a criminal action, upon a subpoena or in pursuance of an undertaking, and it appears that he has come from a place outside of the county, or that he is poor and unable to pay the expenses of such attendance, the court at its discretion, if the attendance of the witness is upon a trial, by order upon its minutes or in any other case, the judge, at his discretion, by a written order, may direct the county treasurer to pay the witness a reasonable sum, to be specified in the order, for the necessary expenses of his attendance.

SECTION 611. Upon the production of the order, or a certified copy thereof, the county treasurer must pay the witness the sum specified therein, out of the county treasury.

SECTION 612. No person is obliged to attend as a witness before a court or magistrate out of the county where the witness resides, or is served with the subpoena, unless the judge of the court in which the offense is triable, or a judge of the district court or a judge of the supreme court upon an affidavit of the states' attorney, or prosecutor or

of the defendant, or his counsel, stating that he believes the evidence of the witness is material, and his attendance at the examination or trial necessary, shall indorse upon the subpoena an order for the attendance of the witness.

SECTION 613. Disobedience to a subpoena, or a refusal to be sworn, or to testify, may be punished by the court or magistrate as a contempt in the manner provided in the Code of Civil Procedure.

SECTION 614. A witness disobeying a subpoena issued on the part of the defendant in a criminal action, unless he shows good cause for his non-attendance, is liable to the defendant in the sum of fifty dollars, which may be recovered in a civil action.

SECTION 615. When a witness has entered into an undertaking to appear, upon his failure to do so, the undertaking is forfeited in the same manner as undertakings of bail.

SECTION 616. When the testimony of a witness for the State is required in a criminal action, before a court of record of this State, and such witness is confined in the penitentiary or in a county jail, an order for his temporary removal from the penitentiary or such jail and for his production before such court, may be made by the court in which the action is pending or by the judge authorized by law to preside at the trial of such action, but in case the penitentiary or such jail is not in the county in which the application is made, such order shall only be made upon the affidavit of the state's attorney or some other person on behalf of the State showing that the testimony is material and necessary, and even then the granting of the order shall be in the discretion of the court or such judge. The order must be executed by the sheriff of the county in which it is made in the following manner:

1. If the person required as a witness is confined in the penitentiary, by delivering to the warden thereof a copy of such order, and it shall be the duty of the warden to deliver the person so required to such officer and to take such officer's receipt for such person indorsed upon the copy of such order, or

2. If the person required as a witness is confined in the

county jail, by delivering to the jailer a copy of such order and it shall be the duty of the jailer to deliver the person so required to such officer, and take such officer's receipt for such person indorsed upon said copy of such order.

It shall be the duty of the officer receiving any such person to take him before the proper court, safely to keep him and when he is no longer required as a witness, to return him to the custody from which he was received. Neither the warden nor the jailer shall be responsible for any such person until his return, and upon the return of any such person the warden or jailer, as the case may be, shall indorse his receipt upon the original order. The sheriff executing any such order shall return the same to the clerk of the district court of the county from which it was issued, and said clerk shall file and preserve the same among the papers in the action. The expense of executing such order shall be paid by the county in which the order shall be made.

## ARTICLE 2.—DEPOSITIONS IN CRIMINAL ACTIONS.

SECTION 617. When a defendant has been held to answer a charge for a public offense, he may either before or after an information has been filed or an indictment has been found, have witnesses examined conditionally on his behalf as prescribed in this chapter and not otherwise.

SECTION 620. The application may be made to the court or to a judge thereof and must be made upon three days' notice to the state's attorney.

SECTION 622. The order must direct that the examination be taken before a magistrate named therein; and on proof being furnished to such magistrate of service upon the state's attorney of a copy of the order, if no counsel appears on the part of the State, the examination must proceed.

SECTION 623. If the state's attorney or other counsel appears on behalf of the State, and it is shown to the satisfaction of the magistrate by affidavit or other proof, or on the examination of the witness, that he is not about to leave the State, or is not sick or infirm, or that the appli-

cation was made to avoid the examination of the witness on trial, the examination cannot take place, otherwise it must proceed.

SECTION 625. The testimony of the witness must be taken down in writing by the magistrate or by some person under his direction; or the magistrate may, in his discretion, order the testimony and proceedings to be taken down in shorthand and for that purpose he may appoint a stenographer. The deposition or testimony of the witness must show and contain:

1. The name of the witness, his age, his place of residence, and his business or profession.

2. The questions put to the witness and his answers thereto, consecutively as the questions are asked and answers given. Each answer must be distinctly read to the witness as it is taken down and corrected or added to until it conforms to what he declares to be the truth. But in cases where the testimony is taken down in shorthand the answer or answers need not be read to him.

3. A statement of the grounds on which an objection to a question on either side is sustained or on which the witness declines to answer it.

4. The signature of the witness to the deposition, or if he refuses to sign it, his reasons for refusing must be stated in writing as he gives them. In cases where the deposition is taken down in shorthand, it must not be signed by the witness.

5. It must be certified by the magistrate when reduced to writing, by him or under his direction, and signed by him.

When taken down in shorthand a transcript of the stenographer's record, certified by him as being a correct statement of the testimony of the witness and proceedings in the case, shall be *prima facie* a correct statement of such testimony and proceedings. The stenographer shall, within five days after the close of such examination, make a full and complete written or type-written transcript of his shorthand record and deliver the same to the magistrate before whom the same was taken,

and thereupon said magistrate must add his certificate as if reduced to writing by him and transmit the same carefully sealed up to the clerk of the court in which the action is pending or may come for trial.

SECTION 627. When a material witness for a defendant, under a criminal charge, is confined in the penitentiary, or in the county jail other than that in which the defendant is to be tried, his deposition may be taken, on behalf of the defendant, in the manner provided for in the case of a witness who is sick, and the provisions of this Code commencing with Section 617 and ending with Section 626, so far as applicable, govern in the application for and in the taking and use of such depositions. Such depositions may be taken before any magistrate or notary public of the county in which the penitentiary or jail is situated, or in case the witness is confined in the penitentiary and the defendant is unable to pay for taking the deposition, before the warden, whose duty it shall be to act without compensation. Every officer before whom testimony shall be taken by virtue hereof, shall have authority to administer and shall administer an oath to the witness, that his testimony shall be the truth, the whole truth and nothing but the truth.

## CHAPTER XV.

### ARTICLE 1.—MISCELLANEOUS PROVISIONS. INQUIRING INTO THE INSANITY OF THE DEFENDANT, BEFORE TRIAL OR AFTER CONVICTION.

SECTION 642. When a criminal action is called for trial, or at any time during the trial, or when the defendant is brought up for judgment or conviction, if a doubt arises as to the sanity of the defendant, the court must order the question as to his sanity to be submitted to a jury; and the trial or pronouncing of the judgment must be suspended until the question is determined by their verdict, and the trial jury may be discharged or retained, at the discretion of the court, during the pendency of the issue of insanity. The jury may be impaneled from the jurors summoned and returned for the term, if not discharged, or others may

be summoned by direction of the court as provided in Sections 379 to 384 both inclusive.

SECTION 646. If the jury finds that the defendant is insane, the trial or judgment must be suspended until he becomes sane, and the court must order that he be, in the meantime, committed by the sheriff to the State hospital for the insane, and that upon his becoming sane, he be redelivered to the sheriff.

SECTION 648. If the defendant is received into the State hospital for the insane, he must be detained there until he becomes sane. When he becomes sane the superintendent must give notice of that fact to the sheriff and states' attorney of the county. The sheriff must thereupon without delay, bring the defendant from the said hospital and place him in proper custody, until he is brought to trial or to judgment, as the case may be, or is legally discharged. The sheriff must receive the actual expenses incurred and no more.

SECTION 649. The expense of taking the defendant to the State hospital for the insane and of bringing him back shall be met and paid in the manner and as provided by law for the payment of the delivery thereto of persons admitted to said hospital by the commissioners of insanity of the county.

#### ARTICLE 2.—COMPENSATION FOR ATTORNEYS.

SECTION 650a. Whenever it appears to the court before which a criminal action is about to be tried that the defendant is unable to pay the witnesses in his behalf, such court must make an order to be entered in the minutes, that such witnesses, naming them, as may be deemed reasonable be subpoenaed and attend at such trial at the expense of the county liable to pay the costs of the prosecution of such action, and such witnesses shall be paid accordingly.

#### ARTICLE 3.—COMPROMISING MISDEMEANORS BY LEAVE OF THE COURT.

SECTION 652. If the party injured appears before the

court in which the trial is to be had, at any time before the trial, and acknowledges that he has received satisfaction for the injury, the court may in its discretion, on payment of the costs incurred, order all proceedings to be stayed upon the prosecution and the defendant to be discharged therefrom; but in such cases the reasons for the order must be set forth therein and entered on the minutes.

ARTICLE 4.—CORPORATIONS, CRIMINAL ACTIONS AGAINST.

SECTION 655. Whenever a presentment by a grand jury or a complaint in writing is laid before a magistrate charging a corporation within his jurisdiction of a public offense within its ability to commit, the magistrate must file the same and thereupon issue a summons signed by him, with his name of office, requiring such corporation to appear before him to answer the charge at a specified place and time, not less than ten days after issuance of the summons.

SECTION 659. After hearing the proofs, the magistrate must certify upon the presentment or the complaint either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the complaint and certificate and the depositions of witnesses, if any have been taken, and exhibits together with a certified copy of the proceedings as they appear on his docket and in the same manner as prescribed in Section . . .

SECTION 660. If the magistrate returns a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the state's attorney may at the next term of the district court file an information therefor as in the case of natural person held to answer. The state's attorney of the county may, by leave of the court, file an information against a corporation in like manner, charging it with the commission of a public offense, or the grand jury may return an indictment therefor, without any previous action on the part of a magistrate.

SECTION 661. If an information is filed or an indictment returned, the corporation may appear by counsel to answer the same. If it does not thus appear, a plea of not guilty must be entered and the same proceedings had thereon as in other cases.

SECTION 662. When an information is filed without a preliminary examination or an indictment returned against a corporation, the clerk of the district court must issue a summons in its corporate name, commanding it to appear and answer the information or indictment, and such summons must be served in the manner provided for the service of a summons in the Code of Civil Procedure.

SECTION 663. When the sheriff or other officer returns the summons with his certificate showing due service thereof, the corporation on and after the day appointed in such summons for its appearance, must be considered in default, and the court must order the clerk to enter the plea of not guilty for said corporation in the minutes of the court, and all further proceedings shall be had in said action as if the corporation had appeared and pleaded not guilty to the information or indictment; and if upon the trial the corporation is found guilty, the court must impose a fine upon it as prescribed by law and enter judgment for the amount of such fine and the costs of said action in the same manner as on a judgment in a civil action.

#### ARTICLE 5.—ENTITLING AFFIDAVITS.

SECTION 664. It is not necessary to entitle an affidavit or deposition in an action, whether taken before or after information or indictment or upon an appeal; but if made without a title or with an erroneous title, it is as valid and effectual for every purpose as if it were duly entitled, if it intelligibly refers to the proceedings, information, indictment or appeal in which it is made.

#### ARTICLE 7.—DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED.

SECTION 670. If the property stolen or embezzled is not claimed by the owner before the expiration of six months from the conviction of a person for stealing or embezzling it, the magistrate or officer having it in custody, must on the payment of the necessary expenses incurred in its preservation, deliver it to the county treasurer, by whom, if it is money, it must be paid into the county treasury, or if it is not money, it must be sold and the proceeds paid into such treasury.

SECTION 671. When money or other property is taken from a defendant arrested upon a charge of a public offense, the officer taking it must at the time give duplicate receipts therefor, specifying particularly the amount of money, or the kind of property taken; one of which receipts he must deliver to the defendant, and the other of which he must forthwith file with the clerk of the court to which the complaint and other papers in the case are, by law required to be sent. When such property is taken by a police officer of any incorporated city or town he must deliver one of the receipts to the defendant, and one, with the property, at once to the clerk or other person in charge of the police office in such city or town, or, if there is no such clerk or other person, then to the magistrate before whom such defendant may be taken for examination or trial.

SECTION 672. The said clerk or other person or magistrate must enter in a suitable book every amount of money and a description of every article of property taken from each person so arrested, and must attach a number to every amount of money and every article of property and make a corresponding entry thereof, but when the receipt and property, as provided in the last section, are delivered to a magistrate it shall be sufficient compliance with the provisions hereof if the entries are made in his docket.

#### ARTICLE 8.—REPRIEVES, COMMUTATIONS AND PARDONS.

SECTION 673. The Governor of this State has the power to remit fines and forfeitures; to grant reprieves, commutations and pardons, after conviction for all offenses, except treason and in cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper; *Provided*, Application therefor is made in the manner prescribed in this article, and not otherwise.

SECTION 674. The Governor also has power to, and may suspend the execution of a sentence upon a conviction for treason, until the case can be reported to the Legislative Assembly at its next regular session, when the Legislative Assembly may either pardon or commute the sentence, direct the execution thereof or grant a further reprieve.

SECTION 675. The Governor must communicate to the Legislative Assembly at the beginning of each regular session thereof, each case of remission of fine or forfeiture and commutation of pardon granted since the last report, stating the name of the person relieved, the crime for which he was convicted, the sentence and its date of his action thereon with his reasons for granting the relief.

SECTION 677. All applications for pardon on behalf of any person or persons convicted in any court of this State, of any crime, punishable under the laws thereof by imprisonment in the penitentiary, and sentenced to such imprisonment, shall be made and conducted in the manner hereinafter prescribed.

SECTION 678. Notice of the application for such pardon shall be given to the judge who presided at the trial, or his successor in office, and to the states' attorney, or his successor in office, of the county, who prosecuted the action against such person or persons so convicted and sentenced, at least thirty days before such application is filed with the Governor; the service of such notice upon the judge and states' attorney shall be made, and the return thereof certified in the same manner as now prescribed for the service of summons in the district court, and such certificate of service shall accompany every application to the Governor.

A notice of such application, setting forth the name, age and sex of the person or persons on whose behalf it is made, the crime of which he was convicted, and the time and place of such conviction and the term of imprisonment, shall also be published at least once a week for four consecutive weeks, in some newspaper of general circulation in the county where the offense for which a pardon is sought was committed; or if there is no newspaper published therein, then such notice shall be posted in a conspicuous place on the door of the court house of such county for four consecutive weeks prior to the application. The affidavit of the publisher of such newspaper, or the person posting such notice, showing that said notice has been published or posted as herein provided, shall also accompany such application.

SECTION 679. Any person or persons feeling aggrieved by the application for a pardon may contest the same, and

for that purpose may appear in person before the Governor during the consideration of said application and show cause, by written or oral testimony, why such pardon should not be granted.

In case any person objects and desires to contest such application, he may at any time before the same is considered by the Governor, notify him, in writing, of such desire, and, upon receipt by the Governor of any such notice, it shall be his duty to fix a time and place for the hearing of such application and objections, and give reasonable notice thereof to all persons interested and applying or objecting, and such notice may be by mail or publication, in the discretion of the Governor.

SECTION 682. The Governor is hereby empowered to restore to citizenship any person convicted of any offense committed against the State, upon cause being shown, either after the execution or expiration of sentence or at any other time.

SECTION 683. Each and every remission of a fine or forfeiture and each and every reprieve, commutation, pardon or restoration to citizenship shall be issued by the Governor under his official signature and attested by the Secretary of State under the Great Seal of the State.

SECTION 684. The Governor is hereby empowered to issue his warrant to all proper officers to carry into effect any act which he has power to do and which is regulated in this article, and all such officers are hereby required to obey such warrant.

#### ARTICLE 9.—OF BAIL.

SECTION 685. Admission to bail is the order of a competent court or magistrate that the defendant be discharged from actual custody upon an undertaking with sufficient sureties for his appearance.

SECTION 686. The taking of bail consists of the acceptance, by a competent court or magistrate or legally authorized officer, of the undertaking with sufficient sureties for the appearance of the defendant in person, according to

the terms of the undertaking or that the sureties will pay to the State a specified sum.

SECTION 687. Bail, by sufficient sureties, shall be admitted upon all arrests in criminal actions where the offense is not punishable by death, and in such actions it may be taken by any competent court, magistrate or legally authorized officer.

SECTION 688. Bail by sufficient sureties may be admitted upon arrests in criminal actions where the offense is punishable by death unless the proof of guilt is evident or the presumption thereof greater.

In such actions it shall be taken only by the supreme court or a judge thereof, or by a district court or a judge thereof, and the taking thereof shall be discretionary, regard being had to the nature and circumstances of the offense and to the evidence and to the usages of law. The finding of an indictment or the filing of an information does not add to the strength of the proof or the presumption to be drawn therefrom.

In case the action has been tried by jury, and the jury have not agreed on a verdict and have been discharged by reason of inability to agree, then the defendant shall be entitled to bail, unless it shall appear to the court, or judge, by proof, that such disagreement was occasioned by the misconduct of the jury or the defendant or his counsel.

SECTION 689. After a conviction of an offense not punishable with death, a defendant who has appealed may be admitted to bail:

1. As a matter of right, when the appeal is from a judgment imposing a fine only.
2. As a matter of discretion in other cases.

SECTION 690. If the offense is bailable the defendant may be admitted to bail before conviction:

1. For his appearance before the magistrate during the pendency of a trial or on the examination of the charge, before being held to answer.
2. To appear before the court to which the magistrate

holds him to appear upon the defendant being held to answer after examination.

3. After information filed or indictment found, either before the warrant is issued for his arrest or upon any order of the court committing him or increasing the amount of bail or upon his being surrendered by his bail to answer the information or indictment in the court in which it is filed or found or for which it may be transferred for trial.

And after conviction,

1. If the appeal is from a judgment imposing a fine only, on an undertaking of bail that he will pay the same or such part thereof as the appellate court may direct, if the judgment is affirmed or modified, or the appeal is dismissed.

2. If a judgment of imprisonment has been given, that he will surrender himself in execution of the judgment, upon its being affirmed or modified or upon the appeal being dismissed or that in case the judgment is reversed and the cause remanded for a new trial he will appear in the court to which said cause may be remanded and submit himself to the orders and process thereof.

SECTION 692. Upon the allowance of bail and the execution of the requisite undertaking to the State, the court under whose process he is held, the magistrate or other officer must, if the defendant is in custody, make and sign an order for his discharge, upon the delivery of which to the officer having him in custody the defendant must be discharged.

SECTION 693. A deposit of the sum of money mentioned in the order admitting to bail is equivalent to bail, and upon such deposit the defendant must be discharged from custody. If the defendant has given bail he may at any time before the forfeiture of the undertaking in like manner deposit the sum mentioned therein and upon the deposit being made the bail is exonerated.

Every deposit of money under the provisions of this section shall be with the clerk of the court in which the defendant is held to answer.

SECTION 694. When the admission to bail is a matter of discretion, the court, magistrate or officer to whom the application is made must require reasonable notice thereof to be given to the state's attorney of the county.

SECTION 695. In every case where there is no provision of law authorizing a court, magistrate or other officer to take bail, the same may be taken by the supreme court or a judge thereof, or by the district court of the county in which the offense for which the defendant is arrested is triable, or by the judge thereof.

SECTION 696. Bail is put in by a written undertaking, executed by at least two sufficient sureties (with or without the defendant in the discretion of the court, or judge or magistrate) and acknowledged, in substantially the following form:

"An order having been made (or an information having been filed, or an indictment having been found) on the . . . day of . . . 18. . . by . . . justice of the peace of . . . county (or an information filed or an indictment found in the district court of the . . . district in and for the county of . . .) that . . . be held to answer upon a charge of (stating briefly the nature of the offense) or, (as the case may be) charging . . . (name of defendant) with the crime of (designating it generally) and he having been admitted to bail in the sum of . . . dollars:

*Now therefore, We, . . . and . . . (as the fact may be) . . . (stating their place of residence and occupation) jointly and severally, hereby undertake that the above named . . . (naming the defendant) will appear and answer the charge above mentioned (or the information or indictment above mentioned, as the case may be) in whatever court it may be presented, and will at all times hold (or surrender himself amenable to the orders and process of the court, and if convicted, will appear for judgment, and render himself in execution thereof, or, if he fails to perform either of these conditions, that he will pay to the State of North Dakota the sum of . . . dollars, (inserting the sum in which the defendant is admitted to bail).*

SECTION 697. In cases in which the defendant may be

admitted to bail upon an appeal, the order admitting him to bail may only be made by the supreme court or a judge thereof or the district court before which the trial was had or the judge presiding at such trial. The bail must possess the qualifications, and must be put in, in all respects as provided in other cases of bail, except that the undertaking must be conditioned as prescribed in Section 689 for undertakings of bail on appeal.

SECTION 698. Any person charged with a public offense and admitted to bail may be arrested by his bail at any time before they are finally discharged, and at any place within the State; or by a written authority indorsed on a certified copy of the undertaking of bail, they may empower any officer or person of suitable age and discretion, to do so, and he may be surrendered, and delivered to the proper sheriff or other officer, before any court, judge or magistrate having the requisite jurisdiction in the case; and at the request of such bail, the court, judge or magistrate shall recommit the party so arrested to the custody of the sheriff or other officer, and indorse on the undertaking of bail or certified copy thereof, after notice to the states' attorney, and if no cause to the contrary appears the discharge and exoneration of such bail; and the party so committed shall be held in custody until discharged by due course of law.

SECTION 699. If, without sufficient excuse, any person who has given an undertaking in a criminal action or proceeding neglects to appear according to the terms or conditions of the same, either as a witness or for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in court, or before the magistrate, may be lawfully required, or to surrender himself in execution of the judgment, the court must direct the matters to be entered upon its minutes and the undertakings of bail, or the money deposited instead of bail, as the case may be, is and shall be thereupon declared forfeited, but, if at any time before the final adjournment of the court, such person and his bail appears and satisfactorily excuses his neglect the court may direct the forfeiture to be discharged upon such terms as may be just. After the forfeiture the states' attorney must proceed with all due diligence, by action against the bail jointly or severally, in his

discretion, upon the undertaking so forfeited. If money instead of bail is so forfeited, the clerk of the court or other officer with whom it is deposited, must immediately after the final adjournment or at such time as the clerk may direct, pay over the money deposited to the county treasurer.

SECTION 701. No action brought on an undertaking of bail is barred or defeated, nor shall judgment thereon be arrested by reason of any neglect or omission to note or record the default of any principal or surety at the term or session when such default happened, nor by reason of any defect in the form of the undertaking, if it sufficiently appears, from the tenor thereof, at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken, was authorized and required to take the same.

SECTION 702. Any surety on such undertaking may be discharged from further liability thereon, at any time before final judgment against him, when surrendering to the court or proper officer the principal in such undertaking, if such principal is a defendant in a criminal action, or if such principal is held as a witness in such action and it has not been tried; or by paying to the clerk of the court the amount specified in such undertaking, with such costs as the court may direct.

#### ARTICLE 10.—OF SEARCH WARRANTS.

SECTION 706. The magistrate must, before issuing the warrant, examine the complainant and any witnesses he may produce, and take their depositions in writing, and cause them to be subscribed by the parties making them. The depositions must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.

SECTION 720. The magistrate must annex together the depositions, the search warrant and return and the inventory and return them to the next term of the district court having authority and jurisdiction to inquire into the offenses in respect to which the search warrant was issued, at or before its opening on the first day.

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**ARTICLE 11.—PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE.**

**SECTION 728.** If from the examination it appears that the accused has committed the crime alleged, the magistrate by warrant reciting the accusation must commit him to the proper custody of his county for such time to be specified in the warrant, as the magistrate may deem reasonable, to enable the arrest of the fugitive under the warrant of the executive of this State, on the requisition of the executive authority of the state or territory in which he committed the offense, unless he gives bail as provided in the next section, or until he is legally discharged.

**SECTION 736.** The Governor of this State may in any case authorized by the Constitution and laws of the United States demand of the executive authority of any other state or territory within the United States any fugitive from justice or any person charged with the commission of treason, felony or other crime in this State, and appoint agents to receive such person for and on behalf of this State. The account of any such agent or agents employed for such purposes must be paid out of the State treasury.

**ARTICLE 12.—DISMISSAL OF THE ACTION BEFORE OR AFTER INFORMATION OR INDICTMENT FOUND, FOR WANT OF PROSECUTION OR OTHERWISE.**

**SECTION 739.** The court, unless good cause to the contrary be shown, must order the prosecution to be dismissed in the following cases :

1. When a person has been held to answer for a public offense, if an information is not filed or an indictment found against him at the next regular term of the district court.

2. If a defendant whose trial has not been postponed upon his application is not brought to trial at the next term of the district court in which the information or indictment is triable after it is filed, if an information, or if an indictment, after it is found.

**SECTION 741.** The court may, either of its own motion or upon the application of the state's attorney and in

furtherance of justice, order an action, information or indictment to be dismissed ; but in that case the reasons of the dismissal must be set forth in the order, which must be entered on the minutes.

ARTICLE 13.—GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THIS CODE.

SECTION 751. The procedure, practice and pleadings in the district courts of this State, in criminal actions, or in matters of a criminal nature, not specially provided for in this Code, shall be in accordance with the procedure, practice and pleadings under the common law.

SECTION 752. Whenever the terms, "county" or "judicial subdivision" are employed in this Code, in defining or describing the territorial or local jurisdiction of any magistrate or court, or in restraining, enlarging or otherwise conferring authority upon any court officer or person of this State, they are deemed to be employed in the same sense and interchangeably, except where a different sense plainly appears; as, for example:

1. The term "county" when so employed includes an organized county or an organized county and such unorganized counties or other territory or parts of this State as now, or as may be, hereafter, by law, attached to such organized county for judicial purposes.

2. The term "subdivision" when so employed includes an organized county, or an organized county and such unorganized county or counties, or other territory or parts of this State, as now are, or as may be, hereafter, by law, attached to such organized county for judicial purposes.

3. The term "judicial subdivision" when so employed, includes an organized county or an unorganized county and such organized county or counties, or other territory or parts of this State as now are, or as may be, hereafter, by law, attached to such organized county for judicial purposes.

## CHAPTER XVI.

## ARTICLE 1.—OF THE PENITENTIARY AND STATE REFORM SCHOOL.—THE PENITENTIARY.

SECTION 753. The penitentiary located at Bismark, in the county of Burleigh, shall continue to be the general penitentiary and prison of this State, for the punishment and reformation of offenders against the laws thereof, and in which shall be securely confined, employed and governed in the manner provided by law, all offenders who have been or may be, convicted or sentenced according to law, to the punishment of imprisonment or confinement therein.

SECTION 754. The said penitentiary and the grounds and precincts thereof, for the purpose of all judicial proceedings shall be deemed to be within, and a part of the county of Burleigh, and the courts of said county shall have jurisdiction of all crimes or public offenses committed within the same.

SECTION 755. All process to be served within the grounds or precincts of said penitentiary, either upon persons confined therein or committed thereto, or upon persons or officers employed within the grounds or precincts of said penitentiary, except the warden, shall be served and returned by the warden; *provided*, that all persons committed to the penitentiary, and all persons or officers in charge of or caring for, any inmates or persons committed to said penitentiary, at any place, shall be deemed to be within the grounds and precincts thereof. All officers and employes of the penitentiary shall be exempt from serving upon juries in any of the courts of this State.

## ARTICLE 2.—STATE REFORM SCHOOL.

SECTION 756. The State reform school located at Mandan in the county of Morton, shall continue to be the general reform and industrial school of the State for the detention, instruction and reformation of such juvenile offenders against the laws and good order thereof of both sexes under the age of eighteen years as may be committed to it

according to law for detention, instruction and discipline therein.

SECTION 757. The said State reform school and the grounds and precincts thereof, for the purpose of all judicial proceedings shall be deemed to be within and a part of the county of Morton, and the courts of said county shall have jurisdiction of all crimes or public offenses committed within the same.

SECTION 758. All process to be served within the grounds or precincts of such reform school, either upon persons detained thereat or committed thereto or upon officers or persons employed within the grounds or precincts thereof, except the superintendent, shall be served and returned by such superintendent; provided, that all officers or persons in charge of or caring for, any inmate or person committed to such reform school, at any place, shall be deemed to be within its grounds and precincts. All officers and employes of the reform school shall be exempt from serving upon juries in any of the courts of this State.

ARTICLE 3.—GOVERNING BOARDS—THEIR APPOINTMENT,  
QUALIFICATION, ORGANIZATION AND DUTIES.

SECTION 759. The said penitentiary and the said reform school shall each be governed by a separate board of trustees consisting of five members to be appointed by the Governor as hereinafter in this article provided, and the term of office of each trustee (except as otherwise in this article specified) shall be four years commencing on the first Tuesday of April next succeeding his appointment.

SECTION 760. The Governor shall nominate, and by and with the advice and consent of the Senate, appoint, during the regular session of the Legislative Assembly held in 1895, five trustees of each of such institutions, of whom two shall be designated to hold their offices for the term of two years and three for the term of four years. The Governor at each regular session of the Legislative Assembly thereafter shall nominate, and by and with the advice and consent of the Senate, appoint trustees of such institutions in place of those whose terms shall thereafter first expire.

Each trustee shall hold his office until his successor is appointed and qualified; *Provided*, That the Governor may fill any vacancy in either of said boards by appointment to extend only to the first Tuesday of April succeeding the next regular session of the Legislative Assembly; and *Provided*, Further, that the Governor shall, during such next regular session of the Legislative Assembly, nominate, and by and with the advice and consent of the Senate, appoint a trustee to fill such vacancy for the remainder of the term unexpired. No more than two members of either of such boards shall be appointed from the same county.

SECTION 761. Each of said trustees shall, before entering upon the duties of his appointment, execute a bond, jointly and severally with two or more sureties to be approved by the Attorney General in the penal sum of five thousand dollars, to the State of North Dakota, and conditioned to the effect that he will faithfully and impartially perform the duties imposed upon him by said appointment according to law, and shall take and subscribe an oath to be indorsed upon said bond or appended thereto, that he will support the Constitution of the United States, the Constitution of the State of North Dakota, and faithfully and impartially discharge the duties of his said appointment according to law and to the best of his ability, and said bond and oath shall be filed and retained in the office of the State Treasurer.

SECTION 762. One session of each of said board of trustees shall be held each month at the institution under its charge, and the session of either board shall not in any year exceed twenty-four days in the aggregate, but the Governor may, when deemed necessary, call or authorize additional sessions of either board or limit its sessions to less than twenty-four days in the aggregate each year. Each trustee shall receive three dollars per day for each day necessarily employed in attendance upon said sessions and all travelling expenses necessarily incurred therein, to be paid upon the presentation of the proper vouchers containing an itemized statement of the number of days attendance and money actually expended as above provided, duly verified by his oath and approved by the president or secretary of the

board; and the State Auditor shall audit said claims and draw his warrant upon the State Treasurer for the amount allowed, to be paid out of the State treasury.

SECTION 763. At the first session of either board of trustees after the appointment of new members for a full term the trustees shall choose one of their number president of the board. Each board of trustees shall keep regular records of its meetings and proceedings which shall be signed by its president and attested by its secretary, and each board shall have power from time to time, as may be deemed necessary, to appoint some member of the board as visiting trustee, and it shall be the duty of such visiting trustee, at least once in each month, to visit the institution of which he is trustee, without previous notice to the officers thereof, and inspect the books and all its concerns and ascertain whether the officers are competent and faithful and the inmates properly governed, cared for and employed, and said visiting trustee shall have power to direct any alteration or change in such matters with the assent of the board of trustees.

SECTION 764. Such boards of trustees respectively, shall at each regular session thereof, carefully inspect the buildings, rooms, grounds, and precincts of the institution under its charge, and inquire into and examine all matters connected with the government, discipline and management thereof, the punishment and employment of the inmates; and they may, from time to time, require reports from the officers in regard to any and all of said matters. Each board of trustees shall also inquire into any improper conduct alleged to have been committed by any officer or employe, and for that purpose the president of the board by direction of the board to be entered in the records of its proceedings, is hereby empowered to issue subpoenas to compel the attendance of witnesses and the production of papers, books and writings before said board in the same manner and with like effect as any officer or court of this State. And the said trustees may examine witnesses and persons appearing before said board, on oath, to be administered by the president of the board, or in his absence by any other member thereof.

SECTION 765. Each of such boards shall make full and

complete reports to the Governor, to be by him communicated to the Legislative Assembly at each regular session, of all its doings and the matters pertaining to the institution under its charge, specifying the number of officers and persons employed at the same, and in what capacity, and the amount paid to each, and shall also give in detail a statement of the entire business of such institution for the preceding two years, including receipts from all sources and all expenditures and for what services or material the same were made, and also all the matters pertaining to the general business, improvement and discipline of such institution, also a full statement of the number of persons committed to and received into the same, and from what county received and for what crimes or cause; the number discharged therefrom and by what authority; the number that have died or escaped and the general health of the inmates. And the Governor may, at any time, in writing to be left with the secretary of the board, or any member thereof, call upon and require either of such boards to make to him a general report in regard to the transactions of the institution under its charge, or a special report in regard to any part thereof, and it shall be the duty of said board to make said report and deliver the same to the Governor, within fifteen days from the next regular monthly meeting after said call.

SECTION 766. All books, records and documents relating to the concerns and business of either of such institutions shall at all times be open to the examination of the board of trustees, or any member thereof, or any citizen of this State.

SECTION 767. Neither of said boards of trustees nor any member thereof, nor any officer, guard, agent, overseer or employe at such institution shall be pecuniarily interested or concerned directly or indirectly in any contract, either verbal or written, that may be entered into by any person or persons on behalf of the State for any purpose whatever connected with the business of such institution.

SECTION 768. Such board of trustees and the warden or superintendent shall annually, between the first and fifteenth days of November, and at each change of wardens or superintendents, make out in triplicate an inventory in

detail of all the personal property at or pertaining to the institution under their charge, and belonging to the State, or in which the State has any interest; one copy of which shall be retained in the office of the warden or superintendent, one copy delivered to the Governor and one copy to the State Auditor. Said inventory shall specify what articles or items are intended to be kept for use and what articles or items are intended for immediate consumption. Each inventory after the first shall particularly note any and all changes in, losses from or additions to the articles or items intended to be kept for use.

Said inventories shall also contain a particular enumeration by name of all the books, records, reports, contracts or other papers required by law to be kept at such institution or that may be there kept, but not the certified copy of the judgment and sentence of the court ordering the imprisonment or commitment of any person, after said person is discharged.

SECTION 769. The warden shall make all contracts on the part of the State on account of the business of the penitentiary, and the superintendent shall make all contracts on the part of the State on account of the business of the reform school. Before such contracts shall take effect, they shall be reduced to writing and approved by the board of trustees of the institution for which they are made; *provided*, that when the wants or necessities of either require the immediate purchase of supplies of any kind the warden or superintendent, as the case may be, may purchase the same for the time being in open market, without any contract, or otherwise in such manner and upon such terms and conditions as in his judgment will best promote the interests of the State. All contracts lawfully made by the warden or superintendent, on account of the business of the penitentiary or reform school respectively, shall be executed in the name of the State and deemed the contracts of the State, and all property of every kind and money in charge of the warden or superintendent, or that shall come to his hands or under his control on account of the institution under his charge or from the business thereof, is the property of the State, and shall at all times be kept separate and apart from his own; *provided*, that the money and effects, except clothing, in pos-

session of each inmate when committed to the penitentiary or reform school, shall be preserved by the warden and returned to each inmate when discharged.

SECTION 770. The necessary provisions, fuel, lights, clothing, bedding, medicines and all other supplies and materials for such institution shall be furnished thereat by the year by contract when the same is practicable, to be made by the warden or superintendent under the direction and subject to the approval of the board of trustees, upon competitive bids, with such persons as will furnish the same on the best terms. The warden or superintendent shall publish previous notice, for at least three successive weeks, in at least two newspapers published in this State, of the articles, supplies and materials wanted, the quantity and quality thereof, as near as the same can be ascertained, the time and manner of delivery and the period during which such articles, supplies and materials shall be received; and in awarding said contracts preference shall be given to proposals from persons residing and doing business within this State.

SECTION 771. All proposals shall be in writing and sealed, and upon the day appointed in the notice provided for in the last section, which shall be a day appointed for a regular monthly meeting of the board of trustees, the proposals shall be opened by the warden or superintendent in the presence of the board of trustees and such bidders as may desire to be present, and submitted to said board. The board of trustees and the warden or superintendent, as the case may be, shall thereupon ascertain from the proposals submitted the person or persons offering the best terms and award the contract accordingly; *provided*, it shall appear that said proposal is as low as the fair market price, but in case no proposal is accepted notice may again be published and all proceedings had anew as hereinbefore provided, and provided, further, that the person or persons whose proposal or proposals are so accepted shall execute a written contract with the State in accordance with such proposal or proposals and give bond to the State with good and sufficient sureties, to be approved by the warden, or superintendent for the performance of such contract. The notice hereinbefore provided for shall require said bond and spec-

if its amount, to be twice the estimated value of the articles, supplies or materials to be contracted for, but in no case shall the amount of said bond exceed the sum of three thousand dollars. The said notice shall reserve the right to accept or reject any bid or part of a bid and require each proposal to be accompanied by a certified check for at least one hundred dollars, payable to the order of the warden or superintendent, to be forfeited to the State in case the person or persons whose proposal or proposals are accepted shall fail to execute the contract and give the bond as hereinbefore provided within fifteen days after notice of said acceptance or otherwise, in case said contract is executed and bond given or in case a proposal is not accepted, to be returned to the bidder.

Any and all proposals not deemed advantageous to the State may be rejected

ARTICLE 4.—THE WARDEN AND OFFICERS OF THE PENITENTIARY AND THEIR DUTIES.

SECTION 773. The officers of the penitentiary shall be one warden, who shall be its general superintendent and secretary of the board of trustees, one deputy warden, who shall be chief turnkey, one bookkeeper, who shall be assistant gate-keeper, and such other officers, guards, overseers, agents and employes as may be necessary.

The warden and deputy warden shall reside at the penitentiary.

SECTION 774. The board of trustees of the penitentiary shall appoint the warden, and may remove him at any time. The term of office of the warden, unless sooner removed by the board of trustees, shall be two years and until his successor is appointed and qualified.

All other officers and employes shall be appointed by the warden, subject to the approval of the board of trustees, and shall hold office during the pleasure of the warden.

SECTION 775. The warden shall, before entering upon the duties of his appointment, execute a bond, jointly and severally, with two or more sureties, to be approved by the

board of trustees, in the penal sum of fifteen thousand dollars, to the State of North Dakota, and conditioned to the effect that he will faithfully and impartially perform the duties imposed upon him by such appointment and according to law, and that he will, at all times, faithfully account for all moneys and property that shall come to his hands or under his control by virtue of his office or under color thereof, and shall also take and subscribe an oath, to be indorsed upon said bond or appended thereto, that he will support the Constitution of the United States, the constitution of the State of North Dakota and faithfully and impartially discharge the duties of his appointment according to law and to the best of his ability, and said bond and oath shall be filed and retained in the office of the State Treasurer. And each of the other officers and employes shall, before entering upon the duties of his appointment, take and subscribe an oath of like import, and such oath shall be filed with and retained by the warden. The board of trustees may require the warden to execute and file a new and additional bond, with other and satisfactory sureties, in a larger sum than that specified above whenever in its judgment it may be deemed necessary.

SECTION 776. The warden shall receive a salary to be fixed by the board of trustees, but not to exceed two thousand dollars per annum, and all other officers and employes such amounts as the board of trustees may, from time to time, determine and establish.

SECTION 777. It shall not be lawful for both the warden and deputy warden to be absent from the penitentiary at the same time except by permission of the board of trustees, but in such case such board shall in its discretion designate one of its number to act as warden during such absence. The warden shall, under the direction of the board of trustees, have the charge, custody and control of the penitentiary and the persons committed thereto, together with all lands, buildings, furniture and tools, implements, stock and provisions and every other species of property pertaining thereto or within the precincts thereof, and shall superintend and be responsible for the police of the penitentiary and the discipline of the inmates; he shall keep and preserve accurate records of all the meetings of the board of

trustees; he may make such rules and regulations for the admission of visitors, including a gate fee for their admission as may be deemed necessary, subject to the approval of the board of trustees, and may designate days for the admission of visitors and limit such days to not less than two in each week. The warden shall be his own clerk and keep a correct record of all transactions of his office and a correct account of all his doings; he shall keep a daily journal of the proceedings of the penitentiary, in which he shall note all infractions of the rules and regulations thereof by any officer or employe, and shall enter in such journal a memorandum of every complaint made by any inmate, of cruel or unjust treatment by any officer or other person, or a want of proper clothing or food, and also any infraction of the rules and regulations of the penitentiary by any of the inmates, naming him and specifying the offense, and the punishment, if any, inflicted therefor, and said journal and memorandum shall be laid before the board of trustees at every meeting.

SECTION 778. The warden shall make such rules and regulations not inconsistent with the laws of this State, for the government of the officers, employes and inmates of the penitentiary, as he may deem necessary and proper, subject to the approval of the board of trustees, and he may, from time to time, with the approval of the board of trustees make such changes in said rules and regulations as he may deem necessary, and a printed copy of the rules and regulations of the penitentiary shall be furnished to each and every person committed to the penitentiary at the time he is received, and to each and every officer, overseer, guard, and employe thereof at the time he is appointed and sworn, and ten copies to the State library for the use of the State officers and the public.

SECTION 779. Whenever there is a vacancy in the office of warden, or the warden is temporarily absent, all the duties of the warden shall devolve upon and be performed by the deputy warden until the vacancy is filled or the warden returns. The deputy warden, before entering upon the duties of his appointment, shall execute a bond to the State in the sum of ten thousand dollars, conditioned to the effect that he will at all times faithfully and impar-

tially discharge the duties of his appointment according to law and the rules and regulations of the penitentiary.

SECTION 780. The warden shall employ the resident clergymen of Bismarck, or its vicinity, of all denominations, to officiate alternately as chaplain at the penitentiary at a sum not exceeding five dollars per week.

SECTION 781. All officers and persons employed in and about the penitentiary shall perform such duties in the oversight and charge thereof, the use and care of the property belonging thereto, and the custody, discipline, government and employment of the inmates as shall be required of them by the warden, in conformity to law and the rules and regulations of the penitentiary; and no such officer or employe shall be engaged directly or indirectly in procuring a pardon for any person confined therein. Any officer or employe violating the provisions of this section shall be immediately removed.

ARTICLE 5.—HOW PERSONS COMMITTED TO THE PENITENTIARY.

SECTION 782. The sheriff of each county, or some person appointed by the court, shall convey to the penitentiary all persons convicted in his county and sentenced to be confined in said penitentiary, and as soon as may be after such conviction and sentence shall have been had; and after delivering such person or persons to the warden, together with a copy of the judgment and sentence of the court ordering such imprisonment certified by him, the warden shall deliver to such sheriff a receipt, in which he shall acknowledge the delivery to him of such person, naming him, and the sheriff shall return said receipt to the clerk of the court where said conviction and sentence were had, and said clerk shall file and retain the same in his office, and it shall be the duty of the warden to receive any person so convicted, sentenced and delivered to him, and such person to retain and confine and imprison in the penitentiary until the expiration of the term of his sentence or until otherwise lawfully entitled to be released. It shall also be the duty of the warden immediately upon receipt of any person committed to the penitentiary to enter in a book to be by him kept for that purpose and as an official record

of the penitentiary, the name, age, sex, color, height, and nationality and each and every other fact, characteristic and condition, natural or artificial, that may in any way tend to aid in the identification of such person.

SECTION 783. All inmates of the penitentiary shall be in the charge and custody of the warden, and he shall care for, govern and employ them in the manner prescribed by law, the rules and regulations of the penitentiary and in conformity to the respective sentence under which they are confined.

ARTICLE 6.—DIMINUTION OF SENTENCE FOR GOOD CONDUCT.

SECTION 784. Every person committed to the penitentiary under a sentence other than for life, who shall, at the end of the first month of his imprisonment, have no infraction of the rules and regulations recorded against him, shall be entitled to a diminution of two days from the term of his sentence; and if at the end of the second month no infraction of said rules and regulations is recorded against him, a diminution for that month of four days from the term of his sentence, and if he shall continue to have no such record against him for the third month, a diminution for that month of six days from the term of his sentence, and thereafter he shall be entitled to six days diminution from the term of his sentence for each month in which he shall have no such record against him; and it shall be the duty of the warden to discharge any such person from the penitentiary when he shall have served the time of his sentence less the number of days he may be entitled to have deducted therefrom for his good behavior as hereinbefore provided, and in the same manner and as if no such deductions had been made; *provided*, that if any person committed to the penitentiary shall be guilty of the violation of any of the rules and regulations thereof, after he shall, as provided in this section, have become entitled to a diminution of the term of his sentence, the board of trustees may and are hereby empowered, at its discretion, to deprive such portion of a portion or all (according to the flagrancy of his infraction of the rules and regulations) of the diminution of the term of his sentence, and the determination of the board of trustees in that regard shall

be entered at length in the record of its proceedings and a copy thereof delivered to the offender by the warden ; and *provided further*, that any person confined in the penitentiary at the taking effect of this act shall be entitled to the benefits of this section for the remainder of the term of his sentence at the rate of six days diminution per month for good behavior.

Section 785. The warden shall keep a true record of the conduct of each inmate of the penitentiary, specifying each infraction of the rules and regulations thereof, and at the end of each month he shall give to each inmate who shall require it and against whom no infraction of the rules and regulations is recorded, a certificate of good conduct and therein specify the number of days by which the term of such inmate's sentence is diminished, as hereinbefore provided, by such good conduct ; *provided*, that in case any inmate shall believe he has not been fairly or justly treated by the warden or any officer of the penitentiary in the keeping of said record he shall, upon request, be taken before the board of trustees at any regular monthly meeting and it shall be the duty of said board to hear and carefully investigate any complaint in regard to said record and require the same to be corrected as may be just and the determination of the board shall be entered at length in the record of its proceedings and a copy thereof given to said inmate by the warden.

SECTION 786. Whenever any inmate of the penitentiary, by continued good behavior, diligence in labor or study or otherwise, shall surpass the general average of the inmates he may be compensated therefor, at the discretion of the Governor, in addition to the diminution of the term of his sentence hereinbefore provided for, upon the recommendation in writing of the board of trustees, either by the further diminution of the term of his sentence or by the payment of money, or by both.

SECTION 787. Whenever any person committed to the penitentiary, and as a punishment for any infraction of the rules and regulations thereof, is being deprived of any of the ordinary privileges enjoyed by the other inmates, periodically or otherwise, shall conduct himself in a peaceful, obedient and industrious manner, the board may sus-

pend the further infliction of such punishment during his good behavior.

ARTICLE 7.—DISCIPLINE, EMPLOYMENT AND DISCHARGE OF INMATES.

SECTION 788. All persons sentenced to the punishment of imprisonment in the penitentiary and committed thereto shall be constantly employed for the benefit of the State. No communication shall be allowed between such person and any person without the penitentiary except under such supervision as may be prescribed by the rules and regulations thereof. No person shall, without the consent of the warden, bring into or carry out any writing or any information to or from any inmate of the penitentiary. Persons committed to the penitentiary shall be confined in separate cells at night, whenever there are cells sufficient, and in the daytime all intercourse between them shall be prevented as far as practicable. All communication between male and female inmates shall be prevented.

SECTION 789. No spirituous or fermented liquors shall, under any pretense whatever, be brought into the penitentiary or upon the grounds except by the direction in writing of the physician, and the fact noted in the journal of that day; nor shall spirituous liquors or any article of indulgence be allowed any inmate except by order of the physician, which order shall be in writing and for a definite and limited period. The warden may, in his discretion, make a moderate allowance of tea, coffee or tobacco to inmates as a reward for industry and good behavior.

SECTION 790. The daily sustenance of the inmates of the penitentiary, not in the hospital, shall consist of wholesome coarse food, with such proportions of meats and vegetables as the warden shall deem best for the health of the inmates.

SECTION 791. The clothing and bedding of the inmates shall be of such quality and quantity as the warden may direct, regard being had to their health and comfort.

SECTION 792. All necessary means shall be used, under the direction of the warden, to maintain order in the penitentiary, enforce obedience, suppress insurrection and effectually prevent escapes, even at the hazard of life, for

which purpose he may at all times command the aid of the officers of the penitentiary and of the citizens outside the precincts thereof, and any citizen refusing to obey such command shall be liable to such fines, penalties and forfeitures as apply to persons refusing to obey a sheriff or other officer calling upon the aid of the county to assist in serving process or for quelling an insurrection.

SECTION 793. Whenever any inmate of the penitentiary offers violence to an officer or guard thereof or to any other person or inmate, either within the grounds or precincts of the penitentiary or at any place where said inmate may be or may be employed, or attempts to do any injury to the buildings or any workshop or to any appurtenances thereof, or disobeys or resists any reasonable command of any officer or guard, such officers and guards shall use all reasonable means to defend themselves and to enforce the observance of discipline.

SECTION 794. The warden and all officers of the penitentiary shall uniformly treat the inmates thereof with kindness, and the warden shall require of the officers and guards that in the execution of their respective duties they shall in all cases refrain from boisterous and unbecoming language in giving their orders and commands. There shall be no corporal or other painful or unusual punishment inflicted upon the inmates of the penitentiary for violation of the rules and regulations thereof.

SECTION 795. Every person committed to the penitentiary shall, when discharged, be provided with a decent suit of clothes and a sum of money, not to exceed five dollars, and also transportation to the place where he received sentence. He may be allowed employment at or in the penitentiary, under the rules and regulations established for the government of inmates, for such period of time and at such rates of compensation as the warden shall deem proper and equitable; *provided*, that any person so discharged, who has no infractions of the rules recorded against him, may be employed by any lessees of the workshop at the penitentiary for such time and for such wages and in such manner as may be agreed upon and approved by the warden: *provided*, however, that no person discharged from the penitentiary shall, in any way, be given supervision or authority over any inmate thereof.

SECTION 796. If the warden shall at any time deem it for the interest of the State, he may employ the inmates of the penitentiary outside the yard thereof in cultivation and improving any ground belonging thereto, or in doing any work necessary to be done in the prosecution of the business of the penitentiary, or in the erection, repair or improvement of any or all the State buildings at Bismarck, including the executive mansion, and the grounds of such buildings and mansion; and in all such cases the warden shall detail such force from the officers, guards and employes of the penitentiary as he shall deem necessary to watch and guard them; and in case any person committed to the penitentiary and so employed as in this section provided, shall escape, he shall be deemed to have escaped from the penitentiary proper and punished accordingly; *provided*, however, that the warden shall be held responsible for the escape of any such person through the negligence of himself or any of his subordinates.

#### ARTICLE 8.—ESCAPES.

SECTION 797. When any inmate escapes from the penitentiary, the warden shall use every means at his command for the apprehension of such person and for that purpose he may offer a reward, not to exceed one hundred dollars and not less than twenty-five dollars; *provided*, that if such escape was by reason of the negligence of the warden or any officer under him, the reward thus offered shall be paid by the warden, and the board of trustees are hereby empowered finally to determine the liability of the warden for any such reward. The warden may adopt such other measures as he may deem proper, with the approval of the board of trustees, to aid in the detection and capture of persons escaping from the penitentiary.

#### ARTICLE 9.—PAROLE OF INMATES.

SECTION 798. The board of trustees of the penitentiary are hereby empowered to parole persons confined in the penitentiary and not hereinafter excepted, and to establish rules and regulations under which such persons may be allowed to go upon parole outside the buildings and enclosures thereof. The rules and regulations as established by

the board of trustees shall not take effect until submitted to and approved by the Governor.

SECTION 799. The following described persons shall not under any circumstances be paroled from the penitentiary:

1. A person convicted and sentenced for the crime of murder either in the first or second degree.
2. A person finally convicted, in any jurisdiction, of a felony other than that for which he is being punished.
3. A person who has not served the minimum time of imprisonment prescribed by law for the crime of which he was convicted.
4. A person who has not maintained a good record at the penitentiary for at least six months previous to his parole.

SECTION 800. No parole shall be granted to any person confined in the penitentiary unless

1. The warden in writing recommends his parole to the board of trustees.
2. At least four members of the board of trustees approve and indorse said recommendation.
3. The Governor approves and indorses such recommendation.
4. The friends of such person have furnished satisfactory evidence to the board of trustees, in writing, that employment has been secured for him with some responsible citizen of the State and certified to be such by the judge of the county court of the county where such citizen resides.
5. The board of trustees is convinced that he will conform to the rules and regulations adopted by said board.

SECTION 801. It shall not be lawful for the warden, the board of trustees or the Governor, or any or either of them, in considering or recommending the parole of any person confined in the penitentiary to receive, hear or entertain any petition or any argument of attorneys, but the only ground for such recommendation shall be such person's

general demeanor and record of good conduct at the penitentiary.

SECTION 802. Any person when on parole from the penitentiary shall be deemed to be in custody, and under control of the board of trustees, and subject at any time until the expiration of the term for which he was sentenced, to be taken into actual custody and returned to the penitentiary. The board of trustees is hereby fully empowered to enforce the rules and regulation made by it for the paroling of persons committed to the penitentiary, and, at any time, when satisfactorily informed that any person out on parole has violated any of such rules and regulations, may order that such person be taken into actual custody and recommitted to and confined in the penitentiary as provided in his sentence.

The board shall enter in the record of its proceedings any such order, and a copy of such order, certified by the secretary of the board, may be delivered to any sheriff or other peace officer of the State, for service and return, and it shall be the duty of any such officer to receive the same and to apprehend and immediately return and deliver to the warden at the penitentiary any such person named in such order, and the warden shall receive and re-imprison such person as upon his original sentence.

SECTION 803. The officer executing any such order of the board of trustees shall endorse thereon a return of his doings thereunder, and the said certified copy and return, delivered to the warden with the person named therein, and the warden shall give to such officer, to be retained by him, a certificate acknowledging the receipt of such person and such certified copy of the order and his return. The fees of any officer for executing any order of the board of trustees for the return of any person to the penitentiary shall be the same as provided by law for the commitment of a person to the penitentiary under a sentence of the court, but in no case shall the fees exceed the sum of one hundred dollars. The board of trustees shall provide in its rules and regulations that any person before being paroled from the penitentiary shall deposit with the warden a sum of money not exceeding one hundred dollars to defray the expenses of his return, and the

manner of auditing and paying such expenses; *provided*, that any money so deposited and not so used shall be returned to the person so depositing it at the expiration of the term of sentence of the person, or upon his final discharge from the penitentiary.

ARTICLE 10.—CONTRACTS FOR LABOR OF INMATES.

SECTION 804. The warden is authorized and empowered by and with the advice and approval of the board of trustees, from time to time, to contract for and lease the labor of such number of the able bodied persons confined in the penitentiary, together with such shop room, machinery and power as may be necessary for their proper employment, to such person or persons and for such purposes and upon such terms and conditions and for such length of time, not exceeding five years at any one time, as he shall deem most conducive to the interests of the State and the welfare of the penitentiary, and the persons to be employed therefrom.

SECTION 805. In every contract or lease made pursuant to the authority herein conferred, there shall be reserved to the board of trustees of the penitentiary, and to the warden and to each and every one of his subordinates, full power and authority to prevent said contractors or lessees demanding from, or imposing upon the laborers so contracted for or leased, any unusual or severe labor, or any labor whereby the health or safety of any laborer may be impaired or jeopardized; and the warden may from time to time prescribe all needful rules and regulations for the government and conduct of such contractors or lessees, their overseers and agents in their relations to the inmates of the penitentiary, and may require and enforce the summary dismissal of any individual employed by any contractor or lessee, in or about the penitentiary; whenever it shall appear that the presence or conduct of such individual is prejudicial in any way to the discipline of the penitentiary, or the welfare of the inmates thereof.

SECTION 806. Adequate security to the State of North Dakota, by bond, to be approved by the board of trustees, shall be exacted of all contractors or lessees, for the faithful performance of all the provisions of the contracts or leases on their part to be performed; and the board of

trustees, each member thereof, and the warden and his subordinates, shall use their utmost endeavors to have all the terms and conditions of any such contract or lease fully complied with; but no contractor or lessee shall have or claim from the State of North Dakota, or from the board of trustees, or any member thereof, or from the warden or any of his subordinates, or from any of the funds of the penitentiary, any damages whatever, either by way of recoupment or set off, or otherwise in law or equity, for or on account of the failure or neglect of the warden or his subordinates, to furnish to such contractor or lessee the full amount of labor or the full number of laborers specified in any such contract or lease.

SECTION 807. The board of trustees of the penitentiary are empowered fully to control and direct the warden in the exercise of the authority conferred upon him, in regard to all contracts and leases for the labor of persons confined in the penitentiary, and of shop room, machinery and power, and may, whenever in the judgment of the board of trustees, it is impracticable or disadvantageous to the State to continue to furnish any laborers, shop room, machinery or power, to any contractor or lessee, order and direct the cancellation of any such contract or lease, and thereupon after six months' notice to such contractor or lessee, all obligation of the board of trustees or the members thereof and of the warden and his subordinates, and the State under such contract or lease, shall cease and determine, and such contractor or lessee shall not have or be entitled to any compensation whatever, for or on account of such cancellation, either by way of damages, or recoupment or set off, or otherwise in law or equity.

SECTION 808. All contracts or leases for the hiring or leasing of the labor of persons confined in the penitentiary, and of shop room, machinery and power, or any of them, shall be executed in triplicate, and on behalf of the State by the warden in the name of the State, and in writing, and one copy thereof delivered to the contractor or lessee, one copy to the State Auditor, and one copy retained by the warden in his office at the penitentiary.

Before entering into or executing any such contract or

lease the warden shall, by notice published for at least three successive weeks in at least three newspapers published in this State, invite sealed proposals for the hiring and leasing of such labor, shop room, machinery and power. The time specified in said notice for the opening of said proposals shall be the day of a regular monthly meeting of the board of trustee, and the place so specified shall be the warden's office at the penitentiary. All proposals received shall be opened in the presence of the board, and such other persons as may desire to be present, and immediately submitted to the board and after consideration the contract or lease shall be awarded by the warden to the highest and best bidder or bidders therefor; *provided*, the board of trustees so advises and directs, and *provided further*, that the board of trustees and the warden shall reserve and have the right to reject any and all bids. In awarding such contract or lease preference shall be given to persons residing and doing business within this State.

SECTION 809. It shall be the duty of the board of trustees and the warden to cause to be kept at the penitentiary a correct record in detail of the time and labor and the money earned by each and every person, naming him, confined therein, and the rental of any shop room, machinery and power, under any contract or lease therefor, and all money so earned and rental shall belong to the State, and said board of trustees and warden shall enforce the collection thereof when due, and it shall be the duty of the accounting officer of the penitentiary to account for and pay over all such moneys, at the times and in the manner provided by law.

SECTION 809a. Whenever any industry is carried on at the penitentiary under the provisions of this article, and the nature thereof is such that it is practicable for the board of trustees to establish the amount of labor constituting a day's work, it shall so do, and any inmate employed under the provisions of this article after having completed a day's work as so established shall be permitted to continue work during the remainder of the hours of employment of the day, and therefor to receive in money for his own use at his discharge, or at any time upon the approval of the board of trustees, the full amount

earned by him at the rate agreed upon between the inmates, doing extra work, and the contractors or lessees, subject to the approval of the board of trustees. It shall be the duty of all officers of the penitentiary to see that the provisions of this section are carried into effect.

SECTION 809b. The accounting officer of the penitentiary shall within five days after the end of each month give to the State Auditor and to each inmate entitled thereto under the provisions of this article a certificate, showing the amount to which such inmate is entitled for the preceding month under the provisions of the last section. The amount so earned by inmates shall be collected at the same time and in the manner provided for the collection of other sums due from the lessees or contractors and delivered to the State Treasurer. The State Treasurer shall retain such money as a separate fund.

SECTION 809c. Whenever any inmate who has any money to his credit under the provisions of this article is discharged from the penitentiary, the State Auditor, upon the presentation and surrender to him of such certificates, shall audit said claims and draw his warrant upon the State Treasurer for the amount due thereon, and the State Treasurer shall pay the same on demand.

SECTION 809d. All contracts and leases provided for in this article shall be subject to the provisions of the last three sections.

ARTICLE 10.—THE SUPERINTENDENT AND OFFICERS OF THE REFORM SCHOOL AND THEIR DUTIES.

SECTION 810. The officers of the reform school shall be, one superintendent, who shall be its general superintendent and secretary of the board of trustees, and one matron and such teachers and assistants as may be deemed necessary.

SECTION 811. The board of trustees shall appoint the superintendent, and may remove him at any time. The term of office of the superintendent, unless sooner removed by the board of trustees, shall be two years, and until his successor is appointed and qualified.

All other officers and employes shall be appointed by the superintendent, subject to the approval of the board of trustees, and shall hold office during the pleasure of the superintendent.

SECTION 812. The superintendent shall before entering upon the duties of his appointment, execute a bond, jointly and severally, with two or more sureties, to be approved by the board of trustees, in the penal sum of ten thousand dollars, to the State of North Dakota, and conditioned to the effect that he will faithfully and impartially perform the duties imposed upon him by such appointment, and according to law, and that he will at all times, faithfully account for all moneys and property that shall come to his hands or under his control by virtue of his office or under color thereof, and shall also take and subscribe an oath, to be endorsed upon said bond or appended thereto, that he will support the constitution of the United States, the constitution of the State of North Dakota, and faithfully and impartially discharge the duties of his appointment according to law and to the best of his ability, and such bond and oath shall be filed and retained in the office of the State Treasurer. And each of the other officers, teachers and employes shall, before entering upon the duties of his appointment, take and subscribe an oath of like import and such oath shall be filed with and retained by the superintendent. The board of trustees may require the superintendent to execute and file a new and additional bond, with other and satisfactory sureties, in a larger sum than that specified above whenever in its judgment it may be deemed necessary.

SECTION 813. The superintendent shall receive a salary to be fixed by the board of trustees, but not to exceed two thousand dollars per annum, and all other officers and employes such amounts as the board of trustees may, from time to time determine and establish.

SECTION 814. The superintendent shall, under the direction of the board of trustees, have the charge, custody and control of such reform school and the persons committed thereto or detained thereat, together with all the lands, buildings, furniture and tools, implements, stock and provisions and every other species of property per-

taining thereto or within the precincts thereof, and shall superintend and be responsible for the police of such reform school and the government, discipline, instruction and control of the inmates; he shall keep and preserve accurate records of all the meetings of the board of trustees; he may make such rules and regulations for the admission of visitors, including a gate fee for their admission as may be deemed necessary, subject to the approval of the board of trustees, and may designate days for the admission of visitors and limit them to not less than two in each week. Such superintendent shall be his own clerk and keep a correct record of all transactions of his office, and a correct account of all his doings; he shall keep a daily journal of the proceedings of the school, in which he shall note all infractions of the rules and regulations thereof by any officer, teacher or employe, and shall enter in such journal a memorandum of every complaint made by any inmate, of cruel or unjust treatment by any officer or other person, or a want of proper clothing or food, and also any infraction of the rules and regulations of the school by any of the inmates, naming him, and specifying the officer and the punishment, if any, inflicted therefor, and said journal and memorandum shall be laid before the board of trustees at every meeting.

SECTION 815. All officers, teachers and persons employed about the reform school shall perform such duties in the oversight and charge thereof, the use and care of the property belonging thereto, and the custody, government, instruction, discipline and employment of the inmates as shall be required of them by the superintendent in conformity to law and the rules and regulations of the school.

#### ARTICLE 11.—OF COMMITMENTS TO THE REFORM SCHOOL.

SECTION 816. Whenever any person under the age of eighteen years, shall, in any district court of this State, be found guilty of a crime or public offense other than murder, such court may, if in its judgment the accused is a proper subject therefor, instead of entering judgment against such person, direct, by an order to be entered in the minutes of the court, that such person be committed to the State Reform School for the remainder of such person's minority.

SECTION 817. Whenever any person, under the age of eighteen years shall be convicted of any crime or public offense before a justice of the peace or court other than a district court of the State, or of being a disorderly person, such justice of the peace or other court, must forthwith send such person together with all the papers relating to the charge on file in his office, and a certified transcript of his docket entries in the action, under the charge of some peace officer, to the judge of the district court of the county. The judge shall thereupon issue an order to the parent or guardian of the accused, or to such person as may have had him in charge, or with whom he last resided, or to some person nearly related to him, if known, or if there is no such person known, then to some person to be designated in the order to act as guardian for the accused for the time being, requiring such parent or other person to appear at a time and place stated in such order, and show cause why the accused should not be committed to the reform school.

Such order shall be served forthwith by the sheriff or other officer by delivering to and leaving with the person therein designated to be served, personally, a true copy of the same, or by leaving such copy with some person of full age at the residence or place of business of such person and the original order immediately returned to the judge issuing it, with the officer's doings indorsed thereon showing the time and manner of service.

At the time and place mentioned in such order, or at such other time and place as the judge may direct, if the person designated in the order appears, in his presence, or if such person does not appear, in the presence of some other suitable person to be then appointed by the judge to act on behalf of the accused, the judge must proceed to hear such evidence regarding the question as may be produced or deemed necessary, including any voluntary statement of the accused, and if from such evidence and hearing such judge becomes satisfied that the accused ought to be committed to the reform school he may so order and issue his warrant accordingly.

SECTION 818. Whenever a parent or guardian of any person under the age of eighteen years, makes a written

complaint, verified by his affidavit, to the judge of the district court of the county, particularly setting forth the facts and showing that his child or ward under eighteen years of age is habitually vagrant, disorderly or incorrigible, such judge must issue an order to any peace officer of the county commanding such officer forthwith to bring such child or ward before him at such time and place as may be specified in such order, and such officer shall forthwith execute and return such order accordingly. Upon the return of such order the judge shall examine into the charge and hear such testimony in regard thereto as he may deem necessary, including the voluntary statement of the accused, and if in his judgment the accused is a proper subject to be committed to the reform school, he shall so order, and make an entry thereof upon such complaint, and thereupon with the consent of such parent or guardian indorsed thereon, issue his warrant accordingly, provided that such judge may in his discretion, require such parent or guardian to give security by an undertaking with or without sureties in the penal sum of one thousand dollars, to the State of North Dakota, for the payment of the expenses incurred upon the complaint, and the commitment and maintenance of such child or ward at such reform school, but not exceeding two dollars per week.

SECTION 819. Every order of commitment to the reform school made under any of the provisions of this article, shall specify the date as near as may be at which the accused will attain majority, to be ascertained by the court or judge, and the date so ascertained and specified be conclusive for all purposes connected with such reform school. The judge shall cause to be transmitted to the superintendent with each person committed to the reform school, a statement of the nature of the complaint or charges together with such other particulars concerning the accused as he may be able to ascertain and deem necessary.

SECTION 820. A copy of the order entered in the minutes of the court as provided in section 816, and certified by the clerk of the court under the seal of the court, or, the warrant provided for in Section 817, or 818 of this article, shall be sufficient to authorize the officer executing it to commit the person therein named to the superintendent of the reform school within the same, and a copy of either

attested by such officer and left with and retained by such superintendent shall be sufficient to authorize such superintendent to retain, control and employ such person within such reform school, its grounds, and precincts until the expiration of the time specified therein. It shall be the duty of the officer executing any such order or warrant to deliver the person named therein to such superintendent at such school together with a copy of the order or warrant under which he is acting, and to take such superintendent's receipt for such person, indorsed on the original order or warrant, and to return such order or warrant with his doings indorsed thereon to the clerk of the court of the county in which the order was made or warrant issued, and such clerk shall file and retain the same in his office with the other papers in the case. The fees of any officer performing any service under the provisions of this article shall in all respects be the same as for like services in criminal actions.

SECTION 821. In the cases provided for in Section 817 of this article, if the accused is committed to the reform school, and in all cases provided for in Section 818 of this article, all the papers shall be filed with the clerk of the court of the proper county, but in the cases provided for in Section 817 of this article, if the accused is not committed to the reform school, or if the accused appeals from the judgment of conviction, such accused, with all the papers in the case must be remanded to the custody of the officer to be returned to the magistrate before whom the conviction was had to be dealt with according to law.

SECTION 822. The board of trustees of the reform school may at any time after one year's detention of any person therein, upon satisfactory evidence of reformation, and as a reward for good conduct and diligence in study, discharge any inmate therefrom, but if such inmate has no parent, guardian or other person to whom to return, such boards shall first arrange for and procure some suitable person to receive, employ and care for the person so discharged without charge to the State. If any person convicted of a felony and committed to such school shall be or become incorrigible and manifestly and persistently dangerous to the good order, government and welfare of such school or the inmates thereof, the board of trustees must order such

person returned and delivered to the parent or guardian to the jailer of the county from which committed, as the case may be, and the proceedings against such person shall thereafter be resumed and continued as though no order or warrant of commitment to the reform school had been made.

SECTION 823. Every person who unlawfully aids or assists any person committed to the State Reform School in escaping or attempting to escape therefrom, or from any officer thereof, or knowingly conceals such person after so escaping, is guilty of a misdemeanor.

SECTION 824. Until such time as the Legislature Assembly shall, by law, make provision for the purchase or other acquisition of sufficient ground for the State Reform School and the erection of buildings thereon, for the use of such school, neither the board of trustees provided therefor in this article, or any trustee, nor any other person on account of said school shall receive or be paid for any services rendered or material or other thing furnished in regard thereto, nor shall any person be by order or warrant, or otherwise, committed thereto by any court or judge of this State, until the Governor by public proclamation declares such school open therefor, but, until the Governor makes such proclamation such juvenile offenders against the laws of this State as may be convicted of any crime or public offense in a district court of this State, may be committed to and confined in the reform school at Plankinton, South Dakota, or a reform school in any other State with which this State may contract, in the manner provided in the law governing such school.

#### ARTICLE 12.—INSANE INMATES.

SECTION 825. Whenever it shall appear to the satisfaction of the Governor by the representations of the warden of the penitentiary or the superintendent of the reform school and the board of trustees of the institution under its charge, that any person confined therein has become insane during such confinement, and is still insane, it shall be the duty of the Governor to make inquiry in regard thereto, and if he shall determine that such person has become and is insane, he shall order and direct that such person be taken from such institution and confined and

treated in the state hospital for the insane, and that upon his recovery from such insanity, if before the expiration of the term for which he is committed he be returned to such institution; and it shall be the duty of the warden or superintendent, as the case may be, to deliver such insane person to the superintendent of such hospital within the same, and said superintendent to receive such person into such hospital upon the presentation of the order of the Governor therefor and in obedience thereto, and the expense of so transferring any person to the State Hospital for the Insane and his return shall be audited by the State Auditor and paid, upon his warrant, out of the State Treasury.

SECTION 826. It shall be the duty of the warden or superintendent to deliver to the superintendent of the State hospital for the insane, with the person so ordered transferred as herein provided, a correct copy of the order of the Governor directing such transfer and of the superintendent of such hospital to deliver to the warden or superintendent a certificate acknowledging the receipt of such person, and said copy.

The original order of the Governor and said certificate shall be retained by the warden or superintendent and filed in his office at the institution in his charge. It shall be the duty of the superintendent of such hospital to notify the warden or superintendent of the recovery of any person transferred as herein provided, and of the warden or superintendent thereupon, if the term of sentence of such person has not expired, to return him to the proper custody. If the term of commitment of any person so transferred has expired at the time of his recovery, the warden or superintendent may direct that he be released from further custody, by the superintendent of said hospital; *provided*, that it shall be the duty of the warden or superintendent to provide any person so released with the same allowance of clothing, money and transportation to which other persons discharged from the penitentiary or reform school are entitled.

#### ARTICLE 13.—DECEASE OF INMATES.

SECTION 827. In case of the death of any person confined in the penitentiary or State Reform School it shall be the duty of the warden or superintendent immediately to

notify the coroner of Burleigh or Morton county, as the case may be, or when there is no coroner or in case of his absence or inability to act, some justice of the peace of the county, and it shall be the duty of such coroner or justice of the peace so notified, as the case may be, immediately to take possession of the body of the said deceased and remove the same from the penitentiary or reform school, and said body retain for at least twenty-four hours and to hold an inquest thereon and inquire carefully into the cause of said deceased's death, in the manner provided by law in cases of persons supposed to have died by unlawful means; but no officer or employe of the penitentiary or reform school shall be placed or permitted to serve on the jury at said inquest.

SECTION 828. The inquest herein provided for shall be open to all persons who may wish to attend the same, under such rules and regulations as the officer holding the same may establish for the orderly conduct of the business. All persons may be excluded from the presence of the body of the deceased whenever there is danger of contracting or spreading a contagious disease, and all spectators may be excluded from the room where said inquest is being held while any officer, employe or inmate of the institution is being examined.

SECTION 829. The officer holding such inquest may require any inmate of the penitentiary or reform school to testify at said inquest, and it shall be the duty of the warden or superintendent to produce before such inquest any inmate of the penitentiary or reform school so required to testify, upon the written request of the officer holding said inquest. Any such inmate shall be accompanied by such officer or officers as the warden or superintendent may designate and as may be necessary to prevent his escape, and when no longer required before said inquest, must be immediately returned. The testimony of each witness taken at said inquest shall be reduce to writing under the order of the officer holding such inquest and subscribed by the witness. The proceedings of the jury shall be as provided in other cases of inquest held by the coroner.

SECTION 830. The officer holding such inquest shall,

within ten days, after its conclusion, return the inquisition of the jury, the written testimony of the witnesses, and a list of the witnesses who testified to material matter at such inquest, to the clerk of the district court of said Burleigh or Morton County, as the case may be, and it shall be the duty of said clerk to file and retain the same in his office as a public record. It shall be the duty of the officer holding such inquest to cause the body of the deceased to be decently buried, or delivered to the relatives or friends of such deceased if by them demanded within twenty-four hours after the receipt of such body by him, or at any time before its burial.

SECTION 831. The officer holding such inquest shall make an itemized statement and report in detail of the expenses of such inquest specifying, to whom, and for what fees, services or supplies payable and the same verify by his oath, but in no case shall the expense of the burial of said body, exclusive of the fees allowed by law to officers, jurors, physicians and witnesses, exceed the sum of forty dollars; and the State Auditor shall audit all claims for any such inquest when presented as herein provided, and draw his separate warrants upon the State Treasurer for the amount allowed to each person named in such statement and report, and said warrants shall be paid out of the State Treasury. The fees of the officer holding said inquest and of the jurors, physicians and witnesses, shall be the same as in other cases of inquests, provided that no officer of the penitentiary or of the reform school nor inmate thereof, shall be entitled to fees or other allowance on account of any services rendered at said inquest.

SECTION 832. It shall be the duty of the warden or superintendent within ten days after the decease of any person confined in the penitentiary or reform school, to report in writing to the State Treasurer the money and effects in his hands belonging to the deceased, and with said report to transmit to the State Treasurer any such money. The State Treasurer shall receive such report and money and execute and give to the warden or superintendent a receipt therefor. The State Treasurer may require the warden or superintendent to sell the effects of the deceased in his hands and direct the manner of said sale or, in his discretion, that the warden or superintendent

deliver said effects to the legal representatives of the deceased, and it shall be the duty of such officer to carry out the requirements and directions of the State Treasurer in that regard. If said effects are sold, all moneys received therefor shall be delivered to the State Treasurer as herein provided for for the money of the deceased. The State Treasurer shall place all money received on account of any such deceased person, to the credit of the State. If said money is claimed within six years by the legal representatives of the deceased, the State Treasurer must pay it to them after deducting the expenses of the inquest upon and the burial of the body of the deceased.

#### CHAPTER XVII.—COUNTY JAILS.

SECTION 833. The judges of the district courts of the several judicial districts of this state, shall from time to time, as they may deem necessary, prescribe, in writing, rules for the regulation and government of the jails in the several counties, within their respective districts, upon the following subjects:

1. The cleanliness of the inmates.
2. The classification of the inmates in regard to sex, age, and crime, and also persons insane, idiots and lunatics.
3. Beds and clothing.
4. Warming, lighting, and ventilation of the jail.
5. The employment of medicine and surgical aid when necessary.
6. Employment, temperance and instruction of the inmates.
7. The supplying of each inmate with a bible.
8. The intercourse between inmates and their counsel and other persons.
9. The punishment of inmates for violation of the rules of the jail.
10. Such other regulations as said judges may deem nec-

essary to promote the welfare of said inmates; *Provided*, that such rules shall not be contrary to the laws of the State.

SECTION 838. The sheriff or other officers performing the duties of sheriff of each county of this State, shall procure, at the expense of the proper county, a suitable book, to be called the jail register, in which the said sheriff, by himself or his jailer, shall enter:

1. The name, age, sex, abode and nativity of each person committed to the jail, with the date and cause of his commitment.

2. By what authority committed, and if committed for a criminal offense, a description of his person.

3. The date and manner of his discharge and by what authority, and if any inmate escapes, particularly, the time and manner of such escape.

4. What sickness, or disease has occurred, if any has in the jail during the year, and, if known, what were the causes thereof.

5. Whether any, or what labor has been performed by the inmates and the value thereof.

6. The practice observed during the year of whitewashing and cleansing the occupied cells or apartments, and the time or seasons of so doing.

7. The habits of the inmates as to personal cleanliness, diet and order.

8. The means furnished or permitted to inmates for literary, moral and religious instruction, and for labor.

9. All other matters required by the rules, or in the discretion of the sheriff deemed proper; the said sheriff or other officers performing the duties of sheriff, shall carefully keep and preserve the jail such register in the office of the jailer of his proper county, and at the expiration of his term of office shall deliver the same to his successor in office.

SECTION 839. The sheriff or other officer performing the duties of sheriff, shall on or before the first Monday of No-

member in each year, make out in writing from the jail register, a jail report in triplicate, one copy of which report he shall forthwith file in the office of the clerk of the district court of his county, one copy with the county auditor, of his county, for the use of the commissioners thereof, and one copy of such report he shall transmit to the Governor of the State, and it shall be the duty of the Governor to communicate the reports of the several sheriffs of this State to the legislative assembly, on or before the tenth day of each of its sessions.

SECTION 840. It shall be the duty of the district court to give this chapter in charge of the grand jury at each term of said court at which a grand jury is impaneled and bring before them all rules, plans or regulations established by the district judge relating to the jail of the county and prison discipline which shall then be in force.

SECTION 843. It shall be the duty of the sheriff of each county to provide, first, bed clothing, washing, nursing, when required, and board generally, and all necessaries for the comfort and welfare of said prisoners, as the said judge by his said rules shall designate for all persons confined by law, and he shall be allowed such compensation for services required by the provisions of this act, as may be prescribed by the county commissioners of their respective counties; *provided*, that the county commissioners, at the expense of their county, may arrange for the detention of any prisoners of their county in the jail of some other county, whenever in their judgment such detention would be less expensive than his detention in their county.

SECTION 846. If the sheriff or jailer having in charge any county jail, shall neglect or refuse to conform to the rules and regulations established by the judge, or to any other duty required of him by this chapter, he shall on conviction thereof in a criminal action prosecuted under the provisions of this code as other criminal actions, for each case of such failure or neglect of duty as aforesaid, be punished by a fine of not less than ten nor more than one hundred dollars.

## CHAPTER XVIII.

## PRISONS AND IMPRISONMENT FOR OFFENSES.

SECTION 849. The county commissioners of the respective counties of this State shall be inspectors of the jails in their several counties, and shall visit them at least once in each year, and shall examine fully into the condition of such jail, as to health, cleanliness and discipline; and the keeper thereof shall lay before them the jail register required to be kept by the provisions of Section —, of this code; and if it shall appear to such inspectors that any of the provisions of law have been violated or neglected, they shall forthwith give notice to the State's Attorney of the county, and to the judge of the district court.

SECTION 850. No sheriff, jailer or keeper of any jail, shall, under any pretense, give, sell or deliver to any person confined therein for any cause whatever, any spirituous liquor, or any mixed liquor, part of which is spirituous, or any wine, cider or strong beer, unless a physician certifies in writing that the health of such person requires it, in which case he may be allowed the quantity prescribed, and no more. And no sheriff, jailer or keeper as aforesaid, shall put up or keep in the same room, cell or apartment, male and female inmates together.

SECTION 855. At the opening of each term of the district court, within his county, the sheriff shall return a copy of the entries in his jail register made since the last preceding term under his hand, to the judge holding said court, and if any sheriff shall neglect or refuse so to do, he shall be punished by fine not exceeding three hundred dollars.

SECTION 874. At each term of the district court at which a grand jury is impaneled, said jury shall make a personal inspection of the condition of the county jail, as to the sufficiency of the same for the safe keeping of persons confined therein, their convenient accommodation and health, and shall inquire into the manner in which the same has been kept since the last previous inspection; and the court shall give this duty in special charge to such grand jury, and it shall be imperative upon the board of county commissioners to issue the necessary orders or cause to be made the necessary repairs, in accordance with the complaint or recommendation of the grand jury.

## CHAPTER XIX.

## HABEAS CORPUS.

SECTION 883. Every person imprisoned or restrained of his liberty, under any pretense whatever, may prosecute a writ of *habeas corpus* to inquire into the cause of such imprisonment or restraint and thereby (except in the cases specified in the next section) obtain relief from such imprisonment or restraint if it is unlawful.

SECTION 884. The person in whose behalf the application is made is not entitled to relief from imprisonment or restraint under a writ of *habeas corpus*, if the time during which such person may be legally detained in custody has not expired, whenever it appears,

1. That he is detained in custody by virtue of process issued by any court or judge of the United States in a case where such court or judge has exclusive jurisdiction; or,

2. Except as provided in Section 897, that he is detained in custody by virtue of the final order or judgment of any competent court of criminal jurisdiction or of any process issued upon such order or judgment.

SECTION 885. The application for the writ must be made by petition, signed either by the person for whose relief it is intended, or by some person in his behalf, and must specify:

1. That the person in whose behalf the writ is applied for is imprisoned or restrained of his liberty, the officer or person by whom he is so confined or restrained, and the place where, naming all the parties, if they are known, or describing them, if they are not known.

3. The cause or pretense of such confinement or restraint, according to the knowledge or belief of the party verifying the petition.

4. If the confinement or restraint is by virtue of any warrant, order or process, a copy thereof shall be annexed, or it shall be averred that by reason of such person being removed or concealed before application a demand of such copy could not be made, or that such demand was made, and the legal fees therefor tendered to the officer or person

having such person in custody, and that such copy was refused.

5. If the imprisonment is alleged to be illegal, the petition shall state in what the illegality consists.

6. The petition must be verified by the oath or affirmation of the person making the application.

SECTION 886. The writ of *habeas corpus* may be granted,

1. By the supreme court or any judge thereof upon petition by or on behalf of any person restrained of his liberty in this State. When so issued it may be made returnable before the court, or any judge thereof, or before any district court or judge thereof.

2. By the district courts, or a judge thereof, upon petition by or on behalf of a person restrained of his liberty in their respective districts.

When application is made to the supreme court or to a judge thereof, proof by the oath of the person applying or other sufficient evidence shall be required that the judge of the district court having jurisdiction by the provisions of subdivision 2 of this section is absent from his district, or has refused to grant such writ, or for some cause, to be specially set forth, is incapable of acting, and if such proof is not produced, the application shall be denied.

SECTION 887. The court or judge authorized to grant the writ, to whom a petition therefor is presented, must, if it appears that the writ ought to issue, grant the same without delay, and the writ shall not be denied for any informality in the petition or for any want of matters of substance, if the same can be supplied and the court or judge to whom application is made, must point out the matters wanting and direct the manner of supplying the same.

SECTION 888. The writ must be directed to the person having custody of or restraining the person on whose behalf the application is made, and must command him to have the body of such person before the court or judge, before whom the writ is returnable, immediately, at a place

therein specified, (or at some specified time) regard being had to the circumstances and the distance to be traveled.

Every writ of habeas corpus issued under the provisions of this chapter shall be substantially in the following form:  
County of.....

The State of North Dakota.

To the sheriff of.....etc. (or to)....

You are hereby commanded to have the body of..... by you imprisoned and detained, as it is alleged, together with the time and cause of such imprisonment and detention, by whatever name the said..... shall be called or charged, before....., judge of the district or supreme (court or before the district or supreme court, as the case may be), at..... (naming the place) on..... (naming the date) (or immediately upon the receipt of this writ) to do and receive what shall then and there be considered concerning the said ..... and have you then and there this writ.

Witness, &c....

Such writ must be indorsed "by the habeas corpus act" and if issued by the court it shall be under the seal of the court; if by the judge it shall be under his hand.

SECTION 889. Whenever the writ is directed to the sheriff or other ministerial officer of the court out of which it is issued, it must be delivered by the clerk, or by such person as it may be intrusted to, without delay as other writs are delivered to such sheriff or other officer for service, or it may be left with the jailer, keeper or other person, under such sheriff or other officer in charge of and at the jail or place where the person seeking the writ may be imprisoned or restrained. If it is directed to any other person it may be delivered to the sheriff or his deputy and be by him served upon such person by delivering the same to him without delay. If the person, to whom the writ is directed cannot be found, or refuses admittance to the officer or person serving or delivering such writ, it may be served or delivered by leaving it at the residence of the person to whom it is directed, or by affixing it to some conspicuous place on the outside either of his dwelling house or of the place where the party is confined or under restraint. In any case, the court, or judge thereof, issuing the writ, may at his discretion authorize any person to

serve and deliver it by an entry signed by him, thereon to the following effect: "I hereby authorize.....to serve the within writ," and service made by such person in the manner designated in this section shall be due and lawful service.

SECTION 890. If the person to whom the writ is directed refuses, after service, to obey the same, the court or judge, upon affidavit stating such facts, must issue an attachment against such person, directed to the sheriff or coroner, commanding him forthwith to arrest such person, and bring him immediately before such court or judge; and upon being so brought, he must be committed to the jail of the county until he makes due return to such writ or is otherwise legally discharged. The person disobeying such writ shall also forfeit to the person imprisoned or restrained a sum not exceeding five hundred dollars, and if an officer, he shall be incapable of holding or executing his said office.

SECTION 891. The person upon whom the writ is served must state in his return, plainly and unequivocally:

1. Whether he has or has not the party in his custody or under his power or restraint.

2. If he has the party in his custody or power or under his restraint, he must state the authority and cause of such imprisonment or restraint.

3. If the party is detained by notice of any writ, warrant or other written authority, a copy thereof must be annexed to the return and the original produced and exhibited to the court or judge on the hearing of such return.

4. If the person upon whom the writ is served had the party in his custody or power, or under his restraint, at any time prior or subsequent to the date of the writ of *habeas corpus* but has transferred such custody or restraint to another, the return must state particularly to whom, at what time and place, for what cause, and by what authority, such transfer took place.

5. The return must be signed by the person making the same, and, except when such person is a sworn public officer, and makes such return in his official capacity, it must be verified by his oath or affirmation.

SECTION 892. The person to whom the writ is directed, if it is served, must bring the body of the party in custody, or under his restraint, according to the command of the writ, except in cases specified in the next section.

SECTION 893. When from sickness, or infirmity of the person directed to be produced, he cannot, without danger, be brought before the court or judge, the person in whose power or custody he is, may state that fact in his return to the writ, verifying the same by affidavit. If the court or judge is satisfied of the truth of such return, and the return to the writ is otherwise sufficient, the court or judge may proceed to decide on such return and to dispose of the matter as if such party had been produced on the writ, or the hearing thereof may be adjourned until such party can be produced.

SECTION 894. The court or judge before whom the writ is returned must, immediately after the return, or within five days thereafter proceed to hear and examine the return, and such other matter as may be properly submitted to its consideration.

SECTION 895. The party brought before the court or judge, on the return of the writ, may deny or controvert any of the material facts or matters set forth in the return, or except to the sufficiency thereof or allege any fact to show either that the imprisonment or detention is unlawful, or that he is entitled to his discharge. The court or judge must thereupon proceed in a summary way to hear such proof as may be produced against such imprisonment or detention, or in favor of the same, and to dispose of such party as the justice of the case may require, and has full power and authority to require and compel the attendance of witnesses, by process of subpoena and attachment, and to do and perform all other acts and things necessary to a full and fair hearing and determination of the case. The court or judge may allow the return to be amended according to the facts of the case, whenever it may be deemed necessary.

SECTION 896. If no legal cause is shown for the imprisonment or restraint or for the continuation thereof, such court or judge must discharge such party from the custody or restraint under which he is held.

SECTION 897. If it appears on the return of the writ that the party is in custody by virtue of process from any court of this State or judge or officer thereof, such person may be discharged in any of the following cases, subject to the restrictions of Section . . . . . of this code.

1. When the jurisdiction of such court or officer has been exceeded.

2. When the proceeding was at first lawful, but by some act, omission, or event which has taken place afterwards, the party has become entitled to a discharge.

3. When the process is defective in some matter of substance required by law, rendering such process void.

4. When the process, though regular in form has been issued in a case not allowed by law.

5. Where the person having the custody of the party is not the person allowed by law to detain him.

6. Where the process is not authorized by any order or judgment of any court, nor by any provisions of law.

7. Where a party has been committed on a criminal charge without reasonable or probable cause.

8. Where the process appears to have been obtained by false pretense or bribery.

SECTION 898. If the person is committed to prison, or is in custody of an officer on a criminal charge, by virtue of a warrant of commitment of a justice of the peace, such person must not be discharged on the ground of any mere defect of form in the warrant of commitment.

SECTION 899. If it appears to the court or judge, by affidavit or otherwise, or upon inspection of the process or warrant of commitment, and proceedings as may be shown to the court or judge, that the party is guilty of a criminal offense, or ought not to be discharged, such court or judge, although the charge is defectively or not substantially set forth in such process or warrant of commitment, must cause the complainant or other necessary witness to be subpoenaed to attend at such time as ordered, to testify before the court or judge, and upon the examination he

may discharge such party, admit him to bail, if the offense is bailable, or recommit him to custody, as may be just and legal.

SECTION 900. Whenever a person is imprisoned or detained in custody on a criminal charge, for want of bail, such person is entitled to a writ of *habeas corpus* for the purpose of giving bail, upon averring that fact in his petition, without alleging that he is illegally confined. Any judge in or out of the court in which he is authorized to act may take an undertaking of bail from any person who has been committed on a criminal charge, when brought before him on a writ of *habeas corpus*, as in other cases, if the offense is bailable, and file the undertaking in the proper court.

SECTION 901. If a party brought before the court or judge on the return of the writ is not entitled to his discharge, and is not admitted to or bailed, where allowable, the court or judge must remand him to custody, or place him under the restraint from which he was taken, if the person under whose custody or restraint he was, is legally entitled thereto.

SECTION 902. In cases where any party is held under illegal restraint or custody, or any other person is entitled to the custody or restraint of such party, the court or judge may order such party to be committed to the custody or restraint of such person as is by law entitled thereto.

SECTION 903. Until judgment is given on the return, the court or judge before whom any party may be brought on such writ, may commit him to the sheriff of the county or place him in such care or under such custody as his age or circumstances may require.

SECTION 904. When it appears that the person in whose behalf a writ of *habeas corpus* is issued, is held upon a criminal charge of any kind, notice of the time and place of hearing upon the return must be given to the states' attorney of the county where the offense arose if he is within his county; in other cases, like notice shall be given to any person interested in continuing the custody or restraint of the party asking the aid of such writ.

SECTION 905. Whenever the officer or person to whom a writ of *habeas corpus* is directed and delivered, is required thereby to make return and take the person in whose behalf the writ is issued into a county other than the county in which such person is imprisoned or restrained, the court or judge awarding the writ, may, at his discretion, ascertain and by an entry thereon specify the amount, but not exceeding fifteen cents per mile, require the payment or tender, at the time of delivering the writ, of the charges of obeying the same; but in no case where such entry is not made can the payment or tender of such charges be demanded before the return of the writ in accordance with its direction.

SECTION 906. No writ of *habeas corpus* can be disobeyed for defect of form, if it sufficiently appears therefrom in whose restraint the party imprisoned or restrained is, the officer or person detaining him, and the court or judge before whom he is to be brought.

SECTION 907. No person who has been discharged by the order of the court or judge upon *habeas corpus* can be again imprisoned, or kept in custody for the same cause, except in following cases:

1. If he has been discharged from custody on a criminal charge, and is afterwards committed for the same offense, by legal order or process.

2. If, after a discharge for defect of proof, or for any defect of the process, warrant or commitment in a criminal action, the accused is again arrested on sufficient proof and committed by legal process for the same offense.

3. If in a civil action the party has been discharged for any illegality in the order, judgment or process, and is afterward imprisoned by legal process for the same cause of action.

SECTION 908. Obedience to an order for the discharge of any person, granted pursuant to the provisions of this chapter, may be enforced by the court or judge issuing such writ, or granting such order, by attachment, in the same manner as hereinbefore provided for a neglect to make a return to a writ of *habeas corpus*, and the person guilty of such disobedience shall forfeit to the party

aggrieved, five hundred dollars, in addition to any special damages such party may have sustained.

SECTION 909. When it appears to any court or judge authorized by law to issue the writ of *habeas corpus*, that any one is illegally held in custody, confinement or restraint, and that there is reason to believe that such person will be carried out of the jurisdiction of the court or judge before whom the application is made, or will suffer some irreparable injury before compliance with the writ of *habeas corpus* can be enforced, such court or judge may cause a warrant to be issued, reciting the facts, and directed to the sheriff, coroner or a constable of the county, commanding such officer to take such person thus held in custody, confinement or restraint, and forthwith bring him before such court or judge to be dealt with according to law. The court or judge may also insert in such warrant a command for the arrest of the person charged with such illegal detention and restraint.

SECTION 910. The officer to whom such warrant is delivered must execute it by bringing the person therein named before the court or judge who directed the issuing of such warrant, but if such warrant is issued by the supreme court or a judge thereof, upon the return of the warrant, the hearing and decision of the matter may be ordered by such court or judge, to be had before the district court of the proper county or the judge thereof.

SECTION 911. The person alleged to have such party under illegal confinement or restraint, may make return to such warrant, as in case of a writ of *habeas corpus*, and the same may be denied, and like allegations, proofs and trial may thereupon be had as upon a return to a writ of *habeas corpus*.

SECTION 912. If such party is held under illegal custody or restraint, he must be discharged, or if not, he must be restored to the care or custody of the person entitled thereto.

SECTION 913. Any writ or process authorized by this chapter may be issued and served on any day or at any time.

SECTION 924. The provisions of this Code so far as they

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are the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

SECTION 925. The provisions of this Code as far as they relate to procedure, or alleviate the punishment to be imposed upon conviction in any case, shall govern in all criminal actions in any way prosecuted or tried after the date upon which it takes effect, whether the offense was committed before or after such date.

SECTION 926. The board of revising commissioners of this State are hereby authorized and empowered to renumber the sections of this act, so as to conform with the provisions of Chapter 74, of the laws passed at the third session of the Legislative Assembly of the State of North Dakota, and so as to form, with the other laws of this State, consecutive numbers or the Revised Codes, and otherwise to compile the several sections of this act in all regards as provided in said Chapter seventy-four.

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# APPENDIX.

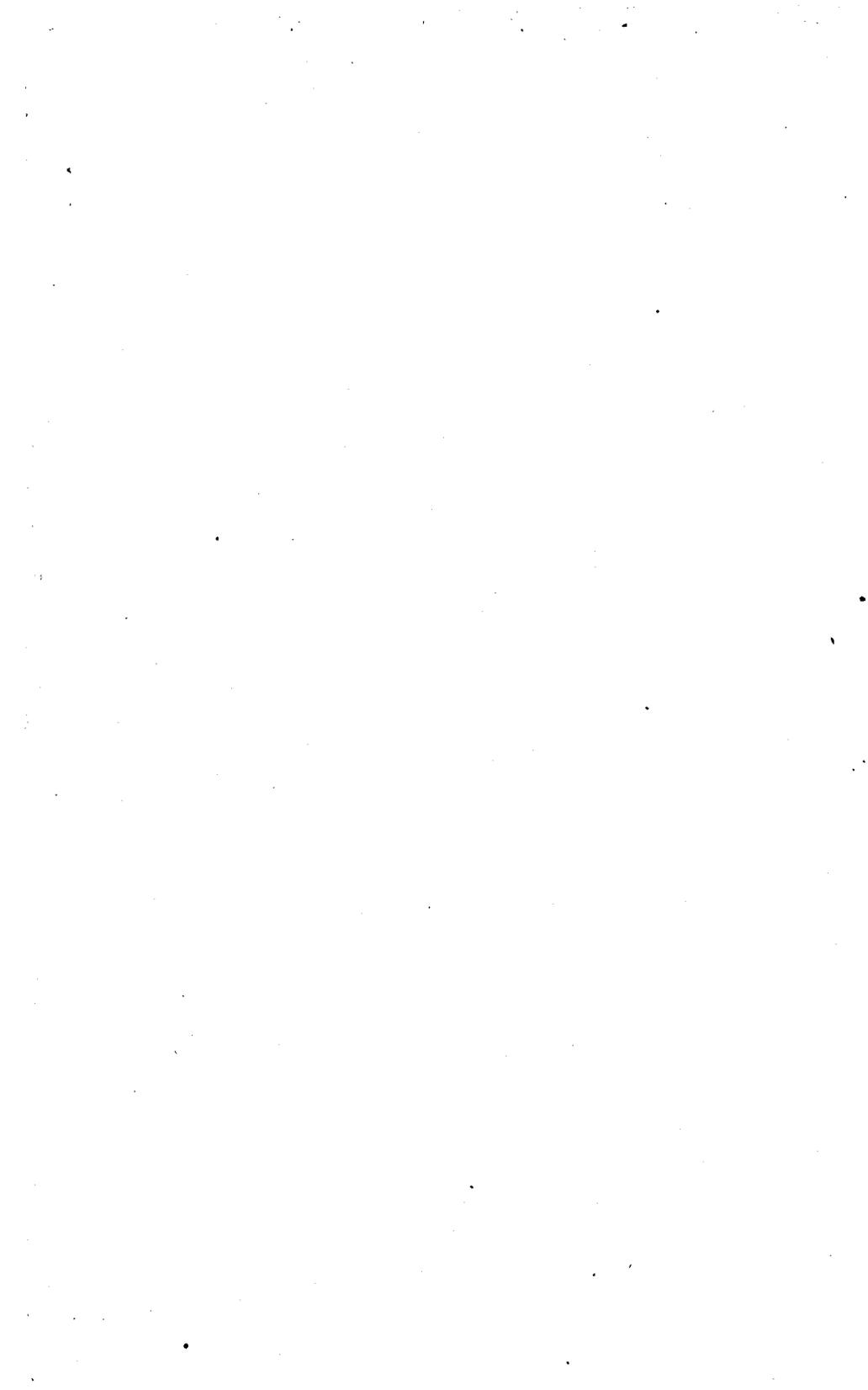
PROBATE CODE.

PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

REPORT OF JOINT COMMITTEE.

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## A BILL

For an Act to Establish a Probate Code for the State of North Dakota.

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

## CHAPTER I.

## THE CODE AND ITS OPERATION.

SECTION 1. This act shall be known as The Probate Code of the State of North Dakota.

SECTION 2. This Code establishes the law of this State upon the subjects to which it relates; and its provisions, and all proceedings under it, shall be liberally construed, with a view to effect its objects and promote justice.

SECTION 3. No right accrued or act done in any proceeding commenced before this Code takes effect, is in any manner impaired or injuriously affected by its provisions; but the mode of procedure shall thereafter conform as nearly as may be to its requirements.

SECTION 4. When a right is acquired, extinguished, or barred, upon the expiration of a prescribed period of time, which has commenced to run, by the provisions of any Statute in force before this Code takes effect, such provisions shall remain in force and be deemed a part of this Code as respects the right so affected.

SECTION 5. Unless otherwise especially provided, every period of time herein prescribed, with reference to the commencement of a proceeding, or the performance of any other act, shall be computed from the date of the event at which such period begins, although such event happened before the taking effect of this Code. But this section shall not be construed so as to conflict in any manner with the provisions of the preceding section.

SECTION 6. Unless otherwise defined herein, words and phrases used in this Code are to be construed according to the rules and definitions recognized in, or prescribed by, other statutes applicable thereto.

SECTION 7. The following words and phrases have in this Code, the signification herein prescribed, except where a different signification is apparent from the context:

1. The word "case" refers to a subject matter which, by the provisions of this Code, is cognizable in a county court, and includes every proceeding therein maintained in relation to the same matter or estate.

2. The words "county court," "county judge," and "clerk," are to be understood as referring only to the exercise of the jurisdiction and powers herein conferred.

3. The word "will" includes "codicil" and denotes a last will and testament, or an instrument purporting to be such, according to the context.

4. The phrase "person interested," when used with reference to an estate or fund, includes every person entitled, either absolutely or conditionally, to share in the same, or the proceeds thereof, except a creditor.

5. The word "mandate" includes any process or order issuing from the court, directing or prohibiting the performance of any act.

## CHAPTER 2.

### ARTICLE I.—THE COUNTY COURT, ITS ORGANIZATION, POWERS AND DUTIES—ORGANIZATION OF THE COURT.

SECTION 8. There is established, in each organized county of this State, a county court, which shall be a court of record, held by the county judge, in the manner herein-after prescribed. (Const. 110.)

SECTION 9. There are no stated terms of the county court, but the court is deemed to be always open, and every official act of the judge, done in pursuance of this Code, shall be deemed to be the act of the court. (For S. 90, c. 21, P. C.)

SECTION 10. Each county court shall have a seal, upon which shall be inscribed the name of the State and county, and the words "Seal of the County Court." Such seal must be furnished by the board of county commissioners, and be at least one and five-eighths of an inch in diameter; but when the court is unprovided with a seal the judge may procure one at the expense of the county, and a scroll or other device may be used as a seal until a seal can be procured.

SECTION 11. The county judge shall have an office at the county seat, in rooms provided by the county, and furnished in like manner with tables, chairs, desks, cases for books and papers, books or record blanks, stationery, and other articles required for the purposes of the office. (For S. 91, c. 21, P. C.)

SECTION 12. The judge shall keep his office open at all proper times, during reasonable hours, for the purpose of holding court, and transacting business as prescribed by law. He shall safely keep the records of the court, and all documents and other papers, lawfully entrusted to him by virtue of his office, or in the course of any proceeding before him, and deliver the same over to the persons entitled thereto, or to his successor in office; but the records must be open during office hours, to access and inspection by persons having any business therewith.

SECTION 13. A county judge shall not be attorney in any civil or criminal action, or other judicial proceeding, which involves or relates to an estate or any part thereof or other matter over which he has or may thereafter obtain jurisdiction, either for or against a surviving husband or wife, heir, devisee, executor, administrator, guardian or ward, debtor, creditor or other person; and he shall not counsel or advise as to any such action or proceeding, or contemplated action or proceeding, or have a law partner, or be otherwise connected in business with a practicing attorney. A willful violation of any of the foregoing provisions of this section shall be deemed willful misconduct in office. (For 592, c. 21, P. c.)

SECTION 14. A clerk may be appointed for the county court, by an order duly entered in the journal; and the appointment may be in like manner revoked by the judge

at his pleasure. A clerk so appointed may, until his appointment is revoked, exercise the powers expressly conferred upon the clerk by the provisions of this Code; but the judge shall be responsible for all his official acts; and may at all times act as his own clerk. No practicing attorney shall be appointed as clerk, and no clerk shall act as attorney or as executor, administrator, guardian or appraiser in any matters before the court.

SECTION 15. A clerk may exercise, concurrently with the judge, the following powers:

1. He may certify and sign as clerk any of the records of the court, except such as require the signature of the judge.

2. He may certify and sign as clerk, and affix the seal of the court, to a transcript or exemplification of any record remaining therein.

3. He may sign as clerk, and affix the seal of the court, to a subpoena, and issue the same with the same effect as if issued by the court.

4. He may administer an oath authorized or required in any proceeding in the court, and certify the same under the seal of the court.

5. He may postpone for a definite time, not exceeding thirty days, any hearing or other matter, when the judge is absent from his office.

SECTION 16. The sheriff of the county, must, in person or by deputy, attend the sittings of the county court whenever the judge shall so direct, and must execute according to law, or the direction of the court, every process or other mandate issuing from the court. But when he is absent or unable to act in the discharge of any duty required of him by this section, the judge may direct any constable of the county to act in his place.

SECTION 20. Sheriffs and other officers shall receive for their services rendered in the county court, or in the execution of its mandates, the same compensation as for like services in the district court, payable by the county or by a party in like manner.

## ARTICLE 2.—JURISDICTION AND POWERS OF THE COUNTY COURT.

SECTION 21. The county court has exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law. (Const. 111.)

SECTION 22. In the exercise of its jurisdiction the county court has power:

1. To take the proof of wills, to admit wills to probate, and to revoke the probate thereof ;
2. To take proof of and determine heirship, and to revoke such determination ;
3. To grant and revoke letters testamentary, and letters of administration, and to appoint a successor in place of a person whose letters have been revoked.
4. To direct and control the conduct and settle the accounts of executors and administrators ;
5. To direct the disposition of the property of decedents for the payment of their debts and funeral expenses and expenses of administration ;
6. To enforce the payment of legacies and the distribution of estates of decedents, and the payment or delivery, by executors and administrators, of money or other property in their possession belonging to the estate ;
7. To appoint and remove guardians, to direct and control their conduct, settle their accounts, and compel the payment and delivery by them of money or other property belonging to their wards ;
8. To administer justice in all matters within its jurisdiction according to the provisions of the statutes relating thereto. (For P. C. 1 C. L. 5650.)

SECTION 23. The county court of each county has jurisdiction to take the proof of a will and grant letters testamentary, or to grant administration, or determine heirship, as the case requires:

1. Where the decedent was, at the time of his death, a resident of that county, whether his death happened there or elsewhere.

2. Where there is property of the decedent within that county which remains unadministered, he not being a resident of the State at the time of his death, in whatever place the death happened.

3. Where the application was first made in that county, if the jurisdiction, as defined in the preceding subdivision or in Section twenty-four is in two or more counties (For. P. C. 7, S. C. L. 5656.)

SECTION 24. The jurisdiction to appoint a guardian is in the county court of the county in which the ward resides. or, in a case relating exclusively to his estate, in the county where the property or some part thereof, is situated. But, the provisions of this chapter, have no application to the appointment of a guardian for the special purpose of maintaining or defending the interests of a minor or other party in an action or proceeding in any county of competent jurisdiction.

SECTION 25. For the purposes of the two preceding sections, a county is deemed to extend to all adjoining territory, situated within the same judicial district which is not embraced in or attached to any organized county.

SECTION 26. When the judge of the county court having jurisdiction, as defined in Sections twenty-two and twenty-three is disqualified from acting in a case for any cause specified in Section thirty-two of this Code, the county court of the county to which the same may be transferred has also jurisdiction, but can do no act in the exercise thereof until the transfer has been ordered.

SECTION 27. The court obtains jurisdiction in each case by the existence of the jurisdictional facts prescribed by statute and the presentation of a petition setting forth the facts; and may thereupon obtain jurisdiction of the persons interested by their appearance or by the process of citation.

SECTION 28. Jurisdiction once duly exercised in a case by a county court, is coextensive with the State, and, ex-

cept as otherwise specially prescribed by law, excludes the subsequent exercise of jurisdiction, by another court, over the same case, or any of its incidents; and all further proceedings to be taken in a county court in relation to the same matter or estate must be taken in the same court. (For P. C. 9, C. L. 5658.)

SECTION 29. An objection to a decree or order of a county court for an erroneous determination, of any fact necessary to jurisdiction or for a defect or omission in such decree or order, or in the pleadings or other papers on which it was founded, of the finding or statement of a jurisdictional fact which actually existed, or for a failure to take any intermediate proceeding prescribed by law, is available only on direct application to the same court or on appeal.

SECTION 30. The proceedings of a county court in the exercise of its jurisdiction are construed in the same manner, and with like intendments, as the proceedings of courts of general jurisdiction, and to its records, orders and decrees there are accorded like force, effect and legal presumptions as to the records, orders, judgments and decrees of courts of general jurisdiction. (P. C. 3, C. L. 5651.)

SECTION 31. The county court has authority and power in each case:

1. To issue citations, subpoenas and other process, under the seal of the court, to any part of the State, and enforce obedience thereto or return thereof according to law;

2. To postpone from time to time, for proper cause, a hearing or other proceeding;

3. To compel the attendance of a party or other person, whenever his presence is lawfully required;

4. To restrain by order, an executor, administrator or guardian to whom a citation or other process has been duly issued, from acting as such, until the further order of the court;

5. To require, by order, an executor, administrator, guardian or other person subject to the jurisdiction of the court to perform any duty imposed on him by statute or by the court under the authority of the statute;

6. To maintain order and decorum during the sittings of the court; and to punish any person for a contempt of court, where the district court might punish him for a similar contempt, and in like manner;

7. To open, vacate, or modify a decree or order of the court, for fraud, mistake, newly discovered evidence, or other sufficient cause;

8. To enter as of a former time, a decree or order of the court, for the purpose of correcting mistake or supplying an omission;

9. To complete all unfinished business, and certify and sign, with the date of so doing, all papers or other records, previously left uncompleted or unsigned, and to make and certify transcripts of all records of the court;

10. With respect to any matter not expressly provided for in this Code, to act as nearly as may be according to the Code of Civil Procedure, and to exercise such other incidental powers as are necessary to carry into effect the powers expressly conferred.

#### ARTICLE 3. TRANSFER OF CASES IN THE COUNTY COURT.

SECTION 32. A case may be transferred by order of the county court in which it is pending, for either of the following causes:

1. Where the judge is a party, or claims to have an interest, actual or contingent, in the estate to which the case relates;

2. Where he is or has been attorney for a party, in some proceeding therein;

3. Where he is related to a party by consanguinity or affinity, within the fourth degree;

4. Where the case involves the proof of a will to which the judge was a subscribing witness, or witness examined or necessary to be examined, or in which he is named as executor, unless he declines to act as such. (For P. C. 4, C. L. 5653.)

SECTION 33. A transfer must be made upon the presentation of the first petition in the case or at the time when

the parties are cited to appear thereto, if the cause is then known to exist, or, if not, as soon as may be after the existence of such cause is discovered; and no objection to a decree or other act of the court, for any of the causes specified in the preceding section is in any manner available except by application for such transfer, within the time herein prescribed.

SECTION 34. Such transfer may be ordered summarily upon facts within the knowledge of the judge, or upon the affidavit of a party, setting forth particularly, one or more of the cases enumerated in Section thirty-two, according to the facts, and demanding a transfer, and such further facts as may be necessary under the provisions of the last section and demanding a transfer. The facts set forth in such affidavit shall be taken as true unless controverted by affidavit. The order for a transfer must direct that the case be transferred to the county court of some other county, having jurisdiction by the provisions of Section twenty-three or Section twenty-four of this chapter, or if there is none such to that of the county most convenient to the parties, within the same judicial district.

SECTION 35. When a transfer has been made all further proceedings in the court making the order must be suspended, and unless an appeal is taken the original papers and a transcript of the docket and journal entries, must be certified and transmitted, within thirty days to the judge of the county court designated in the order, who shall record the proceedings anew and thereafter proceed as if he had jurisdiction of the case from the beginning. (For P. C. 5, C. L. 5654.)

#### ARTICLE 4.—RECORDS OF THE COUNTY COURT.

SECTION 36. The records of each county court consist of the original papers in the cases adjudicated or pending therein, and the books prescribed in the next section.

SECTION 37. There shall be kept in each county court the following books of record:

1. A journal, in which there shall be entered under the proper dates, and in the order in which the transactions take place, respectively, a brief statement of the nature

and object of each proceeding; a minute or statement of each act of the judge, or of the parties therein, except the filing of a paper; a minute of each hearing or postponement; the facts appearing by the return to each process or mandate issued from the court; and each decision or direction given by the court in the progress of a proceeding, and such other matters as are specially required to appear of record; but these provisions do not require a minute of the issuance or return of a subpoena, or a statement of the evidence, or any particulars relating to the introduction of testimony, except the names of the witnesses sworn and examined. Every order affecting a substantial right or directing the performance of a duty, and every final order or decree shall appear thereon in full, with a signature of the judge attached; but as to other matters, a minute of his approval dated and signed by him at the close of the entries for each day is sufficient.

2. A docket in which there shall be set apart at least two pages to each case, by entering thereon its title and number, underneath which there shall be entered the following particulars relating to that case:

On the first page, a register, containing the name of each party to any proceeding therein; each guardian or other person having the custody of a party who is under any legal disability each special guardian appointed for a party, and each attorney appearing for a party; together with the postoffice address of each, and a word or words describing his relation to the case, if a party, as for example "heir," "devisee," or "ward," or his relation to the party, as "attorney," or otherwise, according to the fact. The name of the attorney, guardian or custodian, must immediately follow that of the party whom he represents; and there shall be left sufficient space below the name of each party to admit of such entries from time to time as occasion requires. New parties, including persons to whom letters testamentary, or administration, or of guardianship are issued, shall be registered in like manner. In the margin on the left, there shall be entered opposite the name of each special guardian or attorney, the date of his appointment or appearance, and opposite the name of each new party; the date on which he becomes a party; and in

the margin on the right, when the relation of a party, attorney or other person ceases, a minute to that effect.

On the page following a chronological index or minute of all the proceedings in that case from the beginning until the final disposition thereof, including a brief statement of the object of each proceeding, and a minute of the filing of each pleading or other paper, preliminary act of the court or judge, the issuance and return of each citation or other process, except a subpoena, each hearing or postponement, each intermediate or final order or decree, and each act done to carry the same into effect. There shall be entered in the left hand margin, the date of each transaction, and in the margin on the right, a reference to the book and page of the journal, or other record, where the same appears.

3. A record, in which there shall be transcribed in full all wills which are admitted to probate, and all bonds of executors, administrators and guardians, which are accepted and approved; and all letters issued to executors, administrators and guardians; but wills may be recorded in a separate book.

4. There shall be appended to each docket a numerical index, referring to each case by number and title, containing the number of each case progressively, its title, and the number of the page on which it is docketed, also an alphabetical index, arranged with reference to the first letter of the family name in the title of each case, and containing, in addition to each title, the number of the page on which the docket entries begin. When the cases are not all docketed in one book, there shall be kept, in a separate book, a general index, both numerical and alphabetical, of similar character, referring in each instance to the book and page of the docket. The general index shall include all cases heretofore commenced in the county court, or appearing on the records of the probate court, conforming in relation thereto as nearly as may be to the above requirements.

SECTION 38. The docket prescribed by the preceding section shall be substantially in the following form:

## Estate of Richard Roe.

## Register.

June 20, 1894.	Jane Roe, wife, Athens, N.D. Mary Roe, minor heir, Athens, N.D. John Bates, custodian, Athens, N.D.	Revoked Aug. 2, 1894.
Aug. 2, 1894.	Chitty, special guardian, Athens, N.D. Coke, special guardian, Rome, N.D.	

## Estate of Richard Roe.

## Proceedings.

June 20, 1894.	Proceeding for appointment of administrator, John Chitty, Esq., is appointed special guardian for Mary Roe, minor, at her request.	J. 185.
June 21, 1894.	Mary Roe, by her special guardian, filed petition for ministration of said estate.	
	Citation issues, returnable Aug. 20, 1894.	

SECTION 39. Before issuing a citation, the court shall, if necessary, examine the applicant and other witnesses under oath concerning the correct name and postoffice address of each party to be cited, and may issue a subpoena for that purpose. If he is unable after reasonable diligence to ascertain such name, the party may be designated by his relation to the decedent, or otherwise, as nearly as may be. Each party, and each guardian or attorney for a party, who appears in any proceeding must also be required to give his own name and postoffice address, which shall be entered in the register accordingly, and be taken as true thereafter until the court is notified of a change.

SECTION 40. When the docket, journal, or record consists of more than one book, all books of the same name shall be numbered progressively, from one upwards.

SECTION 41. For convenience in keeping the books of record, the cases in each county court shall be numbered in a single and continuing series, beginning with one, or

with a number exceeding by one the highest number so employed before this Code takes effect.

### CHAPTER III.

#### ARTICLE I.—GENERAL RULES OF PROCEDURE.—PARTIES AND PROCESS.

SECTION 42. The general parties in a case in the county court are the persons interested in the estate or other subject matter, and the executor, administrator or guardian thereof. They are likewise the parties who must be cited in each special proceeding in the case, unless the parties are specially prescribed, but for distinction the party who presents a petition in a special proceeding is known as the petitioner, or claimant, and the parties to be cited are known as respondents. If a citation issue for an incidental purpose in the course of the administration, the only parties are those appearing or cited for such purpose.

SECTION 43. When an heir or devisee dies or transfers an interest in the estate, his legal representative or successor in interest, grantee or assignee, may be made a party in lieu of such heir or devisee; and when a party to a special proceeding dies, or transfers his interest, while the same is pending, his legal representative or successor in interest may likewise be substituted at his own suggestion or at the request of another party. Such substitution may be made at any time by order of the court, and without notice, when the facts are shown by the allegations of a pleading or affidavit.

SECTION 44. Any other person interested in securing or preventing the relief sought in a special proceeding may, by leave of court, become a party, and support or oppose the application, or pray for affirmative relief consistent with the facts; but leave must not be granted unless his interest sufficiently appears; and this section shall not be construed to affect a right or interest of such person unless he so becomes a party.

SECTION 45. Where a statute provides that a person may present a petition, or otherwise become a party in a special proceeding, an allegation for his interest in a plead-

ing or affidavit is sufficient for that purpose, although his interest is denied, unless he has been excluded from such interest by a decree of the court, from which he has not taken an appeal.

SECTION 46. The process by which the court obtains jurisdiction in each proceeding, of the parties who do not appear therein, is a citation addressed to such parties by name or other sufficient description, informing them of the petition or other application upon which it is issued and the relief thereby claimed, or the grounds of the order upon which it is issued and the direction therein given, and the time and place at which they are required to appear before the court to answer the same with such further particulars as may be specially prescribed by statute. The time for appearance must not be more than sixty days from the date of the citation and each citation must be addressed by the style of "The State of North Dakota," and contain the signature of the judge, attested by the seal of the court. (For. P. C. 702, C. L., 5952).

#### ARTICLE 2—SERVICE CITATIONS AND OTHER PAPERS.

SECTION 47. Citations and notices issuing for service in any proceeding in a county court, must be served upon the parties personally, or in some other mode as hereinafter prescribed. (For P. C. 303, C. L. 5953.)

SECTION 48. When a party on whom service is required has a guardian or attorney of record in the case, service must be made on the guardian or attorney, and such service is deemed to be service on the party so represented; except that a citation must be served on a party represented by a guardian, if more than ten years of age, as well as on the guardian.

SECTION 49. After a party has appeared or has been once cited to appear in a case, each citation or notice subsequently issued in the same case may be served by mail, upon him or upon his guardian or attorney of record as prescribed by the last section. But service by mail is not sufficient where a citation requires a party to appear in person, or issues upon an application to revoke the probate of a will, or set aside a decree.

SECTION 50. Service by publication may be substituted

for personal service, by a direction of the court authorizing such service, and designating a newspaper published at the county seat, or some other convenient newspapers in which the citation or notice may be published, in either of the following cases:

1. Where the party who is required to make or procure service or his attorney files an affidavit stating that he cannot obtain personal service on a person to be served, because he is unable to ascertain where such person may be found, he having no known place of residence within the State, if the court is further satisfied upon an examination as prescribed in Section thirty-nine that the statements of the affidavit are true.

2. Where it is established in like manner, or appears upon the records in the case, that the person to be served is a non-resident of this State.

SECTION 51. Every direction for service by publication or other direction given by the court respecting the mode of service must be endorsed on the citation or notice, and when so given service must be made in accordance with such direction.

SECTION 52. Personal service within the State or elsewhere may be made and proved in the manner prescribed by the Code of Civil Procedure for the personal service of a summons.

SECTION 53. Service by publication is effected by printing and publishing the citation or notice to be served three times, once each week, for three successive week, in the newspaper designated in the order, and is deemed complete on the day of the last publication and may be proved by affidavit made as provided by Section 522 of the Code of Civil Procedure. (For P. C. 300, C. L. 5950.)

SECTION 54. Service by mail is effected by depositing in the postoffice at the county seat a true copy of the citation or notice to be served, enclosed in a sealed wrapper, postage paid, and directed to the person to be served at his registered postoffice address; and is proved by the affidavit of any person having knowledge of the facts, or by a statement thereof in the journal, when the mailing is done by the judge.

SECTION 55. Unless otherwise specially prescribed by law, a citation issued upon a petition must be served at least twenty days before the time therein specified for appearance; every other citation must be served at least five days before the time specified for appearance; and each notice which refers to a future time must be served at least five days before the time so designated. Where service is made by publication, such time must be computed from the date of the last publication, and where service is made by mail there must be allowed in every instance an additional period for five days computed from the date of mailing. (For P. C. 305, C. L. 5955.)

ARTICLE 3.—MANNER AND EFFECT OF APPEARANCE.

SECTION 56. In a county court every party of full age who has not been judicially declared incompetent to manage his affairs, may appear and prosecute or defend a proceeding in any case, either in person or by an attorney regularly admitted to practice in this State, except where he is required to appear, or otherwise act in person, pursuant to a special provision of this Code; and is held to appear in each proceeding from the time when he has been duly cited to appear.

SECTION 57. When a minor, or a person who has been judicially declared to be incompetent to manage his affairs, is a party, he must appear and act by guardian, except when he makes application for the appointment of a guardian; but if he is a respondent the guardian cannot appear for him until he has been duly served with a citation, unless the proceeding relates directly to his estate, or he is a minor under ten years of age. If he has no guardian appearing for him a special guardian must be appointed, as prescribed in the next section.

SECTION 58. A special guardian must be some capable and disinterested person appointed by order of the court with the written consent of the person appointed. Such appointment may be made summarily at any time upon the application of the incompetent party, or a relation or friend of such party, for the purpose of commencing a proceeding or maintaining his interest in a pending proceeding; or without an application, at any time after he has been

duly cited to appear in any proceeding; or whenever, in the course of a proceeding in which he is represented by a guardian, the court has any reason to suppose that his interest requires the appointment of another guardian. A special guardian so appointed in any case is authorized to appear in the subsequent proceedings therein to which his ward is a party until the appointment is revoked. (For P. C. 308, C. L. 5958.)

SECTION 59. A special guardian must not receive any money or property belonging to the ward's estate, unless he qualifies in the same manner as a general guardian; and a guardian general or special cannot act in any matter in which his interest is adverse to that of the ward.

SECTION 60. Subject to the foregoing restrictions, and in the absence of fraud, collusion, or mistake, prejudicial to the interest of the ward, the appearance in his name of his general or special guardian, by leave or direction of the court, in any proceeding, is deemed to be the appearance of the ward, and has the same effect in that proceeding as if he were competent to appear in person. (For P. C. 311, C. L. 5961.)

SECTION 61. An appearance in any proceeding is effected by giving notice of the appearance in open court, either orally or in writing or by pleading, or making application therein to the court for an order or direction of any kind.

SECTION 62. A party who appears or is held to appear as hereinbefore prescribed is deemed to have knowledge of each postponement, and all other acts done in the course of the proceeding, from the commencement until the final disposition thereof, without further notice except such as is imparted by the records of the court.

#### ARTICLE 4.—COMMENCEMENT OF A SPECIAL PROCEEDING AND THE PLEADINGS THEREIN.

SECTION 63. A special proceeding in the county court is commenced by the voluntary appearance and pleading of all the parties, or by the presentation of a petition by a competent party and the issuance of a citation to the other parties; and no proceeding so commenced shall be dismissed for any cause except a failure of proof.

SECTION 64. Where the proceeding is commenced by citation the respondents shall plead at the time when they are cited to appear, unless the court allows further time; but a party in default may be allowed to plead at any time before the hearing is concluded on such terms as the court deems just.

SECTION 65. The pleadings in a special proceeding in the county court are the petition, and the answer or cross petition of a respondent. Several parties may unite in a pleading when, as between themselves, their respective interests are not adverse. All pleadings must be filed in writing, and every pleading except the answer of a special guardian must be verified as prescribed in the Code of Civil Procedure. Several parties may unite in a pleading when, as between themselves, their respective interests are not adverse.

SECTION 66. A petition must set forth the facts which authorize the special proceeding, entitle the petitioner to relief therein, and show the relation of the other parties to the estate or matter in question, according to the provisions of this Code which relate to that proceeding, with a prayer for the relief which the petitioner claims therein.

SECTION 67. The answer may admit or deny the allegations of the petition or any material fact therein stated, and allege new matter of defense to the whole or any part of the relief claimed.

SECTION 68. The formal requisites of a pleading are as follows:

1. The caption, which shall contain the name of the county and court, as, for example, "Estate of A. B., deceased," or "Guardianship of C. D. Minor," and the names of the parties to the special proceeding, distinguishing them as petitioner and respondent, followed by a word or words description of the pleading, as for example, "Petition for Probate of Will."
2. The statement of facts.
3. The prayer for relief; but no prayer is necessary in answer, except for the purpose of claiming affirmative relief.

4. The signature of the party or his attorney or guardian.

5. The verification.

SECTION 69. An issue arises upon each of the following allegations of a pleading:

1. Upon each averment in the petition of the execution of a will, or of the death of any person when necessary to jurisdiction, or of any fact alleged as cause for setting aside a decree or order of the court, although not controverted by answer.

2. Upon every other material allegation of a petition which is controverted by answer.

3. Upon every fact alleged in the answer, except an admission of a fact alleged in the petition.

#### ARTICLE 5.—POSTPONEMENT, HEARING AND TRIAL.

SECTION 70. Where a respondent fails to appear at the time specified in a citation, the court must ascertain from the proofs of service, whether he has been duly cited to appear; and unless the service is deemed sufficient, a new citation must be issued to such party or parties, and the hearing must be postponed until the time therein specified.

SECTION 71. After issue is joined by the pleadings, either party is entitled to a postponement for a reasonable time to prove the attendance or deposition of a witness or otherwise prepare for the trial. A reasonable postponement may also be granted at any time to allow a party to plead, or for any other meritorious cause not alleged for delay. A postponement may also be ordered because the judge is sick, or otherwise engaged, or because he desires time in which to prepare his decision.

SECTION 72. A postponement may be ordered without a written application, and an adjournment of the court from time to time in the progress of a hearing operates as a postponement without a formal order. Every postponement must be to a day certain; but an indefinite postponement, or a failure to resume the hearing at the appointed time, by reason of the absence of the judge, or for other cause, does not invalidate or otherwise affect any act

previously done, but operates only as a postponement of the hearing until further notice.

SECTION 73. After the respondents have had an opportunity to plead the court must try the issues, hear the allegations and proofs of the respective parties, and make such decision upon the facts thereby found as justice and equity requires. Every issue prescribed by Section sixty-nine of this chapter must be tried upon the testimony of witnesses sworn and examined in open court or taken in the form of deposition, according to the rules of evidence applicable in a civil action, except where the same are modified by the following provisions of this article. (For P. C. 307, C. L. 5957.)

SECTION 74. The court may examine the parties and other witnesses and inquire into all the facts and circumstances, as to any material fact, although no issue is joined thereon; and may also, in its discretion, refuse to hear the deposition of any witness residing within the State, who is competent and able to appear and give testimony in person, unless satisfied that the necessary expense or inconvenience of procuring his attendance ought not to be incurred.

SECTION 75. Where it is satisfactorily shown by affidavit that a material witness within the county is so aged, sick, or infirm that his attendance cannot be compelled without endangering his life or health, and there is no good reason to suppose that he will be able to attend within a reasonable time to which the hearing may be postponed, the judge shall proceed to the place where the witness is, and there take his testimony as in open court; but if the party so requests the testimony of such witness must be taken in the form of a deposition.

#### ARTICLE 5.—DECREES AND ORDERS.

SECTION 76. A decision of the county court upon the pleadings, and proofs, in a special proceeding, shall state the material facts found by the court, and award relief consistent therewith and with such directions as may be necessary or proper to give effect to the same and is a final determination of the rights of the parties so adjudicated,

styled indifferently a decree or final order. (For. P. C. 299, C. L. 5949.)

SECTION 77. A decree which settles an account must intelligibly refer to a statement of the account on file, and contain a summary thereof as settled.

SECTION 78. Every direction entered of record or given in writing by a county court, and not included in a decree, is styled an order. Each order must be founded on a written application, unless the court is expressly authorized to make the same at its direction or otherwise on its own motion. Each application for an order is styled a motion; but where the facts relied on as ground of a motion do not appear of record they must be set forth by affidavit.

SECTION 79. An order based upon facts within the knowledge of the judge, or upon facts proven by the testimony of a witness, must contain a statement or recital of the existence or proof of the facts which authorize the order. But where an order is made upon matter of record, a reference to an affidavit, pleading, or other record upon which such facts appear, is sufficient.

SECTION 80. An order prescribing the mode of serving a citation or appointing a special administrator or appraiser, a restraining order, an order requiring a return to be made, or an account to be rendered, or any preemptory or other order which the court is expressly authorized to make without a previous application, may be given at any time when a motion for such order is made or presented.

SECTION 81. Before an order can be given upon a motion which does not come within the provisions of the last section, all persons who will be affected by the order must be cited to appear and be given an opportunity to defend against the same, but where a motion presented in the course of a pending proceeding, it is not necessary to cite any person who at the time of presentation appears or is held to appear in such proceeding.

SECTION 82. At any hearing upon a motion, or in pursuance of a citation issued upon an order, any objection arising upon the facts set forth in the motion or order or otherwise appearing of record may be presented either orally, or in writing; but no issue of fact arises unless the

respondent, answers by affidavit, controverting a material fact set forth as ground of the motion or order, or alleging new matter in defense justification or excuse. Where an issue is so presented it may be submitted by consent of the parties, upon their respective affidavits, which shall thereupon be treated as depositions; otherwise such issue must be tried in the same manner as the issue specified in Section sixty-nine of this chapter.

SECTION 83. Costs may be awarded, in a decree or order as follows:

1. Where there is no contest, the petitioner, if successful, is entitled to costs, payable out of the estate;

2. Where there is a contest, the successful party is entitled to costs, payable by the adverse party, or out of the estate, as justice requires; but if the opposing parties are each in part successful the award of costs is in all respects in the sound discretion of the court, with the limitations hereinafter prescribed;

3. Costs cannot be awarded against an executor, administrator, or guardian, personally, unless incurred by his neglect or misconduct;

4. Costs, payable out of the estate, may be awarded in favor of an executor, administrator or guardian, acting in good faith, although unsuccessful;

5. A reasonable sum, payable out of the estate, must be awarded in favor of a party appearing by a special guardian, as compensation for his services; but for the benefit of the estate, the court may include a like sum in the amount awarded against an adverse party, or direct the same to be deducted in the final distribution from the share of the party so appearing.

6. Except as provided in the preceding subdivision, the sum awarded as costs in favor of a party must not exceed the amount of his expenses actually and necessarily incurred in procuring the services of process and the attendance of his witnesses or their depositions, and must be determined by the court upon an itemized statement of the expenses so incurred, verified by the affidavit of the

party or his attorney, and presented at or before the announcement of the decision.

SECTION 84. A decree or final order which directs the payment of a sum of money by a party personally, may be enforced by an execution against his property, issued by the judge, and made returnable to the county court, and must require the officer to apply the money thereupon collected in accordance with the order or decree. In other respects the process and mode of collection shall conform to the provisions of the Code of Civil Procedure relating thereto, a decree being for that purpose, regarded as a judgment.

SECTION 85. A decree or order which requires or prohibits the performance of any act other than the payment of money, by a party, or other person, may be enforced by serving a certified copy of such order or decree personally on the party or person who is required thereby or by law to obey it, and by punishing him for a contempt of court if he refuses or willfully neglects to obey it. A decree or order which directs the payment or delivery of money to an executor, administrator, or guardian entitled to receive it, or directs the payment or delivery, by an executor, administrator, or guardian, of money by him received by virtue of his trust, may be enforced in like manner.

SECTION 86. The punishment of a delinquent for a contempt, or the levy of an execution upon his property as prescribed in the last two sections, does not bar or suspend an action against him or the sureties on his bond in relation to the same matter, or otherwise affect such action, as respects any sum remaining unpaid.

#### ARTICLE 6.—MISTAKES, OMISSIONS AND AMENDMENTS.

SECTION 87. No process, return, pleading, order, decree or other proceeding in a county court shall at any stage be disregarded, dismissed, arrested, vacated, revoked or reversed for any defect or want of form; but the court shall proceed and determine always according as the right of the matter shall appear without regarding any such defect or want of form, and may amend the same or direct an amendment at its discretion.

SECTION 88. A county court may at any time, on motion of a party, amend its process by correcting a mistake or supplying an omission in any respect, where the defect has not prejudiced, and the amendment will not injure the party to or against whom such process was issued; and may in like manner permit a return, or other intermediate proceeding, to be amended in accordance with the facts.

SECTION 89. A county court may also, on motion of a party, and in furtherance of justice, at any time permit such party to amend any pleading, or motion, by adding or striking out the name of a party, or by correcting a mistake in any other respect, or by inserting other allegations material to the case or by conforming the allegations to the facts proved. And no decree or order shall be vacated, revoked or reversed, for an omission in the findings of any material fact which actually existed, or for the non-avertment of any fact in a pleading or other paper, if the existence of such fact is established when the objection is taken; but the court shall amend the defect or direct an amendment, as the circumstances require. (See P. C. 299.)

SECTION 90. Every amendment authorized by this article may be made without prejudice to any act previously done, to take effect as of the date of the original proceeding; but where an amendment is made in any proceeding after a decision is rendered, costs may be awarded against a party in whose favor the amendment operates, as the court shall deem just and proper.

SECTION 91. Whenever a future day is specified, in a citation, notice or order, for any purpose, and no particular hour is specified, the time intended shall be taken to be the hour of ten o'clock in the forenoon of the day named.

#### ARTICLE 7.—REHEARINGS.

SECTION 92. A rehearing is a re-examination of the facts involved in a decree or order, upon grounds set forth in a motion or petition to open and vacate or modify the same or some part thereof.

SECTION 93. A rehearing may be granted for either of the following causes:

1. Mistake, inadvertence, surprise, or excusable neglect of the party making the application.

2. Any irregularity in the service of process or any fraud or misconduct of the prevailing party, or his attorney, or agent, or any abuse of discretion on the part of the court, which prevented the applicant from appearing or maintaining a material issue on his part, at the former hearing.

3. Newly discovered evidence material to the issue which could not, with reasonable diligence, have been produced at the former hearing by the party making the application.

4. The non-existence of any fact necessary to jurisdiction.

SECTION 94. An application for a rehearing may be made by motion or petition, according to the mode in which the original application was made, and the parties interested must be cited accordingly. But every application upon any ground specified in the first sub-division of the preceding section must be made within thirty days from the date of the order or decree, and every application made upon grounds specified in the second and third sub-divisions, must be made within one year from the date of the decree or order to which it relates.

SECTION 95. In addition to one or more of the foregoing causes, every application for a rehearing must set forth each material issue, which the applicant expects to maintain, or designate the same by reference to his former pleading, and no other issue can be tried. The causes so alleged and the issues so presented may be controverted as in other cases; and after hearing the allegations and proofs of the parties, the court shall grant or deny the application, as justice and equity require.

SECTION 96. If the application is granted the court must make a decree or order, vacating the former decree or order, or revoking so much thereof as may be necessary, and awarding such further relief as the facts may justify.

#### ARTICLE 8.--APPEALS.

SECTION 97. Any party or other person specified in the

next section who deems himself aggrieved, may appeal, as prescribed in this article, from a decree, or from any order affecting a substantial right, made by a county court to the district court of the same county. (For P. C. 312; C. L. 5962.)

SECTION 98. Each person who was a party to the proceeding in the county court, and each other person who has or claims in the subject matter of the decree or order, a right or interest which is affected by an appeal, must be made a party to the appeal. (For P. C. 314; C. L. 5964.)

SECTION 99. To effect an appeal the appellant must cause a notice of the appeal to be served on each of the other parties, and file such notice with the proofs of service, and an undertaking for appeal in the county court, within thirty days from and after the date of the order or decree; but where the party taking an appeal files such notice and announces the filing orally in open court at the time when the decision is given no other or further service of the notice is necessary. (For P. C. 315; C. L. 5965.)

SECTION 100. An appeal from an order which directs the payment of a fine as a punishment for a contempt is not effected, unless the amount of the fine is also deposited with the county judge, within the prescribed time, to abide the order of the appellate court. (For 5969; P. C. 319.)

SECTION 101. An executor, administrator or guardian may appeal, without filing an undertaking, from a decree or order made in any proceeding in a case in which he has given an official bond; and where he appeals in that manner the bond stands in place of such undertaking. A special guardian may appeal without filing an undertaking, although he has not given bond, but the appeal will not operate as a stay unless taken from an order which grants or refuses a transfer of the case. (For P. C. 331; C. L. 5981.)

SECTION 102. Where the appellant seasonably and in good faith serves a notice of appeal on some of the parties, but through mistake or excusable neglect fails to obtain service on all, or in like manner omits to do any other act necessary to perfect the appeal, or effect a stay, the county court, upon proofs of the facts by affidavit, may, in its

discretion, extend the time for perfecting the service or other act, and permit an amendment accordingly upon such terms as justice requires. (For P. C. 328; C. L. 5978.)

SECTION 103. A party specified in Section ninety-eight, who was not served with notice, by reason of the fact that his interests or claim did not appear upon the records of the county court, at the time when the appeal was taken, is deemed to have been duly served from the time when he appears in the district court, for any purpose connected with the appeal, or he may be brought in, by order of the district court on such notice as the court shall prescribe.

SECTION 104. For the purpose of taking an appeal on questions of law alone, the notice must contain a statement to that effect, and specify the errors in law which the appellant intends to rely on as grounds of the appeal and specify the time and place at which the appeal will be brought on for trial. Every other notice of appeal is sufficient which designates the party who appeals and the order or decree from which the appeal is taken, and the intermediate orders, if any upon which the appellant desires a review. And every appeal must be held to have been taken upon the facts and matters in law generally, unless the notice clearly indicates an intention to appeal on questions of law alone, but the appellant may by his notice restrict the appeal to any specific directions or award contained in a decree if the issue upon which the same depends can be separately tried and determined without prejudice to any other part of the decree. (For P. C. 316 C. L. 5966.)

SECTION 105. A specification of errors may contain a reference to each particular appearing of record in the decree or order or in the proceedings on which it is founded, to which the appellant objects without giving any reason for the objection and no other form of exception is necessary.

SECTION 106. An undertaking for appeal must be executed in favor of the appellees, in such sum as the county court shall prescribe, by the appellant or his agent or attorney in his name, and sufficient sureties, approved by the judge, to the effect that the subscribers will pay to the parties entitled thereto all costs of the appeal that shall be

awarded against the appellant by direction of the district court, not exceeding the sum therein stated. But the execution or enforcement of the decree or order appealed from shall not be stayed unless the instrument contains a further undertaking, to the effect that the subscribers will also pay all damages which the appellees or any of them shall sustain by reason of the appeal or a separate undertaking to that effect is executed and filed in like manner. (For P. C. 317, 321.)

SECTION 107. The sum prescribed in an undertaking for costs must not be less than one hundred dollars. The sum prescribed in an undertaking for damages shall be such further sum as the judge deems sufficient, and to aid him in determining the same or the sufficiency of the sureties, the judge may examine the sureties and other witnesses under oath. After an appeal is perfected the district court may, by order, require the appellant to give a new undertaking in a larger sum, or with other sureties, where the sum specified in the original undertaking is deemed insufficient, or a surety is found to be insolvent, has removed from the State, or of doubtful financial responsibility, and unless the order is complied with the appeal may be dismissed, or the stay dissolved as the case requires. (For P. C. 320; C. L. 5970.)

SECTION 108. The prescribed undertaking for the payment of damages creates an obligation on the part of the principal and sureties, executing the same to compensate each of the appellees for all pecuniary loss and injury which he shall sustain in consequence of the appeal respecting each and every right or claim which was determined or enforced in his favor by the decree or order from which the appeal is taken so far as the same shall be affirmed or otherwise sustained by the appellate court. Where the decree or order directs the appellant or another party to pay or deliver money, or other property, or to perform any other act to which the stay applied all loss and injury sustained by an appellee in consequence of its detention, from the time when the direction was given, or by reason of any failure on the part of the appellant or such other party to pay or deliver the same in accordance with the decision or direction of the appellate court, and in as good condition as at the time when he was directed to do

so by the county court, is deemed to be sustained in consequence of the appeal. Where the order directs the commitment of the appellant or another person for disobeying any order except for the payment of a fine, all loss and injury resulting from his disobedience is likewise deemed to have been suffered in consequence of the appeal. The obligation matures at the time of the decision in the appellate court; but no action can be maintained thereon until ten days thereafter. (For P. C. 315, 319; C. L. 5965-9.)

SECTION 109. Except where there is an express provision to the contrary in this article, a perfected appeal stays the execution or enforcement of the decree or order appealed from until there has been a determination of the appeal or a dissolution of the stay in the district court; and an appeal from an order granting or refusing a transfer of the case, likewise stays all further proceedings in that case. In other respects the decree or order of the county court remains unaffected until reversed or modified by direction of the appellate court.

SECTION 110. An appeal from a decree or order admitting a will to probate, or granting letters testamentary, or letters of administration, does not stay the issuing of letters where, in the opinion of the county judge manifested by an entry upon the journal, the preservation of the estate requires that such letters should issue. But the letters so issued do not confer power to sell real property by virtue of any provision in a will, or to pay or satisfy legacies, or to distribute the property of the decedent until the determination of the appeal.

SECTION 111. An appeal does not stay the execution or enforcement of a decree or order which appoints a special administration, or revokes the probate of a will, or suspends or removes an executor, administrator, or guardian, or revokes his appointment. (For P. C. 323, C. L. 5973.)

SECTION 112. When an appeal is perfected the county judge must make and certify to the district court a complete transcript of the papers and other records upon which the appeal is taken, or so much thereof as may be material together with the notice of appeal, and proofs of service, the undertaking and other matters of record relating to

the appeal; and unless such transcript is delivered to the clerk within ten days the district court may on motion of any party interested require and compel him to make and certify the same and may in like manner require him to amend the transcript as often as may be necessary, or to certify and send up a will or other written instrument in its original form. When all the proofs upon which the court acted appear in the transcript the certificate shall so state. (For P. C. 3274-7.)

SECTION 113. Upon the delivery of such transcript and payment of the clerk's fees, the appeal must be docketed in the district court, and placed on the calendar of causes for trial, according to the date on which it was perfected and without a notice of trial or note of issue at the next term convening not less than ten days after the taking of the appeals, and must be disposed of accordingly, during the term, unless sooner disposed of in pursuance of the provisions of the next section.

SECTION 114. Where the appeal is taken upon questions of law alone, the time and place of hearing specified in the notice of appeal, may be any time and place at which an issue of law may be tried in the district court; and a hearing may be had accordingly, *provided*, however, that such time shall not be less than ten days after the service of the notice, nor later than the first day of the term specified in the preceding section. Upon a failure to obtain a hearing a new notice of the time and place of hearing may be given as often as may be necessary; and the appeal may, notwithstanding any such notice, be brought to a hearing at any time by an appellee upon a like notice served on the appellant or his attorney of record in the county court.

SECTION 115. If the transcript is not certified to the district court on or before the second day of the term designated in Section 113 and the appellant does not make application for an order requiring the same to be certified forthwith, or if the appeal has not been sooner disposed of, and the appellant fails to do any act necessary in order to have the same docketed and brought upon the calendar on or before the second day of such term, any appellee may have the same so entered by order

of the court upon the production of a certified copy of the decree or order appealed from and the notice of appeal; and thereupon the appeal shall be summarily dismissed, with ten dollars costs to such appellee, unless the appellant satisfactorily excuses his default and forthwith pays such costs.

SECTION 116. A dismissal of an appeal by order of the district court in pursuance of any provision of this article is in effect an affirmance of the decree or order appealed from. (For P. C. 328; C. L. 5978.)

SECTION 117. At a hearing in the district court on an appeal taken upon questions of law alone the decree or order of the county court shall be reviewed only so far as may be necessary, and with a view of correcting errors appearing upon the record, which injuriously affect a right of claim of the appellant, and are specified in the notice of appeal; but where a specification relates to a discretionary award or direction given upon facts shown by the record the district court has the same discretion that the county court had. Each specification may be overruled or sustained according as the right of the matter appears, and the court shall give its decision accordingly, affirming or reversing the decree or order appealed from, or reversing in part and affirming as to the remainder, with such directions as may be necessary or proper respecting the decree or order to be entered in the county court. (For P. C. 325; C. L. 5975.)

SECTION 118. Where an appeal is taken generally all the issues must be tried and determined anew in the district court, and the court must hear the allegations and proofs of the parties, and determine all questions of law and fact arising thereon according to the mode of trying similar issues originating in that court, except that issue involved in the probate of a will, and issues arising upon a petition for the allowance of a claim or demand for money only, must be tried according to the mode of trying issues to a jury, if a jury is demanded. Where the appeal is taken from a decree or final order, the court may before trying the issues review any intermediate order specified in the notice of appeal, which materially effected the issues, and vacate the same or otherwise make such order as the county court

ought to have made. And upon every appeal taken generally the court has the same power that the county court had, to permit or direct a pleading to be filed or otherwise amend the issues and try the same accordingly; but in other respects, when the proofs on which the county court acted were submitted in the form of affidavits or otherwise appear of record, the appeal must be determined upon the certified transcript. (For P. C. 326; C. L. 5976.)

SECTION 119. A decision of the district court upon the facts must designate the issues tried, and contain the material facts found by the court, or the substance of the verdict returned by the jury, as the case may be, and the direction of the court thereon affirming the decree or order from which the appeal was taken generally or reversing the same or a distinct part thereof, as justice requires, and as to any or all of the parties, with specific directions respecting the decree or order to be entered in the county court.

SECTION 120. The reversal of a decree or order of the county court for any cause except for want of jurisdiction, does not effect the validity of any act otherwise lawfully done in pursuance of the order or decree, and in the course of the administration by an executor, administrator or guardian, while the appeal is pending. (For P. C. 332; C. L. 5982.)

SECTION 121. The costs of an appeal shall be settled and determined by the district court agreeably to the provisions of Section 83 of this chapter, except that like fees and disbursements may be allowed as in other cases in that court. The amount of costs so allowed shall be stated in the order or decision which determines the appeal, with a direction specifying the party, in whose favor and the party against whom the same shall be awarded by the county court. If the appellant is required to pay costs the amount thereof shall be awarded by the county court jointly against him and the sureties on his undertaking, as prescribed in the next section, without an express direction to that effect. (For P. C. 329; C. L. 5979.)

SECTION 122. Each order or decision of the district court which dismisses or determines an appeal and each preliminary order which effects the merits must be given in

writing and filed with the clerk, and by him entered of record, after which the clerk shall attach thereto the original of each paper filed by the parties in the district court, and each paper certified to that court in the original form, and certify and transmit the same without delay to the county court, there to become part of the record; but when a stay is granted or effected in the district court they shall not be transmitted until the stay has expired. Each order or decision so transmitted shall be immediately entered in the journal, and a decree or order, as the case requires, shall likewise be entered by the county court in conformity to the directions of the appellate court, and be enforced in the same manner as other decrees or orders of the county court. (For P. C. 330; C. L. 5980.)

ARTICLE 9.—APPROVAL OF UNDERTAKINGS AND BONDS.

SECTION 123. Each surety in a bond or undertaking prescribed by this Code must make affidavit in connection with the instrument, to the effect that he is a resident and freeholder of this State, and is worth the sum specified in the instrument, in property within the State, over and above all his debts and liabilities and property exempt by law from execution. But where there are more than two sureties each may state in his affidavit, a sum less than that so specified, if the total amount in their affidavits is double the amount of the bond or undertaking; and before approving such sureties, the court must also be satisfied of the truth of their affidavits, and may require them to appear before him, and examine them under oath and hear the testimony of other witnesses respecting the matters therein stated, or any other fact affecting their financial responsibility. (For P. C. 81; C. L. 5731.)

SECTION 124. In lieu of the sureties required in an undertaking for costs prescribed by this Code, the party giving the same may deposit with the county judge a sum of money equal to the amount of his undertaking, to be applied by the court, agreeably to the provisions of the instrument, in payment of any costs thereafter awarded against him, or restored to him after he is exonerated from such payment, as the event shall determine.

SECTION 125. When a bond or undertaking is approved

the judge shall indorse his approval thereon, an filed and preserve the instrument in his office.

#### CHAPTER IV.

##### SPECIAL PROCEEDINGS FOR THE PROBATE OF WILLS, PROBATE OF HEIRSHIP AND THE APPOINTMENT, REMOVAL AND DISCHARGE OF EXECUTORS AND ADMINISTRATORS.

###### ARTICLE I.—PRODUCTION AND CUSTODY OF A WILL.

SECTION 126. Every county judge having the custody of a will or to whom a will is delivered, must, after the death of the testator, publicly open and examine such will, and file the same in his office, and give notice thereof to the persons interested in its provisions, or deliver such will to the county judge having jurisdiction of the case. (For C. C. 700; C. L. 3322.)

SECTION 127. Every other person having the custody of a will must immediately after receiving knowledge or information of the death of the testator, deliver the same to the judge of the county court having jurisdiction of the case; and if he neglects to perform that duty, he shall be liable to each and every person interested in the will for all damages caused by such neglect. (For P. C. 10; C. L. 5659.)

SECTION 128. When a party makes affidavit that any person has possession of a will which he neglects or refuses to deliver as prescribed in the last section, the county court may cite him to appear forthwith, or at any future time, in its discretion, and upon his appearance may examine him under oath and compel him to make a full disclosure in relation to such will. If it appears from his examination or from the testimony of other witnesses that he has any will of the decedent in his possession or under his control, he must be ordered to deliver the same to the court, and may be committed to the jail of the county until he complies with the order. (For P. C. 14; C. L. 5663.)

SECTION 129. Before a petition can be entertained for

the probate of a nuncupative will a statement of the testamentary words, or their substance, in writing, verified by one of the witnesses within thirty days after they were spoken, must be delivered to the county judge having jurisdiction of the case. A delivery of such statement may be compelled in the manner prescribed in the last section, and the statement must be filed in the same manner as a written will. (For P. C. 43; C. L. 5692.)

SECTION 130. Every original will or statement of the substance or provisions of a will filed as prescribed in this chapter shall remain in the office of the county judge, except when certified to the district court on appeal.

SECTION 131. A will, foreign or domestic, shall not be carried into effect until admitted to probate as hereinafter prescribed.

ARTICLE 2.—SPECIAL PROCEEDINGS FOR THE PROBATE OF A  
WILL.

SECTION 132. A special proceeding for the probate of a written will may be commenced at any time within six years after the testator's death, or if the will is not made known within that time, then within one year after its discovery. A proceeding for the probate of a nuncupative will must be commenced within six months after the testamentary words are spoken. (For P. C. 42; C. L. 5691.)

SECTION 133. A petition for the probate of a will shall in addition to the facts prescribed in Section sixty-six of this Code give a brief description of the will referring to the same as filed, or allege that it has been lost or destroyed and set forth its provisions in full, and must set forth the state and county in which the property is situated, and allege its probable value, distinguishing between personal and real property, and the probable yearly value of the rents, profits and income of the real property, and may pray for the appointment of the executor named in the will, or allege his disability or refusal to act, and pray for the appointment of a testamentary administrator. Such petition may be presented by any party designated in the next section, or by a creditor of the testator. (For P. C. 11, 12, 38, 47.)

SECTION 134. The parties who must be cited upon a petition for the probate of a will include the surviving husband or wife, if any, all the heirs of the testator, the devisees and legatees named therein, all persons in being who would take an interest in any portion of the property under the provisions of the will, and the executor or executors, trustee or trustees named therein. (For P. C. 32; C. L. 5681.)

SECTION 135. When there is reason to suppose that there may be another will of the testator in existence, or persons interested in the estate who are not named in the petition, the court shall annex to the names of the respondents to whom the citation is addressed the words "and all other persons interested" and direct service thereof by publication in addition to the service otherwise prescribed by this Code. (For P. C. 15, 16; C. L. 5664, 5665.)

SECTION 136. A respondent may by his answer deny the execution of the will or the competency of the decedent to make the same, or allege any facts showing that it has been revoked, or was procured by duress, menace, fraud or undue influence, or otherwise affecting its validity, and may at his election pray for the appointment of an administrator; or he may allege any ground of objection there may be to the appointment of the proposed executor or testamentary administrator and pray the appointment of some other person. He may also make his answer a cross petition and thereby allege the execution of another will, by the decedent, of earlier or later date, and pray that the same be admitted to probate instead of that proposed by the petition. A cross petition may be answered in the same manner as a petition; but if there are new parties interested in the will thereby proposed, who do not appear, they must, before the trial, be cited to appear as in other cases. (For P. C. 22, 47; C. L. 5671, 5696.)

SECTION 137. Each person named in a will as executor shall state in his pleading whether or not he is willing to accept the trust. (For P. C. 13; C. L. 5662.)

SECTION 138. The court may in its discretion grant the probate of a written will, unless the same is contested, on the testimony of one only of the subscribing witnesses, if he testifies that the instrument was subscribed by the testator

or was acknowledged and declared by him to be his will as prescribed by law, and that he believes that the testator was, at the time, of sound mind. (For P. C. 20; C. L. 5669.)

SECTION 139. If the will is contested, all the subscribing witnesses to a written will, or all the witnesses to the making of a nuncupative will, who are within the State and are competent and able to testify, must be produced and examined before probate thereof can be granted. (For P. C. 24; C. L. 5673.)

SECTION 140. Before the presence of a witness, whose examination is required by either of the two preceding sections, can be dispensed with, it must be shown by affidavit or other competent evidence, to the satisfaction of the court, that he is dead or disqualified, or that he cannot after due diligence be found within this State, or, if within the State, that he is so aged, sick, or infirm that his presence cannot safely be required.

SECTION 141. A will alleged to have been lost or destroyed shall not be admitted to probate unless proven to have been in existence at the time of the testator's death, or fraudulently destroyed in his lifetime, nor unless the tenor of its provisions is clearly established by the testimony of at least two creditable witnesses. (For P. C. 39; C. L. 5688.)

SECTION 142. Subject to the foregoing restrictions, the court may admit the testimony of any competent witness, respecting the execution of the will, the capacity of the testator, or other material fact, and may also admit proof of the handwriting of the testator, or of a subscribing witness, and such other evidence as is admissible in courts of justice to establish or disprove written contracts, generally, in similar cases. The court shall also inquire particularly into all the facts and circumstances, and may, in its discretion, require proof of the circumstances attending the delivery and possession of the instrument, and shall grant the probate if satisfied, upon all the proofs, of the genuineness of the will, the competency and freedom of the testator to make the same, and the validity of its execution. (For P. C. 24; C. L. 5673.)

SECTION 143. The decree shall state whether the pro-

bate was contested, and if so, by whom and shall contain the findings of the court upon the testimony and grant or deny the probate accordingly, with proper directions, if the probate is granted, respecting the appointment and qualification of an executor of testamentary administrator. If there is a cross petition, the decree shall in like manner grant or deny the probate of the will thereby proposed, or grant administration as the case requires. (For P. C. 23, C. L. 5672.)

SECTION 144. Upon granting the probate of a will the court must endorse on, or attach to the instrument a certificate of the probate, signed by the judge and attested by the seal of the court. If the will is noncupative, such certificate shall be endorsed on or appended to the statement of the substance thereof on file. (For P. C. 26; C. L. 5675.)

SECTION 145. When probate of a lost or destroyed will is granted, the provisions thereof, as established by the evidence, must be distinctly stated in writing, and certified by the judge accordingly, and filed as other wills are filed. (For P. C. 40; C. L. 5689.)

SECTION 146. The will or the certified statement of the substance or provisions thereof, as the case may be, and the certificate of proof, must be entered at length in the record of wills. (For P. C. 27; C. L. 5676.)

SECTION 147. After a will has been admitted to probate, any person interested may contest the same on a rehearing for like causes and to the same extent as upon the former hearing, or for any cause affecting the competency of the former proof, and relief may be granted accordingly. (For P. C. 31, 32, 33, 34.)

SECTION 148. A decree which grants the probate of a will is conclusive if the court had jurisdiction, unless reversed on appeal, or vacated on a rehearing applied for within one year, saving to minors and persons of unsound mind or otherwise incompetent a like period of one year after their respective disabilities are removed. (For P. C. 37; C. L. 5686.)

SECTION 149. When a will is admitted to probate every

person named therein as executor who has consented to act, and is legally competent to discharge the trust, shall be appointed as such. (For P. C. 45; C. L. 5694.)

SECTION 150. A testamentary administrator having the powers and duties of an executor shall be appointed:

1. If there is no executor named in the will, and the appointment is necessary for the purpose of carrying the will into effect, or settling claims chargeable against the estate;

2. Where an executor named in the will is not competent or does not consent to act, or fails to qualify and enter upon his duties, and there is no other executor competent and willing to act. (For P. C. 46; C. L. 5695.)

SECTION 151. Where an executor dies, resigns, or is removed after entering upon his duties and there is no executor competent to complete the execution of the trust or where no appointment is made at the time of the probate, a testamentary administrator may be appointed in a special proceeding for that purpose. (For P. C. 49, 104; C. L. 5698, 5754.)

SECTION 152. An executor named in a will, who cannot be appointed for the reason that he is under age, or a non-resident, when the will is probated, may thereafter, in a special proceeding, apply for and receive the appointment, if otherwise competent, at any time before the trust is fully executed, and if thereupon letters have in the meantime been issued to a testamentary administrator they must be revoked. (For P. C. 50; C. L. 5699.)

SECTION 153. It is the duty of an executor named in a will, to present the same for probate, but he has no authority, before letters are issued, to do any other act, except to preserve the assets of the estate coming into his hands, and apply so much thereof as may be necessary in payment of the expenses of the testator's burial. Executors appointed by the court, after duly qualifying and receiving letters, have, subject to the provisions of this Code, all the authority delegated by the will, to the exclusion of those not appointed, or failing to qualify. On the death, resignation, or removal of an executor, such authority devolves upon the surviving executor, or executors, or, if there is no

surviving executor, upon the succeeding testamentary administrator.

SECTION 154. While a proceeding for the probate of a will is pending or while an application for a rehearing is pending in such proceeding, if administration had previously been granted upon the estate, or letters testamentary issued, the court may, by order, restrain the administrator or executor from doing any act detrimental to the interests of a party claiming under the proposed will, or claiming adversely to the will which is contested in the application for a rehearing, as the case may be. (For P. C. 41; C. L. 5690.)

SECTION 155. Where, after letters of administration on the ground of intestacy have been granted, a will is admitted to probate, or where, after letters have been issued upon a will, the probate thereof is revoked, or a subsequent will is admitted to probate, the decree granting or revoking probate must revoke the former letters. (For P. C. 101; C. L. 5751.)

### ARTICLE 3.—SPECIAL PROCEEDINGS FOR THE APPOINTMENT OF ADMINISTRATOR.

SECTION 156. Where a person dies leaving property within this State which he has not disposed of by will, administration of the estate may be granted as hereinafter prescribed. (For P. C. 56; C. L. 5705.)

SECTION 157. Administration shall not be originally granted in any case, in a proceeding commenced after the lapse of six years from the death of the decedent or from the time when his death became known.

SECTION 158. The parties who must be cited in a special proceeding for the appointment of an administrator, are the surviving husband or wife, if any, and all the heirs of the decedent; but administration may be granted upon the petition of any person hereinafter mentioned those of each class being entitled to preference in the following order:

1. The surviving husband or wife of the decedent;
2. His heirs;

3. His creditors. (For P. C. 56; C. L. 5705.)

SECTION 159. To each of the above classes in succession, a period of ten days, commencing with the death of the decedent, is allowed within which to apply for administration, before a petition can be presented by any person of a subsequent class. (Io. 3557 (2356); Wis. 3807.)

SECTION 160. A petition for administration shall contain a statement of probable value of the estate, distinguishing between personal and real property, and of the probable yearly value of the rents, profits and income of the real property. (For P. C. 62; C. L. 5711.)

SECTION 161. Any person interested may answer the petition, and allege any ground of objection that may exist to the granting of administration, or to the appointment of the proposed administrator; or allege his own right or claim to the administration and pray for appointment accordingly. (For P. C. 65; C. L. 5714.)

SECTION 162. A party entitled to the administration, whether personally competent to receive the appointment or not, may by his pleading, nominate some other person for appointment in his place. (For P. C. 59, 70; C. L. 5708, 5719.)

SECTION 163. Before granting administration, the court must be satisfied, by competent testimony, of the death of the person whose estate is in question, and may in its discretion require proof as to whether or not he left a will and of the time, place and circumstances of his death, his residence at the time, the character, situation and value of the property, the fact of the intestacy, or any other material fact. (For P. C. 69; C. L. 5718.)

SECTION 164. Administration may be granted to an applicant, or to one of several applicants, according to the prescribed order of preference, without regarding any party having an equal or a better right who fails to assert his claim; and where there are several applicants of the same class the appointment may be awarded according to their relative fitness. But in every case where the welfare of the State manifestly so requires, an heir may be joined with a surviving husband or wife, or two or more ap-

plicants of the same class may be united in the administration, or the court may in its discretion appoint some suitable and discreet person who is disinterested as between the parties. (For P. C. 57, 58, 66, 68.)

SECTION 165. A decree granting administration shall prescribe the sum in which bond shall be given, and may limit the time in which the person receiving the appointment shall qualify or the time within which each of several applicants may successively qualify upon the failure of those having precedence, to qualify and enter on the discharge of their duties.

SECTION 166. After administration has been granted to any person other than the surviving husband or wife, any party having a better right to the same, which he failed to allege in the original proceeding, may for that cause alone obtain a rehearing at any time within one year for the purpose of asserting such right, and if his right is established he shall receive the appointment and the former letters shall be revoked. (For P. C. 71, 72, 73 and 74.)

SECTION 167. An administrator has only the authority prescribed by statute or conferred on him according to law by a decree or order of the county court.

#### ARTICLE 4.—APPOINTMENT OF SPECIAL ADMINISTRATORS.

SECTION 168. A special administrator shall be appointed, when necessary or proper for the protection of the property, or the rights of creditors or other persons interested in the estate, in either of the following cases:

1. On the motion of a party, or a creditor of the decedent and without citation or notice while a proceeding for probate or administration is pending; or after a decree granting the probate or administration, where there is delay in issuing letters, in consequence of the temporary absence from the State of the executor or administrator entitled to the same, or for any other cause; or after letters have issued, where the executor or administrator dies, or is suspended, or his letters are revoked, and there is delay in issuing letters to a successor.

2. In a special proceeding in which probate or general administration is denied because the death of the person

whose estate is in question is not satisfactorily proved; but he is shown to have disappeared under circumstances which afford reasonable grounds to believe either that he is dead, or has been secreted, confined, or otherwise unlawfully made away with.

3. On the application of a state's attorney, or of a creditor of the decedent in a special proceeding for that purpose where a person of whose estate the court has jurisdiction dies intestate, and after diligent inquiry, no person can be found who is entitled to succeed to his property. (For P. C. 94; C. L. 5744.)

SECTION 169. In a case specified in the third subdivision of the preceding section it is the duty of the state's attorney of the county in which the jurisdiction lies to petition for administration as soon as the facts come to his knowledge. If the application is made by a creditor such state's attorney must be cited as a party. The citation must also be addressed generally to all persons interested in the estate of the deceased, and published as prescribed for service in that mode. At the hearing the fact of intestacy shall be presumed unless the contrary appears.

SECTION 170. A special administrator may be any person competent to serve as administrator, approved or selected by the court, with due regard to the rights of parties claiming letters or otherwise interested in the estate. (For P. C. 96; C. L. 5746.)

SECTION 171. A special administrator has the same authority as a general administrator to take into his possession personal property to secure and preserve it, to collect debts due the estate, and to take charge of the real estate and preserve it from waste or other injury, and receive the rents, profits and income thereof, and for either of those purposes he may maintain any action or special proceeding. He must also make an inventory and render an account and may sell perishable property, or do any other act which he may be specially required to do by direction of the court, but cannot act generally in matters pertaining to the settlement of the estate. (For P. C. 98 and 100; C. L. 5748, 5750.)

SECTION 172. After the expiration of six months from

the time when letters were issued to a special administrator he may be directed the same as a general administrator under directions of the court to publish the notice requiring creditors of the decedent or absentee, to present their claims, and the publication thereof shall have the same effect as if published by an executor or general administrator.

SECTION 173. From the time when he is directed to publish notice to creditors, as prescribed by the preceding section a special administrator has the same authority as an executor or general administrator to approve and adjust claims, set off the exempt property and make provision for the payment of debts and charges against the estate, by sale of so much of the property as may be necessary for that purpose, and apply the proceeds accordingly.

SECTION 174. When letters testamentary or of general administration on the estate are granted the powers of the special administrator cease, and he must forthwith deliver to the executor or administrator all the property and effects of the decedent remaining in his hands. (For P. C. 99; C. L. 5749.)

#### ARTICLE 5.—FOREIGN WILLS AND LETTERS OF ADMINISTRATION.

SECTION 175. A will of a testator or who was not a resident of this State at the time of his death, which has been probated in any other state or country may be admitted to probate as prescribed in this article, in any county of this State in which any property devised by the will is situated, upon the petition of the executor, or any person interested in such property, by through, or under the provisions of the will, when the petition is accompanied by a duly authenticated copy of such will, and of the original record or certification of probate. Where probate is or has been so granted, ancillary letters testamentary, or of testamentary administration, as the case requires, may likewise be granted, on the petition of the executor or testamentary administrator, if accompanied by a duly authenticated copy of the original letters or record of his appointment. (For P. C. 28; C. L. 5677.)

SECTION 176. Where administration has been granted in any other state or country upon the estate of an intestate

who was not a resident of this State at the time of his death, ancillary letters of administration may be granted, as prescribed in this article, by the county court of any county in which there are assets belonging to the estate, upon petition of the administrator, if accompanied by a duly authenticated copy of the original record of the granting of administration and of his appointment.

SECTION 177. A citation issued upon the presentation of any petition specified in the two preceding sections, may be addressed to all creditors of the decedent and other persons interested generally, and a direction for service by publication shall be indorsed thereon without the affidavit required in other cases, and service in accordance with such direction shall be deemed sufficient. At the hearing any person interested as a creditor or otherwise may appear and maintain any valid objection to the competency of the proof, or other defense to the application. (For P. C. 29; C. L. 5678.)

SECTION 178. A will shall not be admitted to probate under the provisions of this article unless it appears to have been executed according to law, and the court is further satisfied that the authentication of the probate is sufficient, and that the probate was granted by a court of competent jurisdiction, and remains in force. A decree admitting the same to probate shall contain the findings of the court to that effect, and shall have the same force and effect as if the probate was originally granted thereby. (For P. C. 30; C. L. 5679.)

SECTION 179. Ancillary letters shall not be granted to an executor or testamentary administrator making application therefor, unless the court is satisfied by competent evidence that the original appointment has not been revoked. The court may also refuse to issue letters to such applicant, where objection is made for non-residence, or any other cause which would disqualify him for appointment originally in this State, and it appears that the rights of creditors having claims payable in this State, or other persons residing therein, who are interested in the estate, may be prejudiced by his appointment; or, if letters have been issued such letters may be revoked for like cause.

SECTION 180. Ancillary letters shall not be issued to an

administrator making application therefor unless the court is satisfied that the proofs accompanying the petition are duly authenticated, that the administration was granted by a court of competent jurisdiction, and that the original appointment remains in force; or in any case where it appears that another county court of this State has acquired jurisdiction of the estate for any purpose, or where a resident of this State entitled to administration therein, as a creditor or otherwise, prays that letters may be issued to himself or some other resident of the State.

SECTION 181. Where letters are refused for any cause specified in the two preceding sections, except a failure to establish the original probate or grant of administration, letters may be issued to a competent resident of the State as in other cases; and where probate is granted as herein prescribed, and no application for letters is made by the executor or testamentary administrator, letters may be issued as in a case where no executor is named in a will, if necessary to give effect to the provisions of the will, or protect the rights of creditors residing in the State.

SECTION 182. An executor or administrator appointed under the provisions of this article must qualify in the same manner as other executors or administrators, and thereafter has like powers, duties and obligations respecting the property of the decedent within this State.

SECTION 183. Every executor, administrator or guardian appointed in but residing out of the State shall, before entering upon the duties of his trust, in writing, appoint an agent residing in the county where he is appointed, and shall by such writing stipulate and agree that the service of any legal process against him as such executor, administrator or guardian if made on said agent shall be of the same legal effect as if made on himself personally within the State. Such writing shall give the proper address of such agent and shall be filed in the office of the judge of the county court where such appointment is made, and the notice to creditors shall state the name and address of such agent. (For S 1. C. 106, 1883; C. L. 5725.)

#### ARTICLE 6.—SPECIAL PROCEEDINGS FOR PROBATE OF HEIRSHIP.

SECTION 184. Where a person dies, leaving real prop-

erty within this State, which he has not disposed of by will, and there are no debts of the decedent which are payable to residents of this State, then, after the expiration of one year from the date of his death, if no county court of this State has acquired jurisdiction of his estate for the purposes of administration, any heir or other person deriving title from or through an heir or heirs of such decedent may present to the county court of the county in which he last resided, or if he was not a resident of this State at the time of his death, to the county court of the county in which the real property or some part thereof is situated, a petition alleging the facts which authorize the special proceeding, according to the foregoing provisions, with a particular description of the real property, and stating the interest of the petitioner and the interest or share of each heir according to his relationship to the deceased and praying for a decree determining the right of succession to the property. Upon the presentation of such a petition a citation shall be issued to all the heirs of the decedent. (For S. I. C. 51, 1893.)

SECTION 185. At the hearing any person interested may appear and answer the petition; but this section does not effect a right or interest of any person except an heir unless he so becomes a party to the special proceeding. The answer of a respondent may allege any valid defense to the petition any part of the same or any right or interest which the respondent claims in the property. The allegations of the petition must be established to the satisfaction of the court by competent testimony, before a decree can be entered, although no issue is joined by answer. (For Sec. 2, Ch. 51, 1893.)

SECTION 186. When the facts are established to the satisfaction of the court a decree shall be given specifying who are the heirs of the decedent, and what are the interests or shares of the parties, respectively, in the property, and declaring the right of succession accordingly. Such decree is conclusive upon the parties, and their successors in interest, subject, however, to such disposition of the property as may be made in any subsequent proceeding in the same court in pursuance of the probate of a will, or grant of administration. (For Sec. 3, Ch. 51, 1893.)

SECTION 187. A certified copy of such decree may be recorded in the office of the register of deeds of each county in which the real property is situated, in the manner prescribed by law for recording a deed. (For Sec. 4, Ch. 51, 1893.)

SECTION 188. The costs of such proceeding must, in every case, be paid by the petitioner. (For S. 5, Ch. 51, 1893.)

## CHAPTER 5.

### ARTICLE 1.—QUALIFICATIONS, REMOVAL AND DISCHARGE OF EXECUTORS, ADMINISTRATORS AND GUARDIANS.—REQUISITES FOR QUALIFICATION.

SECTION 189. No person under twenty-one years of age, or other person who is incapable by law of making a contract, or has been convicted of a felony, is competent to serve as executor, administrator or guardian; and no person shall be appointed as such, who is not in good faith, a resident of this State, or was a partner of the decedent at the time of his death, or is by the court found unfit to discharge the duties of the trust, by reason of drunkenness, improvidence, mental or physical infirmity, or lack of integrity. A married woman must not be appointed administratrix, but may be appointed executrix, and serve as such, independent of her husband, if married, at the time of the testator's death. (For P. C. 46, 48, 60, 61.)

SECTION 190. Before letters are issued to an executor, administrator or guardian, he must qualify by taking an oath and giving bond, as prescribed in this article; and before letters are issued to any person who has in his possession or under his control any money or property belonging to the estate, he may be required to exhibit an inventory, or otherwise render a satisfactory account of his doings with such property. A failure to comply with the foregoing requirements; within such time as the court allows, is a relinquishment of the appointment. (For P. C. 75; C. L. 5724.)

SECTION 191. Every executor, administrator or guardian must take and subscribe an oath administered by some competent officer, and file the same with the county judge, to the effect that he will faithfully and according to law

to the best of his ability perform all the duties of his trust. (For P. C. 75; C. L. 5724.)

SECTION 192. Every executor, administrator or guardian must give bond to the State of North Dakota, for the benefit of all persons interested in the estate, in such sum as the court prescribes, with sufficient sureties, to be approved by the judge, and conditioned for the faithful discharge of all the duties of the trust, imposed on him by law or by order of the court according to law. Except as otherwise specially prescribed by law, the required sum must not be less than twice the aggregate value, as ascertained by the court, of the personal property, and the rents, profits and income for one year of the real property, belonging to the estate. Every bond must be held to be the joint and several contract of the principal and sureties executing the same, notwithstanding any express provisions therein to the contrary. (For P. C. 76, 78; C. L. 5726, 5728.)

SECTION 193. Whenever an executor, administrator or guardian is authorized to sell or mortgage any real estate, he must in like manner be required to give an additional bond in the sum equal to twice the probable amount to be realized upon such sale or mortgage. But such additional bond may be dispensed with, by the decree authorizing such sale or mortgage, where it appears to the satisfaction of the court that the former bond of such executor, administrator or guardian is at least twice the value of the estate remaining in his hands, together with the amount of such increased liability, and is in all other respects sufficient. (For P. C. 77; C. L. 5727.)

SECTION 194. When it is expressly provided in the will that no bond shall be required of the executor, letters testamentary may issue and sales of real estate be made and confirmed without any bond, unless the court, for good cause, require one to be executed; but the executor may, at any time afterward, if it appears from any cause necessary or proper, be required to file a bond as in other cases.

SECTION 195. When two or more persons are appointed as executors, administrators, or guardians the court may require and take a separate bond from each. (For P. C. 79; C. L. 5729.)

## ARTICLE 2.—FORM OF LETTERS.

SECTION 196. When an executor, administrator or guardian has duly qualified, letters shall issue accordingly, under the seal of the county court, upon which there shall be endorsed if required, a direction for the publication of the notice to creditors, prescribed by this Code.

SECTION 197. Letters testamentary may be substantially in the following form:

State of North Dakota, County of.....;

WHEREAS, The last will of A. B., deceased, a copy of which is hereto annexed, has been duly proved and recorded in the county court of said county, and C. D., has been appointed executor thereof, and has duly qualified, pursuant to the order of said court, of date.....

Now, Therefore, know ye, that he the said C. D., is authorized to enter upon the discharge of his duties as such executor, and continue therein until the revocation of these letters.

Given with the seal of said court hereto affixed the.... day of..... (Seal and official signature of the judge.) (For P. C. 53; C. L. 5702.)

SECTION 198. Letters issued to a testamentary administrator may be substantially in the following form:

State of North Dakota, County of.....;

WHEREAS, The last will of A. B., deceased, a copy of which is hereto annexed has been duly proved and recorded in the county court of said county; and C. D. has been duly appointed testamentary administrator, to execute the same, and has duly qualified, pursuant to the order of said court of date.....

Now, Therefore, know ye, that he the said C. D. is authorized to enter upon the discharge of his duties as such testamentary administrator, and continue therein until the revocation of these letters. (Conclude as above.) (For P. C. 54; C. L. 5703.)

SECTION 199. Letters of administration, either general or special, may be substantially in the following form:

State of North Dakota, County of.....; Whereas, A. B. was appointed administrator (or special administrator) of the estate of C. D., deceased, by order of the county court of said county of date..... and has duly

qualified accordingly; Now Therefore, know ye, that he the said A. B. is authorized to enter upon the discharge of his duties as such administrator (or special administrator) and continue therein until the revocation of these letters. (Conclude as above.) (For. P. C. 55, C. L. 5704.)

SECTION 200. Letters of guardianship may be in the form prescribed in the last section, with such variations as the facts require.

### ARTICLE 3.—NEW BONDS AND NEW SURETIES.

SECTION 201. Any creditor or other person interested in the estate, may present to the county court an affidavit alleging that a surety in any bond taken as prescribed in this chapter is insufficient or has removed, or is about to remove from the State, or that the bond is inadequate in amount, and demanding that the executor, administrator or guardian may be required to give a new bond in a larger amount, or new or additional sureties, as the case requires, or in default thereof that he may be removed from his office, and thereupon, if there is reason to believe that the statements of the affidavit are true, such executor, administrator or guardian may be cited to appear and show cause why the demand should not be granted. (For P. C. 84, 85; C. L. 5734-5.)

SECTION 202. When it comes to the knowledge of the county judge that the bond of an executor, administrator or guardian is inadequate or that a surety therein is insufficient, or has removed, or is about to remove from the State, and no application is made as provided in the last section, an order shall be made requiring such executor, administrator or guardian to show cause why he should not be required to give further security, upon which he shall be cited to appear as upon the application of a party. (For P. C. 89; C. L. 5739.)

SECTION 203. If it satisfactorily appears at the hearing that the security is inadequate or insufficient, the court must make an order requiring the executor to give new or additional sureties, or a new bond in a sufficient amount, as the case requires, within a reasonable time not exceeding ten days, and directing that in default thereof his

letters be revoked. If he fails to give such security, the court must make a supplemental order removing him and revoking his letters accordingly. (For P. C. 86, 87, C. L. 5736-7.)

SECTION 204. Any or all of the sureties in a bond taken as prescribed in this chapter, may present to the county court a petition praying to be released from responsibility on account of any future breach of the condition of the bond, and thereupon the executor, administrator or guardian must be cited to appear in person and give new security. If he files in the office of the county judge a sufficient bond, with new sureties, to the satisfaction of the court, at the time specified in the citation or thereafter within such reasonable time, not exceeding ten days, as the court fixes, the court must make a decree releasing the petitioner from liability upon the bond for any subsequent act or default of the principal, otherwise he must make a decree removing him and revoking his letters. (For P. C. 90, 91, 92, C. L. 5740-2.)

ARTICLE 4.—REMOVAL, SUSPENSION AND DISCHARGE OF EXECUTORS, ADMINISTRATORS AND GUARDIANS.

SECTION 205. Where a will is admitted to probate after letters of administration have been issued, or where the probate is revoked after letters have been issued, the decree granting or revoking probate shall revoke the former letters.

SECTION 206. An executor, administrator or guardian may also be removed by a decree of the county court revoking his letters upon satisfactory proof of the existence of either of the following causes:

1. Any legal disability which renders him incompetent or unfit to act as such executor or administrator, where the same has been incurred since his letters were issued, or was not alleged in the proceeding in which he was appointed.

2. Any wrongful act or omission on his part conductive of waste or misappropriation of the estate, or affording opportunity therefor;

3. Wilfully refusing, or neglecting without sufficient cause, to obey any lawful direction of the county court or any provision of law relating to the discharge of his duties;

4. In the case of an executor, where, by the terms of the will, his office ceases upon a contingency which has happened.

5. In the case of a special administrator, appointed upon the estate of an absentee, where it is shown that the absentee is living and capable of resuming the management of his affairs, or that an executor or administrator has been appointed, upon the estate by another court having jurisdiction thereof. (For P. C. 105; C. L. 5758.)

SECTION 207. A petition alleging the fact and praying for the removal of an executor, administrator or guardian pursuant to the provisions of the preceding section, may be presented by a creditor or other person interested in the estate, and may contain a prayer for the appointment of a successor, and if the court deems the allegations sufficient a citation shall issue to the executor, administrator or guardian and all other persons who by the terms of a will, or by law, are entitled to any portion of the estate. (For P. C. 109; C. L. 5759.)

SECTION 208. Where the facts which authorize a removal come to the knowledge of the court, and no application is made as above provided, the court may make an order requiring the executor, administrator or guardian to show cause why he should not be removed, upon which he shall be cited to appear; and at the hearing the court may revoke his letters as upon a petition, but cannot appoint a successor. (For P. C. 110; C. L. 5760.)

SECTION 209. At any hearing contemplated by the two preceding sections, the court may require and compel the attendance of the executor, administrator or guardian in person, and examine him under oath respecting the alleged cause for his removal. (For P. C. 112; C. L. 5761.)

SECTION 210. Upon issuing a citation in a proceeding for the removal of an executor, administrator or guardian, or in a proceeding to require him to give new security, if he is wasting or misappropriating or alleged to be wasting or misappropriating the estate, the court may by order summarily suspend his powers, or enjoin him from doing any

specific act in the exercise thereof, as the case requires until the final determination. (For S. 2; C. 106, 1883; P. C. 88. 5762-5788.)

SECTION 211. An executor, administrator or guardian may at any time present to the county court a petition praying that his account may be settled, and that a decree may thereupon be made revoking his letters and discharging him accordingly. The petition must set forth the facts upon which the application is founded; but the application shall not be entertained while a proceeding is pending for the removal of the executor, administrator or guardian, or if in the opinion of the judge there is good cause for his removal or other sufficient cause for refusing to entertain the same. (For P. C. 105; C. L. 5755.)

SECTION 212. If the court entertains such application, a citation must issue to all parties interested in the estate. At the hearing any creditor or other person interested may allege cause for denying the application, or allege cause for his removal, and pray relief accordingly. Upon a trial of the issue if the court determines that sufficient cause exists for granting the application the petitioner must be allowed to account; and after he has fully accounted, and paid over all money which is found to be due from him to the estate, and deliver over all books, papers, and other property of the estate, in his hands, as the court directs, a decree shall be made discharging him and revoking his letters; otherwise such decree shall be made as justice requires. (For P. C. 297; C. L. 5947.)

SECTION 213. All acts of an executor or administrator capable by law of making a contract, notwithstanding any cause for removal, remain as valid and effectual as if he continued lawfully to execute the duties of his trust, until his letters are revoked or his powers suspended by a decree or order of the court. (For P. C. 106; C. L. 5756.)

SECTION 214. Where one of two or more executors or administrators dies or becomes incapable of discharging the trust, or where letters are revoked as to one of them, a successor to such person shall not be appointed unless such appointment is necessary in order to comply with the express provisions of a will, but the others shall proceed and complete the administration of the estate pursuant to the letter. (For P. C. 103, 104; C. L. 5753-4.)

## CHAPTER 6.

ARTICLE 1. SETTLEMENT OF THE ESTATES OF DECEDENTS.—  
COLLECTION, INVENTORY AND APPRAISEMENT OF THE ESTATE.

SECTION 215. The executor or administrator is entitled to possession of all the real and personal property of the decedent, except the homestead and other exempt property reserved by law to the surviving husband or wife, or children; and must protect the real property from waste or other injury and collect the rents and profits thereof, until ordered to surrender the same, and collect the goods, chattels and other effects, of the decedent, and the debts and demands of every description due to the decedent or accruing to the estate in his right, and safely keep and dispose of the same according to law. (For P. C. 122, 210; C. L. 5772, 5860.)

SECTION 216. Every person having or obtaining property of a decedent without authority from the executor or administrator is liable to account for the same at its full value, and shall not be allowed to retain or deduct therefrom any debt due from such decedent.

SECTION 217. Any person who embezzles, conceals or alienates any moneys, goods, chattels or effects of a decedent is liable in a civil action, for double the value of such property or for the return of the property, with damages to the extent of its value, to be recovered by the executor or administrator for the benefit of the estate. (For P. C. 124; C. L. 5774.)

SECTION 218. Unless it satisfactorily appears to the probate court that the rents, issues and profits of the real estate for a longer period are necessary to be received by the executor or administrator wherewith to pay the debts of the decedent, or that it will probably be necessary to sell the real estate for the payment of such debts, at the end of ten months from the first publication of the notice to creditors, the court must direct the executor or administrator to deliver possession of all the real estate to the heirs at law or devisees. (P. C. 123; C. L. 5773.)

SECTION 219. An executor or administrator may lease the real property under his control until ordered to surrender the same, and may keep in suitable repair all houses, building and fixtures thereon.

SECTION 220. In case of the death of one partner, the surviving partner must make a full, true and complete inventory of the property of the co-partnership within his knowledge, with a list of all the liabilities thereof at the time of the death of the deceased partner, and deliver the same to his executor or administrator, or to the county court. Such surviving partner or partners have the right to continue in possession of the effects of the partnership, pay its debts out of the same, and settle its business; but must proceed thereto without delay, and account with the executor or administrator, and pay over such balances as may, from time to time be payable to him in the right of the decedent. Upon the application of the executor or administrator the county court may, whenever, it appears necessary, after citation order such surviving partner to deliver an inventory, or render an account, and may enforce the order as in other cases. (P. C. 214; C. L. 5864.)

SECTION 221. An executor or administrator may present to the county court an affidavit setting forth facts which tend to show that money, goods, chattels, conveyances, bonds, contracts, or other writings containing evidences of a right or claim of the decedent to any property or of any demand due such decedent which should be delivered to him, or included in an inventory or appraisal, is in the possession or under the control of a person who withholds or refuses to account for the same, or that a person has knowledge or information which he refuses to impart respecting such money, goods, chattels, conveyances, bonds, contracts or other writings, so that the same cannot be discovered, inventoried or appraised, and praying that he may be required to appear and be examined concerning the same. If the court is satisfied that there are reasonable grounds for an investigation, such person must be cited to appear in person. He may also be directed to appear forthwith, and in that case the citation may be served at any time before the hearing. (For P. C. 125, 127; C. L. 5775-7.)

SECTION 222. On the attendance of the person so cited he must be sworn and examined under oath and may be compelled to answer any question that may be put to him respecting any money, goods, chattels, conveyances, contracts or other writings specified in the preceding section, and make a full disclosure of all the facts within his knowledge or information in relation thereto; but his answers cannot be given in evidence against him in a criminal prosecution. If his testimony tends to show that other persons have knowledge or information that will aid the executor or administrator in the discovery of property to be inventoried or appraised, they may be subpoenaed and examined in like manner. After the examination the court may hear the testimony of other witnesses. And where it appears that a person so examined has in his possession or under his control any money, goods, chattels, conveyances, contracts or other writings belonging to the estate, he may be ordered and compelled to deliver the same to the executor or administrator, or to produce the same for inventory and appraisement, as the case requires, unless he interposes a written answer, duly verified, to the effect that he is the owner of the property, or is entitled to possession thereof, by virtue of a special property therein, or by virtue of a lien under which he obtained possession in the lifetime of the testator. (Comp. N. Y. 2708; Io. 3583. For P. C. 126; C. L. 5776.)

#### ARTICLE 2.—INVENTORY AND APPRAISEMENT OF THE ESTATE.

SECTION 223. Every executor or administrator must, within thirty days after his appointment, make and return to the county court a true inventory and appraisement of all the real and personal property of the decedent which has come to his knowledge, including a list of all bonds, mortgages, notes, book accounts and other securities or evidences of debt, which appear by the books or papers of the deceased to be unsettled, with a statement of the sums credited thereon, if any. If no money has come to the hands of the executor or administrator, that fact must be stated in the inventory. The property inventoried shall be classed under separate heads as follows:

1. All the real estate, with a statement showing what

portion thereof, if any, is occupied or claimed as a home-  
stead;

2. All the personal property, money included, which is  
supposed to be exempt, distinguishing between such as is  
deemed absolutely exempt, and other property;

3. All other property above specified. (For P. C. 113,  
116; C. L. 5763-5766.)

SECTION 224. The inventory must be signed by the  
executor or administrator, who take and subscribe thereon  
an oath before an officer authorized to administer oaths,  
that the inventory contains a true statement of all the  
estate of the decedent which has come to his knowledge  
and possession, and particularly of all money belonging to  
the decedent, and of all just claims of the decedent against  
the affiant. (For P. C. 119; C. L. 5769.)

SECTION 225. A person named in a will as executor is  
not thereby discharged from any just claim which the tes-  
tator has against him, but the claim must be included in  
the inventory, and collected, or accounted for, in the same  
manner as other claims. (For P. C. 117; C. L. 5767.)

SECTION 226. The interest of the decedent in an un-  
settled partnership must be included in the inventory, and  
appraised upon the statement rendered by the surviving  
partner, or otherwise, like other property.

SECTION 227. A discharge or bequest in a will of a debt  
or demand of the testator against an executor or other  
person is not valid against creditors of the testator, but  
must be treated as a specific bequest of the amount of the  
debt or demand. Such demand must be included in the  
inventory and be collected and applied, so far as neces-  
sary in payment of the creditors after which the surplus,  
if any, shall be paid as other legacies. (For P. C. 118; C.  
L. 5768.)

SECTION 228. The avails of a life insurance policy, or of  
a contract payable by any mutual aid or benevolent society  
upon the death of a member of such society, are not sub-  
ject to the debts of the decedent, except by special con-  
tract; but in other respects shall be inventoried and dis-  
posed of like other property.

SECTION 229. To make the appraisement the judge must appoint three competent and disinterested persons, any two of whom may act. The appointment may be made by order at any time. A notice of the appointment must be issued, upon which before entering upon their duties the appraisers must each subscribe an oath, administered by a competent officer, to the effect that he will truly and impartially, according to the best of his ability, appraise the property of the decedent, and discharge all other duties required of him as such appraiser. If any portion of the property is in another county the same appraisers may serve or others may be appointed in that county. The notice and oath of the appraisers must be returned with the inventory, together with a verified statement of their services and expenses. They shall be allowed a reasonable compensation for the services, not exceeding the amount of their necessary expenses and two dollars a day in addition, to be paid by the executor or administrator as expenses of the administration. (For P. C. 114; C. L. 5764.)

SECTION 230. The appraisers must estimate and appraise at its actual value according to their best judgment all the property described in the inventory submitted by the executor or administrator, except money, and must set down in figures opposite each item the value thereof, as agreed upon, in dollars and cents, and after completing the appraisement, they must subscribe and annex thereto an affidavit to the effect that the value appearing opposite each item was entered by them or by their direction, and is the true value agreed upon as their appraisement, and deliver the same to the executor or administrator, or to the court. (For P. C. 115; C. L. 5765.)

SECTION 231. Whenever property, which is not included in an inventory previously made in the same case, comes to the knowledge or possession of an executor or administrator, he must within one month thereafter or within such time as the court orders, make a supplementary inventory, and cause an appraisement thereof to be made and returned in like manner.

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ARTICLE 2.—POSSESSION OF THE HOMESTEAD AND ALLOTMENT  
OF EXEMPT PROPERTY.

SECTION 232. Upon the death of either husband or wife, the survivor may continue to possess and occupy the whole homestead, and upon the death of both husband and wife, the children may continue to possess and occupy the same until otherwise disposed of according to law. Such homestead as defined in Section . . . . . of Civil Code, must be ascertained and set apart as hereinafter prescribed upon the selection of the person or persons entitled to possession thereof, and shall not be subject to the payment of any debt or liability contracted by or existing against the husband or wife or either of them previous to or at the time of the death of such husband or wife, except as provided in the law relating to homesteads. (For P. C. 128, S. 1, C. 108, 1881; P. C. 131.)

SECTION 233. The appraisers must procure from such person or persons a description of the property claimed as a homestead, and appraise the same at its value at the time of the death of the testator or intestate, and shall if necessary, cause the boundary thereof to be ascertained and marked in their presence by a competent surveyor. If they find that it has been selected in such form as will materially diminish the value of any remaining part of the property, they may modify its boundaries so as to avoid such injury if it can be done without material injury to the homestead property. If they find that the property selected as a homestead exceeds in value the sum of five thousand dollars, they shall in like manner set off the homestead in such form as to exclude the excess unless they further find that the property cannot be divided without material injury. They shall make a full report of all their proceedings and findings in relation to the homestead, and annex the same to the inventory.

SECTION 234. There shall also be set apart absolutely to the surviving wife or husband or minor children all the personal property of the testator or intestate which would be exempt from execution if he were living, including all property absolutely exempt and other property selected by the person or persons entitled thereto, to the amount in

value of fifteen hundred dollars, according to the appraisal, and such property shall not be liable for any prior debt of the decedent except the necessary charges of his last sickness and funeral, and expenses of the administration, where there are no other assets available to the payment of such charges. (For P. C. 135; C. L. 5785.)

SECTION 235. Upon the return of the inventory and appraisal the court must fix a day for hearing objections thereto concerning the homestead, and other exempt property, and the executor or administrator must cause notice thereof to be given to all parties interested. At the hearing the court may confirm the proceedings as to the inventory and appraisal or modify the same, or set them aside and order a new appraisal as justice requires. If the court finds that the homestead exceeds in value the sum of five thousand dollars and further finds that the property cannot be divided without material injury the order setting it apart must determine the amount of such excess, and the property may thereafter be subjected to the payment of debts in the same manner as other property to the extent of the excess so determined, after all the other available property has been exhausted.

SECTION 236. If the amount so set apart is insufficient for the support of the widow and children, or either, and there is other estate of the decedent, the court may in its discretion order such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances, during the progress of the settlement of the estate, which in case of an insolvent estate, must not be longer than one year after granting letters testamentary or of administration. (For P. C. 132; C. L. 5782.)

SECTION 237. Any allowance made by the court in accordance with the preceding section must be paid in preference to all other charges, except funeral charges or expenses of administration and any such allowance, whenever made, may, in the discretion of the court, take effect, from the death of the decedent. (For P. C. 133; C. L. 5783.)

ARTICLE 3.—PROPERTY CHARGEABLE WITH THE PAYMENT OF DEBTS.

SECTION 238. All the property of a decedent, except as otherwise provided for the homestead and personal property set apart for the surviving wife or husband and minor child or children, shall be chargeable with the payment of the debts of the deceased, the expenses of administration and the allowance to the family. (For P. C. 162; C. L. 5812.)

SECTION 239. If the testator makes provisions by his will or designates the estate to be appropriated for the payment of his debts, the expenses of administration, or family expenses, they must be paid according to such provisions or designation, out of the estate thus appropriated, so far as the same is sufficient. (P. C. 193; C. L. 5843.)

SECTION 240. If the provision made by the will, or the estate appropriated therefor, is insufficient to pay the debts, expenses of administration, and the allowance to the family, that portion of the estate not devised or disposed of by will, if any must be appropriated and disposed of for that purpose according to the provisions of Article five of this chapter. (P. C. 195; C. L. 5845.)

SECTION 241. The estate, real and personal given by will to legatee or devisees, is liable for the debts, expenses of administration, and allowance to the family in proportion to the value or amount of the several devises or legacies, but specific devises or legacies are exempt from such liability if it appears to the court necessary to carry into effect the intention of the testator, and there is other sufficient estate. (P. C. 196; C. L. 5846.)

ARTICLE 4.—OF CLAIMS AGAINST THE ESTATE.

SECTION 242. It shall be the duty of the county judge granting letters testamentary or of administration to receive, examine, and adjust the claims and demands of all persons against the decedent or his estate, which may be presented to him in accordance with the provisions of this article.

SECTION 243. At the time of issuing letters or upon the return of the inventory, the court shall direct the executor or administrator to give notice of his appointment to all persons having claims against the decedent or his estate, specifying the place where the same may be exhibited to him, and the time within which they must be presented to the court for adjustment and allowance. Such notice must be given by publishing the same at least four times once each week for four successive weeks in some newspaper of the county, if there is one, or if not, then in some convenient newspaper of the State to be designated in the order. The court may also require further notice to be given by publication or by posting. (For P. C. 137; C. L. 5787.)

SECTION 244. The time expressed in the notice must be six months after its first publication, when the estate exceeds in value the sum of five thousand dollars, and according to the appraisal and four months when it does not.

SECTION 245. A copy of the notice with due proof of publication, or of publication and posting, must be filed, and if the court is satisfied therefrom that due notice to creditors has been given, a finding to that effect shall be entered in the journal.

SECTION 246. All claims of every description, against a decedent or his estate, for the payment of money, including judgments unliquidated demands, debts not due, claims arising out of a liability of any person as surety for the decedent, and other contingent claims, must be presented to the court for adjustment, within the time limited in the notice prescribed by Section 143. A demand maintained in or arising out of an action commenced by or against the decedent in his lifetime and continued by or against his representative, which has not been finally adjudicated is deemed a contingent claim for the purposes of this section. A claim may be presented after the expiration of the time herein prescribed, where it is shown to the satisfaction of the court, before the final distribution, that the owner and holder thereof, has not been negligent, and was prevented from presenting the same within such time, by reason of his absence from the State

or other sufficient cause. (For P. C. 140, 150; C. L. 5790, 5800.)

SECTION 247. Every person having a claim against the deceased person, for the payment of money, which is not presented as prescribed in the preceding section, is forever barred from recovering such demand, or from setting off the same, in any action or special proceeding whatever, except under peculiar circumstances entitling him to equitable relief. But this section shall not be construed to prohibit or restrict a right to foreclose a mortgage or other lien upon specific property as provided by law, in a civil action, or to foreclose a mortgage on property by advertisement and sale when the county court has not obtained jurisdiction of the mortgage. (For P. C. 140, 5790.)

SECTION 248. The time above limited does not include any period during which there is a vacancy in the office of county judge. (P. C. 149; C. L. 5799.)

SECTION 249. Every claim, when presented, shall be entitled in the name of the claimant against the executor or administrator, or, if he is the claimant, against the heirs or devisees of the deceased, generally, and if disputed must be clearly and distinctly stated so as to enable the adverse party to demur or answer as in a civil action, and issues may be joined thereon accordingly, at any hearing contemplated by this article.

SECTION 250. If a claim has not been exhibited to the executor or administrator, and endorsed with his approval or disapproval before presentation, a copy thereof must be served upon him thereafter, and unless he files his approval in writing within ten days after such service he shall be deemed to have disapproved of the same. Before approving any claim the executor or administrator shall require an affidavit of certification to be attached thereto, by the claimant or some person competent to make the same in his behalf, to the effect that there are no payments or other offsets to be credited or allowed except such as are therein stated, and that the amount claimed is justly due and owing to the claimant out of the estate of the deceased. If the claim is based on a contingent liability, the amount which the affiant believes will be due and payable, must be stated, with the particulars upon which his belief is

founded. The executor or administrator must not approve any claim unless satisfied that the same is in all respects just. (For P. C. 141; C. L. 5791. See Cal. 1494.)

SECTION 251. A claim may be allowed by order of the court upon the approval of the executor and the production of such proofs as may be required by the provisions of Section — or of such further proof as the court shall deem sufficient, but the court may decline to act thereon until the executor or administrator is cited as hereinafter prescribed. Where an executor offers to approve a claim in part or subject to an offset the amount so admitted may be allowed in like manner, if the creditor consents thereto in writing, otherwise the entire claim shall be deemed disapproved and the claimant shall not be awarded costs upon proving the same unless he is awarded an amount greater than that so offered. (For P. C. 144; 151.)

SECTION 252. When a claim is not allowed as prescribed in the preceding section, after it has been duly exhibited or served, the court shall, at the request of the claimant, issue a citation to the executor as upon a petition, and the claimant shall cause the same to be served accordingly. At the hearing the claim shall be deemed denied without any pleading on behalf of the estate; and any party appearing may demur or allege any legal defense to the demand. The executor or administrator may likewise allege an offset or counter claim that might have been maintained by the decedent. Upon a trial of the issues, the court shall make a decree allowing or disallowing such claim, or counter claim, or any part of the same, as justice requires; or if both are established the court shall ascertain and allow the balance in favor of the claimant or the estate as the same shall be found. If such balance is found in favor of the estate, the decree must direct payment accordingly. (For P. C. 146; C. L. 5796.)

SECTION 253. Every decree or order which allows a claim must classify the same according to the order in which it is entitled to pay and where a claim is established and allowed as a lien upon specific property personal and real, must also specify the particular property covered by the lien.

SECTION 254. If an executor or administrator is a

creditor of the decedent, his claim may be allowed by the court, when presented, in the same manner and upon like proof as the claim of another person by him approved, or if the court declines to allow the same the parties interested in the estate may be cited in the same manner and with like effect as in other cases. (For P. C. 158; C. L. 5808.)

SECTION 255. A judge of the county court having jurisdiction of the estate, may exhibit a claim to the executor or administrator, and upon his approval or disapproval thereof may present the same for allowance to the county judge of an adjoining county, who shall proceed as if he had jurisdiction of the estate, and his order or decree shall be entered as that of the court in which the case is pending. (For P. C. 142; C. L. 5792.)

SECTION 256. A claim which is founded upon the judgment or other determination of a court having jurisdiction to render the same, must be allowed upon the production of a duly authenticated copy thereof, and satisfactory proof of the amount remaining unsatisfied. When a claim is founded on a bond, bill or other written instrument, the original must be produced and filed with the county judge, or its absence must be satisfactorily accounted for, and a copy thereof produced, if practicable. An instrument so filed can be withdrawn only by order of the court, for good cause shown, and upon the substitution of a true copy. (For P. C. 145; C. L. 5795.)

SECTION 257. No claim or counter-claim which was barred by the statute of limitations when the claim was first presented, must be allowed under the provisions of this article, but after presentation, no claim is affected by the statute of limitations while pending before the county court or on appeal. (For P. C. 147; C. L. 5797.)

SECTION 258. At the time when the executor or administrator presents his account for settlement, every creditor having claims pending in the county court which have not been disposed of as hereinbefore prescribed, must be notified of the hearing, and have an opportunity to present his proofs, and upon his failure to do so, a final order shall be made disallowing the same. At the same time there

may be a rehearing upon any claim previously allowed by order, but not afterwards.

SECTION 259. Every claim proved and allowed as prescribed in this article must be classed among the acknowledged debts and charges to be paid in the due course of the administration. (For P. C. 145; C. L. 5795.)

ARTICLE 5.—PAYMENT OF DEBTS AND CHARGES.

SECTION 260. The acknowledged debts and charges must be paid in the following order:

1. The necessary expenses of the administration.
2. The expenses of the last sickness and funeral.
3. Allowances made to the family in excess of the exempt property.
4. Debts having preference by the laws of the United States.
5. Debts which are liens upon specific property, whether by judgment, mortgage or otherwise, in the order of their priority.
6. All other demands against the estate.

SECTION 261. The preference given in the preceding section to a mortgage or other lien only extends to the proceeds of the property subject to such lien. If the proceeds of such property be insufficient to pay the demand the part remaining unsatisfied must be classed with other demands against the estate. (For P. C. 259; C. L. 5909.)

SECTION 262. When any sale is made by an executor or administrator pursuant to the provisions of this chapter, or land or other property that is subject to any mortgage or other lien, which is a valid claim against the estate of the decedent, and has been presented and allowed, the purchase money must be applied, after paying the necessary expenses of the sale, first to the payment and satisfaction of the mortgage or lien, and the residue, if any, in due course of administration. The application of the purchase money to the satisfaction of the mortgage or lien must be made without delay; and the property is subject to such

mortgage or lien until the purchase money has been actually so applied. The purchase money, or so much thereof as may be sufficient to pay such mortgage or lien, with interest, and any lawful costs and charges thereon, may be paid into the county court, and thereupon the lien must cease, and the purchase money must be paid over by the judge without delay in payment of the expenses of the sale and in satisfaction of the debt to secure which the mortgage or other lien was taken, and the surplus, if any must be returned to the executor or administrator. (P. C. 202; C. L. 5852.)

SECTION 263. If the estate is insufficient to pay all the debts of any one class, each creditor must be paid a dividend in proportion to his claim; and no creditor of any class shall receive any payment until all those of the preceding class are fully paid, and no preference shall be given in the payment of a debt, over other debts of the same class, except those specified in the fourth class. (P. C. 260; C. L. 5910.)

SECTION 264. The executor or administrator, as soon as he has sufficient funds in his hands, must pay the funeral expenses, and the expenses of the last sickness, and the allowance made to the family of the decedent. He may pay or retain in his hands the necessary expenses of administration, but he is not obliged to pay any other debt or any legacy until, as prescribed in this article, the payment has been ordered by the court. (For P. C. 261; C. L. 5911.)

SECTION 265. If satisfied that it will be for the benefit of the estate, the county court may by order authorize or direct the executor or administrator, on the application of any person interested, to pay taxes and demands maturing upon any debt secured by a mortgage, pledge or other lien existing on the property of the decedent, or upon a contract for the purchase of real property, whenever there are sufficient funds properly applicable thereto, although such demand has not been presented and allowed. But the provisions of this section shall not relieve the executor or administrator from responsibility for all injury or loss resulting from any misapplication of the money in his hands. (For P. C. 161; C. L. 5811.)

SECTION 266. Upon the settlement of the account of an executor or administrator at the expiration of the time allowed for presenting claims, if there are debts or charges remaining unpaid, the court must make such decree for the payment thereof as the circumstances of the estate require, unless it appears that there are no more assets available for that purpose. If the assets are ready for distribution to the creditors, the court shall make a peremptory decree for payment, after declaring a dividend, if necessary. If there are other assets available which are not ready for such distribution, the executor or administrator must be directed to take the necessary steps to convert them into money, for that purpose, as speedily as possible without material injury to the estate, and if the estate is solvent, a partial dividend may be declared. The court must proceed in like manner at each subsequent settlement, until the debts are paid. (For P. C. 262; C. L. 5912.)

SECTION 267. At the time of such settlement each person having a contingent claim pending which cannot be proved as a debt must be required to produce proof of the liability of the decedent by a previous notice given as prescribed in Section 258. If it appears upon such proof that there is reason to believe that the liability will become absolute, the court may order the executor or administrator to retain in his hands sufficient assets to pay the same in that event, or, if the estate is insolvent, sufficient to pay a proportion equal to the dividends of other creditors, or if a final distribution is made, the court may require the persons to whom the estate is distributed to give bond, with sufficient sureties for the payment of such sum as may be found due by the county court in case the liability shall thereafter become absolute, and upon proof of such amount the claimant may be authorized to bring an action on the bond for its recovery. (For P. C. 263; C. L. 5913.)

SECTION 268. When a decree is made for the payment of creditors the executor or administrator becomes personally liable to each for the sum specified therein, and execution may issue accordingly, or each creditor may recover the amount due him in an action on the bond of the executor or administrator upon his failure to comply with the order. (For P. C. 264; C. L. 5914.)

SECTION 269. If the whole of the debts have been paid by the first distribution, the court must direct the payment of legacies and the distribution of the estate among the heirs, legatees, or other persons entitled as provided in Article 11 of this chapter, but if there be debts remaining unpaid, or, if, for other reasons, the estate be not in a proper condition to be closed, the court must give such extension of time as may be reasonable for a final settlement of the estate. (P. C. 266; C. L. 5916.)

SECTION 270. When the accounts of the administrator or executor have been settled, and an order made for the payment of debts and distribution of the estate, no creditor whose claim was not included in the order for payment, has any right to call upon the creditors, who have been paid, or upon the heirs, devisees, or legatees, to contribute to the payment of his claim; but if the executor or administrator has failed to give the notice to creditors as required in the first and second sections of Chapter 6, such creditor may recover on the bond of the executor or administrator the amount of his claim, or such part thereof as he would have been entitled to had it been allowed. (P. C. 265; C. L. 2915.)

#### ARTICLE 6.—SALES BY EXECUTORS AND ADMINISTRATORS.

SECTION 271. The property of a decedent, personal and real, which is chargeable with the payment of his debts and legacies, or the expenses of the administration and the allowance to the family, may be sold as hereinafter prescribed. But no executor or administrator shall directly or indirectly purchase any property of the estate which he represents, or be interested in any sale. And no sale by an executor or administrator, is valid unless made and confirmed in pursuance of a decree of the county court, except as otherwise provided in the next two sections. (For P. C. 163, 209; C. L. 5813, 5859.)

SECTION 272. After the return of the inventory, the executor or administrator may from time to time, sell such portion of the personal effects as are of a perishable nature, or would otherwise be likely to depreciate in value, or so much other personal property as may be necessary to pay expenses of the administration, and the last sickness

of the decedent; but is responsible for all property so sold until the sale is confirmed.

SECTION 273. When property is directed by the will to be sold, or authority is given in the will to sell property, the executor may sell any property of the estate without the order of the county court, and at either public or private sale, and with or without notice, as the executor may determine; but the executor must make return of such sales as in other cases; and if directions are given in the will as to the mode of selling or the particular property to be sold such directions must be observed. In either case no title passes unless the sale is confirmed by the court. (P. C. 194; C. L. 5844.)

SECTION 274. Whenever a sale becomes necessary for the payment of debts, legacies, allowances or expenses chargeable upon the estate, or whenever such sale will be for the benefit of the estate, and the parties interested therein, the executor may, from time to time, so long as any personal property remains in his hands, present an application to the county court setting forth the facts, and praying for an order directing him to sell the same, or so much thereof as may be deemed necessary or proper; and thereupon all parties interested in the estate must be cited as in other cases. (For P. C. 167, 169; C. L. 5817, 5819.)

SECTION 275. When a sale of real property becomes necessary for the payment of debts, expenses or allowances chargeable thereon, the executor or administrator shall petition the county court for a decree directing the sale of the same or so much thereof as may be necessary for that purpose or a sale of both personal and real property; and a citation shall issue to all parties interested accordingly. (P. C. 171; C. L. 5821, S. 1, C. 53, 1890.)

SECTION 276. If an executor or administrator neglects to make application under either of the two preceding sections, any creditor whose claim has been allowed or other person interested may make the application in the same manner and with like effect as if made by the executor or administrator; and when an executor or testamentary administrator neglects to make any sale which he is required to make under the provisions of a will, any creditor or other person interested may in like manner

make application, as the case requires, for a decree or order directing such sale. (For P. C. 180; C. L. 5830.)

SECTION 277. Every petition for the sale of real estate must show as nearly as can be ascertained the value of the personal property remaining in the hands of the executor, the amount of expenses of the administration and allowances to the family, if any, remaining unpaid, and the amount which will be required to pay the debts of the deceased, and legacies, if any, given in his will, also a general description of all the real estate, and the value thereof and a particular description of the part which it is proposed to sell, with a statement of its condition and value. (For P. C. 172; S. 2, C. 53, 1890.)

SECTION 278. At any hearing contemplated by the foregoing provisions of this article, the court may direct a sale of personal property if satisfied that such sale is necessary, or for the interest of the estate and the parties entitled thereto. At a hearing upon an application for the sale of real property, the court must enquire fully into the condition of the estate, and direct a sale of only so much thereof as shall appear to be necessary; but if parties consent that real estate may be sold in preference to personal property, the decree may direct a sale accordingly. (For P. C. 164, 173, 176, 178, 256; S. 3, C. 53, 1890.)

SECTION 279. If it appears necessary to sell a part of the real estate, and that by a sale thereof the residue of the estate, real or personal, or some specific part thereof, would be greatly injured or diminished in value; or subjected to expense, or rendered unprofitable or that after such sale the residue would be so small in quantity or value, or would be of such character with reference to the future disposition among the heirs or devisees, as clearly to render it for the interest of all concerned that the same should be sold, the court may authorize the sale of the whole estate, or of any part thereof necessary and for the interest of all concerned. (P. C. 177; C. L. 5827.)

SECTION 280. Where the petition alleges that the estate is insolvent or that it will require a sale of all the property to pay the debts, allowances and expenses with which it is

chargeable, with such further particulars as are required in a petition for the sale of real property, and it appears to the satisfaction of the court, after full inquiry into the facts and circumstances, that the property is no more than sufficient to pay the same, the decree may direct the sale of all the property chargeable with such payment, and there need be no further order of sale thereafter. (For P. C. 165; C. L. 5815.)

SECTION 281. A sale of real estate shall not be directed if any of the persons interested in the estate give bond to the State of North Dakota for the use and benefit of all persons having claims against the estate, in a sum and with surities approved by the court, and with condition to pay, so far as the personal estate of the deceased shall be insufficient therefor, all legacies, debts and charges that shall eventually be found due from the estate.

SECTION 282. After a sale is directed any person interested in the estate may prevent a sale of the whole or any part of the property designated in the decree or order, by giving bond, in like manner, with a condition to pay all demands that shall be found due from the estate, to the extent of the value of the property thus kept from sale, as soon as called upon by the court for that purpose.

SECTION 283. If it becomes necessary to resort to such security, the executor or administrator shall apply to the court for an order determining the amount of the liability so incurred and directing payment accordingly, and after obtaining such order the executor or administrator must proceed to collect such amount, by an action upon the bond if necessary, and apply the proceeds as the court shall direct.

SECTION 284. A decree for the sale of real estate must describe the lands to be sold, and direct the terms of sale, which may be for cash, or for one-third cash, and the remainder on a credit not exceeding two years, with such interest as the court shall deem proper, secured by a mortgage on the property, and may direct that the sale be made in one parcel or in such sub-divisions as may be deemed most convenient. If a decree directs the sale of devised property which is not charged by the will with the

payment of debts or legacies, such property must not be sold until the other property is exhausted. (For P. C. 179; C. L. 5829.)

SECTION 285. The court may direct that any property, real or personal, be sold at private sale, if satisfied that the interest of the estate will be thereby promoted; otherwise every sale must be made at public auction, after giving the same notice of the time and place of sale, as would have been necessary for the sale of such property on execution.

SECTION 286. If a private sale is authorized the court may direct the executor or administrator to publish a notice of the place where such sale will be made, and the time when the same will commence. (For P. C. 170, 179, 181.)

SECTION 287. Partnership interests, interests in personal property pledged and choses in action may be sold in the same manner as other personal property, when it appears to be for the interest of the estate, but before ordering a sale of any partnership interest the court must inquire into the condition of the partnership affairs, and examine the surviving partner, if in the county and able to be present. (For P. C. 168; C. L. 5818.)

SECTION 288. When the holder of any mortgage or other lien whose claim has been presented and allowed, purchases any property which is subject to the lien, at a sale made by an executor or administrator his receipt for the amount, which he would be entitled to receive by virtue of the lien, from the proceeds, after deducting expenses of the sale, shall be accepted as a payment of so much money. (For P. C. 203; C. L. 5853.)

SECTION 289. No property can be sold at private sale for less than ninety per cent. of the appraised value thereof. No real estate can be sold at private sale, unless it has been appraised within one year. If it has not been so appraised, or if the court deems the appraisement too high or too low, a new appraisement must be made before the sale is confirmed. (For P. C. 184; C. L. 5834.)

SECTION 290. A sale of real estate at public auction must be made between the hours of nine in the morning,

and four in the afternoon of the day specified in the notice of sale unless the same is postponed. (For P. C. 182; C. L. 5832.)

SECTION 291. If, at the time appointed for the sale, the executor or administrator deems it for the interest of the persons concerned therein that the same be postponed, he may postpone it from time to time, not exceeding in all three months. (P. C. 191; C. L. 5841.)

SECTION 292. In case of a postponement, notice thereof must be given by a public declaration, at the time and place first appointed for the sale, and if the postponement be for more than one day, further notice must be given by posting notices in three or more public places in the county where the land is situated or publishing the same, or both, as the time and circumstances will admit. (P. C. 192; C. L. 5842.)

SECTION 293. When real property is sold at public auction, the purchaser must immediately deposit with the executor or administrator, the money agreed upon as a cash payment and execute and deliver to him a note and mortgage on the property to secure each deferred payment; and upon his failure to do so the property shall be again offered for sale. When sold at private sale the money and securities must be deposited or delivered in like manner before the sale is reported for confirmation. (For P. C. 185; C. L. 5835.)

SECTION 294. When an executor or administrator has made any sales of personal property, he must return to the court at his next settlement, or sooner, if the court so directs, a full report of such sales, with a detailed account of all moneys received therefrom, to be acted upon in the settlement of his accounts. (For P. C. 208; C. L. 5858.)

SECTION 295. Immediately after making a sale of real estate, the executor or administrator must return to the county court a full report of his proceedings, containing a statement of the money deposited for the purchase of the property, and accompanied by each note and mortgage likewise deposited as security for any deferred payment, a copy of the notice of sale and proof of publication. The court shall thereupon fix a day for hearing objections to

the confirmation of such sale, and direct notice thereof to be given to each party whose postoffice address is known, and each creditor who has a claim pending, specifying in the notice each parcel sold, and the sum offered for the same, and referring to the return for further particulars. (For P. C. 186, 190.)

SECTION 296. At the hearing pursuant to such notice, any person interested in the estate may file written objections to the confirmation of the sale, and witnesses may be examined in support of the same, or in opposition thereto, as upon the trial of an issue of fact. If the court is satisfied after hearing the testimony, and inquiring into the facts, that the sale was legally and fairly made, and that the sum offered is not disproportionate to the value of the property and there is no good reason to suppose that a greater sum can be realized upon another sale, an order must be made confirming the sale, and directing a conveyance to be executed accordingly; otherwise an order shall be made setting aside the sale, and directing the return of all money and securities on deposit, after which the executor may proceed anew to make sale of the property. (For P. C. 187, 188; C. L. 5837-8.)

SECTION 297. When a sale of real estate is confirmed the executor or administrator must execute to each purchaser a conveyance, referring to the decree authorizing the sale and the order of confirmation. Such conveyance is presumptive evidence of the regularity and validity of the sale, and from the date of sale conveys all right, title and interest of the decedent in the property described therein, whether vested in him at the time of his death, or thereafter acquired in the right of the decedent prior to its execution.

SECTION 298. If a decedent, at the time of his death, was possessed of a contract for the purchase of land, his interests in such land and under such contract may be sold on the application of his executor or administrator, in the same manner as if he had died seized of such land, and the same proceedings may be had for that purpose as are prescribed in this chapter for the sale of lands of which he died seized, except as hereinafter provided. (P. C. 198; C. L. 5848.)

SECTION 299. The sale must be made subject to all payments that may hereinafter become due on such contract, and if there are any such the sale must not be confirmed by the court until the purchasers execute a bond to the executor or administrator, for the benefit and indemnity of himself and of the persons entitled to the interest of the decedent in the lands so contracted for, in double the whole amount of payments thereafter to become due on such contract, with such sureties as the county judge shall approve. (P. C. 199; C. L. 5849.)

SECTION 300. The bond must be conditioned that the purchaser will make all payments for such land that become due after the date of the sale, and will fully indemnify the executor or administrator, and the persons so entitled against all demands, costs, charges and expenses by reason of any covenant or agreement contained in such contract. (P. C. 200; C. L. 5850.)

SECTION 301. Upon the confirmation of the sale, the executor or administrator must execute to the purchaser an assignment of the contract, which vests in the purchaser, his heirs and assigns, all the right, title and interest of the estate, or of the persons entitled to the interest of the decedent in the lands sold at the time of the sale, and the purchaser has the same rights and remedies against the vendor of such land as the decedent would have had if he were living. (P. C. 201; C. L. 5851.)

SECTION 302. Where it is shown to the satisfaction of the court at the hearing upon an application for the sale of real estate, or upon a petition praying that the same may be mortgaged as provided in the next section, after all the parties interested have been duly cited, that it will be for the benefit of the estate, the county court may direct an executor or administrator to mortgage any real estate of the decedent, for the purpose of paying an existing lien or mortgage on the property, or for any other purpose for which a sale may be ordered, or it may authorize him to make a renewal of an existing mortgage, but the homestead shall not be mortgaged without the consent of the persons entitled thereto. (For S. 1; C. 54, 1890.)

SECTION 303. A petition for the purpose specified in the preceding section must specify the amount of money

necessary to be raised, and the purposes for which the same is required, with such further particulars as are required in a petition for the sale of real property. The decree must fix the amount for which the mortgage may be given, and the rate of interest that may be paid thereon, and may order the whole or any part of the money so secured to be paid from time to time out of the income of the mortgaged property. The mortgage or other contract executed by the executor in pursuance thereof may be approved upon his report in the same manner as a sale. (For S. 2; C. 54, 1890.)

#### ARTICLE 7.—SPECIFIC PERFORMANCE.

SECTION 304. When a person who is bound by contract in writing to convey any real estate, dies before making the conveyance, the county court may make a decree authorizing and directing his executor or administrator to convey such real estate to the person entitled thereto, in all cases where the decedent, if living, might be compelled to make such conveyance. (For P. C. 221; C. L. 5871.)

SECTION 305. On the presentation of a verified petition by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated all persons interested in the estate must be cited as in other cases. (For P. C. 222; C. L. 5872.)

SECTION 306.. If, after a full hearing and examination of the facts and circumstances of the claim, the court is satisfied that the petitioner is entitled to a conveyance of the real estate described in the petition, a decree must be made authorizing and directing the executor or administrator to execute a conveyance thereof to the petitioner and such conveyance must be executed accordingly. (For P. C. 224; C. L. 5874.)

SECTION 307. Every conveyance made in pursuance of a decree of the court, as provided in this chapter, and approved by the judge, shall pass the title to the estate contracted for as fully as if the contracting party himself was still living and executed the conveyance. (For P. C. 227; C. L. 5877.)

SECTION 308. If, upon the hearing in the county court, the right of the petitioner to have a specific performance of the contract is found to be doubtful, the court must dismiss the petition without prejudice to the rights of the petitioner, who may thereafter proceed in the district court to enforce a specific performance thereof. (For P. C. 226; C. L. 5876.)

ARTICLE 8.—ACTIONS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

SECTION 309. The heirs or devisees may themselves, or jointly with the executor or administrator, maintain an action for the possession of the real estate, or for the purpose of quieting title to the same, against any one except the executor or administrator. For the purpose of bringing suits to quiet title or for partition of such estate the possession of the executor or administrator is the possession of the heirs or devisees. Such possession by the heirs or devisees is subject, however, to the possession of the executor or administrator, for the purposes of administration as provided in this title. [For P. C. 210; C. L. 5860.]

SECTION 310. Except as otherwise prescribed in the next section, actions for the recovery of any property, real or personal, or for the possession thereof, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases and in the same courts in which the same might have been maintained by or against their respective testators or intestates. [For P. C. 211; C. L. 5861.]

SECTION 311. No action for the recovery of money only shall be brought in any the courts of this State against any executor, administrator or guardian upon any claim or demand which may be presented to the county court, except as provided in this chapter.

SECTION 312. Executors and administrators may in like manner maintain actions against any person who has wasted, destroyed, taken or carried away, or converted to his own use, the goods of their testator or intestate in his life time. They may also maintain actions for trespass committed on the real estate of the decedent in his life time. [P. C. 212; C. L. 5862.]

SECTION 313. An executor or administrator may under the direction of the county court, maintain any action which may be necessary to enforce his right to the possession of the property and effects of the decedent, collect all demands due the estate and secure an accounting or settlement of any partnership existing between the decedent, at or prior to his death, and any other person. He may also prosecute to final judgment any action commenced by the decedent, or by a special administrator, or other administrator previously appointed in the same case.

SECTION 314. An executor or administrator may, in his own name, for the use and benefit of all parties interested in the estate, maintain actions on the bond of an executor, or of any former administrator of the same estate. [P. C. 215; C. L. 5865.]

SECTION 315. The bond shall not be void upon the first recovery, but may be sued and recovered upon from time to time, by any person aggrieved, in his own name, until the whole penalty is exhausted. [P. C. 80; C. L. 5730.]

SECTION 316. Any executor or administrator who fraudulently sells any real estate of a decedent, contrary to or otherwise than under the provisions of this chapter, is liable in double the value of the land sold, as liquidated damages, to be recovered in an action by the person having an estate of inheritance therein. [P. C. 205; C. L. 5855.]

SECTION 317. Before an action can be maintained on the bond of an executor, whose letters have not been revoked, the party aggrieved must first obtain an order of the county court, authorizing him to bring the action; and before authority is given to bring an action upon the bond of a deceased executor or administrator whose account is unsettled, his sureties must be cited and have an opportunity to apply for and obtain a settlement of such account.

SECTION 318. If an action pending against the decedent at the time of his death is prosecuted to judgment against his representatives or successors in interest, the judgment does not become a lien, but is payable in the course of administration. [For P. C. 150; C. L. 5800.]

SECTION 319. When any judgment has been rendered

for or against the testator or intestate in his lifetime, or against his representative or successor in interest, no execution shall issue thereon after his death, except:

1. In case of the death of the judgment creditor, upon the application of his executor or administrator, or successor in interest.

2. In case of the death of the judgment debtor, if the judgment be for the recovery of real or personal property, or the enforcement of a lien thereon. If the execution is actually levied upon any property of the decedent before his death, the same may be sold for the satisfaction thereof, and the officer making the sale must account to the executor or administrator for any surplus in his hands. [For P. C. 153; C. L. 5803.]

SECTION 320. A judgment rendered against a decedent, dying after verdict or decision on an issue of fact, but before judgment is rendered thereon, is not a lien on the real property of the decedent, but is payable in due course of administration. [P. C. 154; C. L. 5804.]

SECTION 321. No action for the recovery of any estate sold by an executor or administrator or otherwise disposed of, under the provisions of this chapter, can be maintained by any heir or other person claiming under the decedent, unless it be commenced within three years next after the sale. An action to set aside a decree directing or confirming a sale or otherwise disposing of such property, may be instituted and maintained at any time within three years from the discovery of the fraud or other ground upon which the action is based. [For P. C. 206; C. L. 5856.]

SECTION 322. The preceding section shall not apply to minors or others under any legal disability to sue at the time when the right of action first accrues; but all such persons may commence an action at any time within three years after the removal of the disability. [P. C. 207; C. L. 5857.]

SECTION 323. When there is a deficiency of assets in the hands of an executor or administrator, and when the decedent, in his lifetime has conveyed any real estate, or any rights or interests therein, with intent to defraud his

creditors, or to avoid any right, debt or duty of any person, or has so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator must commence and prosecute to final judgment any proper action for the recovery of the same; and may recover for the benefit of the creditors all such real estate so fraudulently conveyed, and may also, for the benefit of the creditors, sue and recover all goods, chattels, rights or credits which have been so conveyed by the decedent in his lifetime, whatever may have been the manner of such fraudulent conveyance. [P. C. 218; C. L. 5868.]

SECTION 324. No executor or administrator is bound to sue for such estate as mentioned in the preceding section, for the benefit of the creditors, unless on application of creditors, who must pay such part of the costs and expenses of the suit, or give such security therefor to the executor or administrator, as the judge shall direct. [P. C. 219; C. L. 5869.]

SECTION 325. All real estate so recovered must be sold for the payment of debts, in the same manner as if the decedent had died seized thereof, upon obtaining an order therefor from the county court; and the proceeds of all goods, chattels, rights and credits so recovered must be appropriated in payment of the debts of the decedent, in the same manner as other property in the hand of the executor or administrator. [P. C. 220; C. L. 5870.]

SECTION 326. Whenever a debtor of a decedent is unable to pay all his debts, the executor or administrator, with the approbation of the county judge, may compound with him, and give him a discharge upon receiving a fair and just dividend of his effects. A compromise may also be authorized, when it appears to be just and for the interest of the estate. [P. C. 217; C. L. 5867.]

#### ARTICLE 9.—LIABILITY AND COMPENSATION OF EXECUTORS AND ADMINISTRATORS.

SECTION 327. No executor or administrator is chargeable upon any special promise to answer damages or to pay the debts of the testator or intestate out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by

such executor or administrator, or by some other person by him thereunto specially authorized. [P. C. 232; C. L. 5882.]

SECTION 328. Every executor and administrator is chargeable in his account with the whole of the estate of the decedent which may come into his possession, at the value of the appraisement contained in the inventory, except as provided in the following sections, and with all the interest, profit and income of such estate. [P. C. 233; C. L. 5883.]

SECTION 329. He shall not make profit by the increase, nor suffer loss by the decrease or destruction, without his fault; of any part of the estate. He must account for the excess when he sells any part of the estate for more than the appraisement, and if any part be sold for less than the appraisement, he is not responsible for the loss, if the sale has been justly made. [P. C. 234; C. L. 5884.]

SECTION 330. No executor or administrator is accountable for any debts due to the decedent, if it appears that they remain uncollected without his fault. [P. C. 233; C. L. 5885.]

SECTION 331. No administrator or executor shall purchase any claim against the estate he represents; and if he pays any claim for less than its nominal value, he is only entitled to charge in his account the amount he actually paid. [P. C. 237; C. L. 5887.]

SECTION 332. An executor or administrator is liable on his bond for money or other personal property of the estate which was in his hands or under his control when his letters were issued, in whatever capacity it was received by him or came under his control.

SECTION 333. When a judgment is recovered, with costs, against an executor or administrator, he shall be individually liable for such costs, but they must be allowed him in his administration accounts, unless it appears that the suit or proceeding in which the costs were taxed was prosecuted or defended without just cause. [P. C. 157; C. L. 5807.]

SECTION 334. He shall be allowed all necessary expenses in the care, management and settlement of the estate, and

for his services such fees as are provided in this chapter ; but when the decedent, by his will, make some other provision for the compensation of his executor, that shall be a full compensation for his services, unless by a written instrument, filed in the county court, he renounces all claims for compensation provided by the will. [P. C. 236; C. L. 5886.]

SECTION 335. When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commissions upon the amount of the whole estate accounted for by him, excluding all property not ranked as assets, as follows: For the first thousand dollars, at the rate of five per cent.; for all above that sum, and not exceeding five thousand dollars, at the rate of four per cent.; for all above that sum, at the rate of two and one-half per cent.; and the same commission must be allowed administrators. In all cases such further allowance may be made as the county court may deem just and reasonable, for any extraordinary service. The total amount of such allowance must not exceed the amount of commissions allowed by this section. [P. C. 238; C. L. 5888.]

ARTICLE 10.—ACCOUNTING AND SETTLEMENT BY EXECUTORS  
AND ADMINISTRATORS.

SECTION 336 At any time when required by the court either upon its own motion or upon the application of any person interested in the estate, the executor or administrator must render, for the information of the court, an exhibit under oath, showing the amount of money received and expended by him, and all other matters necessary to show the condition of its affairs. [For P. C. 239; C. L. 5889.]

SECTION 337. Any creditor or other person interested in the estate, may apply for an intermediate account by motion upon facts showing that it is necessary or proper that such exhibit should be made, and if the judge deems the application sufficient the executor or administrator must be cited accordingly. [For P. C. 241, 242.]

SECTION 338. When such exhibit is rendered by an executor or administrator, any person interested may appear

and, by objections in writing, contest any account or statement therein contained, and the court may examine the executor or administrator under oath and compel him to account fully in relation thereto. [For P. C. 243.]

SECTION 338½. Every executor or administrator must render a full account and report of his administration, and petition the court for a settlement thereof, within sixty days after the expiration of the notice to creditors, or whenever his authority ceases, and thereupon all parties interested must be cited to appear at the time fixed for such settlement. [For P. C. 245, 250, 251.]

SECTION 339. At the time designated in the last section if within that time all the property of the estate has been sold, or there are sufficient funds in his hands for the payment of all debts due by the estate, and the estate be in a proper condition to be closed, the executor or administrator must render a final account, and pray a settlement of his administration. [P. C. 267; C. L. 5917.]

SECTION 340. If the executor or administrator neglects to render such account or to petition the court for a settlement thereof as above prescribed, any creditor or other person interested may present a petition praying that an account may be taken, if necessary, and that the account may be settled and determined, and thereupon the executor or administrator, and all other persons interested may be cited to appear in like manner, and with the same effect as upon the petition of the executor or administrator. When the authority of an executor or administrator ceases or is revoked for any reason, the citation may be issued upon the petition of the succeeding administrator. [For P. C. 246; C. L. 5896.]

SECTION 341. At the hearing any person interested in the account may by his answer present objections to the account or any portion thereof, and may pray for a further accounting or such other relief as the circumstances may justify, and the court shall determine the issues and confirm the report, or require a further accounting, and otherwise make such decree as the circumstances of the case require.

SECTION 342. All matters, including allowed claims not

passed upon on the settlement of any former account, or on rendering an exhibit, or on making a decree of sale, may be contested by the heirs for cause shown. The hearing may be postponed from time to time, when necessary, and the court may appoint one or more referees to examine the accounts and make report thereon, subject to confirmation, and may allow a reasonable compensation to the referees, to be paid out of the estate of the decedent. [P. C. 253; C. L. 5903.]

SECTION 343. In rendering his account, the executor or administrator must produce and file vouchers for all charges, debts, claims and expenses which he has paid, which must remain in the court; and he may be examined on oath touching such payments, and also touching any property and effects of the decedent, and the disposition thereof. When any voucher is required for other purposes, it may be withdrawn on leaving a certified copy on file; if a voucher is lost, or for other good reason cannot be produced on the settlement, the payment may be proved by the oath of any competent witness. [P. C. 248; C. L. 5898.]

SECTION 344. On the settlement of his account he may be allowed any item of expenditure, not exceeding fifteen dollars, for which no voucher is produced, if such item be supported by his own uncontradicted oath reduced to writing and certified by the judge, positive to the fact of payment, specifying when, where and to whom it was made. [P. C. 249; C. L. 5899.]

SECTION 345. If the whole of the debts have been paid by the first distribution, the court must direct the payment of legacies and the distribution of the estate among the heirs, legatees, or other persons entitled as provided in the next chapter; but if there be debts remaining unpaid, or if, for other reasons, the estate be not in a proper condition to be closed, the court must give such extension of time as may be reasonable for a final settlement of the estate. [P. C. 266; C. L. 5916.]

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ARTICLE 11.—PARTIAL DISTRIBUTION BEFORE FINAL SETTLEMENT.

SECTION 346. At any time after the lapse of the time limited for filing claims, any heir, devisee or legatee may present his petition to the court for the legacy or share of the estate to which he is entitled, to be given to him upon his giving bond, with security, for the payment of his proportion of the debts of the estate. [P. C. 269; C. L. 5919.]

SECTION 347. All parties interested in the estate must be cited as in other cases. [For P. C. 270; C. L. 5920.]

SECTION 348. The executor or administrator, or any creditor or other person interested in the estate, may appear at the time named and resist the application, or any other heir, devisee or legatee may make a similar application for himself. [P. C. 171; C. L. 5921.]

SECTION 349. If at the hearing it appears that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. Each heir, legatee or devisee obtaining such order, before receiving his share or any portion thereof, to execute and deliver to the executor or administrator a bond, in such sum as shall be designated by the probate judge, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled.

2. The executor or administrator to deliver to the heir, legatee or devisee the whole portion of the estate to which he may be entitled, or only a part thereof, designating it. If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of these proceedings to be paid by the applicant, or if there be more than one, to be apportioned equally amongst them. [P. C. 272; C. L. 5922.]

SECTION 350. When any bond has been executed and

delivered, under the provisions of the preceding section, and it is necessary for the settlement of the estate to require the payment of any part of the money thereby secured, the executor or administrator must apply to the court for an order requiring the payment, and have a citation issued and served on the party bound, requiring him to appear and show cause why the order should not be made. At the hearing, the court, if satisfied of the necessity of such payment, must make an order accordingly, designating the amount and giving a time within which it must be paid. If the money is not paid within the time allowed, an action may be maintained by the executor or administrator on the bond. [P. C. 273; C. L. 5923.]

ARTICLE 12.—DISTRIBUTION OF THE ESTATE UPON FINAL SETTLEMENT.

SECTION 351. Upon the final settlement of the accounts of the executor or administrator, or at any subsequent time, upon the petition of the executor or administrator, or of any heir, legatee or devisee, the court must proceed to distribute the residue of the estate in the hands of the executor or administrator, if any, among the persons who by law are entitled thereto; and if the decedent has left a surviving child, and the issue of other children, and any of them, before the close of administration have died while under age, and not having been married, no administration on such deceased child's estate is necessary, but all the estate which such deceased child was entitled to by inheritance, must, without administration, be distributed to the other heirs at law. A statement of any receipts and disbursements of the executor or administrator, since the rendition of his final accounts, must be reported and filed at the time of making such distribution, and a settlement thereof, together with an estimate of the expenses of closing the estate, must be made by the court and included in the order or decree; or the court or judge may order notice of the settlement of such supplementary account, and refer the same as in other cases of the settlement of accounts. (P. C. 274; C. L. 5924.)

SECTION 352. Any respondent may by his answer controvert the allegations of the petition, and claim any share

or interest to which he believes himself entitled to receive, and pray for partition. The issues so joined shall be tried and determined by the court as in other cases.

SECTION 353. Before any decree or distribution of an estate is made, the probate court must be satisfied, by the oath of the executor or administrator, or otherwise, that all State, county, school and municipal taxes, legally levied upon personal property of the estate, have been fully paid. (P. C. 278; C. L. 5928.)

SECTION 354. In the decree, the court must name the persons and the proportions or parts to which each shall be entitled; and such persons may demand, sue for and recover their respective shares from the executor or administrator, or any person having the same in possession. Or the court may order a partition and after such further proceedings as may be necessary under the following sections, shall make a further decree assigning to each party his separate share and confirming the distribution accordingly. (For P. C. 275; C. L. 5925.)

SECTION 355. All questions as to advancements made, or alleged to have been made, by the decedent to his heirs, may be heard and determined by the county court, and must be specified in the decree assigning and distributing the estate; and the final judgment or decree of the court, or in case of an appeal, of the district court or supreme court, is binding on all parties interested in the estate. (P. C. 290; C. L. 5940.)

SECTION 356. When the county court makes a decree assigning the residue of any estate to two or more persons entitled to the same, it is not necessary to make partition or distribution thereof, unless the parties to whom the assignment is decreed, or some of them, request that such partition be made. (P. C. 289; C. L. 5939.)

SECTION 357. Partition or distribution of the real estate may be made as provided in this chapter, although some of the original heirs, legatees, or devisees may have conveyed their share to other persons, and such shares must be assigned to the persons holding the same, in the same manner as they otherwise would have been to such heirs, legatees or devisees. (P. C. 282; C. L. 5932.)

SECTION 358. When both distribution and partion are made, the several shares in the real and personal estate must be set out to each individual in proportion to his right, by metes and bonds, or description, so that the same can be easily distinguished, unless two or more of the parties intesested consent to have their shares set out so as to be held by them in common and undivided. (P. C. 283; C. L. 5933.)

#### ARTICLE 13.—PROCEEDINGS FOR PARTITION.

SECTION 359. To make the partition the court must appoint three commissioners, who must be disinterested persons, and must be sworn to the faithful discharge of their duties, and shall receive the same compensation as appraisers. A certified copy of their appointment, and of the order or decree assigning and distributing the estate, must be issued to them as their warrant, and their oaths must be endorsed thereon. Upon consent of the parties, or when the court deems it proper and just, it is sufficient to appoint one commissioner only, who has the same authority, and is governed by the same rules as if three were appointed. (For P. C. 279; C. L. 5929.)

SECTION 360. If the real estate is in different counties, the county court may, if deemed proper, appoint commissioners for all, or different commissioners for each county. The whole estate, whether in one or more counties, shall be divided among the heirs, devisees or legatees as if it were all in one county, and the commissioners must, unless otherwise directed by the court, make division of such real estate, wherever situated within this State. (P. C. 281; C. L. 5931.)

SECTION 361. Before any partition is made, or any estate is divided, as provided in this chapter, notice must be given to all persons interested in the partition, their guardians, agents or attorneys, by the commissioners, of the time and place when and where they shall proceed to make partition. The commissioners may take testimony, order surveys and take such other steps as may be necessary to enable them to form a judgment upon the matters before them. (P. C. 287; C. L. 5937.)

SECTION 362. When the real estate cannot be divided without prejudice or inconvenience to the owners, the county court may assign the whole to one or more of the parties entitled to shares therein, who will accept it, always preferring the males to the female, and among children, preferring the elder to the younger. The parties accepting the whole must pay to the other parties interested their just proportion of the true value thereof, or secure the same to their satisfaction; or, in case of the minority of such party, then to the satisfaction of his guardian, and the true value of the estate must be ascertained and reported by the commissioners. When the commissioners appointed to make partition are of the opinion that the real estate cannot be divided without prejudice or inconvenience to the owners, they must so report to court and recommend that the whole be assigned as herein provided and must find and report the true value of such real estate. On filing the report of the commissioners and on making or securing the payment as before provided, the court, if it appears just and proper, must confirm the report and thereupon the assignment is complete, and the title to the whole of such real estate vests in the person to whom the same is so assigned. (P. C. 284.)

SECTION 363. When any tract of land or tenement is of greater value than any one's share in the estate to be divided, and cannot be divided without injury to the same, it may be set off by the commissioners appointed to make partition to any of the parties who will accept it, giving preference as prescribed in the preceding section. The party accepting must pay or secure to the others such sum as the commissioners shall award to make the partition equal, and the commissioners must make their awards accordingly; but such partition must not be established by the court until the sums awarded are paid to the parties entitled to the same, or secured to their satisfaction. (P. C. 285.)

SECTION 364. The commissioners must report their proceedings, and the partition agreed upon by them, to the county court in writing, and the court may for sufficient reasons set aside the report and commit the same to the same commissioners, or appoint others. (P. C. 288.)

SECTION 365. When it appears to the court, from the commissioners' report, that it cannot be otherwise fairly divided, and should be sold, the court may order the sale of the whole or any part of the estate, real or personal, by the executor or administrator, or by a commission appointed for that purpose, and the proceeds distributed. The sale must be conducted, reported and confirmed in the same manner and under the same requirements, as provided in Article six of this chapter. (P. C. 286.)

ARTICLE 14.—DISTRIBUTION OF ESTATES OF DECEASED NON-RESIDENTS.

SECTION 366. Upon application for distribution, after final settlement of accounts of administration, if the decedent was a non-resident of the State, leaving a will which has been duly proved, or allowed in the state, territory or district of his residence, and an authenticated copy thereof has been admitted to probate in this State, and it is necessary, in order that the estate or any part thereof may be distributed according to the will, that the estate in this State should be delivered to the executor or administrator in the state or place of his residence, the court may order such delivery to be made, and if necessary, order a sale of the real estate, and a like delivery of the proceeds. The delivery, in accordance with the order of the court, is a full discharge of the executor or administrator with the will annexed in this State, in relation to all property embraced in such order. Sales of real estate ordered by virtue of this section must be made in the same manner as other sales of real estate of decedents by order of the county court. (P. C. 276.)

SECTION 367. The validity and effect of a testamentary disposition of real property, situated within the State, or of an interest in real property so situated, which would descend to an heir of an intestate, and the manner in which such property or such an interest descends, where it is not disposed of by will, are regulated by the laws of this State, without regard to the residence of the decedent. Except where special provision is otherwise made by law, the validity and effect of a testamentary disposition of any other property situated within the State,

and the ownership and disposition of such property, where it is not disposed of by will, are regulated by the laws of the state or country of which the decedent was a resident, at the time of his death.

SECTION 368. Upon the settlement of such estate, and after the payment of all debts for which the same is liable in this State, the residue of the personal estate may be distributed and disposed of in manner aforesaid by the county court; or, in the discretion of the court, it may be transmitted to the executor or administrator, if any, in the state or country where the deceased had his domicile, to be there disposed of according to the laws thereof.

SECTION 369. If such person dies insolvent, his estate found in this State shall, as far as practicable, be so disposed of that all his creditors here and elsewhere may receive each an equal share in proportion to their respective debts.

SECTION 370. To this end, his estate shall not be transmitted to the foreign executor or administrator until all the creditors who are citizens of this State have received the just proportion and no creditor who is not a citizen of this State shall be paid out of the assets found here, until all those who are citizens have received their just proportions as provided in the preceding section.

SECTION 371. If there is any residue after such payment to the citizens of this State, it may be paid to any other creditors who have duly proved their debts here, in proportion to the amount due to each of them; but no one shall receive more than would be due to him if the whole estate were divided ratably among all of the creditors as before provided. The balance may be transmitted to the foreign executor or administrator; or if there is none, it shall, after the expiration of one year from the appointment of the administrator, be distributed ratably among all creditors, both citizens and others, who have proved their debts in this State.

#### ARTICLE 15.—DISPOSITION OF UNCLAIMED SHARES.

SECTION 372. When any estate is assigned or distributed by a decree of the court to any person residing out of and

having no agent in this State, and it is necessary that some person should be authorized to take possession and charge of the same for the benefit of such absent person, the court may appoint an agent for that purpose, and authorize him to take charge of such estate as well as to act for such absent person in the distribution. [P. C. 291.]

SECTION 373. The agent must first give a bond to be approved by the county judge, conditioned that he shall faithfully manage and account for the estate. The court appointing such agent may allow a reasonable sum out of the profits of the estate for his services and expenses. [P. C. 292.]

SECTION 374. When personal property remains in the hands of the agent unclaimed for a year, and it appears to the court that it is for the benefit of those interested, it shall be sold under the order of the court, and the proceeds, after deducting the expenses of the sale allowed by the court, must be paid into the State treasury. When the payment is made, the agent must take from the Treasurer duplicate receipts, one of which he must file in the office of the State Auditor, and the other in the county court. [P. C. 293.]

SECTION 375. The agent must render to the county court appointing him, annually, an account showing:

1. The value and character of the property received by him, what portion thereof is still on hand, what sold and for what.

2. The income derived therefrom.

3. The taxes and assessments imposed thereon, for what, and whether paid or unpaid.

4. Expenses incurred in the care, protection and management thereof, and whether paid or unpaid. When filed, the county court may examine witnesses and take proofs in regard to the account; and if satisfied from such accounts and proofs that it will be for the benefit and advantage of the persons interested therein, the court may, by order, direct a sale to be made of the whole or such parts of the real or personal property as shall appear to be proper, and the purchase money to be deposited in the

State treasury, to be receipted for and the receipts filed as in like cases before provided. [P. C. 294.]

SECTION 376. The agent is liable on his bond for the care and preservation of the estate while in his hands, and for the payment of the proceeds of the sale, as required in the preceding sections, and may be sued thereon by any person interested. [P. C. 295.]

SECTION 377. When any person appears and claims the money paid into the treasury, the county court making the distribution must inquire into such claim, and, being first satisfied of his right thereto, must grant him a certificate to that effect, under its seal; and upon the presentation of the certificate to him, the State Auditor must draw a warrant on the treasurer for the amount. [P. C. 296.]

SECTION 378. The final settlement of an estate as hereinbefore provided, shall not prevent a subsequent issue of letters testamentary or of administration, or of administration with the will annexed, if other property of the estate be discovered, or if it become necessary or proper for any cause that letters should be again issued. [P. C. 298.]

## CHAPTER VII.

### ARTICLE 1.—OF GUARDIAN AND WARD.—GUARDIANS OF MINORS.

SECTION 379. The county court of each county, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either, or both of them, of minors who have no guardian legally appointed by will, or deed, and who are inhabitants or residents of the county, or who reside without the State and have estate within the county. Such appointment may be made on the petition of a relative or other person in behalf of such minor, after the person having the custody of such minor, and such his relatives as the court shall deem proper, have been cited to appear. (P. C. 333.)

SECTION 380. If the minor is under the age of fourteen years, the judge may nominate and appoint his guardian. If he is above the age of fourteen years he may nominate

his own guardian, who, if approved by the judge, must be appointed accordingly. (P. C. 334.)

SECTION 381. If the guardian nominated by the minor, is not approved by the judge, or if the minor resides out of the State, or if, after being duly cited by the judge, he neglects for ten days to nominate a suitable person, the judge may nominate and appoint the guardian, in the same manner as if the minor was under the age of fourteen years. (P. C. 335.)

SECTION 382. When a guardian has been appointed by the court for a minor under the age of fourteen years, the minor, at any time after he has attained that age, may appoint his own guardian subject to the approval of the judge. (P. C. 336.)

SECTION 383. The father of a minor, if living, and in case of his decease, the mother, while she remains unmarried, being themselves respectively competent to transact their own business, and not otherwise unsuitable, are entitled to the guardianship of the minor. (P. C. 337.)

SECTION 384. If the minor has no father or mother living competent to have the custody and care of his education, the guardian appointed shall have the same. (P. C. 338.)

SECTION 385. Every guardian so appointed shall have the custody and care of the education of the minor, and the care and management of his estate, until such minor arrives at the age of majority, or marries, or until the guardian is legally discharged. (P. C. 339.)

SECTION 386. Before the order appointing any person guardian under this chapter takes effect, and before letters issue, the judge must require such person to give bond, with sufficient sureties, and otherwise qualify as prescribed in Chapter 5 of this Code. (P. C. 340.)

SECTION 387. When any person is appointed guardian of a minor, the county judge may, with the consent of such person, insert in the order of appointment conditions not otherwise obligatory, providing for the care, treatment, education and welfare of the minor. The performance of such conditions is a part of the duties of the

guardian, for the faithful performance of which he and the sureties on his bond are responsible. (P. C. 341.)

SECTION 388. If any minor, having a father living, has property, the income of which is sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of the father's family, and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of his own property, in whole or in part, as judged reasonable, and must be directed by the county court; and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian. (P. C. 343.)

SECTION 389. Every testamentary guardian must give bond and qualify, and has the same powers and must perform the same duties with regard to the person and estate of his ward, as guardians appointed by the county court, except so far as their powers and duties are legally modified, enlarged, or changed by the will by which such guardian was appointed. (P. C. 344.)

SECTION 390. Nothing contained in this chapter affects or impairs the power of any court to appoint a guardian to defend the interests of any minor interested in any suit or matter pending therein. (P. C. 345.)

## ARTICLE 2.—GUARDIANS OF INSANE AN INCOMPETENT PERSONS.

SECTION 391. When it is represented to the county court upon verified petition of any relative or friend, that any person is of unsound mind or from any cause mentally incompetent to manage his property, the judge must cause such person to be cited as in other cases, except that the time of service may be the same as upon a motion. (P. C. 346.)

SECTION 392. If, after a full hearing and examination upon such petition, it appears to the court that the person in question is incapable of taking care of himself and managing his property, he must appoint a guardian of his person and estate, with the powers and duties in this chapter specified. (P. C. 347.)

SECTION 393. Every guardian appointed as provided in the preceding section has the care and custody of the person of his ward and the management of all of his estate until such guardian is legally discharged; and he must give bond in like manner and with like conditions as before prescribed with respect to the guardian of a minor. (P. C. 348.)

SECTION 394. Any person who has been declared to be of unsound mind or the guardian of any relative of such person, within the third degree, or any friend may apply by petition to the county court of the county in which he was so declared, to have the fact of his restoration to capacity judicially determined. The petition shall be verified, and shall state that such person is then sane. Upon receiving the petition the judge must appoint a day for the hearing, and cause a citation to be issued to the guardian of the petitioner, if there is a guardian, and to his or her husband or wife, if there is one, and to his or her father or mother, if living in the county. On the trial, the guardian or relative of the petitioner, and in the discretion of the judge, any other person, may contest the right of the petitioner to the relief demanded. Witnesses may be required to appear and testify, as in other cases, and may be called and examined by the judge on his own motion. If it be found that the petitioner is of sound mind and capable of taking care of himself and property, his restoration to capacity shall be adjudged, and the guardianship of such person, if such person be not a minor, shall cease. (P. C. 349.)

### ARTICLE 3.—THE POWERS AND DUTIES OF GUARDIANS.

SECTION 395. Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, must pay all just debts due from the ward out of his personal estate and income of his real estate, if sufficient; if not, then out of his real estate, upon obtaining an order for the sale thereof, and disposing of the same in the manner provided by law for the sale of real estate of decedents. (P. C. 350.)

SECTION 396. Every guardian must settle all accounts of

the ward, and demand, sue for, and receive all debts due to him, or may, with the approbation of the county court, compound for the same, and give discharges to the debtors on receiving a fair and just dividend of his estate and effects; and he must appear for and represent his ward in all legal suits and proceedings, unless a special guardian is appointed for that purpose. (P. C. 351.)

SECTION 397. Every guardian must manage the estate of his ward frugally and without waste, and apply the income and profits thereof, as far as may be necessary, for the comfortable and suitable maintenance and support of the ward, and his family, if there be any; and if such income and profits are insufficient for that purpose, the guardian may sell the real estate upon obtaining a decree of the county court therefor, and must apply the proceeds of such sale, as far as may be necessary, for the maintenance and support of the ward and his family, if there be any. (P. C. 352.)

SECTION 398. When a guardian has advanced, for the necessary maintenance, support and education of his ward, an amount not disproportionate to the value of his estate or his condition of life, and the same is made to appear to the satisfaction of the court by proper vouchers and proofs, the guardian must be allowed credit therefor in his settlement. Whenever a guardian fails, neglects or refuses to furnish suitable and necessary maintenance, support or education, for his ward, the court may order him to do so, and enforce such order by proper process. Whenever any third person at his request, supplies a ward with suitable and necessary maintenance, support or education, and it is shown to have been done after refusal or neglect of the guardian to supply the same, the court may direct the guardian to pay therefor out of the estate, and enforce such payment by due process. (P. C. 353.)

SECTION 399. Every guardian must return to the county court an inventory of the estate of his ward within three months after his appointment, and annually thereafter, when the value of the estate exceeds the sum of twenty thousand dollars, semi-annual returns must be made to the court. The court may, upon application made for that purpose by any person, compel the guardian to render an

account of the estate. The inventories and accounts so to be returned or rendered, must be sworn to by the guardian. All the estate of the ward described in the first inventory must be appraised by appraisers appointed, sworn, and acting in the manner provided for regulating the settlement of the estate of decedents. Whenever any other property of the estate of any ward is discovered, not included in the inventory of the estate already returned, and whenever any other property has been succeeded to or acquired by any ward, or for his benefit, the like proceedings must be had for the return and appraisement thereof that are herein provided in relation to the first inventory and return. (P. C. 355.)

SECTION 400. The guardian must, upon the expiration of a year from the time of his appointment, and as often thereafter as he may be required, present his accounts to the county court for settlement and allowance. (P. C. 356.)

SECTION 401. When an account is rendered by two or more joint guardians, the court may, in his discretion, allow the same upon oath of any of them. (P. C. 357.)

SECTION 402. Every guardian must be allowed the amount of his reasonable expenses incurred in the execution of his trust, and he may also have compensation for his services as the court in which his accounts are settled deems just and reasonable. (P. C. 358.)

#### ARTICLE 4.—SALES OF PROPERTY AND DISPOSITION OF THE PROCEEDS.

SECTION 403. When the income of an estate under guardianship is not sufficient to maintain the ward and his family, or to maintain and educate the ward when a minor, his guardian may sell his real or personal estate for that purpose, upon obtaining a decree therefor. [P. C. 359.]

SECTION 404. When it appears to the satisfaction of the court, upon the petition of the guardian, that for the benefit of his ward his real estate, or some part thereof, should be sold, and the proceeds put out at interest, or invested in some productive stock, or in the improvement or security of any other real estate of the ward, his guardian

may sell the same for such purpose, upon obtaining a decree therefor. [P. C. 360.]

SECTION 405. If the estate is sold for the purposes mentioned in this article, the guardian must apply the proceeds of the sale to such purposes, as far as necessary, and put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital is wanted for the maintenance of the ward and his family, or the education of his children, or for the education of the ward when a minor, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate of the ward. [P. C. 361.]

SECTION 406. If the estate is sold for the purpose of putting out or investing the proceeds, the guardian must make the investment according to his best judgment or in pursuance to any order that may be made by the county court. [P. C. 362.]

SECTION 407. To obtain a decree for such sale, the guardian must present to the county court of the county in which he was appointed, a petition therefor, setting forth the condition of the estate of his ward, and the facts and circumstances on which the petition is founded, tending to show the necessity or expediency of a sale. [P. C. 363.]

SECTION 408. If it appears to the court from the petition, that it is necessary or would be beneficial to the ward that the real estate, or some part of it, should be sold, or that the real and personal estate should be sold, the court or judge must thereupon issue a citation to the next of kin of the ward, and all persons interested in the estate, to appear before the court and answer thereto. [For P. C. 364.]

SECTION 409. The county court, at the time and place appointed or such other time to which the hearing is postponed, upon proof of the service of the citation must hear and examine the proofs and allegations of the petitioner and of the next of kin and all other persons interested in the estate who oppose the application. [P. C. 366.]

SECTION 410. On the hearing the guardian may be examined on oath and witnesses may be produced and examined by either party. [P. C. 367.]

SECTION 411. If, after a full examination, it appears necessary or for the benefit of the ward that his real estate or some part thereof should be sold, the court may make a decree directing such sale, specifying therein the causes or reasons why the sale is necessary or beneficial, and may, if the same has been prayed for in the petition, order such sale to be made either at public or private sale. [P. C. 369.]

SECTION 412. Every guardian authorized to sell real estate must before the sale give bond with sufficient sureties, to be approved by the judge, with condition to sell the same in the manner and to account for the proceeds of the sale as provided for in this chapter and Chapter 5 of this Code. [For P. C. 370.]

SECTION 413. All proceedings under petitions of guardians for sales of property of their wards, giving notice and the hearing of such petitions, granting and refusing an order of sale, directing the sale to be made at public or private sale, reselling the same property, return of sale and application for confirmation thereof notice and hearing of such application, making orders, rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, accounting and the settlement of accounts, must be had and made as provided and required by the provisions of law concerning the estates of decedents unless otherwise specially provided in this chapter. [P. C. 371.]

SECTION 414. No decree granted in pursuance of this article continues in force more than one year after granting the same, without sale being had. [P. C. 372.]

SECTION 415. All sales of real estate of wards must be for cash or for part cash and part deferred payments not to exceed three years, bearing date from date of sale, as in the discretion of the judge is most beneficial to the ward. Guardians making sales must demand and receive from the purchasers bond and mortgage on the real estate sold, with such additional security as the judge deems necessary and sufficient to secure the faithful payment of the deferred payments and the interest thereon. [P. C. 373.]

SECTION 416. The county court, on the application of a guardian or any person interested in the estate, of any

ward, after such notice to persons interested therein as the judge shall direct, may authorize and require the guardian to invest the proceeds of sales, and any other of his ward's money in his hands, in real estate, or in any other manner most to the interest of all concerned therein; and the court may make such other orders and give such directions as are needful for the management, investment and disposition of the estate and effects, as circumstances require. [P. C. 374.]

#### ARTICLE 5.—NON-RESIDENT GUARDIANS AND WARDS.

SECTION 417. When a person liable to be put under guardianship, according to the provisions of this chapter, resides without this State and has estate therein, any friend of such person, or any one interested in his estate, in expectancy or otherwise, may present a petition to the county judge of any county in which there is any estate of such absent person, for the appointment of a guardian; and if, after a citation to all interested, and a full hearing and examination, it appears proper, a guardian for such absent person may be appointed. [For P. C. 375.]

SECTION 418. Every guardian appointed under the preceding section, has the same powers and performs the same duties, with respect to the estate of the ward found within the State, and with respect to the person of the ward, if he shall cease to reside therein, as are prescribed with respect to any other guardian appointed under this chapter. [P. C. 376.]

SECTION 419. Every such guardian must give bond in the manner and with the like conditions as hereinbefore provided for other guardians, except that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian must be confined to such estate and effects as come to his hands in this State. [P. C. 377.]

SECTION 420. When the guardian and ward are both non-residents and the ward is entitled to property in this State, which may be removed to another territory, state or foreign country without conflict with any restriction or limitation thereupon, or impairing the right of the ward

thereto, such property may be removed to the territory, state or foreign country of the residence of the ward, upon the application of the guardian to the judge of the county court of the county in which the estate of the ward, or the principal part thereof, is situated. [P. C. 379.]

SECTION 421. The application must be made by petition and citation must issue to the resident executor, administrator, or guardian, if there be such, and upon such application the non-resident guardian must produce and file a certificate, under the hand of the clerk, judge, surrogate or other authorized officer, and the seal of the court from which his appointment was derived, showing:

1. A transcript of the record of his appointment.
2. That he has entered upon the discharge of his duties.

3. That he is entitled by the laws of the territory, state or country of his appointment to the possession of the estate of the ward; or must produce and file a certificate under the hand and seal of the clerk, judge, surrogate or other authorized officer of the court having jurisdiction in the country of his residence of the estates of persons under guardianship, or of the highest court of such territory, state or country, that by the laws of such country the applicant is entitled to the custody of the estate of his ward without the appointment of any court. Upon such application, unless good cause to the contrary be shown, the county court must make an order granting to such guardian leave to take and remove the property of his ward to the territory, state or place of his residence, which is authority to him to sue for and receive the same in his own name, for the use and benefit of his ward. [P. C. 380.]

SECTION 422. Such order is a discharge of the executor, administrator, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the county court the receipt therefor of the foreign guardian of such absent ward. [P. C. 381.]

#### ARTICLE 6.—GENERAL AND MISCELLANEOUS PROVISIONS.

SECTION 423. Upon a complaint made to him by any guardian, ward, creditor or other person interested in the

estate, or having a prospective interest therein as heir or otherwise, against anyone suspected of having concealed, or conveyed away any of the money, goods or effects, or an instrument in writing, belonging to the ward or to his estate, the court may cite such suspected person to appear before him, and may examine and proceed with him on such charge in the manner provided by law with respect to persons suspected of, and charged with, concealing or embezzeling the effects of a decedent. [P. C. 382.]

SECTION 424. The marriage of a minor ward terminates the guardianship; and the guardian of an insane or other person may be discharged by the judge of the county court when it appears to him, on the application of the ward or otherwise that the guardianship is no longer necessary. [P. C. 384.]

SECTION 425. Every bond given by a guardian must be filed and preserved in the office of the county judge; and in case of a breach of a condition thereof, may be prosecuted for the use and benefit of the ward or of any person interested in the estate. [P. C. 386.]

SECTION 426. No action can be maintained against the sureties on any bond given by a guardian, unless commenced within three years from the discharge or removal of the guardian; but if at the time of such discharge the person entitled to bring such action is under any legal disability to sue, the action may be commenced at any time within three years after such disability is removed. [P. C. 387.]

SECTION 427. No action for the recovery of any estate, sold by a guardian, can be maintained by the ward, or by any person claiming under him, unless it is commenced within three years next after the termination of the guardianship, or when a legal disability to sue exists by reason of minority or otherwise, at the time when the cause of action accrues, within three years next after the removal thereof. [P. C. 388.]

SECTION 428. The court in its discretion, whenever necessary, may appoint more than one guardian of any person subject to guardianship, who must give bond and

be governed and liable in all respects as a sole guardian.  
[P. C. 389.]

SECTION 431. Except where otherwise specially provided by this Code, all bonds, undertakings and recognizances in anywise required by the provisions of this Code, shall run to the State of North Dakota as nominal payee, and an action may be brought and maintained on any such bond, undertaking or recognizance by and in the name of any person injured by any violation of the provisions thereof.

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APPENDIX.

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POLITICAL CODE.

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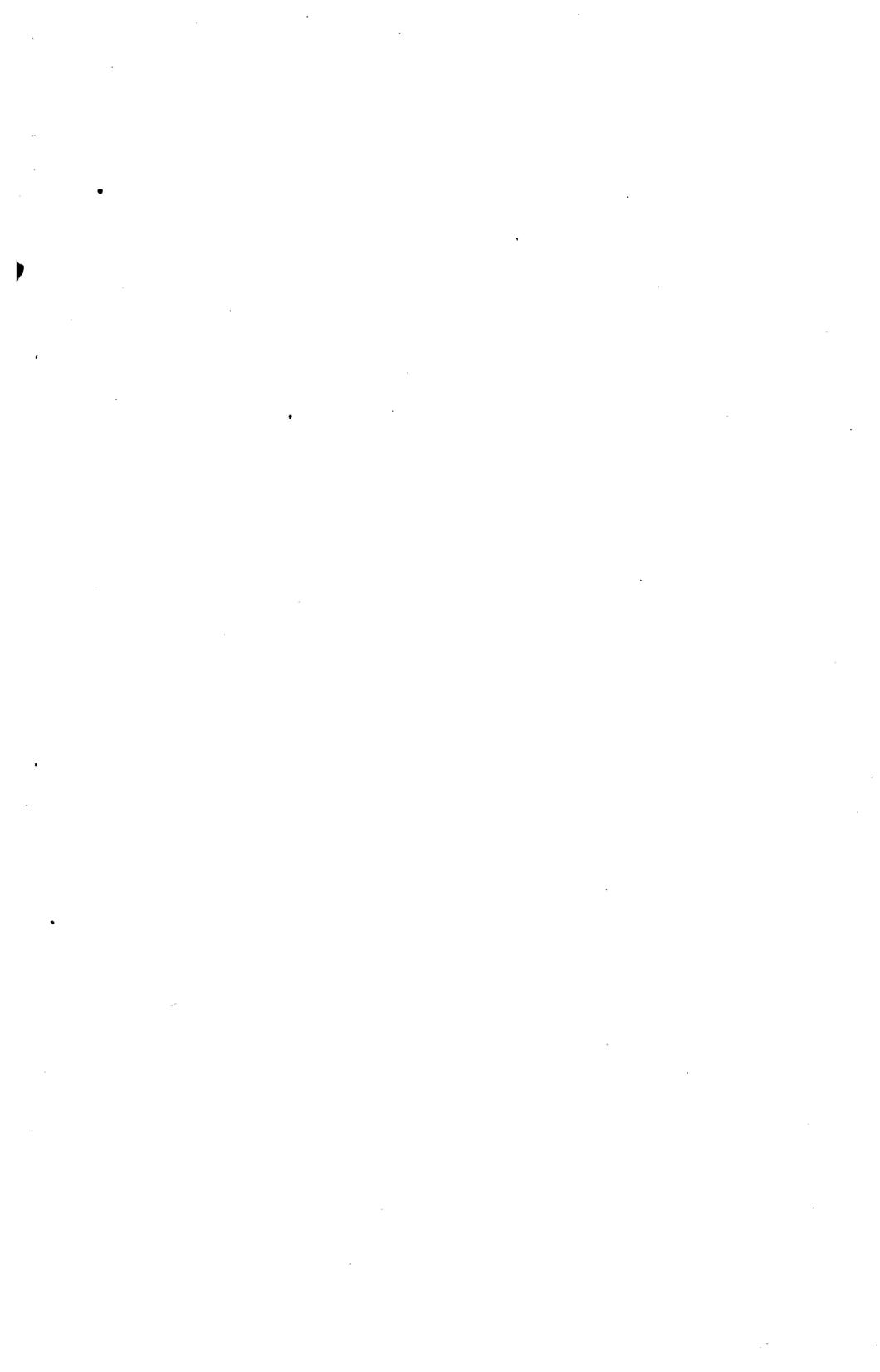
PROPOSED CHANGES IN THE LAW SHOWN BY THE REPORT  
OF THE REVISION COMMISSION, WHICH RELATE TO SUB-  
STANTIVE LAW AND AMOUNT TO NEW LEGISLATION.

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REPORT OF JOINT COMMITTEE.

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## A BILL

For an Act to Establish a Political Code for the State of North Dakota.

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

## TITLE.

SECTION 1. This act shall be known as the Political Code of the State of North Dakota, and is divided into chapters as follows:

## CHAPTER I.

## THE SOVEREIGNTY OF THE STATE AND THE POLITICAL RIGHTS AND DUTIES OF ALL PERSONS SUBJECT TO ITS JURISDICTION.

SECTION 2. The sovereignty and jurisdiction of this State extends to all places within its boundaries as established by the Constitution, but the extent of such jurisdiction over places that have been or may be ceded to, purchased or condemned by the United States, is qualified by the terms of such cession or the laws under which such purchase or condemnation has been or may be made. (Cal. 33.)

SECTION 3. The Legislative Assembly consents to the purchase or condemnation by the United States of any tract within this State for the purpose of erecting forts, magazines, arsenals, dock yards, and other needful buildings, upon the express condition that all civil process issued from the courts of this State, and such criminal process as may issue under the authority of this State,

against any person charged with crime, may be served and executed thereon in the same manner and by the same officers as if the purchase or condemnation had not been made. (Cal. 34.)

SECTION 4. The State has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law.

1. To punish for crime.
  2. To imprison or confine for the protection of the public peace or health, or of individual life or safety.
  3. To imprison or confine for the purpose of enforcing civil remedies.
  4. To establish custody and restraint for the persons of idiots, lunatics, drunkards and other persons of unsound mind.
  5. To establish custody and restraint of paupers for the purpose of their maintenance.
  6. To establish custody and restraint of minors unprovided for by natural guardians for the purposes of their education, reformation and maintenance.
  7. To require services of persons with or without compensation; in military duty, in jury duty, as witnesses, as township or village officers, in highway labor, in maintaining the public peace, in enforcing the service of process, in protecting life and property from fire, pestilence, wreck or flood, and in such other cases as are provided by law. (Cal. 37.)
5. The original and ultimate right to all property, real or personal, within the limits of this State, is in the State.
  6. All property, real and personal, within the limits of this State, which does not belong to any person or to the United States, belongs to the State. Whenever the title to any property fails for want of heirs or next of kin, it reverts to the State. (Cal. 41.)
  7. The State may acquire property by taxation in the modes authorized by law. (Cal. 43.)

8. It may acquire or authorize others to acquire title to property, real or personal, for public use, in the cases and in the mode provided by law. (Cal. 44.)

9. The people as a political body, consist:

1. Of citizens who are electors;
2. Of citizens not electors. (Cal. 50.)

10. The citizens of the State are:

1. All persons born in this State and residing within it, except the children of transient aliens and of alien public ministers and consuls;

2. All persons born out of this State and who are citizens of the United States and residing within this State. (Cal. 51.)

11. Every person has in law a residence. In determining the place of residence the following rules are to be observed:

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose.

2. There can be only one residence.

3. A residence cannot be lost until another is gained.

4. The residence of the father during his life, and after his death the residence of the mother, while she remains unmarried, is the residence of the unmarried minor children.

5. The residence of the husband is presumptively the residence of the wife.

6. The residence of an unmarried minor who has a parent living cannot be changed by either his own act or that of his guardian.

7. The residence can be changed only by the union of act and intent. (Cal. 52.)

12. Every person while within this State is subject to its jurisdiction and entitled to its protection.

13. Allegiance is the obligation of fidelity and obedience which every citizen owes to the State. (Cal. 55.)

14. Allegiance may be renounced by a change of residence. (Cal. 56.)

SECTION 15. Persons in this State not its citizens, are either :

1. Citizens of other states, or
2. Aliens. (Cal. 57.)

SECTION 16. Every elector is eligible to the office for which he is an elector, except when otherwise specially provided, and no person is eligible who is not such an elector. (Cal. 58.)

SECTION 17. An elector has no rights or duties beyond those of a citizen not an elector, except the right and duty of holding and electing to office. (Cal. 59.)

SECTION 18. A citizen of the United States who is not a citizen of this State has the same rights and duties as a citizen of this State not an elector. (Cal. 60.)

## CHAPTER II.

### ARTICLE I.—THE LEGISLATIVE ASSEMBLY—MEETING AND ORGANIZATION OF THE LEGISLATIVE ASSEMBLY.

SECTION 19. The Legislative Assembly shall meet at the seat of government at twelve o'clock noon on the first Tuesday after the first Monday in January in the year next following the election of the members thereof. (For s. 2, c. 2 Pol. C. See Const. s. 53.)

SECTION 19. It shall be the duty of the secretary of the Senate and the chief clerk of the House, at the opening of each session of the Legislative Assembly to make a correct roll of the members of their houses respectively, to whom certificates of election have been issued, by the proper officers, which certificates shall be filed by such secretary and chief clerk, and the same shall be *prima facie* evidence of the right to membership of the person certified therein to be elected, for all purposes of the organization of either branch of the Legislative Ass embly. (For 3, 14, c. 2 Pol. C.)

SECTION 21. In all cases the secretary of the Senate and chief clerk of the House serving at the close of a session

shall remain in office until the organization of the next regular session of the Legislative Assembly, and at twelve o'clock noon on the day appointed by law for the meeting of the Legislative Assembly, the said officers, or in the absence of either, then some member or other person appointed by the members present, shall call the members of their respective houses so enrolled to order, when the members may proceed to the election of the necessary officers. The term of office of all officers of the Senate and House of Representatives shall expire with the close of the session at which they were elected, except the secretary of the Senate and the chief clerk of the House, for the purposes herein designated. (Sec. 15, c. 2.)

SECTION 22. Each house may punish by imprisonment, as for a contempt, a breach of its privileges or the privileges of its members; but only for one or more of the following offenses:

1. Knowingly arresting a member or officer of the House, or procuring such member or officer to be arrested, in violation of his privilege from arrest.

2. Disorderly conduct in the immediate view of the House, and directly tending to interrupt its proceedings.

3. Refusing to attend and be examined as a witness either before the House, or a committee thereof, or before any person authorized to take testimony in legislative proceedings.

4. Giving or offering a bribe to a member, or attempting by menace or other corrupt means or device, directly or indirectly, to control or influence a member in giving his vote, or to prevent his giving the same; but the term of imprisonment which such house may impose for any contempt specified in this section, shall not continue beyond thirty days, nor extend beyond the same session of the Legislative Assembly. (S. 4 c. 4. Also, see s. 48 Const.)

SECTION 23. Every person who shall be guilty of any contempt specified in the preceding section, shall also, be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment not exceeding six months, or by fine not exceeding five hundred dollars.

or by both such fine and imprisonment, at the discretion of the court. (S. 5, c. 2 F. C.)

SECTION 24. The speaker of the House and the president of the Senate, the Governor, or any of the judges of the supreme or district courts are authorized to administer the oath of office to the members and officers of the respective houses. (For s. 6, c. 2 F. C.)

SECTION 25. Any member of the Senate or House of Representatives, while acting as chairman of a committee of the house of which he is a member, shall have authority to administer oaths to such persons as shall be examined before the committee of which he is a member. (S. 8, c. 2 F. C.)

SECTION 26. In case the right of any person to a seat in either house of the Legislative Assembly shall be contested, the right of such person to a seat as aforesaid shall be determined by the house in which he claims such seat as a member; and each house shall in all cases be the sole judge of the qualifications of its members. (S. 9, c. 2.)

#### ARTICLE 2.—LEGISLATIVE OFFICERS AND EMPLOYES.

SECTION 27. The following shall be the officers and employes of the Senate and House of Representative of the Legislative Assembly with the compensation as herein provided for, to-wit:

##### FOR THE SENATE.

A president *pro tempore*, whose compensation shall be two dollars per day.

One secretary, whose compensation shall be seven dollars per day.

One assistant secretary, whose compensation shall be six dollars per day.

One enrolling and engrossing clerk, whose compensation shall be six dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be six dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

One doorkeeper, whose compensation shall be four dollars per day, and who shall be an assistant to the sergeant-at-arms.

One messenger, whose compensation shall be four dollars per day.

One postmaster, whose compensation shall be five dollars per day, which sum shall include the expense of carrying the mail to and from the capitol building.

One chaplain, whose compensation shall be two dollars per day.

Two pages, whose compensation shall be two dollars per day each.

One janitor, whose compensation shall be four dollars per day.

One watchman, whose compensation shall be four dollars per day.

One clerk of the judiciary committee, whose compensation shall be seven dollars per day.

One journal clerk, who shall be under the supervision of the secretary of the Senate, and whose compensation shall be six dollars per day.

The journal of the Senate shall be completed and indexed by the secretary of the Senate within thirty days after adjournment thereof, and for such completion and indexing he shall be allowed the sum of one hundred dollars.

#### FOR THE HOUSE OF REPRESENTATIVES.

A speaker, whose compensation shall be two dollars per day.

One chief clerk, whose compensation shall be seven dollars per day.

One assistant clerk, whose compensation shall be six dollars per day.

One chief enrolling and engrossing clerk, whose compensation shall be six dollars per day.

One bill clerk, whose compensation shall be six dollars per day.

One stenographer, whose compensation shall be six dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

One doorkeeper, whose compensation shall be four dollars per day, and who shall be assistant to the sergeant-at-arms.

One messenger, whose compensation shall be four dollars per day.

One postmaster, whose compensation shall be five dollars per day, which shall include the expense of carrying the mail to and from the capitol building.

One chaplain, whose compensation shall be two dollars per day.

Four pages, whose compensation shall be two dollars per day each.

One janitor, whose compensation shall be four dollars per day.

One watchman, whose compensation shall be four dollars per day.

One clerk of the judiciary committee, whose compensation shall be seven dollars per day.

One journal clerk, whose compensation shall be six dollars per day, and who shall be under the supervision of the chief clerk of the House.

The journal of the House shall be completed and indexed by the chief clerk of the House within thirty days after the adjournment thereof, and for such completion and indexing he shall be allowed the sum of one hundred dollars. (For s. 1 and 2; c. 97-93.)

SECTION 28. The officers of each house shall be elected by a *viva voce* vote of the members thereof, at such time after the meeting of such house as the members thereof shall deem proper, and they shall be required to take and subscribe the oath prescribed in Section 211 of the Constitution; neither house shall transact any business other than the election or appointment of officers, until such officers are elected or appointed *pro tem*. (For s. 11 c. 2.)

SECTION 29. The president of the Senate and the speaker of the House of Representatives are authorized to appoint from time to time such assistant enrolling and engrossing clerks and such committee clerks or other employes for their respective houses, in addition to those hereinbefore provided for, as in the judgment of their respective bodies may be deemed necessary for the transaction of their business; but the compensation of such subordinate clerks

and employes so appointed shall not exceed the sum of four dollars per day. (For s. 2, 4 and 5, c. 86, '90.)

SECTION 30. The respective amounts due each clerk, officer or employes so employed and appointed shall be audited and paid out of the State treasury upon an account certified as correct by the presiding officer of the respective houses, duly attested by the secretary and chief clerk thereof, and when so audited and attested the State Auditor is authorized and directed to draw his warrants therefor upon the State Treasurer; *Provided*, that if any clerk or employe is found incompetent to discharge the duties of his position, it shall be the duty of the respective presiding officers, and they are hereby empowered, to discharge such person and fill the vacancy so created when deemed necessary. (S. 6, c. 86, Laws of 1890.)

SECTION 31. It shall be the duty of the secretary of the Senate and chief clerk of the House of Representatives to keep correct journals of the proceedings of their respective houses; to have the custody of all records, accounts, and other papers committed to them, and at the close of each session of the Legislative Assembly, shall deposit for safe keeping in the office of the Secretary of State, all books, bills, documents, resolutions and papers in the possession of the Legislative Assembly, correctly labeled, folded, and classified, and generally to perform such duties as shall be assigned them by their respective houses; *Provided*, the journals need not be deposited as above provided until they are fully completed and indexed. (For s. 12, c. 2.)

SECTION 32. It shall be the duty of the secretary of the Senate and the chief clerk of the House, at the close of each session, to prepare for the press and superintend the publication of the journals of the proceedings of the respective houses, and to affix an index thereto; and to transcribe, into a book kept for that purpose, the documents accompanying the message of the Governor, or by him sent to either house, other than those entered in the journal, or the documents reported to either branch of the Legislative Assembly by any public officer of the State, in pursuance of law, for which service they shall be allowed the compensation provided in Section 27. The State Auditor is hereby instructed to draw his warrants on the State Treas-

urer in favor of each of said officers for such sum on proof being made that the record has been completed and the journals indexed as above required. (S. 13, c. 2, Pol. C. s. 1, ch. 79, Laws of 1883; s. 1, c. 110, 85.)

SECTION 33. It shall be competent at any time during a session of the Legislative Assembly, for either house, by a majority vote, to remove from office any of the officers or employes provided for in this article; but in case of the removal of any officer by either house, his place shall be filled by an election, *viva voce*; and in all elections under the provisions of this article for officers of either house of the Legislative Assembly, a majority of all votes cast shall be necessary to a choice. (S. 17, c. 2, Pol. C.)

SECTION 34. There is hereby appropriated out of any money in the State treasury, not otherwise appropriated, as a standing and continuing appropriation, such a sum as may be necessary to pay the mileage and per diem of members and the salaries of the officers and the employes of the Legislative Assembly; and the State Auditor is authorized to draw his warrants on the State Treasurer for such sums as may from time to time become due to such members and employes. (For ss. 1 and 2 c. 78, '91.)

SECTION 35. There is hereby appropriated out of any money in the State treasury, not otherwise appropriated, the sum of eight hundred dollars, or so much thereof as may be necessary to pay the expenses for committee rooms, furniture for same, fuel and lights, and such other incidental expenses as are made necessary by the meeting of the Legislative Assembly; and the State Auditor is authorized to draw his warrant upon the State Treasurer in payment of such account upon presentation to him of itemized bills properly certified. (For c. 13, Laws of 1893.)

### CHAPTER III.

#### ARTICLE I—EXECUTIVE DEPARTMENT—THE GOVERNOR.

SECTION 78. In addition to those prescribed by the Constitution, the Governor has the power and must perform the duties prescribed in this and the following sections:

1. He is to supervise the official conduct of all executive and ministerial officers.

2. He is to see that all offices are filled, and the duties thereof performed, or in default thereof, supply such remedies as the law allows: If the remedy is imperfect, acquaint the Legislative Assembly therewith at its next session.

3. He is to make the appointments and fill the vacancies as required by law.

4. He is the sole official organ of communication between the government of this State and the government of any other state of the United States.

5. Whenever any suit or legal proceeding is pending against this State, or which may affect the title of this State to any property, or which may result in any claim against the State, he may direct the Attorney General to appear on behalf of the State, and may employ such additional counsel as he may deem expedient.

6. He may require the Attorney General or state's attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this State.

7. He may require the Attorney General to aid any state's attorney in the discharge of his duties.

8. He may offer rewards not exceeding one thousand dollars each, payable out of the general fund, for the apprehension of any convict who has escaped from the penitentiary, or of any person who has committed or who is charged with the commission of an offense punishable with death.

9. The duty of the Governor respecting fugitives from justice is prescribed by the Code of Criminal Procedure.

10. He must issue patents for land as prescribed by the provisions of this Code. [New.]

SECTION 79. He must discharge the duties of a member of the following State boards: Of equalization; university and school lands; trustees of public property; trustees of the deaf and dumb school; trustees of the normal schools, and the State board of canvassers. [New.]

SECTION 80. He has such other powers and must perform such other duties as are or may be devolved upon him by law. [New.]

SECTION 82. The Governor must cause to be kept the following records:

1. A register of all applications for pardon or for commutation of sentence, with a list of the official signatures and recommendations in favor of each application.

2. An account of all his official expenses and disbursements including the incidental expenses of his department, and of all rewards offered by him for the apprehension of criminals and persons charged with crime.

3. A register of all appointments made by him, with date of commission, names of appointees and predecessors.

These records, and the originals of all applications, petitions, recommendations and reports therein mentioned, shall be preserved in the office of the Governor; but whenever any application for appointment to office is refused by him, he may, in his discretion, return the papers relating to the application. [New.]

SECTION 83. Every provision of the laws of this State in relation to the powers and duties of the Governor, and in relation to the acts and duties to be performed by others toward him, extends to the persons performing, for the time being, the duties of Governor. [New.]

SECTION 84. The annual salary of the Governor, to include all services rendered *ex-officio* as member of any board or commission, as now required or which may be by law devolved upon him, is three thousand dollars. [New.]

## ARTICLE 2.—THE LIEUTENANT GOVERNOR.

SECTION 85. The duties of the Lieutenant Governor are as prescribed in the Constitution. [New.]

SECTION 86. The Lieutenant Governor shall receive an annual salary of one thousand dollars, and when he acts as Governor, he is entitled to receive, during the time he so acts, the compensation which the Governor, if acting, would be entitled to receive during such time; but during

such time he is not entitled as Lieutenant Governor to any other compensation. [For c. 93, Laws of '93.]

SECTION 87. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or the disability of the Lieutenant Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the president *pro tempore* of the Senate; and when presiding over any meeting of the Senate, all the powers and duties of the office of Lieutenant Governor shall devolve upon the president *pro tempore* of the Senate. [C. 8491, 'F. C.]

ARTICLE 3.—THE SECRETARY OF STATE.

SECTION 88. The Secretary of State is charged with the custody:

1. Of the enrolled copy of the Constitution.
2. Of all the acts and resolutions passed by the Legislative Assembly.
3. Of the journals of the Legislative Assembly.
4. Of the Great Seal.
5. Of all books, records, deeds, parchments, maps and papers kept or deposited in his office pursuant to law.

SECTION 88a. In addition to the duties prescribed by the Constitution, it is the duty of the Secretary of State:

1. To attend at every session of the Legislative Assembly for the purpose of receiving bills and resolutions therefrom, and to perform such other duties as may devolve upon him by resolution of the two houses or either of them.
2. To keep a register of, and attest the official acts of the Governor.
3. To affix the Great Seal with his attestation to commissions, pardons and other public instruments to which the official signature of the Governor is required.
4. To record in proper books all conveyances made to the State and all articles of incorporation filed in his office.

5. To receive and record in proper books the official bonds of all State officers, from whom bonds are required by law, including his own, and then deliver the originals to the State Treasurer, excepting the bond of the State Treasurer, of which he shall remain the custodian.

6. To take and file in his office receipts for all books distributed by him and to direct the county auditor of each county to do the same.

7. To certify to the Governor the name of any person who has received at any election the highest number of votes for any office the incumbent of which is commissioned by the Governor.

8. To furnish on demand to any person paying the fees therefor, a certified copy of all or any part of, any law, record or other instrument filed, deposited or recorded in his office.

9. To keep a fee book in which must be entered all the fees, commissions and compensation of whatever nature or kind by him earned, collected or charged with the date, name of payor, paid or unpaid, and the nature of the services in each case, which book must be verified annually by his affidavit entered therein.

10. To file in his office descriptions of the seal in use by the different State officers, and to furnish such officers with new seals when they may be required.

11. To discharge the duties of a member of the following State boards: equalization, the State board of canvassers; board of trustees of public property; board of university and school lands; commissioner of public printing, and to perform such other duties as are now or may be hereafter prescribed by law.

12. To report to the Governor at the time prescribed by law for other State officers to report, all moneys received from any source for services performed and accompany such report with a detailed statement under oath of the manner in which the appropriations for his office have been expended.

13. He must distribute the bound volumes of the decisions of the supreme court as provided in Section 406.

SECTION 89. Immediately after the laws, resolutions and journals of the Legislative Assembly are bound, he shall distribute the same to the persons entitled thereto under the provisions of Article 4 of Chapter 2 of this Code.

SECTION 90. The Secretary of State must indelibly mark each book distributed to officers of this State, except members of the Legislative Assembly, with the name of the county to which, and the official designation of the officer to whom the same is sent, and such books shall remain the property of the State and must be by the officers receiving them, delivered to their successors. (New.)

SECTION 91. It is the duty of the Secretary of State to receive and keep the supplies and articles purchased by the commissioners of printing for the Legislative Assembly and State officers, and he shall distribute the same from time to time as required, on the requisition of the proper State or Legislative officer, taking a receipt therefor, and filing such requisition in his office. He must keep a book to be known as a book of supplies in which he must enter a complete list of all stationery, books, articles or other supplies furnished him by such board, making a separate list of each class of articles, and all purchases made by the board, the amount and cost of each article, and the amount and cost of each article furnished each officer or board and each member and officer of the Legislative Assembly. He must embody in his report to the Legislative Assembly a statement showing the amount of supplies purchased and disposed of as aforesaid. (New.)

SECTION 92. The Secretary of State, for services performed in his office, must charge and collect the following fees :

1. For a copy of any law, resolution, record or other documents or paper on file in his office, ten cents per folio.
2. For affixing his certificate and seal to any document, one dollar; for affixing his signature and seal without a certificate, fifty cents.
3. For filing articles of incorporation, of corporations for profit, five dollars; other corporations, two dollars.

4. For issuing a certificate of corporate existence, three dollars.

5. For recording official bonds, two dollars.

6. For each commission or other document signed by the Governor and attested by the Secretary of State, except pardons and military commissions, three dollars.

7. For each patent for land issued by the Governor, if for one hundred and sixty acres or less, one dollar; and for each additional one hundred and sixty acres or fraction thereof, one dollar.

8. For searching records and archives of the State, one dollar.

9. For filing and recording notice of appointment of agent, three dollars.

10. For filing and recording notice of removal of place of business, three dollars.

11. For filing certificate of increase or decrease of capital stock, three dollars.

12. For issuing a certificate of increase or decrease of capital stock, three dollars.

13. For filing a certificate of continuance of existence of a corporation, three dollars.

14. For issuing such certificate, three dollars.

15. For recording miscellaneous records, papers or other documents, fifteen cents per folio, and for filing any paper not otherwise provided for, twenty-five cents. But no member of the Legislative Assembly, or State or county officer can be charged for any search relative to matters appertaining to the duties of their office; nor must they be charged any fee for a certified copy of any law or resolution passed by the Legislative Assembly relative to his official duties. All fees must be paid in advance, and when collected must be paid into the State treasury at the end of each month, and placed to the credit of the salary fund. (New.)

SECTION 93. The annual salary of the Secretary of State,

to include all services rendered *ex-officio* as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is two thousand dollars. (New.)

SECTION 94. The Secretary of State shall give a bond to the State in the sum of ten thousand dollars. (C. 132, '90.)

ARTICLE 4.—STATE AUDITOR.

SECTION 95. It is the duty of the State Auditor:

1. To superintend the fiscal affairs of the State.
2. To report to the Governor on or before the fifteenth day of November next preceding each regular session of the Legislative Assembly, a statement of the funds of the State, its revenues, of the public expenditures, during the two preceding fiscal years, together with a detailed estimate of the expenditures to be defrayed from the treasury for the two ensuing fiscal years, specifying therein each object of expenditure, and distinguishing between such as are provided for by permanent or temporary appropriation, and such as must be provided for by a new statute, and suggesting the means for which such expenditures are to be defrayed.
3. To accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended and the balance, if any; also showing the amount of revenue chargeable to each county for such years, the amount paid and the amount unpaid or due therefrom.
4. When requested, to give information in writing to either house of the Legislative Assembly, relating to the fiscal affairs of the State, or to the administration of his office.
5. To suggest measures for the improvement and management of the public revenue.
6. To keep and state all accounts in which the State is interested.
7. To keep an account of all warrants drawn upon the Treasurer, and a separate account under the head of each

specific appropriation, showing at all times the unexpended balance of such appropriation.

8. To keep an account between the State and State Treasurer, and charge the State Treasurer therein with the balance in the treasury when he came into office, and with all money received by him and credit him with all the warrants drawn on and paid by him.

9. To keep a registry of warrants showing the fund upon which they are drawn, the number, in whose favor, for what issued, the appropriation applicable to the payment thereof, when the liability accrued, and a receipt from the person to whom the warrant is delivered, and to register all orders or certificates drawn upon the State Treasurer.

10. To audit all claims against the State, the payment of which is authorized by law.

11. To examine and settle the accounts of all persons indebted to the State, and certify the amount to the Treasurer, and upon presentation and filing of the Treasurer's receipts therefor, to give such persons release, and charge the treasury with such amount.

12. To require in his discretion, any person presenting an account for settlement to be sworn before him, and to answer orally, or in writing as to any facts relating thereto.

13. To require all persons who have received any moneys belonging to the State, and who have not accounted therefor, to settle their accounts.

14. To inspect, in his discretion, the books of any person charged with the receipt, safe keeping or disbursement of public moneys.

15. To require, at such times and in such forms as he may designate, all persons who have received money or securities or who have had the disposition or management of any property of the State which an account is kept in his office, to render statements thereof to him, and all such persons must render such statements when so required by said Auditor.

16. To direct and superintend the collection of all moneys due the State and institute suits in the name of the State for all official delinquencies in relation to the assessment, collection and payment of the revenue; and against persons who by any means have become possessed of public moneys or property, and who fail or neglect to pay for or deliver the same, and against all persons indebted to the State.

17. To draw warrants on the State Treasurer for the payment of money directed by law to be paid out of the treasury; which warrants shall be numbered consecutively in the order in which they are drawn; but no warrant must be drawn unless authorized by law, and upon an unexhausted appropriation provided by law to meet the same. Every warrant must be drawn upon the fund out of which it is payable, and specify for what it is drawn, and when the liability accrued.

18. To furnish the State Treasurer monthly with a list of all warrants drawn upon the treasury, specifying the amount and number of each warrant, and the name of the person in whose favor it is drawn.

19. To authenticate with his official seal all drafts and warrants drawn by him and all copies of papers issued from his office.

20. To discharge the duties of a member of the following State boards: Equalization, the board of State canvassers, the board of trustees of public property, of university and school lands and commissioner of public printing and to perform such other duties as are or may be prescribed by law. (New.)

SECTION 96. The State Auditor must keep a separate account of the school funds and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. He must on or before the third Monday in February, May, August and November of each year, certify to the Superintendent of Public Instruction the amount of the tuition fund; he shall also at the same time make a statement to said officer of the securities belonging to the school fund, of the moneys in the treasury subject to apportionment, and the sources

from which the same accrued, and he shall also perform such duties and draw such warrants in reference to the school fund of the State as now are or hereafter may be prescribed by law. (C. 57, Laws '91.)

SECTION 97. Whenever any person has received moneys or has moneys or other personal property which belongs to the State by escheat or otherwise, or has been entrusted with the collection, management, or disbursement of any moneys, bonds or interest accruing therefrom, belonging to or held in trust by the State, and fails to render an account thereof to, and make a settlement with the State Auditor, within the time prescribed by law, or when no particular time is specified, fails to render such account and make such settlement, or who fails to pay into the State treasury any money belonging to the State upon being required so to do by the State Auditor, within twenty days after such request, the State Auditor must state an account with such person, charging interest at the rate of twelve per cent per annum from the time of the failure; a copy of which account shall be *prima facie* evidence in any suit of the things therein stated; but in case the State Auditor cannot for want of information, state an account, that fact may be alleged and in such case the amount of money or other property which is due or belongs to the State may be stated generally. (New.)

SECTION 98. The State Auditor shall have access to all State offices during business hours for the purpose of inspecting such books, papers and accounts therein as may concern his duties. (New.)

SECTION 99. Whenever required he shall submit his books, accounts, and vouchers to the inspection of the Legislative Assembly, or any committee thereof appointed for that purpose. (S. 76 Comp. Laws.)

SECTION 100. He shall transmit to the county auditor of each county, on or before the first day of May of each year, a list of lands within such county which shall have become subject to taxation during the preceding year, agreeable to the information by him received from the land offices in the territory. (S. 77 Comp. Laws.)

SECTION 101. He shall from time to time prepare and

transmit to the county auditor of each county such general forms and instructions in conformity with the laws in force, as, in his opinion, may be necessary to secure uniformity in assessing, charging, collecting and accounting for the public revenue; and assessors and treasurers shall observe such forms and instructions. (S. 78 Comp. Laws.)

SECTION 102. The auditor is hereby authorized to remit any penalty for the non-payment of taxes when satisfied that the same is improperly charged, or that such penalty occurred in consequence of the negligence or error of any officer required to do any duty relative to the levy and collection of such taxes; and may from time to time correct all errors which he shall discover in the taxes assessed in any county. (S. 79 Comp. Laws.)

SECTION 103. The annual salary of the State Auditor, to include all services rendered as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is two thousand dollars, and all fees received by him shall be paid into the State treasury at the end of each month. (New.)

SECTION 104. The State Auditor must execute an official bond in the sum of twenty thousand dollars. (New.)

13. To keep a book in which he must enter all warrants presented for payment, giving the names of the owners, and the number and the amounts of the warrants. (S. 2 id.)

14. To keep all moneys belonging to the State in his possession until disbursed according to law. But nothing in this subdivision prohibits him from making special deposits for the safe keeping of public moneys. (S. 3 id.)

15. To post at the door upon the outside of his office a list of all warrants that he may have funds in the treasury to redeem or pay, the payment of which has not been demanded during the preceding six months. (S. 4 id.)

16. To keep his books open at all times for the inspection of the Governor, the State Auditor, the public examiner, and any committee appointed to examine them by either house of the Legislative Assembly. (S. 5 id.)

17. To report semi-annually to the Governor in writing

and under oath, the amount of all moneys in his hands to the credit of each fund, and the place where the same is deposited, and the number and amount of every warrant paid or redeemed by him during the preceding six months. The Governor must verify said report, and cause the same to be immediately published in at least one daily paper printed at the seat of government. (S. 7 id.)

ARTICLE 7.—COMMISSIONER OF AGRICULTURE AND LABOR.

SECTION 116. It shall be the duty of the Commissioner of Agriculture and Labor to collect, systematize and present in biennial reports to the Legislative Assembly, statistical details relating to all departments of labor in the State, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on labor for their support, the estimated number of persons employed by the several industries within the State, the operation of labor-saving machinery and its relation to hand labor, a description of the different kinds of labor organizations in existence in this State; what they have accomplished in favor of the class for which they were organized, and such statistics may be classified as the Commissioner of Agriculture and Labor deem it best. (S. 1 c. 46, Laws of '90.)

SECTION 117. It shall be the duty of all State, county, township and municipal officers to furnish upon the written request of the Commissioner of Agriculture all the information in their power necessary to assist in carrying out the objects of this article. For the purpose of obtaining statistics relating to manufactures and mining, the Commissioner of Agriculture shall procure in a manner that may seem best to him, the names and addresses of all the manufacturers and mine owners and operators in the State, and shall transmit by mail to each owner, operator or manager of each shop, mill, manufacturing establishment or mine, not later than the first day of July of each year, suitably prepared blanks, embodying inquiries into the subjects upon which the commissioner is required or authorized to prepare statistics, which blanks shall be filled out complete and returned to the commissioner not later than the first of August following. The information so obtained shall be preserved, systematized and tabulated

by the commissioner, but no information concerning the business or affairs of any individual, firm, company or corporation shall be divulged or in any manner made public by the commissioner or any one in the employ of his office, and any violation in this provision shall subject the party violating to a fine of not more than five hundred dollars or to imprisonment of not more than one year, or both such fine and imprisonment. The refusal or neglect of any such owner, operator or manager of any shop, mill, manufacturing establishment, or mine to supply the information asked by the commissioner within the time designated shall be construed as a violation of the following section, and shall subject the party so offending to the penalties therein prescribed; *provided*, that no prosecution shall be begun against such persons for such neglect or refusal until at least twenty days after a second notice and blank shall have been mailed them by the commissioner. (S. 1 c. 115, Laws '91.)

SECTION 118. Any person who wilfully impedes or obstructs the commissioner in the full and free performance of his duties, shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine not less than ten nor more than fifty dollars, or by imprisonment of not less than seven nor more than thirty days in the county jail or by both. The refusal or neglect of any person for himself or for any person, firm, company or corporation of which he may be a member, or agent to furnish the information or statistical statement required to be furnished to assessors shall be construed to be a violation of the provisions of this section, and it is hereby made the duty of the county auditor to report such violation with the names and post-office addresses, and places of residence of the violator as furnished him by the assessors to the state's attorney for the county in which such violations occur, and the state's attorney shall forthwith proceed to enforce the penalty provided in this section against such persons; and he is hereby authorized to subpœna the assessor and such other witnesses as may be necessary, and to procure the assessor's returns in evidence. (S. 2 id.)

SECTION 119. He shall have power to send for persons, books and papers whenever, in his opinion, it is necessary, and he may examine witnesses under oath, being hereby

authorized to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in his office. (S. 5, 46, '90.)

ARTICLE 8.—INSURANCE COMMISSIONER.

SECTION 126. It is the duty of the Insurance Commissioner:

1. To see that all laws of this State respecting insurance companies are faithfully executed.

2. To file in his office the articles of incorporation of all insurance companies organized or doing business in this State, and on application, to furnish a certified copy thereof.

3. To report in detail to the Attorney General any violation of law relative to insurance companies, their officers or agents.

4. To furnish to insurance companies required to make reports to him, the necessary blank forms for the statements required.

5. To preserve in permanent form a full record of his proceedings and a concise statement of each company or agency visited or examined.

6. To furnish at the request of any person and on payment of his fees, certified copies of any record or paper in his office, when he deems it not prejudicial to the public interests so to do, and to give such other certificates as may be provided by law.

7. To furnish a written report to the Governor on or before the fifteenth day of November of each year showing his official acts, the receipts and expenditures of his department during the preceding fiscal year, the condition of the companies doing business in this State, and such other information as will exhibit the affairs of his department; which report shall be printed, to the number of five hundred, at the expense of the State, and distributed among the members of the succeeding Legislative Assembly, and otherwise as provided by law. Such report must contain only an abstract of the reports of insurance companies.

8. To send a copy of his annual report to the insurance commissioner, or other similar officer, of every other state and to each company doing business in this State.

9. To communicate on request, to the insurance commissioner of any other state, any facts which by law it is his duty to ascertain respecting companies of this State doing business within such state.

14. To have an official seal and to employ competent clerks, such clerks to discharge such duties as he may assign, and in case of his sickness or temporary absence from office, his chief clerk shall have authority to sign his name and perform such other duties as are required by law pertaining to the duties of such Commissioner of Insurance.

#### ARTICLE 12.—STATE WEATHER BUREAU.

SECTION 141. There is hereby established in this State a weather and crop service, co-operating with the weather bureau of the United States, for the purpose of selecting crop statistics and meteorological data, and more wisely disseminating the weather forecast and storm and frost warning, and to promote a general knowledge of meteorological science and the climatology of the State. [S. 1, c. 127, '93.]

SECTION 142. That the central station of said weather and crop service shall be at the seat of government under the charge of a director, such director to be an official of the United States weather bureau who may be designated for that purpose by the chief of the weather bureau at Washington, D. C. [S. 2, id.]

SECTION 143. Said director shall establish such volunteer stations throughout the State, as he may deem advisable, and shall appoint observers thereat. He shall supervise such volunteer stations, receive reports therefrom of meteorological events and crop condition, tabulate the same for permanent record, and issue for free distribution weekly weather crop bulletin during the seasons from April 1st to October 15th, and he shall also edit and caused to be published for free distribution a monthly weather report, containing meteorological and agricultural matter of public interest and educational value; *Provided, however,* that not

more than five hundred copies of said report shall be published each month. [S. 3 id.]

SECTION 144. Said director shall also compile an annual report, addressed to the Governor, to be printed and bound in such numbers as the commissioners of public printing may direct; such reports to contain a complete review and summary of the results of the year's labors and observations. [S. 5 id.]

SECTION 145. All moneys appropriated under this article shall be expended upon the order of said director, subject to the approval of the Governor. [S. 6 id.]

#### CHAPTER. IV.

##### ARTICLE I.—PUBLIC BOARDS—BOARDS OF TRUSTEES OF PUBLIC PROPERTY.

SECTION 147. The Governor and Secretary of State and State Auditor are hereby constituted a board of trustees of public property, and such board shall have charge and control of the capitol and the park and public grounds connected therewith. [S. 127 Comp. Laws.]

##### ARTICLE 4.—STATE BOARD OF AUDITORS.

SECTION 242. There is hereby created a board of auditors for the State of North Dakota, which shall consist of the Secretary of State, the State Auditor and the Attorney General, whose duty it shall be to examine and audit the accounts, books and vouchers of the State Treasurer, and to take an account and ascertain the amount of funds in the State treasury or belonging to the State at least twice in each year, without previous notice to the Treasurer, and make report thereof, and of their acts and doings in the premises to the Governor, and also to witness and attest the transfer and delivery of accounts, books, vouchers and funds by an outgoing Treasurer to his successor in office, and report the same to the Governor. (S. 1-48, '93.)

SECTION 243. All the funds of the State shall be deposited by the Treasurer in one or more designated national or State banks in the State, or on before the first day of each month, in the name of the State; such bank or banks

shall be designated by the board of auditors in conjunction with the Governor, after advertising in one or more newspapers published in the State, for at least thirty days, for proposals and receiving proposals, stating what security would be given to the State for any State funds so deposited and what interest on monthly balances of such funds, on condition that such funds with accrued interest shall be held subject to draft and payment at all times on demand; *provided*, that the amount deposited in any bank shall not exceed the assessed value of its capital stock. Interest on the funds so deposited shall be at the rate of not less than three nor more than four per cent per annum. (S. 2 id.)

SECTION 244. Before any bank shall be designated as such depository, it shall deposit with the State Treasurer a bond payable to the State of North Dakota, and executed by not less than seven freeholders of the State as sureties, which bond shall be approved by the Governor and the State board of auditors, and shall be in such an amount as such board shall direct, not less than double the amount of funds to be deposited in such bank at any one time. [S. 3 id.]

SECTION 245. Whenever any portion of the funds of the State is deposited in any national or State banks in the manner above provided the State Treasurer and the sureties on his bond shall be exempt from all liability by reason of the loss of any such deposited funds, from failure, bankruptcy or any other act of such bank to the extent and amount of such funds in the hands of such bank at the time of such failure or bankruptcy. [S. 4 id.]

#### ARTICLE 5.—PUBLIC HEALTH—STATE BOARD OF HEALTH.

SECTION 246. There is hereby established a State board of health, composed of a president, vice-president and superintendent of public health. The Attorney General shall be president of such board. The Governor shall appoint some suitable person, a resident of this State, vice-president, and he shall also appoint by and with the advice and consent of the Senate, a superintendent of public health who shall be learned in medicine, and hold a license to practice medicine and surgery within the State and be a

resident of this State. The several persons thus appointed shall hold their offices for two years from the first Tuesday in April succeeding their appointment, and until their successors are elected and qualified. [S. 1 22, '89.]

SECTION 247. The president of the board shall preside at the meetings thereof, and the vice-president shall perform the duties thereof in his absence. The superintendent of public health shall be secretary of said board. He shall keep a record of all the proceedings of the State board of health and of his own acts as such superintendent, and he shall perform such other duties as are prescribed by this article, or which may be prescribed by the State board of health. The record kept by the superintendent shall be at all times open to the inspection of the public. [S. 193 C. L.]

SECTION 248. The several persons composing the State board of health shall meet as often as once in every six months at such place in the State as they may appoint. (S. 194 id.)

SECTION 249. The board shall have power and it shall be its duty:

1. To fix the time and the place of the meeting of the board, subject to the provisions of the last section.
2. To make rules and regulations for the government of the board, its officers and its meetings.
3. To make and enforce all needful rules and regulations for the prevention and cure, and to prevent the spread of any contagious, infectious or malarial diseases among persons and domestic animals.
4. To establish quarantine, and isolate any person affected with contagious or infectious disease.
5. To isolate, kill or remove any animal affected with contagious or infectious disease.
6. To remove or cause to be removed any dead, decaying or putrid body, or any decayed, putrid or other substance that may endanger the health of persons or domestic animals.

7. To condemn or cause to be destroyed any impure or diseased article of food that may be offered for sale.

8. To superintend the several boards of health in cities, villages and towns, and the county boards of health of the several counties.

9. To empower and direct the superintendent of public health to do or cause to be done any or all the things mentioned in Subdivisions 4, 5, 6, 7 and 8 of this section. (S. 195 Comp. Laws.)

SECTION 242. The president and vice-president of the board shall receive no compensation for the performance of their official duties, but they shall be paid five cents for every mile actually and necessarily traveled, and such other necessary expenses as they may pay or incur in attending the meeting of the board, or in the performance of their duties as such officers. (S. 197 i l.)

#### COUNTY BOARD OF HEALTH.

SECTION 243. There is hereby established a county board of health, composed of a president, vice-president and superintendent. The states' attorney in each county shall be president of the county board. The board of county commissioners shall appoint some suitable person who is a resident of the county vice-president; and it shall also appoint a superintendent of public health for the county, who shall be learned in medicine and hold a license to practice medicine and surgery within the State, and the several persons thus appointed shall hold their offices for two years, and until their successors are elected and qualified. (S. I. C. 26, Laws of '90.)

SECTION 244. The president of each county board of health shall preside at the meetings thereof and in his absence the vice-president shall perform the duties of president. The county superintendent of health shall be secretary of the board of health of his county. The county superintendent of health shall keep a record of all the proceedings of the board, and of his official acts, and he shall, at the end of every month, make a full report in writing to the superintendent of public health of the proceedings of the county board of health, and of his official acts, and shall, whenever the health of persons or domestic animals

is endangered, or when any contagious or infectious disease occurs in his county, either among persons or domestic animals, immediately report the same to the superintendent of public health. (S. 199 Comp. Laws.)

SECTION 245. The several county boards of health shall meet at the county seat in their respective counties, at such time within thirty days after the appointment of the county superintendent of health as he may designate. Notice of the time and place of such meeting shall be by him given to the other members of the county board, at least five days prior to such meeting, and thereafter the county board shall meet at the county seat as often as once in every three months. (S. 200 id.)

SECTION 246. The several county boards of health shall have power within their respective counties, outside of the corporate limits of cities having a city board of health subject to the supervisory control of the State board of health, and the superintendent of public health, to do and perform all the things mentioned in Subdivisions 3, 4, 5, 6, 7 and 8 of Section 241. All expenses actually and necessarily paid or incurred by the county board of health in carrying out the provisions of this article shall be audited by the board, and certified to the county commissioners, and shall be paid the same as other county expenses are paid. (S. 201 id.)

SECTION 247. The county superintendent of health shall have charge of and superintend, subject to the approval of the board of which he is a member, and the supervisory control of the State board of health and the superintendent of public health, all the matters and things mentioned in Subdivisions 4, 5, 6 and 7 of Section 241, within his county, and in case of the immediate danger of the health of persons or of domestic animals, he may act as in his judgment he deems best, without consultation with the other members of the board, for the prevention of such danger, and shall immediately report such action to the president of the board and to the superintendent of public health. (S. 202 id.)

SECTION 248. The president and vice-president of the board shall receive no compensation for the performance of their official duties; but shall receive five cents for every

mile actually and necessarily traveled in the performance of their duties. The county superintendent of health shall receive five dollars per day for every day in which he may be actually and necessarily engaged, and five cents per mile for every mile actually and necessarily traveled in the performance of his duties, and he shall also receive such other sum as he may necessarily pay or become liable to pay in carrying out and performing the various duties imposed upon him under the provisions of this article, or by the county board of health all of which accounts for services, mileage and other expenses shall be audited by the county board of health, and certified to the board of county commissioners and paid as other county expenses are paid (S. 203 id.)

SECTION 249. The superintendent of public health, shall, on the first day of December, of each even numbered year, and biennially thereafter, make a full report to the Governor, which report shall show all that has been done by the State board of health, and by such superintendent during the two years preceeding the making of such report, the number of cases treated by him and in each county by the county superintendent, the character and extent during such time of all contagious or infectious diseases that have been reported to him, all expenditures by the State board, and in each of the organized counties by the county board, and such recommendations as he may deem advisable for the better protection of the public health, and the prevention and cure of contagious or infectious diseases of persons and of domestic animals. (S. 204 id.)

SECTION 250. In case any vacancy shall occur in the office of vice-president or superintendent, such vacancy shall be filled by appointment by the Governor, and the person so appointed shall hold the office for the unexpired term.

SECTION 250a. In case any vacancy occurs in the office of vice-president or superintendent of health in any county board of health, the superintendent of public health shall appoint some suitable person to fill such vacancy, and the person so appointed shall hold such office until the next meeting of the State board of health, and until a successor

to such officer has been appointed by the State board of health. (206 id.)

SECTION 251. Nothing contained in this article shall in any manner affect any board of health heretofore established, or that may be hereafter established in any city, village or incorporated town; *provided*, however, that all such boards of health shall be under the superintending control of the State board of health. (S. 207 id.)

#### CITY BOARD OF HEALTH.

SECTION 252. There is hereby established in each incorporated city of this State a board of health, which shall be constituted as follows: The mayor of such city shall, at the first meeting of the city council in April in each year, appoint four aldermen, who, together with the city engineer and the health officer as hereinafter provided, shall constitute a board of health and shall have and exercise the powers conferred upon such board by law and by the ordinances of such city. (S. 1-34, 1893.)

SECTION 253. At the first meeting of the city council in April, 1895, and in each alternate year thereafter, there shall be appointed by the mayor and confirmed by the council one health officer, who shall hold his office for two years and until his successor shall have been appointed and qualified. He shall be a competent physician in regular practice and shall perform such duties as may be conferred upon him by law or by the ordinances of such city. Before entering upon the duties of his office he shall take the usual oath of office and give a bond, to be approved by the city council, in the sum of one thousand dollars, conditioned for the faithful performance of his duties, and shall receive such compensation as the city council may determine. (S. 2 id.)

SECTION 254. Each city board of health shall perform the duties and exercise the powers herein provided within the limits of the city for which it is established.

SECTION 254a. Each county board of health and city board of health shall be known as the local board of health. (S. 1, 90, '93.)

SECTION 255. Each local board of health within its jur-

isdiction may examine into all nuisances, sources of filth and causes of sickness, and make such regulations regarding the same as it may judge necessary for the public health and safety of the inhabitants, and every person who shall violate any published order or regulation made by any board of health, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment. (2 id.)

SECTION 256. Notice shall be given by each local board of health of all general orders and regulations made by them by publishing the same in some newspaper, if there is one published within the jurisdiction of such board; if there is none, then by posting up such orders and regulations in five public places therein, and such publication of such orders and regulations shall be deemed a legal notice to all persons. (S. 3 id.)

SECTION 257. Whenever any nuisance, source of filth or cause of sickness is found on private property any member of the local board of health may order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours, and such order may be given to such owner or occupant personally or left at his usual place of abode. (4 id.)

SECTION 258. Whenever such occupant or owner shall fail to comply with the order of such board, it may cause such nuisance, source of filth or cause of sickness to be removed and all expenses incurred thereby shall be paid by such owner or occupant, or by such other person as has caused or permitted the same. (S. 5 id.)

SECTION 259. Whenever any local board shall deem it necessary for the preservation of the health of the inhabitants within its jurisdiction to enter any building or vessel within such jurisdiction for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused such entrance, any member of the board may make complaint under oath to any justice of the peace within the jurisdiction of the board, stating the facts in the case so far as he has knowledge thereof. (S. 6 id.)

SECTION 260. Such justice shall thereupon issue a warrant directed to the sheriff or other peace officer commanding him to take sufficient aid, and accompanied by at least one member of the board of health, between the hours of sunrise and sunset, have each nuisance, source of filth or cause of sickness, destroyed, removed or prevented under the direction of such of the board of health as accompanying him. (S. 7 id.)

SECTION 261. Whenever it shall come to the knowledge of any physician or other person that a contagious, epidemic or infectious disease exists between the jurisdiction of any local board, he shall immediately report to such board in writing the name and place of residence, if known, of every person afflicted with such disease, and if he is the attending physician of such person he shall report not less than twice in each week the condition of each person so afflicted and the state of such disease. (S. 8 id.)

SECTION 262. It shall be the duty of each practicing physician in this State to report in writing to the local board of health the death of each of his patients, who shall have died within the jurisdiction of such board of any contagious, infectious or epidemic disease; such report shall be made within twenty-four hours after such death and shall state the specific name and character of such disease. (S. 9 id.)

SECTION 263. Every keeper of any private house, boarding house, lodging house, inn or hotel shall report in writing to the local board of health, within whose jurisdiction the same may occur, every case of contagious, infectious or epidemic disease which may occur in his house, inn or hotel; such report shall be made within twenty-four hours after the existence of such disease shall become known to such person, and shall state the name of each person afflicted with such disease and the nature thereof. (S. 10 id.)

SECTION 265. No person shall, without a permit from the local or State board of health, carry or cause to be removed from without this State to this State, or within the limits of this State from one building to another, or from or to any cars or vessels, any person afflicted with

any contagious, infectious or epidemic disease, or the body of any person who died of such disease. (S. 12 id.)

SECTION 266. Every parent or guardian having the care, custody or control of any minor or other person shall cause such minor or other person to be vaccinated. (S. 13 id.)

SECTION 267. No principal, superintendent or teacher of any school, and no parent or guardian of any minor child, shall permit any child having scarlet fever, diphtheria, small-pox, whooping-cough, measles, or any other dangerous, infectious or contagious disease, or any child residing in any house in which any such disease exists, or has recently existed, to attend any public or private school until the local board of health shall have given permission therefor. (S. 14 id.)

SECTION 268. No person shall allow to be unburied the body of any human being for a longer time than four days or where death has been caused by an infectious or contagious disease for a longer time than twenty-four hours after the death of such person without a permit from the local board of health, which permit shall specify the length of time during which such body may be unburied. In all cases where death has been caused by an infectious or contagious disease the body shall, if directed by said board, be immediately disinfected as may be directed by it. If the body is to be unburied for more than twenty-four hours it shall immediately be enclosed in a tightly sealed metallic coffin which shall not thereafter be opened, and the funeral of such person shall be strictly private. In the removal of such body for burial or otherwise, only such hearses or other vehicles shall be employed as may be authorized by said board, and no undertaker or other person shall bury or prepare for burial the body of any human being without a certificate signed by the attending physician or by the coroner, which certificate shall state the name, age, sex and place of abode and date of death of such deceased person, the name and duration of the disease of which such person died, and whether or not such disease is contagious and such certificate shall, after the burial of such body, be filed with the local board of health, and whenever any such dead body shall be presented to any common carrier within the State for transportation by such carrier it shall

be accompanied by a duplicate of such certificate signed by such attending physician or coroner, and no common carrier shall receive any such body for transportation unless such certificate shall state that the disease of which such person died is not contagious which duplicate shall be securely attached to and remain upon the outside of the coffin or other receptacle containing such dead body. (S. 15 id.)

ARTICLE 6.—STATE BOARD OF MEDICAL EXAMINERS.

SECTION 276. The Governor shall appoint a State Board of Medical Examiners, consisting of nine members, of whom eight shall be practicing physicians, who shall hold their office for three years after such appointment and until their successors are appointed and qualified. Two members of said board shall be homœopathic physicians and one a lawyer. (S. 1, c. 93, '90.)

SECTION 277. Such board shall elect a president, and treasurer, and shall have a seal. The president and secretary shall have power to administer oaths. The board shall hold meetings for examinations at such place as it may designate, on the first Tuesday of January, April, July and October of each year, and such special meetings as it may from time to time appoint. The board shall keep a record of all its proceedings, and also a register of applicants for license, together with his age, time spent in the study of medicine, and the name and location of all institutions granting to such applicants degrees or certificates of attendance on lectures in medicine or surgery. Such register shall also show whether such applicant was rejected or licensed under this article. Said books and register shall be *prima facie* evidence of all matters therein recorded. (S. 2 id.)

SECTION 278. All persons before commencing the practice of medicine, surgery or obstetrics in this State, shall apply to the board for a license so to do, and such applicant shall submit to an examination in the following branches: Anatomy, physiology, chemistry, histology, materia medica, therapeutics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence, and such other branches as the board shall deem advisable, and present

evidence of having attended three courses of lectures of at least six months' each; the board shall cause such examination to be both practical and scientific, and sufficient to test the candidate's fitness to practice medicine, surgery and obstetrics. If such applicant passes the prescribed examination the board shall grant him a license to practice medicine, surgery and obstetrics in this State, which license shall be signed by the president and secretary of the board and attested by the seal thereof. The fee for such examination shall be twenty dollars, to be applied by the board toward paying the expenses thereof. The board may revoke or refuse a license for dishonorable or immoral conduct, or for chronic or persistent inebriety, or the practice of criminal abortion. In complaints for violating the provisions of this section, the accused person shall be furnished with a copy of the complaint and given a hearing before the board in person or by attorney. (S. 3 id.)

SECTION 279. The person receiving a license shall file the same or a copy thereof with the register of deeds of the county where he resides, and the register of deeds shall file the same.

SECTION 280. This article shall not apply to surgeons of the United States army or navy, to the physicians or surgeons in actual consultation from other states or territories, or to actual medical students practicing medicine under the direct supervision of a preceptor. (S. 5 id.)

SECTION 261. Any person violating the provisions of this article, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both. (S. 6 id.)

SECTION 282. It shall be lawful for any medical association, regular physician and surgeon, or the professor of any medical college in this State, to receive the body of any person executed pursuant to sentence of law, and of all persons dying in the State penitentiary or county jail, while under sentence of law for crime, to be used for the advancement of anatomical science, preference being given

to medical colleges established by law within this State. (S. 1, c. 92, Laws of 1893.)

SECTION 283. Every physician, surgeon or professor before receiving any such body, shall give to the officer surrendering the same a sufficient bond that such body shall be used only for the promotion of anatomical science within this State, and so as not to outrage public feeling; and that after having been so used the remains thereof shall be interred in some public cemetery. (2 id.)

SECTION 284. If the deceased person during his last illness, requested to be buried; or if within thirty-six hours after his death any friend or relative asks to have the body buried, the body shall not be surrendered, but shall be buried. (S. 3 id.)

#### ARTICLE 7.—STATE BOARD OF PHARMACY.

SECTION 285. The State board of pharmacy shall consist of three members who shall hold office for three years and until their successors are appointed and qualified. Annually or whenever a vacancy occurs in such board the Governor shall upon recommendation of the North Dakota Pharmaceutical Association appoint some member thereof as a member of the board or to fill the vacancy as the case may be.

SECTION 286. The board shall within thirty days after the appointment and qualification of a new member for the full term, meet and organize by the selection of a president and secretary from its own members, who shall be elected for the term of one year, and perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration submitted in proper form, to grant certificates of registration to such persons as may be entitled to the same under the provisions of this article; to cause the prosecution of all persons violating its provisions; to report annually to the Governor and to the North Dakota Pharmaceutical Association, upon the condition of pharmacy in the State, which report shall also set forth the proceedings of the board for the year, as well as the names of all pharmacists registered. The board shall hold at least two and not more than four meetings for the examina-

tion of all applicants for registration and the transaction of such other business as shall pertain to its duties, and the board shall give at least thirty days' public notice of the time and place of such meeting, in three journals of general circulation in the State. The board shall make rules for the proper execution of its duties, and shall keep a book of registration, in which shall be entered the names and places of business of all persons registered, and the facts on which such registration was granted. Two members of the board shall constitute a quorum. The board shall have power to cancel the certificate of any registered pharmacist for intemperance, incompetency or illegal sale of intoxicating liquors. Upon the sworn complaint of three reputable citizens, charging any registered pharmacist with intemperance, incompetency or the illegal sale of intoxicating liquors, the board shall appoint a time and place for hearing such charges, and shall give the pharmacist so charged at least ten days' notice by mail of the time and place of the hearing, when he shall appear and answer such charges. If the board finds any such charges to be true, they shall forthwith cancel the certificate of such pharmacist and his registry as a pharmacist. [S. 2, c. 80, Laws of 1893.]

SECTION 288. To entitle a person to registry he must either be a graduate in pharmacy from a college approved by the board or have been engaged for a period of not less than four years in the preparation of physician's prescriptions. (S. 2 id.)

SECTION 292. Every applicant for registration shall pay to the secretary the sum of five dollars before examination; *provided*, that in case of a failure to pass a satisfactory examination, he may be re-examined at any regular meeting of the board by paying a fee of three dollars; registration as a pharmacist entitles the person registered to membership in the North Dakota Pharmaceutical Association. (S. 3, c. 80, '93.)

SECTION 293. Any assistant over the age of 18 years in pharmacy, not having the qualifications of a registered pharmacist, who shall have been engaged two years in assisting in the compounding of prescriptions shall, upon furnishing sat-

isfactory evidence thereof to the board, and upon payment of a fee of one dollar, be entitled to a certificate as a "registered assistant." Annually thereafter during the time he shall continue in such duties, he shall pay the secretary the sum of fifty cents, for which he shall receive a renewal of such certificate. (S. 9 c. 108, Laws of 1890.)

SECTION 294. Every registered pharmacist engaged in the practice of his profession shall, annually, during the time he shall continue such practice, on such date as the board of pharmacy shall determine, pay a registration fee, to be fixed by the board, and in no case exceeding three dollars, upon which he shall receive a renewal of such registration and of membership in the North Dakota Pharmaceutical Association. Every certificate of registration and every renewal thereof shall be conspicuously exposed at the place of business of the holder. (S. 10, 80, '93.)

SECTION 295. The secretary of the State board of pharmacy shall receive a salary which shall be determined by such board; he shall also receive his traveling and other expenses incurred in the performance of his official duty. The other members of such board shall each receive the sum of five dollars for each day actually engaged in its service, and all legitimate and necessary expenses incurred in attending the meetings of the board, or in performing other official duties. Such expense shall be paid only from the moneys received by the board under the provisions of this article, and no part of the salary or other expenses of the board shall be paid out of the State treasury. Any moneys remaining after the payment of the salaries and expenses herein provided for, shall be held by the secretary of the board as a special fund for meeting the expenses of the board and of the annual meeting and report of the North Dakota Pharmaceutical Association and other necessary expenses that may be incurred by such association. The secretary of the board shall give such bonds as the board shall from time to time require. The board shall, in its annual report, render an account of all moneys received and disbursed by it. (S. 5 id.)

SECTION 300. Nothing in this article shall be so construed as to prevent any person who has once been a mem-

ber by examination, and may have forfeited his membership by non-payment of fees, from renewing his registration within two years by paying such fees without examination. (S. 16 id.)

ARTICLE 8.—STATE BOARD OF DENTAL EXAMINERS.

SECTION 301. It shall not be lawful for any person to practice dentistry in this State without having a license so to do from the board of dental examiners. S. 1, c. 58, 1890.)

SECTION 302. The State board of dental examiners, consisting of five members, heretofore created, shall continue to be the State board of dental examiners. Upon the expiration of their term of office the Governor shall appoint their successors, who shall hold office for five years and until their successors are appointed and qualified. All vacancies in such board shall be filled by appointment by the Governor. No person shall be eligible to appointment on such board who is not a practicing dentist in this State.

SECTION 303. Such board shall have power to make reasonable rules and regulations for carrying into effect the provisions of this article. It shall choose one of its members president and one secretary thereof, and shall hold regular meetings twice in each year, and such special meetings as the board may by its rules provide. A majority of the board shall constitute a quorum thereof for the transaction of business, but a less number may adjourn from time to time. The board shall keep full and complete minutes of its proceedings and of its receipts and disbursements, and a full and accurate list of all persons licensed and registered by it and such record, together with the list of licensed and registered dentists shall be public records, and shall at all reasonable times be open to public inspection. Such records, or a transcript of the same, or any part thereof, under the seal of the board, duly certified by the secretary thereof, shall be competent evidence of the facts therein stated. A certificate of the secretary, under the seal of the board, stating that any person is or is not a registered dentist, shall be *prima facie* evidence of such fact. The president and secretary of the board shall have authority to administer oaths, and the board shall have power to hear testimony as to all matters

relating to the duties imposed upon it by law. If any member of the board shall, without cause, absent himself from two of its regular meetings consecutively his office shall be deemed vacant, and such vacancy shall be filled by appointment as hereinbefore provided. (S. 3 id.)

SECTION 304. It shall be the duty of each person licensed by the board to practice dentistry in this State to procure from the secretary of the board on or before July first, annually, a certificate of registration. Such certificate shall be issued by the secretary upon payment of a fee, to be fixed by the board, not exceeding the sum of two dollars. All certificates so issued shall be *prima facie* evidence of the right of the holder to practice dentistry in this State during the time for which they were issued. Any certificate or license granted by the board may be revoked by it, upon conviction of the party holding it of a violation of any of the provisions of this article. Every person receiving such certificate shall conspicuously expose the same in his place of business. (S. 4, c. 58, 1890.)

SECTION 305. Any person desiring to begin the practice of dentistry in this State must, in order to be eligible for examination, furnish to the board satisfactory evidence that he has been engaged in the active practice of dentistry for at least three years immediately preceding such examination, or that he has pursued the study of dentistry in the office or under the supervision of a regularly practicing dentist for such period. He shall be examined by the board with reference to his knowledge and skill in dentistry, and, if upon such examination, such person is found, in the judgment of said board, to possess suitable qualifications to practice dentistry, and if the board shall be satisfied that the applicant has a good moral character, it shall issue to such applicant a license to practice dentistry in accordance with the provisions of this article; *Provided*, that any person desiring to commence the practice of dentistry in this State, and having a diploma issued or purporting to be issued by any reputable dental college, or dental department of any university, shall in person present the same to the State board of examiners, and the board being satisfied as to the genuineness of the diploma, may without examination issue a license to such person to practice dentistry in this State, on payment of the license

fee hereinafter provided for. All licenses issued by the board shall be signed by the several members thereof, and be attested by its president and secretary, and the seal of the board. (S. 5 id.)

SECTION 307. A person shall be deemed to be practicing dentistry within the meaning of this article who shall perform operations or parts of operations of any kind or treat diseases of the lesions of the human tooth or jaw or correct malpositions thereof. But nothing in this article contained shall be so construed as to apply to acts of *bona fide* students of dentistry done in the pursuit of clinical advantages under the direct supervision of a preceptor or a licensed dentist in this State, during the period of their enrollment in a dental college and attendant upon a regular course in such college, nor to prevent any legally qualified resident physician and surgeon from extracting teeth, or to prevent any person from using any domestic remedy or other means for the relief of pain. (S. 7 id.)

SECTION 308. The board of dental examiners may require each person applying to it for examination, to pay a fee not exceeding ten dollars, which shall in no case be returned, and if the applicant shall receive a license to practice, he shall thereupon pay the further sum of five dollars, which shall entitle him to receive also a certificate of registration for the current or registration year in which such license shall be issued. Thereafter he shall annually obtain a certificate as hereinbefore provided. Out of the funds coming into the possession of the board, each member may receive the sum of five dollars for each day actually engaged in the duties of his office and four cents per mile for the distance necessarily traveled in going to or coming from meetings of the board. Such expenses shall be paid from the fees received by the board under the provisions of this article, and no part of the salary or other expenses of the board, except the printing of the annual report, shall be paid out of the State treasury. All moneys remaining after the payment of such per diem allowance and mileage as above provided for shall be held by the secretary as a special fund for defraying the expenses of the board in carrying out the provisions of this article. The secretary shall give a bond in such sum and with such con-

ditions as the board may from time to time direct. The board shall make an annual report of its proceedings to the Governor on or before the fifteenth day of November in each year, which report shall contain an account of all moneys received and disbursed by the board during the preceding year. (S. 8 id.)

SECTION 309. Any person violating any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, is punishable by a fine not exceeding three hundred dollars or imprisonment in the county jail not exceeding sixty days, or by both. (S. 9 id.)

SECTION 310. Any person who shall knowingly or falsely claim or pretend to have or hold a certificate of registration, diploma or degree granted by a society or by the board of dental examiners, or who shall falsely and with intent to deceive the public, claim or pretend to be a graduate from any dental college, not being such graduate, shall be deemed guilty of a misdemeanor and, upon conviction, is punishable as provided in Section 309. (S. 10 id.)

SECTION 311. Any person who shall be licensed under the provisions of this article and who shall practice dentistry under a false name with intent to deceive, shall be liable to have his license revoked upon twenty days' notice of such proposed revocation, and of the time and place of considering such revocation by the State board of dental examiners. Any person who, after revocation of his license, continues to practice dentistry in this State is guilty of a misdemeanor and, upon conviction thereof, is punishable as provided in Section 309.

SECTION 349. The bonds of all State and district officers shall be given to the State, shall be approved by the Governor as to sufficiency and by the Attorney General as to form, and such bonds and a duplicate original of the oaths of all other such officers shall be deposited in the office of the Secretary of State. The Secretary of State shall keep a book in which shall be made a correct copy of such bond, which book shall be called the "bond record," and when such bonds have been recorded they shall be deposited with and kept on file in the office of the State Treasurer, except the bond of the State Treasurer, which shall be

deposited with and kept on file in the office of the State Auditor. The Secretary of State and State Treasurer on receipt of such bonds, shall issue a receipt therefor and such receipt shall be filed in the office of the State Auditor. The bonds of all county, township and municipal officers shall be given to the county; those of all county and municipal officers under the county shall be approved by the states' attorney as to form and by the board of county commissioners as to efficiency, and such bonds and a duplicate original of the oaths of office of all other such officers shall be filed with the county auditor, except the bond and oath of such auditor, which shall be filed with the clerk of the district court for the county or judicial subdivision. The bonds of township officers shall be approved by the chairman of the board of supervisors of the township. (Sec. 1373 Comp. Laws and c. 32 Laws '90.)

SECTION 357. Whenever the Governor shall deem the bond filed by any State officer insufficient, he may require another bond to be furnished with sufficient sureties, and for failure to give such bond within ten days after being so required, such office shall be deemed vacant. (New.)

SECTION 365. Every officer elected or appointed under the laws of this State shall, on going out of office, deliver to his successor in office all public moneys, books, records, accounts, papers, documents and property in his possession belonging or appertaining to such office. (For 1384 Comp. Laws.)

#### VACANCIES AND SUPPLYING THE SAME.

SECTION 366. Every office shall become vacant on the happening of either of the following events:

1. The death of the incumbent.
2. His insanity judicially determined.
3. His resignation.
4. His removal from office.
5. His failure to discharge the duties of his office, when such failure has continued for sixty consecutive days, except when prevented from discharging such duties by sickness or other unavoidable cause.

6. His failure to qualify as provided by law.
7. His ceasing to be a resident of the State, district, county or township in which the duties of his office are to be discharged, or for which he may have been elected.
8. His conviction of a felony or of any offense involving moral turpitude or a violation of his official oath.
9. His ceasing to possess any of the qualifications of office prescribed by law.
10. The decision of a competent tribunal declaring void his election or appointment. (For 1385 Comp. Laws.)

#### RESIGNATIONS.

SECTION 367. Resignations must be in writing and made as follows :

1. Of the Governor and Lieutenant Governor, to the Legislative Assembly, if it is in session, and if not, to the Secretary of State.
2. Of all other State and district officers, to the Governor.
3. Of all members of the Legislative Assembly, to the presiding officer of their branches respectively, when in session ; and when not in session, to the Governor ; and when made to the presiding officer, he shall at once notify the Governor thereof.
4. Of all the officers of the Legislative Assembly, to the respective branches thereof.
5. Of all elective county officers, by filing or depositing such resignation in the office of the county auditor, except that of county auditor, which shall be filed or deposited with the board of county commissioners, which resignation, unless a different time is fixed therein, shall take effect upon such filing or deposit.
6. Of officers of civil townships, to the board of supervisors of the township, except the members of such board, which shall be to the township clerk ; and notice shall forthwith be given by the township clerk to the county auditor of the resignation of all officers whose bonds are filed with such officer.

7. Of all officers holding their office by appointment, to the body, board, court or officer that appointed them. (For 1386 Comp. Laws.)

#### REMOVALS.

SECTION 368. All district, county, township, city, municipal or State officers, not liable to impeachment, except Representative to Congress and members of the Legislative Assembly, shall be subject to removal from office for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency, in the manner provided in the Codes of Civil or Criminal Procedure. (For 1387 Comp. Laws.)

SECTION 369. The board of county commissioners in the name of the county may make such a charge and bring the action, and the district court shall have exclusive original jurisdiction thereof. (For 1388 Comp. Laws.)

SECTION 370. At any time after the commencement of the action the court may suspend the accused from the functions of his office until the determination thereof, if sufficient cause appears from testimony or affidavits then presented; and if such suspension takes place, the board of county commissioners shall temporarily fill such office by appointment. (For 1369 Comp. Laws.)

SECTION 371. Upon the death, resignation, suspension or removal from office of any officer, all books and papers belonging to his office and all moneys and property in his hands of whatever kind shall be delivered to his successor. (For 1391 Comp. Laws.)

#### FILLING VACANCIES.

SECTION 372. All vacancies, except in the office of a member of the Legislative Assembly, shall be filled by appointment as follows:

1. In State and district offices, by the Governor.
2. In county and precinct offices, by the board of county commissioners, except vacancies in such board.
3. In offices of civil townships, by the justices of the peace of such township, together with the board of super-

visors or a majority of them, and if a vacancy occurs from any cause in the board of supervisors, the remaining members of the board shall fill such vacancy. (For 1392 Comp. Laws.)

SECTION 373. When a vacancy occurs in the board of county commissioners, it shall be the duty of the remaining members of the board, with the county judge and auditor, immediately to appoint some suitable person to fill such vacancy, from the district in which such vacancy occurred. In case a majority of such officers fail to agree upon a person to fill such vacancies, the county treasurer shall be called in and act as an additional member of such board to fill said vacancy. (For 1393 Comp. Laws.)

SECTION 374. If a vacancy occurs thirty days previous to an election day at which it may be filled, no appointment shall be made unless it is necessary to carry out such election and the canvass of the same according to law; in which case an appointment may be made at any time previous to such election, to hold until after such election or until his successor is elected and qualified. (S. 1394 Comp. Laws.)

SECTION 375. Appointments under the provisions of this chapter shall be made in writing and shall continue in force until the expiration of the term in which the vacancy occurs, and until his successor is elected and qualified, except as otherwise expressly provided by law. (For 1395 Comp. Laws.)

SECTION 376. A person appointed to office as herein provided, shall qualify within the time and in the manner required of a person elected or appointed to such office for a full term thereof. (For 1396 Comp. Laws.)

#### DEPUTIES.

SECTION 377. The State Auditor, Treasurer Superintendent of Public Instruction and Secretary of State, the county treasurer, county auditor, sheriff, register of deeds, surveyor, clerk of the district court and district and city assessors may each appoint a deputy, for whose acts as such he shall be responsible; and each officer required to give a bond may require a bond from any deputy appointed by him, which bond shall be in the penal sum of not greater

than half the penal sum of his own bond, and such bond may be retained by the officer for his own protection. Such appointment shall be in writing and shall be revocable in writing, at the pleasure of the principal, and all such appointments and revocation shall be filed as and where required for the bond and oath of the principal. (For c. 59, Laws of 1890.)

SECTION 378. The sheriff may appoint such number of deputies as he may deem necessary.

SECTION 379. Each deputy shall take and subscribe the same oath as his principal (naming his deputyship), which shall be endorsed upon and filed with his certificate of appointment. (S. 1399 Comp. Laws.)

SECTION 380. No State officer can appoint as his deputy any other State or district officer, nor can a State Treasurer appoint as his deputy any county treasurer, county judge, register of deeds, sheriff, or county commissioner; nor can either the clerk of the district court, the register of deeds or sheriff appoint as his deputy either of the others as their deputies. (S. 1400 Comp. Laws.)

SECTION 381. No person shall be appointed as deputy or employed as clerk or subordinate in any State, county or municipal office, or as a member, officer or subordinate upon any official board of the State or of any county or municipality of the State, and who is not a citizen of the United States, or if an alien over twenty-one years of age, who has not declared his intention to become such. (S. 191, '93.)

#### OFFICES—WHERE KEPT.

SECTION 382. No county, township or municipal officer in this State shall keep his office or any books, papers, records or other property pertaining to his office at any place other than that in which he is required by law to keep such office. (S. 1401 Comp. Laws.)

SECTION 383. Any officer violating any of the provisions of the last section is guilty of a misdemeanor. (S. 1402 Comp. Laws.)

SECTION 449. Nor shall he be liable as aforesaid if he

shall give a sufficient bond conditioned that he will pay or deliver the whole or any portion of such money or property to the claimant in the event if such claimant shall finally establish his right thereto. [S. 480 id.]

#### ARTICLE 9.—JURORS.

SECTION 450. All male citizens residing in any of the counties of this State, having the qualifications of electors, and being over the age of twenty-one years, and of sound mind and discretion, and not judges of the supreme or district courts, clerks of the supreme or district courts, sheriff, coroner, attorneys and counsellors at law engaged in practice, or jailers, and not subject to any bodily infirmity amounting to a disability and who have not been convicted of a criminal offense punishable by imprisonment in the penitentiary, and not subject to disability on account of the commission of any offense which by special provision of law disqualifies him, are and shall be competent persons to serve on all grand and petit juries within their counties or subdivisions respectively; *provided*, that persons over sixty years of age, ministers of the gospel, county judges, county commissioners, registers of deeds, practicing physicians, postmasters and carriers of the United States mail shall not be compelled to serve as jurors, neither shall any member in good standing of any regularly organized fire company be compelled to serve as a juror in any of the courts of the State. [For 443 Comp. Laws.]

SECTION 451. No jury shall be summoned except by order of the judge of the district court, who shall issue an order to the clerk of such court requiring a jury to be summoned, and in such order shall specify the number of petit jurors to be summoned, and the time and place where they shall appear. Such order may be issued at any time within thirty days prior to the first day of the term of the district court at which the jury is to attend or at any time during the term. [For 444 Comp. Laws.]

SECTION 452. A grand jury shall be summoned in the same manner provided for summoning petit juries; *provided*, that in all cases a grand jury shall consist of not less than sixteen nor more than twenty-three jurors. (S. 445 Comp. Laws.)

SECTION 453. In each county of this State wherein terms of the district court are held the names of two hundred persons qualified to act as jurors shall be selected in the manner hereinafter provided, from which to draw the grand and petit jurors; *provided*, that if in any county there are not two hundred persons qualified to act as jurors then a less number, and the highest number possible, shall be selected. The board of county commissioners in each county in which only a portion of the civil townships are organized, shall apportion to each of the organized townships and to each incorporated city and village in such county, and to the unorganized portion of such county, as near as may be, its *pro rata* share of such names. The number of names to be selected from the portion of the county not organized into civil townships, and not embraced within the limits of any incorporated city or village, shall be selected by the board of county commissioners from the last annual tax list and furnished to the clerk of the district court of such county. In each county in which all the townships are organized into civil townships, the board of county commissioners shall as near as may be, apportion *pro rata* the number of names to be selected among the civil townships in their respective counties, and among the incorporated cities and villages therein, if any. The names on the assessors' lists of the several townships, cities and villages for the preceding year shall be the basis for making such apportionment. [For 451 Comp. Laws.]

SECTION 454. In the counties whose assessors' list contain less than two hundred names of persons qualified to act as jurors for the year preceding the making or filing of such list of names for jurors, it shall be the duty of the board of county commissioners to select the highest number of names possible and when the number of names so selected shall not furnish a sufficient list from which to draw a grand and petit jury, a special venire shall be issued by the judge of the district court to complete the panels of jurors. (For ss. 1 and 2, c. 85, Laws of '90.)

SECTION 455. Whenever the county commissioners of any county shall have made the apportionment mentioned in Section 453 the county auditor shall forthwith notify the clerk of each township and village and the clerk or auditor of each city of the apportionment of his township,

city or village and such clerk or auditor shall immediately thereafter cause to be posted in three public places in his township, city or village a notice that the board of supervisors of the township or the board of aldermen or city council of the city, or the board of trustees of the village, as the case may be, will meet to draw the names of qualified jurors of the township, city or village, to make up the grand or petit jurors list for the county. Such notice shall state the time and place of such meeting within the township, city or village, designating a day not less than five nor more than ten days from the day of posting such notice. (For 452 Comp Laws.)

SECTION 456. At the time and place mentioned in such notice the board of supervisors of the township or the board of aldermen or the city council of the city, or the board of trustees of the village, as the case may be, shall meet and select from the names of the resident taxpayers of such township, city or village three times as many names as are apportioned to the township, city, or village by the county commissioner; and the township, city or village clerk or auditor shall at such meeting write each name so selected on a separate ticket and shall also record the list of the names so written and selected in a book to be kept for that purpose. Such board shall then compare the names on such tickets with such recorded list of names to satisfy itself that such tickets are correct. The tickets shall then be folded, placed in a box or some other receptacle and shaken up; one of the members of the board shall then select by lot from the tickets in such box or receptacle, the proper number of names so apportioned to this township, city or village, as the case may be; and the clerk or auditor shall then record in a book to be kept for that purpose such names in the order in which they were drawn. (For 453 Comp. Laws.)

SECTION 457. Such clerk or auditor shall immediately thereafter forward by mail to the clerk of the district court of his county a list of the names so drawn; and the clerk of the district court shall make out and record in a book to be kept for that purpose a list of the names so forwarded to him; but a failure of the officers of any township, city or village to comply with the provisions of the foregoing

section shall not invalidate such list. (For 454 Comp. Laws.)

SECTION 458. Within three days after the receipt of the order of the judge of the district court directing a jury to be summoned, the clerk of the district court or his deputy and the county auditor, county treasurer and sheriff or a majority of them, shall meet together at the county seat. In case the sheriff shall be disqualified by reason of being a party to any suit pending in such court, or for any other reason, the coroner shall serve with such officers in the place of the sheriff. Notice of such meeting stating the object thereof and the time of the meeting must be served by the clerk of the district court upon each of such other officers in the manner provided for the service of a summons and he shall also notify by mail each practicing attorney or firm of attorneys in the county of such meeting, at least one day prior thereto, and such meeting must take place within one day after the service of such notice. (For 455 Comp. Laws.)

SECTION 459. At such meeting the clerk of the district court or his deputy shall write the name of each person on such juror list on a separate ticket, and the remainder of the officers at such meeting shall compare such ticket with said list, and when all of said names on said ticket are found to correspond with said list, such ticket shall be folded and placed in a box or some suitable receptacle and shaken. (456 Comp. Laws.)

SECTION 460. One of such officers other than the clerk of court, shall then proceed to draw enough of such tickets to equal the number of jurors directed to be summoned, and such clerk or his deputy shall record such name in the order in which they were drawn, in a book to be kept for that purpose. The jurors first drawn, to the number required in the order, shall serve as grand jurors, if a grand jury shall be ordered to be summoned, and the remainder shall serve as petit jurors. (For 457 Comp. Laws.)

SECTION 461. Such clerk shall on the day of the drawing aforesaid, issue a venire or venires as the case may be, directed to the proper officer of the county, commanding such officer to summon the persons whose names are drawn, to appear before the district court at the hour, day

and place designated in the order of the judge. A separate venire shall issue for the grand jury when such jury is ordered. (For 458 Comp. Laws.)

SECTION 462. Such number of two hundred names shall at all times be kept full when possible, by completing the number after each jury term of court; and at the end of each jury term of the district court the clerk shall make requisition upon the county commissioners for the furnishing of as many names as have been drawn so as to keep such list full. And at the subsequent meeting the board of county commissioners shall proceed to apportion as hereinbefore provided, for making up the whole of such lists, and the same proceeding shall be had as to such names so required, as are herein directed to be taken in making said list full, except that the board of supervisors of any township, the board of aldermen or the city council of any city, or the board of trustees of any village, need not be specially called to draw any such names, but may do so at any regular called meeting, provided that in the notice of such meeting the fact that names for the jury list are to be drawn shall be stated therein as heretofore provided. A failure to comply with any of the provisions of this section, shall not be ground for challenge of any juror, either grand or petit or to the panel. (For 459 Comp. Laws.)

SECTION 463. The officer receiving a venire shall forthwith serve the same by reading or delivering a true copy thereof to each person therein named, or by leaving such copy at his usual place of residence, (such copy need contain only the name of juror served), and shall make return thereof, with his proceedings endorsed thereon, to the clerk as soon as he has executed the same. (For 450 Comp. Laws.)

SECTION 464a. Each grand and petit juror so summoned shall appear before the court on the day and at the hour specified in the summons and shall not depart therefrom without leave of court. (For 445a Comp. Laws.)

SECTION 465. If all persons summoned as grand and petit jurors do not appear before the court, or if for any cause the panel of the grand or petit jurors is not complete, or if no jury is drawn as above provided, the court

may order the sheriff, deputy sheriff or coroner to summon without delay the required number of persons having the qualifications of jurors; and the persons so summoned shall forthwith appear before the court, and if competent, shall serve on the grand or petit jury as the case may be, unless such persons are excused from serving or are successfully challenged. (For 445b Comp. Laws.)

SECTION 466. Whenever the panel of petit jurors shall be exhausted by the challenges of either party in any action, the judge of the court shall order the sheriff, deputy sheriff or coroner to summon, without delay, a sufficient number of persons possessing the qualifications of jurors, to complete the number requisite for a jury in that particular case. (For 445c Comp. Laws.)

SECTION 467. It shall be the duty of the respective boards in selecting and furnishing to the clerk the number of persons qualified to serve as grand and petit jurors so to select and arrange the names that no one person shall come on the jury a second time before all qualified persons shall have served respectively in rotation, according to the best information that can be obtained. (For 445b Comp. Laws.)

SECTION 468. If any person summoned to appear as a grand or petit juror fails, refuses or neglects to appear, such person shall be deemed guilty of contempt of court, and may be fined by the court in any sum not less than five nor more than fifty dollars; and if any person, when a second order of attachment is issued, neglects or refuses to appear, such person may be fined as above provided, and imprisoned by the court not longer than ten days in the county jail; and if the board of county commissioners, township board of supervisors, the board of aldermen or city council of any city, or the board of trustees of any village, shall wilfully neglect or fail to select and furnish to the clerk names of persons as hereinbefore provided, the person so offending may be fined by the court not less than five nor more than fifty dollars; and if any officer shall fail to perform any of the duties imposed upon him by this article, he shall be deemed guilty of contempt of court, and may be fined by the court not less than five nor more than fifty dollars, and if guilty of gross misconduct

in office and contempt in disregarding the provisions of this article he may be imprisoned in the county jail not longer than thirty days. (For 445e Comp. Laws.)

ARTICLE 10.—ADMINISTRATION OF OATHS.

SECTION 469. The following officers are authorized to administer oaths:

Each judge of the supreme court.

Each judge of the district court.

The clerk of the supreme court and his deputy.

Clerks of the district courts, county auditors and registers of deeds and their deputies within their respective counties.

County commissioners within their respective counties.

Judges of the county courts.

Justices of the peace and notaries public within their respective counties.

City clerks or auditors, township clerks and village recorders within their respective cities, townships and villages. Each sheriff and his deputy within their respective counties in the cases provided by law. Other officers in the cases specially provided by law. (S. 487 as amended by chap. 106 Laws of 1890.)

SECTION 470. Persons conscientiously opposed to swearing may affirm, and shall be subject to the penalties of perjury as in case of swearing. (S. 488 Comp. Laws.)

ARTICLE 11.—NOTARIES PUBLIC.

SECTION 471. The Governor shall appoint in each county in this State from among the citizens of either sex, one or more notaries public, who shall hold office for six years, unless sooner removed by the Governor, each of whom shall have power and authority anywhere in the State to administer oaths and perform all other duties required of them by law; but the person to be eligible to such appointment must, at the time of appointment, have the qualifications of an elector as to age, residence and citizenship. (S. 1, c. 76, 1893.)

SECTION 472. The Secretary of State shall issue a commission and duplicate thereof to each notary public appointed by the Governor, one of which shall be by said notary posted in a conspicuous place in his office; and the Secretary of State shall collect and receive five dollars for the issuance of such commission and duplicate, which sum shall be paid into the State treasury and credited to the general fund. The Secretary shall keep in his office a record of such appointments and the date of the expiration of the same, and shall notify each notary public, by mail, at least thirty days before the expiration of his term of the date upon which his commission expires, which notice shall be addressed to such notary public at his last known place of residence. (For s. 2 id.)

#### CHAPTER IV.

##### ARTICLE 1.—ELECTIONS.—GENERAL PROVISIONS.

SECTION 484. All elections for State, district, county, township, city and ward and other officers provided by law, shall hereafter be held and conducted in the manner prescribed in this chapter; except as otherwise specially provided by law. (For 1440 Comp. Laws.)

SECTION 485. On the first Tuesday after the first Monday in November, of each even numbered year, an election shall be held in the several election districts of the State which shall be known as the general election, and the several State, district and county officers, judges of the supreme and district courts, members of the Legislative Assembly and the member of Congress of the United States, shall be elected at the general election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at special elections, and on a year when a President and a Vice-President of the United States are to be chosen, a number of electors of President and Vice-President of the United States, equal to the number of Senators and Representatives to which this State is entitled in the Congress of the United States, shall be elected at such election. (S. 1, H. B. B. No. 1 Spec. Sess., '92.

SECTION 486. The Secretary of State shall, between the

first days of July and September in such year, direct and cause to be delivered to the county auditor of each county, a notice specifying all the State officers whose term of office will expire between the first Monday in December and the first Monday in January next succeeding, and specifying also the several officers to be chosen in such county at the next general election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in the next section. (S. 2 id.)

SECTION 487. The county auditors of the several counties shall cause notice of any election to be published in each of the newspapers designated by the board of county commissioners for the publication of their official proceedings, at least once in each week for four consecutive weeks next preceding such election. Such notice shall be as nearly as circumstances will admit, as follows :

Notice is hereby given that on Tuesday, the ..... day of ..... next, at ....., in the township or precinct of ....., in the county of ....., an election will be held for State, district or county officers (naming the offices to be filled as the case may be), which election will be opened at eight o'clock in the morning and will continue open until five o'clock in the afternoon of that day.

Dated this ..... day of ....., A. D. 18.....

.....  
(Signed) A. B. County Auditor.

In case there shall be no newspaper published in the county in which such election is to be held, the county auditor shall deliver three copies of such notice for each precinct to the sheriff, coroner or other person designated by the board of county commissioners, and such sheriff, coroner or other person shall post in three of the most public places in each precinct the notice pertaining to such precinct, at least twenty days previous to the time of holding any general election and at least eight days previous to the time of holding any special election, and in cases where townships are not set off by law as election districts, such notices shall be posted as follows : One at the house where the election is authorized to be held, and two at two of the most public places in that vicinity. The officer or

person shall thereafter file with the county auditor an affidavit of such posting, which shall be *prima facie* evidence of the facts therein stated. [For ss. 1444 and 1445 Comp. Laws.]

SECTION 488. The chairman of the board of supervisors in organized townships shall by virtue of his office, be inspector of elections. In case the township contains more than three hundred voters, such chairman shall be inspector of elections for the precinct in which he resides, and shall appoint the inspector in all other precincts which are component parts of the township of which he is chairman.

In all cities in which the aldermen are elected in different years, the senior alderman shall be inspector of election for the precinct in which he resides, and in cities in which the aldermen are not so elected, the alderman who shall act as inspector of elections shall be determined by lot in such manner as the city council shall prescribe. In case a ward in any city contains more than 300 voters, the senior alderman or the alderman chosen by lot shall be inspector of elections for the precinct in which he resides, and shall appoint the inspectors in all other precincts which are component parts of the ward of which he is alderman. In incorporated town and villages, the president of the town or village board of trustees shall act as inspector, and if the town or village contains more than 300 voters, he shall act as inspector of the precinct in which he resides and appoint the inspectors in other precincts. The inspector shall, prior to the opening of the polls in his precinct, appoint as judges of election two qualified electors of such precinct, who shall have been resident freeholders therein for at least ninety days next preceding such election, and who are members of different political parties and of the parties which cast the highest number of votes at the preceding general election; *provided*, that if at least one week prior to such election the chairman of the county central committee of either of the two parties that cast the largest number of votes in the State at the last general election, shall nominate a member of such party as judge, having the qualifications above prescribed, presenting a certificate of such nomination signed by such chairman, he shall be appointed by the

inspector, and such judges, together with the inspector, shall constitute the board of elections. No person shall be a member of the board of election who has anything of value, bet or wagered on the result of such election, or who is a candidate, or who is the father, father-in-law, son, son-in-law, brother or brother-in-law of any candidate at such election.

If at any time before or during an election it shall be made to appear to any inspector, by the affidavit of two or more qualified electors of the precinct, that either of the judges is disqualified under the provisions of this section, he shall at once remove such judge and fill the place with a qualified person of the same political party as the judge removed, and in case such person so disqualified shall have taken the oath of office as prescribed by law, the inspector shall place such oath and affidavit before the states' attorney of the county; *provided*, that in case such inspector is disqualified from acting, the other two members of the board of township supervisors and the clerk, shall at least ten days before the date of holding the election, hold a meeting for the purpose of filling such vacancy. In case the alderman designated or selected to act as inspector in any ward is disqualified from acting, the other alderman of the ward shall act as inspector and appoint other inspectors when necessary, and in case the president of the board of trustees of any town or village is disqualified the remaining members of the board shall select one of their number to act as such inspector and appoint other inspectors when necessary. Such vacancy shall be filled by appointing an inspector who shall belong to the same political party as the disqualified inspector, and the name of the inspector so appointed shall at once be reported to the county auditor by such clerk. (For s. 5, c. 60, '93.)

SECTION 489. In precincts consisting of unorganized townships, the board of county commissioners shall, at the July session of such board next preceding an election, appoint in each precinct, as inspector of such election, some qualified elector of such precinct. Such inspector shall, before the time of opening the polls in his precinct, appoint two judges of election as provided in the preceding section, and such judges and inspector shall constitute the

board of election for that precinct. If any member of the board of election shall fail to appear at the hour appointed for the opening of the polls, the remainder of the board shall select a member of his political party to serve in his stead; *provided*, that if the qualified electors of his party present at the polls shall nominate a qualified person for such vacancy, such nominee shall be appointed. If none of the members of the election board shall appear at the hour appointed for opening the polls, the qualified electors present shall elect a board *viva voce*, as nearly as possible in conformity with the provisions hereof. (For s. 16b, c. 66, '91.)

SECTION 490. Such board of election shall appoint as poll clerks two qualified electors of such precinct, one from each of the two parties that cast the largest vote at the last general election. (S. 16c, c. 66, '91.)

SECTION 491. Previous to the votes being taken the inspectors, judges, and clerks of elections shall severally take and subscribe an oath in the following form: "I, A. B., do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge or clerk, (as the case may be), according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same."

Such oath may be taken before any officer authorized to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or judges of election are authorized to administer such oath to each other and to the clerks of election; and the person administering such oath shall cause an entry thereof to be made and subscribed by him and prefixed to the poll-book. (For s. 1447 Comp. Laws.)

SECTION 492. At all elections held under the provisions of this chapter the polls shall be open at eight o'clock a. m. and closed at five o'clock p. m. Twenty minutes prior to five o'clock p. m. the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at five o'clock p. m. (S. 40, c. 66, '91.)

SECTION 493. The inspector or one of the judges of elec-

tion shall deliver ballots to the qualified electors. Before delivering any ballot to an elector, the inspector or judge shall print on the back and near the top of the ballot, with a stamp provided for that purpose, the designation "official ballot" and the other words provided for in Section 522 and also write his initials thereon. Each qualified elector shall be entitled to receive from the judges one ballot. (For s. 23 id.)

SECTION 494. On receipt of his ballot the elector shall forthwith and without leaving the polling place retire alone to one of the booths or compartments provided, to prepare his ballot by placing a cross (X) mark within the circle before the name of each person for whom he wishes to vote, or the elector may write in the blank space or paste over any other name the name of any person for whom he may wish to vote, but the name of no candidate shall be counted which has not the cross (X) mark within the circle before such name; or in case of a ballot containing a constitutional amendment or other question to be submitted to a vote of the people, by placing a cross mark within the circle before the word or words expressing his wish and for which he desires to vote. After preparing his ballot, the elector shall fold it so that the face of the ballot will be concealed, and the endorsement stamped thereon may be seen. He shall then vote forthwith and before leaving the polling place, and after voting he shall immediately leave the room. [Sec. 8 c. 60, Laws '93.]

SECTION 495. Not more than one person shall be permitted to occupy any one booth or compartment at one time, and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot, and in no event longer than five minutes when the other booths or compartments are occupied. (S. 25, c. 66, '91.)

SECTION 496. No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot. The ballots thus returned shall be immediately cancelled and together with those not distributed to the voters, shall be preserved and secured in sealed

packages and returned to the county auditor from whom received. (S. 26 id.)

SECTION 497. Any voter who declares to the judges of election, or when it shall appear to the judges of election that he cannot read or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of two of the election officers in the marking thereof, who shall be chosen from different political parties, and such officers shall give no information regarding the same. The judges may in their discretion require such declaration of disability to be made by the voter under oath, and they are authorized to administer such oath. No elector other than one who may because of his inability to read or physical disability, be unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, or ask or receive the assistance of any person within the polling place in the preparation of his ballot. (S. 27 id.)

SECTION 498. No inspector or judge of election shall deposit in any ballot box any ballot upon which the official stamp, as hereinbefore provided for, does not appear. Every person violating the provisions of this section is guilty of a misdemeanor. (S. 28 id.)

SECTION 499. Any board of election or any member of any board of election who shall wilfully and knowingly reject any legal vote shall be subject to a fine of fifty dollars to be collected in a civil action before any justice of the peace in the name and for the benefit of the person aggrieved. (For s. 1450 Comp. Laws.)

SECTION 500. When a ballot shall be received, one of the judges without opening the same or permitting it to be opened or examined except to ascertain whether it is a single ballot or not, shall deposit it in the ballot box. (S. 1457 Comp. Laws.)

SECTION 501. Each clerk of election shall keep a poll list which shall contain the names of all the persons voting at such election, in their numerical order. (S. 1457 Comp. Laws.)

SECTION 502. If any inspector or judge of election shall

know or have reason to believe that any person offering to vote is not a qualified elector, it shall be his duty to challenge the right of such person to vote. (For s. 1462 Comp. Laws.)

SECTION 503. There shall be allowed to the several inspectors, judges and clerks of election of each county two dollars per day, to be paid out of the county treasury on the warrant of the auditor. (For s. 1470 Comp. Laws.)

SECTION 504. At all general or special elections for State, district, county, city, township, village or other public officers within this State, including elections in cities, towns and villages incorporated by special act, all ballots cast shall be printed and distributed at public expense as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county and the delivery of the same to the election officers as hereinafter provided, shall be a county charge, and for municipalities a municipal charge, the payment of which shall be provided for in the same manner as other county and municipal expenses; *provided*, however, that the provisions of this chapter shall not apply to elections for civil township or school district officers, nor to elections in incorporated cities, and villages having less than three hundred legal voters as evidenced by the vote cast therein at the last preceding general election. (S. 1, c. 60, '93.)

SECTION 505. Any assembly or convention of delegates held for the purpose of making nominations to public office, or electors to the number hereinafter specified, may nominate candidates for public office, to be filled by election within the State. Public printed or posted notice of holding such assembly or convention must be given at least six days before the holding of the same. Such nomination shall be made by delivering to and leaving with the officer charged with directing the printing of the ballots upon which the name is to be placed, within the time prescribed herein, a certificate of nomination for each candidate.

An assembly or convention within the meaning of this chapter is an organized assemblage of delegates representing a political party or principle, which cast five per cent of the total number of votes cast for member of Congress at the last general election. (S. 2, c. 60, '93.)

SECTION 506. All nominations made by such convention shall be certified as follows: The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his postoffice address and the office for which he is named, and shall designate, in not more than five words, the party or principle which such convention represents, and it shall be signed and certified by the presiding officer and secretary of such convention, who shall add to their signatures, their postoffice address. Such certificate, made out as herein required, shall be delivered by the secretary or president of such convention by registered letter or in person, without charge, to the Secretary of State or to the county auditor as hereinafter required. [S. 3, c. 66, '91.]

SECTION 507. Certificates of nominations for candidates for offices to be filled by the electors of the entire State, or of any division or district greater than a county, and for Legislative officers, shall be filed with the Secretary of State; certificates of nominations for county officers shall be filed with the county auditor of the respective counties wherein the officers are to be elected; certificates of nomination for municipal officers shall be filed with the city auditor or clerk of such municipality. [For s. 4, c. 60, '93.]

SECTION 508. Candidates for public office may be nominated otherwise than in convention, in the manner following; A certificate of nomination containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in Section 506, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following numbers: The number of signatures shall not be less than three hundred when the nomination is for an office to be filled by the electors of the entire State; when the office is to be filled by the electors of a district less than the entire State, the number of signatures shall not be less than 10 per cent of the number of votes cast for member of Congress at the last preceding general election, and when the office to be filled is in an incorporated city, town or village the number of signatures shall not be less than 10 per cent of the number of votes cast at the last preceding election held

therein; *provided*, that in no case shall more than 300 signatures be required. Such signatures need not be appended to one paper. Each elector signing a certificate shall add to his name his postoffice address. Such certificate may be filed as provided for in Section 507, in the same manner, and with the same effect as a certificate of nomination made by a party convention.

The number of electors necessary to hold a mass convention shall be the same as the number of signatures required to nominate by petition.

SECTION 509. No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall participate directly or indirectly in the nomination, at caucus, in convention or by petition, of more than one per cent for each office to be filled, and no person shall accept a nomination for more than one office. [S. 6, c. 66, '91.]

SECTION 510. The Secretary of State and the several county auditors shall cause to be preserved in their respective offices for six months all certificates of nominations filed in their offices under the provisions of this chapter. All such certificates shall be open to public inspection under proper regulations to be made by the officers with whom the same are filed. The board of county commissioners of each county in the State shall, at their first session after the taking effect of this Code, divide their respective counties into election precincts and establish the boundaries of the same if they have not heretofore done so. The entirety of civil townships, cities or villages, as voting precincts, shall be preserved when possible, except when such preservation would conflict with the provisions of this section. In such case the civil township, city or village shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships or part of a township and city or village. Such board of commissioners shall designate one voting place in each precinct. No precinct shall contain more than three hundred electors. If at any election hereafter held more than three hundred votes shall be cast at any voting place, it shall be the duty of the inspector in such precinct to report such facts to the board of county

commissioners, who shall at their next regular meeting, divide such precinct as nearly as possible so that the new precincts formed therefrom shall each contain two hundred and fifty electors as nearly as practicable. (For s. 7 id.)

SECTION 511. Certificates of nomination to be filed with the Secretary of State shall be filed not less than thirty days before the day fixed by law for the election of the persons in nomination. Such certificates of nomination may be sent by the registered letter deposited in postoffice on the last day and the receipt therefor filed with the county auditor. Certificates of nomination herein directed to be filed with the auditor shall be filed not less than twenty days before the election; but the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise. (S. 8 id.)

SECTION 512. Not less than twenty-five nor more than thirty days before an election to fill any State or district office, the Secretary of State shall certify to each county auditor within which any of the electors may by law vote for candidates for such office, the name and postoffice address of each person nominated for such office, as specified in the certificates of nomination filed with the Secretary of State. (S. 9 id.)

SECTION 513. At least ten days before an election to fill any public office under the provisions of this chapter, the county auditor of each county shall cause to be published in one or more newspapers within the county the nominations certified to him under the provisions of this chapter. The auditor shall make such publications daily until the election, in counties where daily newspapers are published; but if there is no daily newspaper published within the county, two publications in each newspaper will be sufficient; and if there is no newspaper published in any county, written or printed notices shall be posted in at least three public places in each precinct. (For s. 10 id.)

SECTION 514. Whenever any person nominated for public office, as in this chapter provided, shall at least twenty-five days before election, in writing signed by him, notifying the officer with whom the certificate nominating him is by

this chapter required to be filed, that he declines such nomination, such nomination shall be void. [S. 11 id.]

SECTION 515. Should any person so nominated die before the printing of the tickets, or decline the nomination as in this chapter provided, or a vacancy occur upon the ticket for any other cause, the vacancy thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies the committee of the political party in whose ticket such vacancy occurs may fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the name of the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. When such certificate shall be filed with the Secretary of State, he shall in certifying the nomination to the various auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And if he has already forwarded, sent forth his certificate, he shall forthwith certify to the auditors of the proper counties the name and address of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted. A failure to publish the name of a person so substituted shall not invalidate the election. (S. 12 id.)

SECTION 516. When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this chapter to fill such vacancy the officer whose duty it is to have the tickets printed and distributed, shall thereupon have printed on a requisite number of stickers the name of such substituted candidate and no other name, and shall mail them by registered letter, or send by other reliable method, to the judges of election in the various precincts affected by such vacancy, and the judges of election whose duty it is made by the provisions of this chapter to distribute the

tickets, shall affix such stickers in the proper place on each ticket before it is given out to the electors. (S. 13 id.)

SECTION 517. Whenever a proposed constitutional amendment or other question is to be submitted to the people of the State for popular vote, the Secretary of State shall duly, and not less than thirty days before election, certify the same to the auditor of each county in the State, and the auditor of each county shall include the same in the publication provided for in Section 513. Questions to be submitted to the people of the county shall be advertised as provided for nominee for office in such section. (S. 14 id.)

SECTION 518. Except as otherwise provided in this chapter, it shall be the duty of the auditor of each county to provide printed ballots for every election for public officers in which electors, or any of the electors within the county participate and cause to be printed on the ballots the name of each candidate whose name has been certified to or filed with him in the manner provided for in this chapter. Ballots other than those printed by the respective county auditors shall not be cast or counted in any election. Nothing in this chapter shall prevent any voter from writing or pasting on his ballot the name of any person for whom he desires to vote for any office, and such vote shall be counted the same as if printed on the ballot and marked by the voter. (S. 15 id.)

SECTION 519. All ballots prepared under the provisions of this chapter shall be white and of a uniform quality of paper, and the name shall be printed thereon in black ink. At the head of each ballot shall be printed the name or designation of every political party represented on such ballot. Each ballot shall contain the name of each candidate whose nomination has been certified according to law, and none other. The candidates of the party casting the highest number of votes for member of Congress at the last preceding general election, shall be arranged in the first or left hand column of such ballot; of the party casting the next highest number of votes in the second column; of the party casting the next highest number of votes in the third column; and of any other party as the Secretary of State may direct for State officers, the county audi-

tor for county officers, the municipal or city auditor for municipalities, or the president of the board of trustees for corporate villages, may direct. The names of electors of President and Vice-President of the United States presented in one certificate of nomination shall be arranged in a group and placed at the head of the column under the party designated or represented in such certificate. Below the candidates for each office shall be left a blank space large enough for the name of a candidate to be written in. There shall be a margin on each side at least a half an inch in width, and a reasonable space between the names printed thereon, so that the voter may clearly indicate in the way hereafter provided, the candidate for whom he wishes to vote. Whenever the Secretary of State has duly certified to the auditor any question to be submitted to the vote of the people, the auditor shall have printed on the regular ballots the question in such form as will enable the elector to vote upon the question so presented in the manner hereinbefore provided. The auditor shall also prepare the necessary ballots whenever any question is required by law to be submitted to a vote of the electors of any subdivision and not to the State generally. The municipal or city auditor or clerk, as the case may be, shall prepare and direct the printing and distributing of all ballots for municipal or city election and for all questions that may be submitted to a vote of the electors of such municipality, except as provided in Section 504. (For s. 6, c. 60, 9s.)

SECTION 520. The county auditor of each county shall provide for each election precinct in his county one hundred and fifty ballots for each fifty electors, or fraction thereof, in such precinct as shown by the vote cast therein at the last general election. Such ballots shall be distributed in packages or blocks containing not more than one hundred and fifty ballots each. If such county auditor has reason to believe that the electors of any precinct has materially increased in numbers since the last election he may provide for such precincts such additional ballots as he may deem necessary. Each county auditor shall at least five days before any election have the ballots printed and the same may be inspected in the office of such auditor by any person. Such auditor shall also at least five days be-

fore any election send to the inspector in each precinct five copies of such ballot printed upon tinted paper and such inspector shall post the same in five public places in his precinct, one of such copies to be posted at the polling place therein; for which services such inspector shall be entitled to receive two dollars. Such auditor shall at the time of distributing such copies cause to be delivered to the several inspectors the necessary number of blank forms of poll books and also blanks for the election returns with the proper captions, forms of oaths, and forms of certificates and tally sheets necessary to carry out the provisions of this chapter. (For s. 7, c. 60, '93.)

SECTION 521. Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names of the persons nominated, or in the printing of the ballots, the judge of the district court may, upon application of an elector, by order, require the auditor to show cause why such error should not be corrected, and upon the hearing thereof he may make such order as the facts warrant. (For s. 19, c. 66, '91.)

SECTION 522. Each county auditor shall deliver or cause to be delivered by mail or other reliable method to the inspector of election in each precinct in his county the official ballot prepared by him at least twenty-four hours before the hour of opening the polls on election day. Such ballots shall be delivered in seal packages marked on the outside plainly designating the number of ballots enclosed and the precinct for which they are intended. He shall also deliver or cause to be delivered to such inspector, or if that is impracticable, to one of the judges of elections of such precinct, a rubber or other stamp with ink pad for the purpose of stamping each ballot with the words "Official Ballot," and the name or number of the precinct, the name of the county and the date of the election. (For s. 20, c. 66, '91.)

SECTION 523. On the opening of the polls the inspector in each precinct shall produce the sealed package and official ballots, and publicly open the same and deliver one block of ballots to the ballot clerk, retaining the other blocks, if any, until they are needed for voting. Before declaring the polls open, such inspector shall see that the

ballot box is empty and allow the judges to satisfy themselves thereof, after which such box shall be locked. (S. 21, c. 66, '91.)

SECTION 524. The inspectors of election shall provide in their respective polling place, a sufficient number of booths or compartments which shall be furnished with such supplies and conveniences as to enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation, and a guard rail with an opening so constructed that only persons within such rail can approach within ten feet of the ballot box, or the booths or compartments herein provided for. The number of such booths or compartments shall not be less than one for each fifty electors or fraction thereof in the precinct. No election shall be held in a room in which spirituous or malt liquors are commonly sold. Not more than one elector for each booth engaged in receiving, preparing or depositing their ballots shall be permitted within the railing at any time. One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing at the outside. If any person offering to vote shall be challenged by one of such challengers or by any member of the board of election, unless such challenge is withdrawn, he shall stand aside and shall not vote unless he makes an affidavit that he is a legally qualified elector of the precinct. The expense of providing such booth or compartments and guard rails shall be a public charge, and shall be provided for in the same manner as other election expenses. (For s. 22, c. 66, '91.)

SECTION 525. Each county auditor shall cause to be printed on cards in large type full instructions to electors as to the manner of obtaining and preparing ballots, and also containing a copy of Sections 526 to 529 inclusive of this chapter. He shall furnish ten such cards to the judges of election in each election precinct, and the judges of election shall at the opening of the polls post at least one of such cards in each booth or compartment provided for the preparation of ballots, and at least three of such cards in and about the polling place. There shall also be posted in each booth or compartment one of the official ballots without the official stamp hereinbefore provided for, and

not less than three of such ballots shall be posted in other places in and about the polling place upon the morning of election. (For s. 29, c. 66, '91.)

SECTION 527. Any public officer upon whom any duty is imposed by this act, who shall wilfully do or perform any act or thing herein prohibited, or wilfully neglects or omits to perform any duty as imposed upon him by the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office and shall be punished by imprisonment in the county jail for a term of not less than one month nor more than six months, or by a fine of not less than fifty dollars and not more than five hundred dollars, or by both such fine and imprisonment. (S. 33 id.)

SECTION 528. No officer of election shall do any electioneering on election day. No person shall do any electioneering on election day within polling place or any building in which an election is being held, or within fifty feet thereof, nor obstruct the doors or entrance thereto, or prevent free ingress to or egress from said building. And the inspector and judges of election shall, if they deem it necessary, appoint an election officer; such election officer, sheriff, constable or other peace officer, is hereby authorized and empowered and it is hereby made his duty to clear the passageway, and prevent such obstruction and to arrest any person creating such obstruction. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of any candidate or candidates for whom he has marked his vote, nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots, nor shall any person other than such inspector or judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Any elector

who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars, and adjudged to pay the costs of prosecution. (S. 34 id.)

SECTION 529. As soon as the poll of the election shall be finally closed, the inspectors shall proceed immediately to canvass publicly, in the presence of all persons desiring to attend the same, the votes received at such poll, and continue without adjournment until the canvass is completed, and the statements hereinafter required are made. They shall commence by a comparison of the poll lists, and the correction of any mistakes therein, until they shall be found or made to agree. The box shall then be opened and the ballots therein taken out and counted by the inspectors, unopened, except so far as to ascertain whether each ballot is single; and if two or more ballots be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot is completed; and if, upon a comparison of the count and the appearance of such ballot, a majority of the inspectors shall be of the opinion that the ballots thus folded together were voted by one elector, they shall be destroyed. If the ballots in the box shall be found to exceed in number, after any such ballots folded together are destroyed, the whole number of votes on the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw therefrom by chance, and without examination thereof, and destroy so many ballots unopened as shall be equal to such excess. The number of ballots agreeing, or so aforesaid being made to agree, with the poll lists, the inspectors shall then proceed to open and count and ascertain the number of votes. (S 35 id.)

SECTION 530. In the canvass of the votes, and ballot which is not endorsed, as provided in this article, by the official stamp and initials, shall be void and shall not be counted, and any ballot or parts of a ballot from which it

is impossible to determine the elector's choice, shall be void and shall not be counted; *provided*, that when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges of election to count such part. (S. 30 id.)

SECTION 531. The inspectors shall as soon as the count is completed publicly announce the result thereof, specifying the whole number of votes cast for each office and for each candidate respectively. Also the number of votes cast for and against each proposition voted for at such election. They shall immediately prepare in duplicate a statement in writing setting forth at length, in words and figures, the whole number of votes cast for each office and the names of all the persons for whom such votes were cast, together with the number of votes cast for each person. Also the number of votes cast for and against each proposition voted upon at such election which statement they shall certify to be correct. (S. 36 id.)

SECTION 532. The inspector of election, or one of the judges appointed by him, shall forthwith deliver to the clerk of the town, city or village, one of said statements and one of said poll lists, together with the stamp, to be filed and preserved in his office, and shall with all convenience dispatch and within three days after the election deliver the other statement to the county auditor, it having been by the judges carefully sealed up, together with the other poll list with the oaths of inspectors and clerks affixed, under cover, properly directed to the county auditor, and the person delivering such returns to the county auditor shall be entitled to receive as compensation therefor the sum of two dollars, and mileage at the rate of five cents per mile for each mile necessarily traveled in going to and returning from such auditor's office, to be paid out of the county treasury, on the warrant of the auditor. The inspector of election shall lock the ballot box after the ballots have been replaced therein in the presence of the judges, and shall send the key properly labelled with the name and number of the polling precinct, at the same time as he returns the poll books and statements, to the county auditor, but shall retain in safe custody the ballot box used at the election, sealed with all the ballots cast at the same, replaced therein, during sixty days next after election.

And it shall be his duty to cause the said box to be safely delivered to the county auditor upon the written request of the board of canvassers at any time during said sixty days. In organized townships, within thirty days after said date, or in cities or villages, the inspector of elections shall deliver, if he be not himself the officer in question, the boxes to the chairman of the board of supervisors of the civil township, or mayor of the city, or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody the said boxes until the next election or hand them over to his successor in office, to be by him safely kept until such time. At the following general election it shall be the duty of these officers to hand the ballot boxes over to the inspector of elections, and in case they have lost or destroyed them, then they shall replace them each at his own cost. In unorganized townships the inspectors of elections shall cause the ballot boxes to be safely delivered to the county auditor, between the sixtieth and ninetieth day following the election. And the same compensation shall be allowed for such delivery as is allowed in this section for returning the poll book and statement to the auditor. Any person violating any of the provisions of this section is guilty of a misdemeanor. (S. 37 id.)

SECTION 533. On the fifteenth day after the close of any election, or as soon as the results are received, the county auditor shall call to his assistance a majority of the county commissioners of the county or the county treasurer, county judge and one county commissioner, and none of the persons so called shall be candidates for office, unless there is not sufficient of such officers who are not such candidates, and shall proceed to open such returns and make abstracts of the votes in the manner following: The abstract of the votes for member of Congress shall be on one sheet; the abstract of votes for state's attorney shall be on one sheet; the abstract of votes for members of the Legislative Assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the

Legislative Assembly, county and precinct officers respectively, and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor; *provided*, that when a tie shall exist between two or more persons for the Senate and House of Representatives, the county auditor shall give notice to the sheriff of the county, who shall immediately advertise another election, giving at least ten days' notice. It shall be the duty of the county auditor of each county on receipt of the returns of any election to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of county of commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. And immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the Secretary of State. And, *provided, further*, that if the county auditor is a candidate for office he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass shall call to their assistance one of the officers mentioned in this section who is not a candidate, and if there is no such officer remaining who is not a candidate, they shall call to their assistance a justice of the peace and it shall thereupon be their duty at once to attend and canvass such returns as provided by law. [S. 1471, C. L.]

SECTION 534. If the requisite number of county officers shall not be elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the county auditor whose duty it is to compare the polls shall give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, and they shall then proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared duly elected, and such auditor shall make and

deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. [S. 1472 id.]

SECTION. 535 When two or more counties are embraced in one senatorial district, the respective county auditors shall attend at the office of the county auditor of the senior county of such district within twenty days after the day of election, and in conjunction with the auditor of the senior county shall compare the votes cast in the several counties comprising such district; and such auditors shall immediately make out a certificate of election for the person having the highest number of votes in such district for members of the Legislative Assembly, which certificates shall be delivered to the persons entitled thereto on application to the county auditor of the senior county of such district. [S. 1473 id.]

SECTION 536. The Secretary of State, State Auditor, State Treasurer, Attorney General and Superintendent of Public Instruction shall constitute the State board of canvassers, three of whom shall be a quorum for the transaction of business, and if less than a quorum of such officers attend on the day appointed for a meeting of the board, then those so attending are hereby authorized to summon others of the State officers sufficient to constitute a quorum who, on being notified by the officer or officers so attending, shall attend without delay, and act as a member of such board. [For s. 1, Senate Bill No. 1, Sp. Sess., 1892.]

SECTION 537. When a member of such board is a candidate for any office as to which the votes are to be canvassed by him, the Governor shall designate some other State officer who shall act in his stead at the session of the board while the votes given for such member are being canvassed. [S. 2 id.]

SECTION 538. It shall be the duty of the county auditor of each county under his official seal, to return to the Secretary of State on or before the first Tuesday of December following any general election, and within thirty days following any special election, a certified abstract of the number of votes cast in his county at such election for each candidate for State and Congressional offices, and electors for President and Vice-President, judges of the supreme

court and district court and the members of the Legislative Assembly, and for amendments to the Constitution or proposition submitted by the Legislative Assembly; *provided*, that the county auditor shall make a separate certified abstract of the votes cast for persons for electors of President and Vice-President of the United States. He shall seal up such report of abstract and indorse it: "Presidential elector returns" and without delay transmit it to the Secretary of State by registered mail. [For s. 3 *id.*]

SECTION 539. The Secretary of State, upon receipt of the certified abstract of votes given in the several counties, directed to be sent to him by the county auditors, shall record the result of such election by counties, and shall file and carefully preserve the certified statements so received from the county auditors, and if no such statements shall be received by him from the county auditor of any county prior to the time specified for the meeting of the State board of canvassers, he may and it is hereby made his duty to dispatch a special messenger to obtain such statement, at the expense of such county, and such auditor shall, immediately on demand of such messenger, make and deliver to him the statement required, which the messenger shall deliver to the Secretary of State to be recorded and filed by him as aforesaid. Such messenger shall be allowed the sum of ten cents per mile for each mile necessarily traveled in going to and returning from the office of such county auditor, the same to be audited by the State Auditor upon the certificate of the Secretary of State, and the State Treasurer shall present a bill for the amount so audited against the county failing to send up such returns as above provided, which bill so presented shall be audited by the board of county commissioners of such county and paid by the county treasurer. [For s. 4 *id.*]

SECTION 540. For the purpose of canvassing and ascertaining the result of such election, the State board of canvassers shall meet at the office of the Secretary of State on the second Tuesday in December next after a general election, and within forty days after a special election, and the Secretary of State shall notify the other members of the board of the same. [S. 5 *id.*]

SECTION 541. The board when thus formed shall ex-

amine such certified statements of the county canvassers, and if it shall appear that any material mistake has been made in the computation of votes given for any person, or that the county canvassers in any county have omitted to canvass the votes, or any part thereof cast in any precinct in their county, the board may dispatch a messenger to the county auditor of such county at the expense of such county, with its requirement in writing to him to certify the facts concerning such mistake, and the reason why such votes were not canvassed; and the county auditor to whom any such requirement is delivered shall forthwith make a true and full answer thereto, under his hand and official seal, and deliver the same to such messenger, who shall deliver the same with all convenient dispatch to the Secretary of State. (For s. 6 id.)

SECTION 452. Such board may adjourn, from day to day, as may be necessary, not exceeding three days in all. (For s. 7 id.)

SECTION 453. Upon the certified statements and returns so received, the board shall proceed publicly to examine and make a statement of the whole number of votes given at any such election for each and all State officers; and another statement of the votes given for member of Congress, each of which statements shall show the names of the persons to whom such vote shall have been given for either of said offices, and the whole number of votes given to each, distinguishing the several districts and counties in which they are given. A majority of such canvassers shall decide all matters of disagreement, they shall disregard all technicalities and misspelling, the use of initial letters and abbreviations of the names of candidates if it can be ascertained from the returns for whom the votes were intended. In case there shall be no choice by reason of any two or more persons having an equal, and the highest number of votes the Governor shall by proclamation order a new election. (For s. 8 id.)

SECTION 454. They shall certify such statements to be correct and subscribe their names thereto, and they shall thereupon determine what persons have been, by the greatest number of votes, duly elected to such offices, or either of them, and shall make out and subscribe on each state-

ment a certificate of such determination, and deliver the same to the Secretary of State. (S. 9 id.)

SECTION 455. The Secretary of State shall record in his office each certified statement and determination so made by said board, and shall forthwith make out and transmit to each of the persons thereby declared to be elected a certificate of election as hereinafter provided, and he shall also forthwith cause a copy of such certified statement and determinations to be published in a newspaper printed at the seat of government. (S. 10 id.)

SECTION 456. The certificate of the election of a member of Congress shall be signed by the Governor with the seal of the State affixed, and be countersigned by the Secretary of State, and the Governor shall cause it to be delivered to the person elected. (S. 11 id.)

SECTION 457. The board shall proceed in examining and making a statement of the votes, and in determining and certifying the persons chosen as electors of President and Vice-President in the manner prescribed by law, to be pursued by them in the canvass for State officers, and the Secretary of State shall likewise file and record such statement and determination. In canvassing the returns for Presidential electors the persons having the greatest number of votes are to be declared elected; and if more than the requisite number of persons are found to have the greatest and an equal number of votes, the election of one of them shall be determined by lot, to be drawn by the Governor in the presence of the other canvassers. The Secretary of State shall prepare three lists of the names of such electors elected at any election, procure thereto the signature of the Governor, and affix the seal of the State to the same, and deliver such certificates thus signed and sealed to said electors on or before the second Monday in January next after such election. (S. 12 id.)

SECTION 458. A certificate shall be prepared by the Secretary of State for each person elected, in substance as follows:

At an election holden on the.....day of.....  
A. B., was elected to the office of.....of said State  
for the term of.....years from the.....day of.....

in the year.....or, if to fill a vacancy, say for the residue of the term ending on the.....day of.....  
A. D. 18....

Given at Bismarck this.....day of.....A. D.  
18....

Which certificate shall be signed by the Governor and Secretary of State, and the seal of the State affixed, and be attested by at least one of the other canvassers. [S. 13 id.]

SECTION 459. For the purpose of canvassing and ascertaining the result of the votes taken at any election upon any proposed amendment to the constitution, or proposition submitted to a vote of the people by the Legislative Assembly, the State board of canvassers shall proceed to examine such statements, and to ascertain and determine the result and shall certify under their hands a statement of the whole number of votes given for, and the whole number of votes given against such amendment or proposition, and they shall thereupon determine whether such amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and shall make and subscribe on such statement a certificate of such determination. [S. 14 id.]

SECTION 460. The Secretary of State shall record in his office such certified statements and determination; and if it shall appear that such amendment or proposition has been approved, ratified or adopted as aforesaid, he shall also make a record thereof, and cause such record to be bound in the volume containing the original enrolled law passed at the next succeeding session of the Legislative Assembly, and cause such record to be published with such laws. [S. 15 id.]

SECTION 461. The board of State canvassers, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county board of canvassers, as provided in this chapter. [S. 16 id.]

SECTION 462. The Governor shall, within ten days after the completion of the canvass by the State board of canvassers of the votes cast for Presidential electors, as certified by the auditors of the respective counties, declare by

proclamation to be printed in some newspaper printed and published at the seat of government, the names of the several persons who have received not less than one-fifth of all the votes cast, and the number of votes received by each person, and the several persons who have received the highest number of votes so returned, and whose election shall not have been contested and notice of such contest given to the Governor within ten days after the date of such proclamation, shall be deemed and taken to be elected, and the Governor shall thereupon transmit to each person so chosen a certificate of his election. (S. 1, S. B. No. 2, Sp. Sess., '93.)

SECTION 463. The electors of President and Vice-President shall convene at the seat of government of this State on the second Monday in January next after their election at the hour of twelve o'clock noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by the death or refusal to act, neglect to attend or other cause, the electors present shall immediately proceed to fill such vacancy by ballot, by a plurality of votes, and when all the electors shall appear, or the vacancies shall have been filed as above provided, they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States. (For c. 109, Laws of '90.)

SECTION 464. The electors of President and Vice-President of the United States shall receive the same per diem and mileage as is allowed to members of the Legislative Assembly, and there is hereby appropriated as a standing and continuing appropriation such a sum of money as may be necessary to pay such per diem and mileage: (For H. B. No. 5 and 6, Sp. Sess. '92.)

SECTION 465. Any person who shall receive a certificate of his election as a member of the Legislative Assembly, county auditor, county treasurer, register of deeds, sheriff, states' attorney, clerk of the district court, county judge or county commissioner, shall be at liberty to resign such office, although he may not have entered upon the execution of the duties thereof or taken the requisite oath of office, and when any vacancy shall happen in the Legislative Assembly by death, resignation or otherwise it shall

be the duty of the county auditor of the county in which such vacancy occurs officially to notify the Governor thereof; whereupon the Governor shall issue a writ of election directed to the sheriff of such county commanding him to notify the several boards of election in his county or district to hold a special election to fill such vacancy at a time to be appointed by the Governor; *provided*, that if there is no session of the Legislative Assembly between the time such vacancy occurs and the time of holding the next general election, it shall not be necessary to order a special election to fill such vacancy; and when any vacancy occurs in the office of a member of Congress from this State, it shall be the duty of the Governor to issue his proclamation appointing a day to hold a special election to fill such vacancy. (For 1476 Comp. Laws.)

SECTION 466. Should a vacancy occur in the office of a member of the Legislative Assembly, while in session, by death, resignation, removal or otherwise, it shall be the duty of the Governor immediately upon receiving official notice thereof to proceed in the same manner as is prescribed for other cases in the preceding section. [For 1477 Comp. Laws.]

SECTION 566a. If a vacancy occurs in the Legislative Assembly for any cause and the county or counties comprising the district in which such vacancy occurs, shall have been divided after the election of the member whose seat is vacant, and before the election to fill such vacancy, such election shall be ordered in each county in which any part of the original county or district may be situated; but no person shall be permitted to vote at such election who does not at the time reside within the limits of the county or district in which such vacancy occurred. [For 1478 Comp. Laws.]

SECTION 467. Votes cast at elections to fill vacancies shall be canvassed and returned as provided in other cases, and the county auditor shall without delay forward to the Secretary of State the abstracts of the same. [For 1479 Comp. Laws.]

SECTION 468. No election returns shall be refused by any county auditor for the reason that the same may be returned or delivered to him in any other than the

manner directed in this chapter, nor shall he refuse to include any returns for any informality in holding an election or in making returns thereof; but all returns shall be received and the votes canvassed, and a certificate given to the person who may by such returns have the greatest number of votes. [For 1480 Comp. Laws.]

SECTION 569. If any inspector, judge or clerk of election, county auditor or other persons in any manner concerned in conducting an election shall corruptly violate any of the provisions of this chapter he shall forfeit and pay to the county a sum not less than fifty nor more than five hundred dollars to be recovered in a civil action in the name of the proper county. [For 1481 Comp. Laws.]

SECTION 570. In all elections for the choice of any officer, unless it is otherwise expressly provided, the person receiving the highest number of votes for any office shall be deemed to have been elected to that office. (S. 1482.)

SECTION 571. During the day on which any special or general election shall be held in this State, or in any district, county, city, village or precinct therein, no civil process shall be served on any person entitled to vote at such election. (For s. 1483 Comp. Laws.)

SECTION 572. The county auditor and other persons constituting the county board of canvassers shall in canvassing the election returns disregard technicalities and misspelling, the use of initial letters or abbreviations of the name of the candidates for office, if it can be ascertained from such vote for whom they were intended; but they shall not count votes polled in any place except at established precincts, and a breach of the provisions of this section shall be deemed a misdemeanor in office and punished accordingly. A majority of the members of such board shall decide all matters of disagreement. (For 1484 Comp. Laws.)

SECTION 573. It shall be the duty of the county auditor to provide uniform poll books for the use of his county, each poll book to contain a copy of the law prescribing the qualifications of electors and so much of this chapter as relates to the duties of inspectors, judges and clerks of

election, and the penalties imposed for offenses; such poll books shall also contain blanks for all entries required to be made therein; he shall also deliver to the sheriff two copies of said poll books for each election precinct in the county, and the sheriff shall deliver the same to each inspector of election, and such inspector of election shall deliver or cause the same to be delivered to the clerks of election in his precinct on the day of election. (For s. 1485 Comp. Laws.)

SECTION 574. Every male person of the age of twenty-five years or upwards who shall have been a resident of this State one year, six months in the county and ninety days in the precinct next preceding the election, who is a citizen of the United States or has declared his intention to become such one year and no more than six years prior to such election conformably to the naturalization laws of the United States, or any person of Indian descent who shall have severed his tribal relations, two years next preceding such election, shall be entitled to vote; *provided*, he has complied with the provisions of any law which is now or may in the future be in force relating to the registration of voters. And all persons possessing the qualification mentioned in this section and who have resided in this State one year shall be eligible to any office in the State, except as otherwise provided in the Constitution; *provided*, however, that persons shall vote in the precincts where they reside and not elsewhere. (For s. 1486 id.)

SECTION 575. The board of county commissioners shall, at the expense of the county, provide suitable ballot boxes for each election precinct in its county, and a separate ballot box in which the ballots of women entitled to vote under this chapter shall be deposited. (New.)

SECTION 576. No ballot offered by any woman entitled to vote under this chapter shall not contain the name of any person to be voted for at such election, except candidates for a school office, and no such ballot shall contain any proposition to be voted for except such as pertain solely to school matters; and all such ballots shall be deposited in a separate ballot box, but shall be canvassed with the ballots cast for candidates for school office by the male voters at such election. [New.]

SECTION 577. The Secretary of State shall at least thirty days before each general election transmit to each county auditor, blank forms and envelopes for all returns of votes required to be made to his office, with such printed directions on the envelope as he deems necessary for the guidance of such officers in making returns according to law; and the expenses of furnishing such blanks and envelopes shall be paid for by the State. [For 1487 Comp. Laws.]

SECTION 578. A memorandum of the date of the reception of all returns of votes at the secretary's office, shall be made at such office on the envelope containing them. [1488 Comp. Laws.]

ARTICLE 2.—CONTESTING ELECTIONS.—IN GENERAL.

SECTION 579. Any candidate or person claiming the right to hold an office contested, or any elector of the proper county desiring to contest the validity of an election or the right of any person declared duly elected to any office in such county, shall give notice thereof in writing to the person whose election he intends to contest, within twenty days after the canvass of the votes of such election, which notice shall be served in the same manner as a summons in a civil action. But if the person whose election is contested cannot be found and shall have ceased to have a residence in such county or State, then the notice shall be served by leaving the same at the house where such person last resided, and if no service as above provided can be made, or if no such residence can be found in the State, the district court or judge thereof, may expressly direct the manner of such service; which notice of contest shall be in writing and shall set forth the facts and grounds upon which the contestant relies in his contest, and shall be verified as a pleading in a civil action. (For 1489 Comp. Laws.)

SECTION 580. Any person upon whom the notice mentioned in the preceding section is served, shall within ten days after such service answer such notice, admitting or denying the facts alleged therein, and he shall state any other grounds upon which he rests the validity of his election, and shall serve a copy of such answer upon the contestant, and all allegations set forth in the notice, and

not denied in the answer shall be taken as admitted. Such answer shall be served as a pleading in a civil action, and where the contestant appears by attorney the service thereof may be made upon the attorney. (For 1490 Comp. Laws.)

SECTION 581. Such contest may be brought by a person claiming such office on his own motion, in his own name as plaintiff. But such contest cannot be brought by any other person without the notice of contest is signed by the state's attorney of the county, or in case of his refusal to sign the same, such contest may be allowed by the district court or the judge thereof. (For 1491 Comp. Laws.)

#### ARTICLE 3.—REGISTRATION OF VOTERS.

SECTION 623. Persons authorized by law or appointed pursuant to any village, or city ordinance to act as judges of election in any village, city or ward or other election precinct in this State, shall together with the inspector of election for such precinct constitute a board of registry for their respective precincts, and they shall meet on Tuesday, two weeks preceding any general election, at nine o'clock, a. m., and make a list as hereinafter prescribed of all persons qualified to vote at the ensuing election in such election precinct, which list when completed shall constitute and be known as the register of electors of such precinct. [For 1525 Comp. Laws.]

SECTION 624. Such registers shall each contain a list of the qualified electors of such precinct, alphabetically arranged according to their respective surnames, so as to show in one column the name at full length, and in another column the residence by the number of the dwelling, if there is a number, and the name of the street or other location of the dwelling of each elector. It shall be the duty of such board to enter in such lists the names of all persons residing in its election precinct whose names appear on the poll list made in such precinct at the last preceding election, the number of the dwelling and name of the street or other location, if the same is known to or can be ascertained by such board, and for this purpose the board are authorized to take from the office in which it is filed the poll list made and filed by the judges or inspector of such precincts at the election held next prior to the mak-

ing of such register. In making such register the board shall enter thereon in addition to the names on the poll list the names of all other persons who are known to them to be qualified electors in such precinct, or shall be proved to be qualified electors by the oath of the person applying to be registered, or by the oath of some elector whose name has been already placed upon the poll list; and the names of all persons on the poll list who have died or removed from the precinct shall be omitted from the register. Such board shall complete as far as practicable such register on the day of their meeting aforesaid, and shall make two copies thereof and certify the register and each of the copies to be a true list of the voters in their precinct so far as the same are known, within ten days thereafter. Such original list, together with the list taken from the office aforesaid, shall be filed with the board and shall be kept by one of the judges or by the inspector and carefully preserved for its use on the day hereinafter mentioned for the revision and correction of the same. One copy of such list shall immediately after its completion be posted in some public and conspicuous place at or near the place where the last preceding election in such precinct was held, and be accessible to any elector who may desire to examine the same or make copies thereof. Any person who shall tear down, deface or destroy any list so posted is guilty of a felony and shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the penitentiary not exceeding five years. (For 1526 Comp. Laws.)

SECTION 625. In case any election precincts shall be formed by the organization of a new precinct or by division of any village, ward or precinct, or the incorporation of a city or village, the judges or the inspector of elections in the new precinct thus formed, may make a registry of electors on the day prescribed by this article, in such manner as a majority of them may direct, and for this purpose they may make a list or cause to be made a certified copy of the poll list or lists of the precinct or precincts in which such new precinct was situated, or they may dispense with such list and proceed to make a register of electors from the best means at their command. Such list shall only embrace the names of such persons as are known to

them to be electors in their precinct or proved to be such by oath.

SECTION 635. Any person who shall cause his name to be registered in more than one election precinct, or who shall cause his name to be registered knowing that he is not a qualified voter in the precinct where such registry is made, or who shall falsely personate any registered voter, and any person aiding or abetting any person in any manner in either of such acts, shall be punished for each and every offense by imprisonment in the penitentiary for not less than two nor more than five years. Any member or officer of such board who shall wilfully violate any of the provisions of this article, or be guilty of any fraud in the execution of the duties of his office, he shall be punished by imprisonment in the penitentiary for a period not exceeding two years. (For 1537 Comp. Laws.)

SECTION 636. The county auditor shall provide the board of registry of the several precincts within their respective counties with the necessary blank registers and blanks at the expense of their respective counties. (For 1538 Comp. Laws.)

SECTION 637. All cities and villages containing two thousand or more inhabitants shall be subject to the provisions of this article. To determine the number of inhabitants the number of votes cast at the last preceding general election shall be multiplied by five.

## CHAPTER XX.

### ARTICLE 1.—COUNTIES AND COUNTY OFFICERS.—ORGANIZATION OF COUNTIES.

SECTION 1954. Any unorganized county in this State having a population of at least one thousand *bona fide* inhabitants, may become organized by presenting to the Governor a petition signed by at least one hundred and fifty qualified electors of such county, setting forth that they have the requisite number of inhabitants to form a county organization, and requesting him to organize such county as hereinafter provided. (For s. 510 Comp. Laws.)

SECTION 1955. Whenever the qualified electors of any

unorganized county in this State shall petition the Governor as provided in the preceding section, and the Governor shall be satisfied that such county contains a population of at least one thousand *bona fide* inhabitants, it shall be the duty of the Governor, and he is hereby authorized to call an election in such unorganized county, and fix one or more places in such county as the polling places therein, and shall fix the time for holding such election; and the Governor shall thereupon issue a notice of election, which notice shall be substantially in the following form:

Notice is hereby given that on the ..... day of ....., 18.., at the following place ....., in the county of....., an election will be held for the following officers of the said county of..... in the State of North Dakota, in the organization of such county (name the officers to be elected); and also for the temporary location of the county seat of such county, which election will be open at the hour of eight o'clock in the morning and will continue open until the hour of five o'clock in the afternoon of the same day.

Dated this ..... day of ..... 18..

Attest:

.....,

Governor.

....., Secretary.

(For s. 511 Comp. Laws.)

**SECTION 1956.** There shall be elected by the qualified electors of such unorganized county, all of the officers of such county as is or may be provided by law for organized counties, which officers shall hold their respective offices until the next general election thereafter, and until their successors are elected and qualified. (S. 512 Comp. Laws.)

**SECTION 1957.** The electors at such election are hereby empowered to vote for and select the county seat of such county temporarily, subject to be changed thereafter as provided by law; and each voter at such election may designate on his ballot the place of his choice for county seat; and the place receiving the highest number of votes polled shall be the temporary county seat. (For s. 513 Comp. Laws.)

**SECTION 1958.** Whenever the Governor shall have made out and completed such notice of election, he shall cause

the same to be delivered to the clerk of the district court of the judicial subdivision to which such unorganized county is attached for judicial purposes, at least fifty days prior to the time fixed for said election; and thereupon and at least forty days prior to the time fixed by the Governor in the notice for such election, such clerk shall take to his assistance the chairman of the board of county commissioners and register of deeds, who shall meet at the office of such clerk at the time fixed by him; and such officers or a majority of them shall thereupon, if the Governor shall have fixed more than one place for holding the election in such unorganized county, divide such county into election precincts in accordance with such notice, regard being had for the convenience of the voters, and such clerk shall thereupon add at the foot of each certified copy of such notice of election, a certificate signed by him under the seal of the court showing the division of such county into election precincts and the boundaries thereof as determined by such board; and such clerk shall cause such notice and certificate to be published for at least thirty days prior to such election in a newspaper of general circulation in such judicial subdivision, printed and published in the county where the court for such subdivision is held, and deliver to the sheriff or coroner of such county or other person designed by him, five certified copies of such notice and the certificate at the foot thereof, which original notice shall be filed in the office of such clerk as a record therein. (For s. 514 Comp. Laws.)

SECTION 1959. It shall be the duty of such clerk, register of deeds and chairman of the board of county commissioners, or a majority thereof, at the same meeting mentioned in the preceding section, to appoint three capable and discreet persons possessing the qualifications of electors in such unorganized county, to act as judges of election at each polling place in such county, and thereupon such clerk shall make out and deliver to the sheriff, coroner or other person, after the appointment of such judges, a notice thereof in writing, directed to the judges of election so appointed, and it shall be the duty of the sheriff, coroner or other person so appointed, within ten days after receiving such notices, to serve the same upon each of the judges so appointed. (For s. 515 Comp. Laws.)

SECTION 1560. The sheriff, coroner or any other person to whom such notice of election shall be delivered as aforesaid, shall put up in five of the most public places in each of the voting precincts in such unorganized county at least twenty days previous to the time of holding such election, one of such notices with such certificate thereto, and one shall be posted at the house where such election is authorized to be held. (For s. 516 Comp. Laws.)

SECTION 1561. If any person appointed to act as judge of election as aforesaid shall neglect or refuse to act in such capacity, or shall not be present, the place of such person shall be filled by the vote of such qualified electors residing within the county or voting precinct as may then be present at the place of election, and the persons so elected to fill such vacancy are hereby vested with the same powers as if appointed judges of election as provided for in this article. Such judges of election shall choose two persons who are qualified electors, to act as clerks of such election. [For s. 517 Comp. Laws.]

SECTION 1962. All the provisions contained in the chapter on elections in this Code, not inconsistent with the provisions of this article, shall apply to elections held under the provisions of this article. [For s. 518 Comp. Laws.]

SECTION 1963. It shall be the duty of the Governor at the time of calling such election, or at least thirty days prior to the time fixed for such election to appoint an inspector of elections for each polling place in such unorganized county, who shall not be a resident of such county or in any manner interested in the vote therein, but shall possess all the qualifications of an officer of the State. Such inspector shall before he enters upon the duties of his office take and subscribe the oath of office required of civil officers, and also that he is not and will not in any manner be directly or indirectly interested in the location of any county seat in such county, and is not the owner of any land or interested therein situated in such county, which oath shall be filed in the office of the Secretary of State. [For s. 519 Comp. Laws.]

SECTION 1964. It shall be the duty of such inspector to furnish at such election a ballot box in due form for use

thereat, but if he shall fail or neglect so to do, then any resident and legal voter at such election shall have authority to furnish such ballot box: and such inspector shall at the same time and place furnish the proper and necessary poll books for use at such election in the form provided by law, but if he shall neglect or fail so to do, then any qualified elector is authorized to furnish and deliver the same to the judges of election. [For s. 520 Comp. Laws.]

SECTION 1965. The inspector of election is authorized and required to attend at all times at the place for holding such election for the purpose of counting the votes cast thereat, challenging the vote of any person whose qualifications he may doubt, and to be and remain where the ballot boxes are kept at all times after the polls are open and until each vote cast at such election has been counted and until the canvass of such votes is completed and the proper certificate or returns made by the judges and clerks of election, and to personally inspect and scrutinize from time to time on the day of election the manner in which the voting is done and the manner in which the poll books and tally sheets therein are kept, and to the end of each candidate voted for at such election and each place voted for as county seat shall have the benefit of each vote cast for him or for such place, the inspector of elections is required to personally to scrutinize and assist in the counts and canvass of each ballot cast in the precincts for which he is inspector, and to make out and deliver to the clerk of the district court any statement of the truth or accuracy of the poll books, and the truth or fairness of the election and canvass thereof, and whether in his opinion there was illegal voting at such election, and if so, the extent of such illegal voting, and the nature and character thereof, in order that the facts as they appear to such inspector may become known, which report shall remain among the files of the clerk of such court. [For s. 521 Comp. Laws.]

SECTION 1966. If any person shall interfere with the clerks, judges, or inspectors of election in the exercise of their duties, or shall interfere, hinder, molest or threaten to molest any of such officers in the discharge of their duties, or shall cast any illegal vote at such election, they shall be deemed guilty of a felony, and shall upon convic-

tion thereof be punished as provided in Section 1970. [For s. 523 Comp. Laws.]

SECTION 1967. The ballots of such election shall be folded by the voters and delivered to one of the judges of election, and if the judges and inspector or a majority of them are satisfied that the person offering the vote is a legal voter, the clerk shall enter the name of the voter and his proper number under the proper heading in the poll books, and one of the judges shall receive and place such ballot in the ballot box. (For s. 524 Comp. Laws.)

SECTION 1968. After the opening of the polls no adjournment shall be had, nor shall any recess be taken until the votes cast at such election shall have been counted and the result publicly announced. All the ballots counted by the judges and inspector of election shall, after being read, be strung upon a strong thread of twine, in the order in which they have been read, and after such ballots have been all counted and so strung, the thread shall be tied in a knot, which knot shall be covered by wax, as directed by the inspector of elections, and thereupon it shall be carefully enveloped and sealed up by the judges of election in the presence of the inspector and immediately placed in the ballot box, together with the poll books, which ballot box shall be carefully locked up and sealed by the judges of election in the presence of such inspector before the same shall be delivered to them or either of them as provided in this article. (For s. 525 Comp. Laws.)

SECTION 1969. After the canvass of the votes has been closed, the judges of election shall enclose and seal one of the poll books and under cover direct the same to the county auditor of the county to which such unorganized county is attached for judicial purposes, and the book thus sealed shall thereupon be delivered to the inspector of elections, who shall deliver the same to such county auditor within three days after the closing of the polls; and the other poll book enclosed in the ballot box as aforesaid, together with the ballots enclosed and sealed therein by such judges and inspector, shall within the same time be deposited by such inspector with the clerk of the district court for such judicial subdivision; and such poll book shall be subject to inspection at any time thereafter, as a

public record, and the ballot and ballot boxes with the poll book therein shall be kept carefully closed and sealed until ordered opened by the district court of such subdivision or the judge thereof. (For s. 526 Comp. Laws.)

SECTION 1970. If any of the inspectors, judges or clerks of election shall in any manner interfere with any of the ballots, ballot boxes or poll books, other than is provided by law, or shall wilfully aid or assist in making any false count of the ballots, or wilfully falsify the poll books in any manner, or wilfully make any false return of the votes, or if any inspector of elections shall wilfully refuse or neglect to deliver such poll book and ballot boxes to the officers provided for in this article, within the time herein specified safe and with the seals unbroken, or if any inspector shall in any manner interfere with such poll books, ballots or ballot boxes, other than to deliver them to the officers provided for in this article, he shall be deemed guilty of a felony, and upon conviction thereof shall be fined in a sum not exceeding five thousand dollars and be imprisoned in the penitentiary for not less than one year nor more than five years. (For s. 527 Comp. Laws.)

SECTION 1971. The county auditor of the county to which such unorganized county is attached for judicial purposes, shall within the time prescribed by law for the canvass of votes, take to his assistance the county judge, the clerk of the district court and a majority of the county commissioners of such county, who shall proceed to open such returns and make an abstract of the votes cast at such election in the following manner: The abstract of the votes for county officers shall be on one sheet, and the abstract of votes for the temporary location of the county seat shall be on a separate sheet; and it shall be the duty of such county auditor immediately to make out a certificate of election to each of the persons receiving the highest number of votes for such county offices, and deliver such certificate to the person so elected, and immediately after canvassing the returns and making an abstract of the votes such county auditor shall make a certified copy of each abstract and forward the same to the Secretary of State, and when the votes are canvassed for county seat the place receiving the highest number of votes shall be

the temporary county seat and such place shall be so declared the county seat by such board or a majority of them. (For s. 528 Comp. Laws.)

SECTION 1972. The officers elected under the provisions of this article shall proceed to qualify in the manner provided by law within twenty days after the canvassing of such votes as provided for in the preceding section, and the county commissioners after they have so qualified shall immediately convene at the place so selected as the county seat and proceed to the discharge of their duties as such county commissioners, in the organization of said county; and if any person elected to any office shall fail or refuse to qualify within thirty days after such canvass, his office shall be deemed vacant and shall be filled in the manner required by law for filling vacancies. (For s. 529 Comp. Laws.)

SECTION 1973. The county commissioners elected or appointed under the provisions of this article shall have power to divide the county into three commissioner districts, which shall be numbered from one to three; and such districts shall not be changed oftener than once in three years, and then only at a regular session of the board. One commissioner shall be elected from each of said districts at the next general election after such organization, one of whom shall be chosen for the term of one year, one for two years, and one for three years, and one annually thereafter as provided by law. The inspectors of election shall receive for their services the sum of four dollars per day for the time actually and necessarily employed, and ten cents per mile for each mile actually and necessarily traveled, the account thereof to be approved by the Governor and audited and paid out of the State treasury. (For s. 531 Comp. Laws.)

SECTION 1974. The officer or person serving the notices on the judges of election and posting the same as provided in this article, shall receive for his services the amount authorized by law for like services performed by the sheriff in organized counties; and the clerk of the district court and other county officers, required to perform the services required in this article shall receive two dollars per day for the time actually and necessarily employed; and the print-

ers and publishers shall receive the legal rates for the publication of such notices; all of which sums shall be audited and paid by such unorganized county as soon as such county is organized under the provisions of this article. (For s. 532 Comp. Laws.)

SECTION 1975. A failure to publish or post the notices provided for in this article shall not invalidate an election held under the provisions hereof; but if any of the officers shall wilfully fail to perform any of the duties required of him, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. [For s. 533 Comp. Laws.]

SECTION 1976. If from any cause the whole election held under the provisions of this article shall be set aside by the court or a judge thereof and declared invalid, the Governor shall have authority to call a new election, and such county shall be organized as in this article provided. [For s. 534 Comp. Laws.]

SECTION 1977. Such portions of the State not organized into counties as are annexed to any organized county, shall for judicial and other purposes be deemed to be within the limits and a part of the county to which they are annexed. [For s. 535 Comp. Laws.]

## ARTICLE 2.—CHANGING COUNTY LINES.

SECTION 1978. When a majority of the legal voters residing upon any territory not less than one congressional township, shall petition the board of county commissioners of their county, and also the county to which they desire such territory to be transferred, for leave to have such territory transferred to such county, it shall be the duty of the boards of county commissioners so petitioned, to order an election for such purpose in their respective counties, to be held within three months from the time of receiving such petition; which election shall be governed by the laws relating to general elections, and the returns of such election shall be made to the Secretary of State. [New.]

SECTION 1979. Notices of such election shall contain a description of the territory proposed to be transferred, the name of the county from and to which such transfer is in-

tended to be made, and shall be posted as required for general elections. [New.]

SECTION 1980. The ballots to be used at such election shall be in the following form: "For transferring territory," and "against transferring territory." And if a majority of the voters voting upon such question in each of such counties, shall be "for transferring territory," then such territory shall be transferred to and become a part of the county to which it is proposed to transfer the same, on and after the first day of March succeeding such election, and shall be subject to all the laws, rules and regulations thereof; *provided*, that all assessments and collection of taxes, and judicial and other official proceedings, commenced prior to such first day of March, shall be continued, prosecuted and completed, in the same manner as if no such transfer had been made; and *provided, further*, that all township and precinct officers within such transferred territory shall continue to hold their respective offices within the county to which they may be transferred until their respective terms of office expire. [New.]

SECTION 1981. No county shall be reduced under the provisions of this article to less contents than twenty-four congressional townships, nor to less population than one thousand *bona fide* inhabitants. [New.]

SECTION 1982. No territory transferred under the provisions of this article shall be released from the payment of its proportion of the debts of the county from which such territory was transferred; and such proportionate indebtedness from such transferred territory shall be collected by the county, to which such territory is transferred, at an equal or greater rate than is levied and collected in the county from which such territory is transferred, such rate to be ascertained by the certificate of the county auditor of such last named county, and when so collected, the same shall be paid over to the county entitled thereto. [New.]

SECTION 1983. When the county to which such territory is transferred shall also be indebted, the county board of such county shall release such transferred territory from the payment of such indebtedness to an amount equal to

that which such territory is required to pay to the county from which it was transferred. [New.]

SECTION 1984. When a majority of the legal voters of any territory, less than one-half of one congressional township, shall petition the boards of county commissioners as above provided, such boards may in their discretion, order elections to be held as herein provided, and in any case where elections have been held under this article, and the result has been adverse to the petitioners, it shall be in the discretion of such boards of county commissioners, to order another election, on a petition to transfer the same territory, presented within three years from the time of holding such former election. [New.]

ARTICLE 3.—DIVISION OF COUNTIES.

SECTION 1985. Whenever it is desired to form a new county out of one or more of the then existing counties, and a petition praying for the formation of such new county, describing the territory proposed to be taken for such new county, together with the name of such proposed new county signed by a majority of the legal voters residing in the territory to be stricken from such county or counties, shall be presented to the board of county commissioners of each county to be affected by such division, and it appearing that such new county can be constitutionally formed, it shall be the duty of such board of county commissioners to make an order providing for the submission of the question of the formation of such new county, to a vote of the people of the counties to be affected, at the next succeeding general election, and notice thereof shall be given, the votes canvassed, and the returns made as in case of the election of members of the Legislative Assembly; and the form of the ballot to be used in determination of such question, shall be, "for new county" and "against new county." (For s. 536 Comp. Laws.)

SECTION 1986. If it shall appear that a majority of all votes cast at such election, in each of the counties interested, is in favor of the formation of such new county, the county auditor of each of such counties shall certify the same to the Secretary of State, stating in such certificates the name, territorial contents and boundaries of such new county, whereupon the Secretary of State shall notify the

Governor of the result of such election, whose duty it shall be to appoint three persons, residents of the county so formed, possessing the qualifications of electors, who will accept and qualify in such office, county commissioners for such new counties, who shall hold their office until the first general election thereafter, and until their successors are elected and qualified; and upon the qualifying of such commissioners, such county shall be deemed to have existence as such and be governed by the laws of the State relating to counties. (For s. 540 Comp. Laws.)

SECTION 1987. The county commissioners appointed under the provisions of the preceding section, after having qualified according to law, shall appoint all the county officers of the county so organized, who after having qualified shall hold their offices until the first general election thereafter and until their successors are elected and qualified; *provided*, that all justices of the peace and constables in office within the boundaries of any county organized under this article shall continue to hold such offices in such new county during the remainder of their term, and shall give bonds to the county organized under this article of the same amount and in the same manner as had previously been given by them to the original county. [For s. 541 Comp. Laws.]

SECTION 1988. The county commissioners of such county shall have power to temporarily fix the county seat, and such location shall remain the county seat until the first general election thereafter, when the qualified voters of such county are empowered to vote for and select the place of county seat by ballot as provided by law. No person shall be entitled to vote at such election unless he is a qualified elector as provided by law. Immediately after the selection of such county seat, either by the county commissioners or by the canvass of returns of votes, the county commissioners shall issue their proclamation announcing such fact, and publish the same in a newspaper published in such county if there is one, and if not, by posting a copy thereof in a public place in each election precinct in such county. [For s. 542 Comp. Laws.]

SECTION 1989. In all matters not specially provided for in this article the county commissioners appointed as here-

inbefore provided shall be governed by the laws then existing. [For s. 543 Comp. Laws.]

SECTION 1990. All elections under this article where not otherwise provided, shall be conducted in the same manner as required by law for general elections, and no refusal or neglect on the part of any official to perform his lawful duties in connection therewith shall in any wise affect the validity of such election. (For s. 544 Comp. Laws.)

SECTION 1991. Any county organized under this article shall assume and pay as herein provided a just proportion of the indebtedness of the county from which it is segregated, based upon the last assessed valuation of such original county, and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county; and it is the duty of the commissioners of both the county organized under this article and the county from which the latter segregates, to meet together at the county seat of the original county on the third Monday in the sixth month following the appointment of county commissioners by the Governor as provided for in this article. They shall ascertain as near as may be the total outstanding indebtedness of the original county on the first day of January or July, as the case may require, next preceding the date of the joint session provided for in this section, and from such total they shall make the following deductions:

1. The amount of all dues for rents.
2. The amount of outstanding bonds given or money paid for public property owned by and remaining within the limits of the original county.
3. The amount of public funds on hand and belonging to the original county on the day for which its outstanding indebtedness is ascertained by the joint board of county commissioners as provided for in in this section, and not belonging to the special fund hereinafter mentioned. The amount remaining after such deductions shall have been made, shall, for the purpose and and as a basis for the settlement herein provided, be the amount which the county organized under this article shall pay a proportion of, in the proportion hereinbefore specified, and it shall be

the duty of such commissioners to ascertain and fix the amount the county organized under this article shall assume and pay to the county from which it segregates. (For s. 546 Comp. Laws.)

SECTION 1992. All moneys on hand at the time of the settlement provided for in the preceding section of this article, in a county from which a portion segregates, pertaining to special funds, such as fire, school, road funds, and others, and property belonging to the districts within the boundaries of a county organized under this act, shall be turned over in full by the treasurer of the original county to the treasurer of the county organized under this article, and shall be duly receipted for by the latter and shall by him be placed to the credit of the districts within his county to which they properly belong. (S. 547 Comp. Laws.)

SECTION 1993. Any county in which the amount of public funds on hand at the time settlement provided for in Section 1991 exceeds the total of its outstanding indebtedness, shall, after deducting such outstanding indebtedness, and after making the deductions provided for in Section 1991 from the amount of such public funds on hand, pay over to the county segregated from it and organized under this act, a just proportion of such funds, based upon the assessed valuation of the whole of the original county in and for the year prior to the date of such segregation, and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county. The board of county commissioners shall meet as provided in Section 1991 and ascertain the amount so to be paid, and the board of county commissioners of the original county shall issue warrants for such amount, payable immediately to the treasurer of the county organized under this act and the amount so received by the latter shall be by him placed to the credit of the proper funds of his county. (Sec. 548 Comp. Laws.)

SECTION 1994. The county commissioners of a county from which a portion segregates under this act shall immediately after such segregation redistrict their county into the districts provided for by the laws then existing,

and shall fill the vacancies occasioned by such segregation in the manner provided by law for filling vacancies in county, district or precinct offices. (S. 549 Comp. Laws.)

SECTION 1995. School districts and road districts within counties affected by this act shall be re-numbered so as to make their numbers in each county run consecutively, and the names of school townships may when necessary be changed. (S. 550 Comp. Laws.)

SECTION 1996. When the boundaries of any school district or school township have been changed under and by the provisions of this act, that portion of such school district or school township in which the school houses and other property remain shall be holden for the bonds, if any, issued by such school district or school township, and if such portion shall have been attached to another school district or school township the school district or school township to which such portion has been attached shall be holden for the bonds, if any, of the school district or school township to which such portion formerly belonged. (S. 551 Comp. Laws.)

SECTION 1997. The validity of bonds issued by school districts or school townships prior to the division of any county under this article, shall in nowise be affected by such division nor by the re-numbering or re-naming of the school district or school township that issued them. (Sec. 552 Comp. Laws.)

SECTION 1998. County commissioners while in the discharge of their duties as provided for in the preceding sections of this article, shall receive the same pay allowed by law as when in the performance of their ordinary official duties. (Sec. 553 Comp. Laws.)

SECTION 1999. The amount of indebtedness of a county organized under this article as ascertained by the two boards of county commissioners as aforesaid, shall be paid to the county from which it segregates, in the bonds of the new county thus segregated, as hereinafter provided. (For s. 554 Comp. Laws.)

SECTION 2000. Such bonds shall be dated on the first day of January or July, from which the outstanding indebtedness of the original county is calculated as provided in

Section 1991; shall be issued for the period corresponding with the time or term on which the obligations of the original county become due and payable; shall be payable at the same place and shall bear the same rate of interest as the obligations of the original county, said commissioners taking care to classify the liquidating bonds, issuing a due proportion of each in proportion to each of the original county obligations bearing different rates of interest and places of payment; and such original county shall have authority to exchange such bonds for an equal amount of obligations of its own of the same class. (S. 555 Comp. Laws.)

SECTION 2001. The county treasurer of a county issuing bonds under the provisions of this article, shall provide himself with a book to be called a "Bond Register," wherein he shall note the number and denomination of each bond issued by his county, the date of issue, when and where payable, with such other facts as the county commissioners of his county shall direct, which bond register when completed shall be deposited with the county auditor of his county and shall be and remain a part of the records of his office. (For s. 556 Comp. Laws.)

SECTION 2002. The board of county commissioners of a county organized under this article is empowered and directed to issue such liquidating bonds in denominations as may be required by the old county, not to exceed one thousand dollars each, and deliver the same to the county auditor of the old county, who shall receipt therefor, attaching the seal of his office to such receipt, and the county auditor of the county organized under this article shall enter such receipts at large upon the records of the board of county commissioners and note the same in the bond register of his county. (For s. 557 Comp. Laws.)

SECTION 2003. The board of county commissioners of a county issuing bonds under the provisions of this article, shall for each year after the date of such bonds, levy and cause to be collected a tax sufficient to pay the interest on such bonds as it shall become due, and also such sinking funds as shall correspond with the laws under which the bonds of the original county were issued, sufficient to

redeem such bonds at maturity; and as fast as such sinking fund shall become available, they shall redeem such bonds in the manner provided for redeeming the bonds of the original county; *provided*, that public notice shall be given by such board in a newspaper, if one is published within their county, setting forth that certain bonds, giving their number and description, will be redeemed by their county, and naming the date of such redemption. (For s. 558 Comp. Laws.)

SECTION 2004. The money collected for the payment of the interest or principal for such bonds shall not be used for any other purpose until such bonds are redeemed; any surplus thereafter shall be placed in the county general fund. (For s. 559 Comp. Laws.)

SECTION 2005. The authority of any county from which a portion segregates under the provisions of this article, for the collection of revenue within the boundaries of the portion segregating, shall cease from the date upon which the two boards of county commissioners under the provisions of Section 1991 base the settlement between their counties, and all assessments and levies made by the authority of the county from which a portion segregates, by its officers in the lawful performance of their official duties, affecting any of the territory embraced in the boundaries of such new county, shall remain the same and shall be payable to and collectable by the lawful authorities of the latter only. (For s. 560 Comp. Laws.)

SECTION 2006. Any county organized under the provisions of this article shall as soon as its organization shall have been completed, constitute and be created a judicial subdivision of the judicial district to which it properly belonged before its organization. (For s. 561 Comp. Laws.)

SECTION 2007. The judge of the judicial district in which a county organized under this article is created a legal subdivision of his district under the provisions of the last section, shall appoint and hold two terms of the district court at the county seat of such county, each year. (For s. 562 Comp. Laws.)

SECTION 2008. In all actions or proceedings, civil or criminal, in which the crime was committed or the cause of

action arose within the boundaries of any judicial subdivision created under the provisions of article, and which properly belonged to such subdivision under the provisions of the codes of Civil and Criminal Procedure, the venue thereof shall be changed to the new county by order of court, upon the demand of either party, which demand shall be served upon the opposite party or his attorney, if either can conveniently be found in the State; but if neither can conveniently be found therein, then such change of venue may be made upon filing such demand with the clerk of the district court. (For s. 563 Comp. Laws.)

SECTION 2009. All process, writs, bonds, notices, appeals, recognizances, papers and proceedings in actions changed to a new county under this article, issued and made returnable to the district court of the county from which a portion has been segregated and organized under this article prior to the creation of such legal subdivision, shall be taken and considered as made, taken and returnable to the district court within the boundaries of such new judicial subdivision, and such bond, recognizances and obligations, shall be payable to such new county and recoverable upon in the name of such new county, and all papers and certified copies of all proceedings had in such action shall be transmitted by the clerk of the district court of the old to the clerk of the district court of the new county. (For s. 564 Comp. Laws.)

#### ARTICLE 4.—COUNTY SEATS.

SECTION 2010. Whenever the inhabitants of any county in this State desire to remove the county seat of the county from the place where it is fixed by law or otherwise, to another place, they may present a petition to the board of county commissioners of their county praying such removal, to the place named in the petition, and that an election be held to determine whether or not such removal shall be made. (New.)

SECTION 2011. If the petition is signed by qualified electors of the county, equal in number to at least two-thirds of all the votes cast in the county at the last preceding general election, the board must at the next general election submit the question of removal to the electors of the county. (New.)

SECTION 2012. Notice of such election, clearly stating the object, must be given, and the election must be held and conducted, and the returns made in all respects in the manner prescribed by law in regard to the submitting of questions to the electors of a locality under the general election law. (New.)

SECTION 2013. In voting on the question, each elector must vote for the place in the county which he prefers, by placing opposite the name of the place the mark X. (New.)

SECTION 2014. When the returns have been received and compared, and the results ascertained by the board, if two-thirds or more of all the legal votes cast by those voting on the proposition are in favor of any particular place, the board must give notice of the result by posting notices thereof in all the election precincts in the county, and by publishing a like notice in a newspaper printed in the county at least once a week for four weeks. (New.)

SECTION 2015. In the notice provided for in the last section, the place selected to be the county seat of the county must be so declared from a day specified in the notice not more than ninety days after the election. After the day thus named in the notice, the place chosen shall be the county seat of the county. (New.)

SECTION 2016. Whenever any election has been held as provided in this article, the statement made by the board of county commissioners, showing the result thereof, must be deposited in the office of the county auditor, and whenever the board gives the notice prescribed in the last section, they must transmit a certified copy thereof to the Secretary of State. (New.)

SECTION 2017. When an election has been held and at least two-thirds of the votes are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof must be held within four years thereafter. (New.)

SECTION 2018. When the county seat of a county has been once removed by a popular vote of the people of the county, it may be again removed from time to time in the manner provided in this article; but no election must be

ordered to effect any such subsequent removal, unless a petition praying an election is signed by the qualified electors of the county equal in number to at least two-thirds of all the votes cast at the last preceding general election; nor unless at such election, when ordered, two-thirds of all the votes cast are in favor of some other place as the county seat of the county, and such election, when so ordered, shall take place at the first general election held thereafter, nor must two elections to effect such removal be held within four years. (New.)

(The foregoing sections of this article are intended to take the place of Chapters 53, '89, and Chapters 56, '90, and Sections 565 to 570 Comp. Laws.)

#### ARTICLE 5.—CORPORATE POWERS AND LIABILITIES.

SECTION 2019. Each organized county is a body corporate for civil and political purposes, only, and as such may sue and be sued, contract and be contracted with; and in all cases where lands have been granted to any county for public purposes and any part thereof has been sold, and the purchase money or any part thereof shall be due and unpaid, all proceedings necessary to recover possession of such lands or to enforce the payment of the purchase money shall be instituted in the name of the proper county. (For s. 572 Comp. Laws.)

SECTION 2020. When any judgment is obtained against the county, the board of county commissioners shall have power at any time after the expiration of six months from the rendition thereof to assess and collect a sufficient amount of revenue to pay off and discharge such judgment, in addition to the ordinary expenses of the county. But the property of the county and of persons owning property situated or liable to taxation therein, shall in no case be subject to judgment lien, nor to seizure or sale upon execution or other process of any court. (For s. 573 Comp. Laws.)

#### ARTICLE 6.—COUNTY OFFICERS.

SECTION 2021. Each organized county shall have the following officers: One county auditor; one register of deeds; one clerk of the district court; one state's attorney; one sheriff; one county judge; one county treasurer;

one county surveyor; one coroner; one county superintendent of schools; four justices of the peace, and four constables. And there shall be three or five county commissioners as hereinafter provided, who shall constitute the board of county commissioners. Such officers shall be chosen by the qualified electors of their respective counties, at the general election in each even numbered year, except the commissioners, who shall be chosen by the electors of their respective districts, and of which district such commissioners shall be qualified electors and residents. (For s. 574 Comp. Laws.)

SECTION 2022. The sheriff and county treasurer shall not be eligible for election to such offices for more than two successive terms of two years each. (For c. 103, '89.)

#### ARTICLE 7.—COUNTY COMMISSIONERS.

SECTION 2023. The number of county commissioners of any county within this State may be increased to five or reduced to three whenever legal voters of such county equal to one-third of the number of legal votes cast at the last preceding general election petition the board of county commissioners to call an election for determining the number of commissioners which shall constitute such county board, and it shall be the duty of the commissioners to call a special election and submit such question to a vote. Notice of such election shall be given by publication in the official newspaper of the county, or by posting notice, for a period of at least twenty days. Such election shall be held no less than sixty days prior to a general election. If the question is for an increase to five commissioners, the proposition shall be submitted in this form:

“For five commissioners.”

“Against five commissioners.”

If it is for a reduction to three, the proposition shall be in this form:

“For three commissioners.”

“Against three commissioners.”

The returns of such election shall be canvassed by the

board of county commissioners within one week after such election. (For sec. 1 c. 48, '90.)

SECTION 2024. When the returns of such election show a majority of all the legal votes cast to be for an increase from three to five, it shall then be the duty of the board of county commissioners to proceed within ten days after the votes have been canvassed, to divide the county into five districts. The districts shall be numbered from one to five, those last created being designated fourth and fifth, respectively. At the ensuing general election commissioners for such additional district shall be elected, the commissioners in the fourth district for two years and in the fifth district for three years; thereafter they shall hold their terms of office for three years. The tenure of office of the existing board of county commissioners shall not be affected. The district which each commissioner shall represent shall be designated by such board. When the special election results in a majority for a decrease from five to three, the existing county board shall at the end of the first two expiring terms of the same year declare such districts vacant, and at their first regular meeting thereafter proceed to divide the county into three commissioner districts, and in such division designate the district which each of the three remaining commissioners shall represent. [Sec. 2 id.]

SECTION 2025. The commissioners shall hold their office for the term of three years, except as provided by law for the organization of counties, and one shall retire and one be chosen annually, and in counties now organized the order of their election and succession shall remain as now established, and commissioner districts in such counties shall continue as now constituted until changed as provided by law. (Sec. 575 Comp. Laws.)

SECTION 2026. The board of county commissioners shall procure and keep a seal with such emblems and devices as they may think proper, which shall be the seal of the county, and no other seal shall be used by the county auditor; and the impression of the seal hereby required to be kept, by the stamp, shall be sufficient sealing in all cases where sealing is required. (For s. 578 Comp. Laws.)

SECTION 2027. The county commissioners shall meet

and hold sessions for the transaction of business at the court houses in their respective counties, or at the usual place of holding court, on the first Monday in January, April, July and October of each year, and may adjourn from time to time; and the county auditor shall have power to call special sessions when the interest of the county demands it, upon giving five days notice of the time and object of such meeting, by posting up notices in three public places in the county or by publication in one newspaper in the county; provided that in case of a vacancy in the office of the county auditor, the chairman of the board shall have power to call a special session for the purpose of filling the same. (For s. 579 Comp. Laws.)

SECTION 2028. At the first meeting of the board each year they shall elect one of their number chairman, who shall act as chairman of such board during the year in which he is elected, or until his successor is elected, and in case of a vacancy from any cause whatever the board shall elect another chairman. (For s. 580 Comp. Laws.)

SECTION 2029. It shall be the duty of the chairman to preside at the meetings of the board; and all orders made by the board and all warrants drawn on the county treasurer, except warrants for salaries of county officers, shall be signed by the chairman and attested by the county auditor. (For s. 581 Comp. Laws.)

SECTION 2030. When the board is equally divided on any question it shall defer a decision until the next meeting, at which time the matter shall be decided by a majority of the board. (For s. 582 Comp. Laws.)

SECTION 2031. Copies of the proceedings of the board, duly certified and attested by the county auditor under the seal shall be received as evidence in all courts of this State. (For s. 583 Comp. Laws.)

SECTION 2032. The board shall have power to preserve order when sitting as a board, and may punish contempts by fines not exceeding five dollars, or by imprisonment in the county jail not exceeding twenty-four hours; and they may enforce obedience to all orders made, by attachment or other compulsory process, and when fines are assessed by them the same may be collected before any justice

the peace having jurisdiction, and shall be paid over as other fines, within ten days after they are collected. (For s. 584 Comp. Laws.)

SECTION 2034. They shall keep a book in which all orders and decisions made by them shall be recorded, except those relating to roads and bridges; and all orders for the allowance of money from the county treasury shall state on what account and to whom the allowance is made, dating the same and numbering them consecutively as allowed from the first day of January to the thirty-first day of December in each year. (S. 586 Comp. Laws.)

SECTION 2035. They shall keep a book for the entry of all proceedings relating to bridges, and the establishment, change or discontinuance of roads. (For s. 587 Comp. Laws.)

SECTION 2036. They shall keep a book for the entry of warrants on the county treasurer, showing number, date, amount and name of the payee of each warrant drawn, which may be known as the warrant book, and the warrants shall be numbered in relation to the order and decision allowing the amount for which the same is drawn. (S. 588 Comp. Laws.)

SECTION 2037. The board is authorized and required at each regular meeting to cancel and destroy all warrants drawn on any fund of the county which may have remained uncalled for and on file for a period of six years or more next preceding the regular meeting on which such cancellation takes place. (For s. 589 Comp. Laws.)

SECTION 2038. Such board shall before cancelling and destroying any such warrants cause to be entered in the minutes of their proceedings a brief description thereof, containing the name of the payee, the number, date, and amount of each warrant to be destroyed. (For s. 590 Comp. Laws.)

SECTION 2039. They shall have power to institute, and prosecute civil actions in the name of the county, for and on behalf of the county. (S. 591 Comp. Laws.)

SECTION 2040. They shall have power to make all orders respecting property of the county, to sell the public

grounds of the county, and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interest of the county in such grounds when an order is made for the sale and a deed is executed in the name of the county by the chairman of the board, reciting the order and signed and acknowledged by him for and on behalf of the county; *provided*, that the question of the sale of such public grounds or lands shall first be submitted to a vote of the people of the county as hereinafter provided, and sanctioned by a majority vote thereof. (For part of s. 592 Comp. Laws.)

SECTION 2041. In addition to the powers hereinbefore mentioned such board shall have power:

1. To levy a tax not exceeding the amount authorized by law, and to liquidate indebtedness.

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit.

3. To construct and repair bridges, to open, lay out, vacate and change highways in the cases provided by law; to establish election precincts in its county and to appoint the judges of election in the cases provided by law; and to equalize the assessment of the county, in the manner provided by law.

4. To furnish the necessary blank books, blanks and stationery for clerks of the district court, county auditor, register of deeds, county treasurer, county judge, sheriff and state's attorney of its county, to be paid out of the county treasury; also a fire proof safe when in its judgment the same shall be advisable, in which to keep all the books, records, vouchers, and papers pertaining to the business of the board.

5. To do and perform such other duties as now are or may hereafter be prescribed by law. (For part of s. 592 Comp. Laws.)

SECTION 2042. It shall superintend the fiscal affairs of the county and secure their management in the best manner; they shall keep an account of the receipts and expen-

ditures of the county, and on the first Monday of July, annually, it shall cause a full and accurate statement of the assessment, receipts and expenditures of the preceding year to be made out in detail under separate heads, with an account of all debts payable to and by the county treasurer, and it shall have the same published in at least one newspaper in its county, and if there is no newspaper in the county the same shall be posted up at the usual place of holding its sessions. (For s. 593 Comp Laws.)

SECTION 2043. The board is authorized, at the time fixed by law for the levying and assessment of taxes, to levy a tax, not exceeding one-fourth of one mill on the dollar, upon the assessed valuation of all the property in the county upon presentation of a petition signed by one-third of the legal voters of the county, taking the total vote at the last general election, the proceeds of which shall be used solely for the purpose of promoting and assisting immigration into this State. (S. l. c. 72, '91.)

SECTION 2044. The funds provided to be raised in accordance with the last section shall be denominated the "Immigration Fund" and shall be kept separate and distinct by the county treasurer, and shall be expended by and under the direction and control of the board of county commissioners at such time and in such manner as is by such commissioners deemed best, for the purpose of securing immigration to this State. (S. 2 id.)

SECTION 2041. Such board is authorized to procure for its county a copy of the field notes, as soon as practicable, of the original survey of its county by the United States, and cause a map of the county to be constructed therefrom on a scale of not less than one inch to a mile, and laid off in Congressional townships and sections to be kept open in the office of the county auditor, and the field notes to be deposited therein. (For s. 594 Comp. Laws.)

SECTION 2042. It shall submit to the people of the county at any regular or special election, any question involving an extraordinary outlay of money by the county, or any expenditure greater in amount than can be provided for by the annual tax, or whether the county will construct any court house, jail or other public building, or aid in constructing or construct any highway or bridge. (S. 595 Comp. Laws.)

SECTION 2043. The mode of submitting questions to the people contemplated by the last section shall be the following: The whole question, including the sum desired to be raised and the amount of the tax desired to be levied, or the rate per annum, shall be published at least four weeks in some newspaper published in the county. If there is no such newspaper, such publication shall be made by posting in at least one of the most public places in each election precinct in the county; and in all cases the notices shall name the time when such questions shall be voted upon and the form in which the question will be taken, and a copy of the question submitted shall be posted up at each voting place during the day of the election. (For s. 597 Comp. Laws.)

SECTION 2044. When the question submitted involves the borrowing or expenditure of money, such proposition must be accompanied by a proposition to levy a tax for the payment thereof, in addition to the usual taxes required to be levied; and no vote adopting the question proposed shall be valid unless it likewise adopts the amount of tax to be levied to meet the liability incurred. (For s. 598 Comp. Laws.)

SECTION 2045. The rate of tax levied in pursuance hereof shall in no case exceed three mills on the dollar on the assessed valuation of the county, in any one year. When the object is to borrow money to aid in the erection of public buildings, the rate shall be such as to pay the debt in ten years; when the object is to construct or aid in constructing any road or bridge, the annual rate shall not exceed one mill on the dollar of the valuation; and any special tax or taxes levied in pursuance of this article becoming delinquent shall draw the same rate of interest as ordinary taxes levied in pursuance of law. (For s. 599 Comp. Laws.)

SECTION 2046. Such commissioners being satisfied that the above requirements have been substantially complied with, and that a majority of the votes were cast in favor of the proposition submitted, shall cause the same to be entered at large upon the book containing a record of their proceedings, and they shall then have power to levy and collect the special tax in the same manner that the other

county taxes are collected. Propositions thus acted upon cannot be rescinded by the board. (For s. 600 Comp. Laws.)

SECTION 2047. Money raised by the county commissioners in pursuance of this article is specially appropriated and constitutes a fund distinct from all others, in the hands of the county treasurer, until the obligations assumed are discharged. (S. 601 Comp. Laws.)

SECTION 2048. The board may at any regular meeting thereof, transfer to the general fund any unexpended balances, which are or may be in the county treasury, belonging to the road and bridge fund or penalty and interest fund; also any balance remaining in any funding bond fund prior to the passage of this section, when in their opinion such transfer will be beneficial to the county. No such transfer shall be made until the object for which such fund was created or set apart has been accomplished, and all claims against such fund paid, or if belonging to any fund created for the purpose of paying bonded indebtedness or interest thereon, until such bonds have been redeemed and interest paid. (For s. 1, c. 175, '90, as amended by c. 3, '91.)

SECTION 2049. Whenever there remains in the treasury of any county an unexpended balance of any special fund, and all claims against such fund have been fully paid, and the purpose for which it was created has been fully subserved, and there remains no further use for such balance for the purpose for which it was created, it shall be lawful for the board to transfer such balance to any other fund of the county or subdivision to which such balance belongs. (For s. 602 Comp. Laws.)

SECTION 2050. All warrants upon the county treasury, except warrants for salaries of county officers, shall be issued upon the order of the board of county commissioners, signed by the chairman thereof and attested by the signature of the county auditor, with the county seal attached, and shall designate the fund upon which they are drawn. Warrants for salaries of county officers may be drawn by the county auditor from time to time as such salaries become due and payable. (For s. 603 Comp. Laws.)

SECTION 2051. The board shall hold its sessions with open doors, and transact all business in the most public manner, and if the county has no court house, or the court house shall be unfit or inconvenient, such sessions may be held at any other suitable place at the county seat. All matters pertaining to the affairs of the county shall be heard by the board in session only, but they may continue any business from any regular session to an intermediate day. (For s. 604 Comp. Laws.)

SECTION 2052. The books required to be kept by this article shall constitute the records of the board of county commissioners. (S. 605 Comp. Laws.)

SECTION 2053. In any county where there is no court house or jail erected by the county, or where those erected have not sufficient capacity, it shall be the duty of the board to provide for court room, jail, and offices for the following named officers: Sheriff, treasurer, register of deeds, auditor, clerk of the district court, state's attorney, county judge, and county superintendent of schools; to be furnished by such county in a suitable building, at the lowest rent to be obtained at the county seat, or to secure and occupy suitable rooms at a free rent within the limits of the county seat or any of the additions thereto until such county builds a court house. They shall also provide the courts appointed to be held therein with attendants, fuel, lights and stationery suitable for the transaction of their business. If the board neglects, the court may order the sheriff to do so, and the expense incurred by him in carrying such order into effect, when certified by the court, shall be a county charge. (For s. 606 Comp. Laws.)

SECTION 2054. The board shall have authority under the provisions of this article to provide for the erection and repairing of court houses, jails and other necessary buildings within and for the county, and to make contracts on behalf of the county for the building and repairing of the same; but no expenditure for the purpose herein named greater than can be paid out of the annual revenue of the county for the current year, shall be made unless the question of such expenditure shall have first been submitted to a vote of the qualified electors of such county, and shall have been approved by a majority of the votes so

cast; and the board shall determine the amount and rate of taxes to be submitted to a vote for such purpose. [For s. 670 Comp. Laws.]

SECTION 2055. After a building fund has been accumulated, either from the proceeds of the sale of town lots or from any other source, it shall be the duty of the board within one year from the time such fund become available, to proceed to the erection of the necessary county buildings, including a jail, if such fund shall in the judgment of the board be sufficient for that purpose. (S. 608 Comp. Laws.)

SECTION 2056. The board shall cause an advertisement for bids for the erection of such building to be published in some newspaper published in the county, for at least three months prior to the opening of the bids, and in such other newspaper in the State and for such period as the board may deem advisable. Such advertisement shall state where the plans and specifications may be examined, and the time allowed for the completion of such building, and when the bids will be opened and passed upon by the board, which must be at one of the regular sessions of the board. The lowest responsible bid must in all cases be accepted, and the contracts for such buildings shall be so conditioned that not more than one-half of the payment for the same shall be made until the contract shall be executed and the buildings completed to the satisfaction and acceptance of the board. Such board may further require a bond to accompany each bid, conditioned that the bidder will enter into a contract, with approved sureties, for the performance of the work in accordance with the plans and specifications, in case his bid is accepted. The provisions of this section shall apply to all contracts for fuel, stationery and all other articles for the use of the county, or labor to be performed therefor when the amount to be paid for the same during any year exceeds the sum of one hundred dollars; *provided* that in all such cases advertisement for bids therefor need not be for more than three consecutive weeks in some weekly newspaper published in such county, and provided also that all contracts for the furnishing of stationery, blank books and supplies generally for all county officers, shall be made at the first session of the regular meeting in April to run for the period of one year. (For s. 609 as amended by c. 49, '89.)

SECTION 2057. In any county containing a population of less than six thousand people as shown by the last State or federal census, it shall be lawful for one hundred or more of the voters of such county to petition the board of county commissioners to make an order for the sale or repair of any building owned by the county not used for county purposes and which is unsafe to remain standing, or to cause such building to be torn down, and to do any and everything in the premises which a private owner might or could do with his own property; and when so petitioned the board shall have authority to make such order and to carry the same into effect. (For s. 1, c. 44, '93.)

SECTION 2058. From all decisions of the board upon matters properly before them, an appeal may be taken to the district court by any person aggrieved, upon filing an undertaking in such sum and with such sureties as may be approved by the county auditor, conditioned that the appellant will prosecute such appeal without delay, and pay all costs adjudged against him in the district court: such undertaking shall be executed to the county and may be sued on in the name of the county. The states' attorney, upon the written demand of at least seven taxpayers of the county, shall take an appeal from any action of the board of county commissioners to the district court, when the interests of the county are affected; which appeal shall be taken in the name of the county; and in such case no bond shall be required. Upon serving the notice provided for in the next section, the county auditor shall proceed the same as if an undertaking had been filed, and his fees for making the transcript shall be paid as other claims by the county. (For s. 610 Comp. Laws.)

SECTION 2059. Such appeal must be taken within thirty days after the decision of the board, by serving a written notice of appeal upon one of the members of the board; and the county auditor shall upon the filing of the undertaking and the payment of his fees as hereinafter provided, make out a complete transcript of the proceedings of such board relating to the matter in controversy, and shall deliver the same to the clerk of the district court. (For s. 611 Comp. Laws.)

SECTION 2060. Such appeal shall be filed on or before

the first day of the next term of the district court after such appeal is taken, and said cause shall stand for trial at such term. (For s. 612 Comp. Laws.)

SECTION 2061. All appeals thus taken shall be docketed as other causes pending in the district court and the same shall be heard and determined *de novo*. (For s. 613 Comp. Laws.)

SECTION 2062. The district court may enter a final judgment and cause the same to be executed, or may send the same back to the board with an order how to proceed, and require such board to comply therewith by mandamus or attachment as for contempt. (For s. 614 Comp. Laws.)

SECTION 2063. All treasurers, sheriffs, clerks, constables and other officers chargeable with money belonging to any county, shall render their accounts to and settle with the county commissioners at the time required by law, and pay into the county treasury any balance which may be due the county, taking duplicate receipts therefor and deposit one of the same with the county auditor within five days thereafter. (For s. 615 Comp. Laws.)

SECTION 2064. It is the duty of the board at each annual meeting, to examine the county treasurer's tax sale book and stub receipts and ascertain the amount of redemption money in the treasury and require such treasurer to account for the same. (For s. 616 Comp. Laws.)

SECTION 2065. If any person thus chargeable shall neglect or refuse to render true accounts or settle as aforesaid, the county commissioners shall adjust the accounts of such delinquent according to the best information they can obtain, and ascertain the balance due the county, and order suit to be brought in the name of the county therefor. And such delinquent shall not be entitled to any commission, and shall forfeit and pay to the county a penalty of twenty per cent on the amount of funds due the county. (S. 617 Comp. Laws.)

SECTION 2066. All county warrants hereafter drawn by the proper authorities shall after having been presented to the county treasurer for payment and by him endorsed "not paid for want of funds" from such date draw interest

at the rate of seven per cent per annum. (For s. 618 Comp. Laws.)

SECTION 2067. It shall be the duty of the board to cause to be published in three newspapers published in its county, or in case there are not three newspapers within the county eligible to make such publication, then in as many as there are, a full and complete report of all its official proceedings at each regular and special meetings, such proceedings to be published as soon after each meeting as practicable, and the board shall pay at the rate of twenty-five cents per square of twelve lines of solid brevier type or its equivalent, to each newspaper designated to publish such proceedings which shall file or cause to be filed with the county auditor an affidavit of publication executed in proper form: *provided* that not more than two newspapers in any Congressional township shall be so designated, and when there are but two papers in the county, and both are in the same Congressional township, the commissioners shall designate but one of such papers. In case there is no newspaper published in the county the board shall cause such proceedings to be published in such newspaper in the State as has the largest circulation in such county and shall also cause such report to be posted in three public places in the county, one of which places shall be the office of the county auditor. (For s. 619 Comp. Laws.)

SECTION 2068. The county auditor shall make out a full and complete report of the proceedings of each regular and special meeting of the board, and transmit the same to the publishers of the newspapers selected by such board to publish such proceedings, such report to be made out and transmitted within one week from the time such proceedings are had. Such auditor shall be allowed by the board a reasonable compensation for such service. (For s. 620 Comp. Laws.)

SECTION 2069. It shall be the duty of the publisher of each newspaper selected to publish the proceedings of the board, to cause such proceedings to be published in the issue of his paper next succeeding the time of their reception. (For s. 621 Comp. Laws.)

## DEPOSITORIES OF COUNTY FUNDS.

SECTION 2070. The board of county commissioners of each county in this State, at its first regular meeting after the adoption of this Code and thereafter at its first regular meeting in January of each odd numbered year, shall designate one or more national or State banks in their respective counties as county depositories, in which all the funds of such county shall be deposited. (For s. 2, c. 49, '93.)

SECTION 2071. The county auditor of each county shall advertise in one or more newspapers published in the county, for at least two weeks immediately prior to such meeting, for sealed proposals for the deposit of the funds of such county, which advertisement shall state the day until which such proposals will be received, which date shall be the first day of the meeting of the board at which such proposals are to be opened. Such proposals shall state in writing what rate of interest will be paid on the minimum deposit during the month, interest to be paid monthly, on condition that such funds, with accrued interest, shall be held subject to draft at all times on demand. Said proposals shall be enclosed in sealed envelopes, addressed to the county auditor, and marked "proposals for deposit of county funds." and shall be by the county auditor filed in his office. (For s. 3 id.)

SECTION 2072. Such proposals shall be presented to the board at such meeting, and then and not until then opened by the county auditor in the presence of the board and the board shall thereupon proceed to accept the proposal of the bank or banks offering the highest rate of interest not inconsistent herewith, subject to the filing of a satisfactory bond as hereinafter provided, the amount of which bond shall then and there be fixed by such board. Before any bank shall be designated as such depository it shall submit to the board of county commissioners for its approval a bond payable to the county, conditioned for the safe keeping and re-payment of any funds deposited in such bank, which bond shall be signed by not less than five freeholders of the county as sureties, said bond to be in the sum required by the board, but in no case less than double the probable amount of funds to be deposited in such bank. If at any time the amount of funds on deposit in any of such

depositories shall exceed one-half the amount named in such bond, it shall be the duty of the board at its next regular meeting thereafter to require from such depository an additional bond in a sum not less than twice the amount of such excess. Such bond shall be approved by the board and the approval thereof endorsed thereon by the chairman of the board and by him deposited with the county auditor, and any bank whose bond shall have been so approved shall thereupon be designated by the board as a county depository, and shall continue as such until such time as the board shall re-advertise for bids as aforesaid. If the board fails or refuses to approve any such bond the same may be presented to the judge of the district court upon three days' notice to the county auditor, who shall proceed to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond, such bank shall be declared a public depository as aforesaid. The sureties on such bond shall be required to justify as required by law in arrest and bail proceedings. [For s. 4 id.]

SECTION 2073. When two or more banks in the same county proposing to become depositories, offer the same rate of interest, it shall be the duty of the board to select impartially as many of such banks as depositories as offer ample security for such deposit, requiring from each of such banks, bonds of equal amount. In estimating the value of the security offered by any proposed depository, the capital, surplus and general credit of the bank shall be taken into consideration, as well as the bonds proposed to be given. [For s. 5 id.]

SECTION 2074. In case two or more banks are designated as depositories, the county treasurer shall as far as practicable, keep in each of the several depositories, equal balances at all times; *provided*, that in counties where two or more banks are designated as depositories, the amount deposited in any bank shall not exceed the assessed capital of such bank. [For s. 6 id.]

SECTION 2075. To further secure the safety of the county funds deposited under the provisions hereof, the board of county commissioners shall satisfy themselves of the responsibility of the several banks proposing to act as

depositories, and no bank offering more than three per cent per annum on deposit subject to check shall be designated as a depository under the provisions hereof. [For s. 7 id.]

SECTION 2076. All funds of the county shall be deposited by the county treasurer as soon as received by him, in such bank or banks as shall have been designated as county depositories, in the name of the county. [For s. 1 id.]

SECTION 2077. If any county treasurer shall deposit any of the funds of his county or loan the same in any manner except in accordance with the provisions hereof, he shall be liable to a penalty of five hundred dollars for each deposit or loan so made. [For s. 9 id.]

SECTION 2078. Each depository shall furnish to the county auditor on the first day of each month, an itemized statement of the county's account with such depository, duly verified by the cashier of such bank, which statement shall be filed and carefully preserved in the office of the county auditor. All sums of interest accruing on the funds deposited as aforesaid shall be credited to such deposit account on the first day of each month for the preceding month, and a statement of such interest shall be rendered by such depository to the county auditor on the first day of each month and the auditor shall charge the treasurer with the amount thereof and credit the same to the general fund of the county. [For s. 8 id.]

SECTION 2079. All checks drawn upon the county depositories shall be signed by the county treasurer in the name of the county by himself as treasurer. [S. 10 id.]

#### ARTICLE 9.—COUNTY TREASURER.

SECTION 2089. It shall be the duty of the county treasurer to receive all moneys belonging to the county from whatever source they may be derived, and other moneys which by law are directed to be paid to him, and all moneys received by him for the use of the county shall be paid out by him only on the warrant of the board of county commissioners drawn according to law, except as otherwise specially provided, and all other moneys shall be

paid over by him as provided by law. (For s. 637 Comp. Laws.)

SECTION 2090. He shall be the collector of taxes and shall be charged with the amount of all tax lists in his hands for collection, and credited with the amounts collected thereon, and the delinquent list and shall keep a fair and accurate current account of the moneys by him received, showing the amount thereof, the time when, from whom, and on what account received; also of all disbursements by him made, showing the time when, to whom, on what account, and the amount paid; and he shall so arrange his books that the amounts received and paid on account of each separate and distinct fund or appropriation shall be exhibited in separate and distinct columns and accounts, and he shall at all times exhibit such accounts when desired to the State, county or school officers entitled to examine the same, and shall at any time pay over the balance in his hands to the proper officer, upon receiving proper vouchers. (For s. 638 Comp. Laws.)

SECTION 2091. The books, accounts and vouchers of the county treasurer, and all moneys, warrants or orders remaining in the treasury, shall at all times be subject to the inspection and examination of the board of county commissioners and at the regular meetings of the board in January and July of each year, and at such other times as they may direct, he shall settle with them his accounts as treasurer, and for that purpose shall exhibit to them all his books, accounts and moneys, and all vouchers relating to the same, to be audited and allowed, which vouchers shall be retained by them as evidence of such settlement; and if found correct the account shall be so certified; if not, he shall be liable on his bond. (For s. 639 Comp. Laws.)

SECTION 2092. When directed by the board he shall cause to be insured, at the expense of the county, any or all of the public buildings of the county and other property belonging to the same, in the name of the county or otherwise as the board may direct; and in case of the destruction or damage of the buildings or the property so insured, such treasurer shall demand and receive the moneys due on account of such insurance, and pay the same into the county treasury, and such moneys shall be applied to the

fund for rebuilding or restoring such buildings or property. (S. 640 Comp. Laws.)

SECTION 2093. It shall be his duty to attach his certificate to each abstract of title to real estate of his county that may be presented to him for that purpose, which certificate shall show the amount of taxes due and unpaid against, or tax title affecting the land described in such abstract, as the same appears from the records in his office; and as compensation therefor he shall receive the sum of twenty-five cents for each abstract so certified, and for each failure or refusal to comply with the provisions of for this article, he shall be liable to a fine of not exceeding one hundred dollars. (For s. 641 Comp. Laws.)

SECTION 2094. No county treasurer shall, either directly or indirectly contract for or purchase any order or warrant issued by his county, at any discount whatever upon the sum due thereon; and if any treasurer shall so contract for or purchase any such order or warrant he shall not be allowed in settlement the amount of such order or warrant or any part thereof, and shall also forfeit the whole amount due thereon, to be recovered by civil action in the name and for the use of the county. (For s. 1660 Comp. Laws.)

SECTION 2095. He shall not be credited on his settlement with the county commissioners with any sum for interest paid on any order unless he shall at the time of receiving the same have noted thereon the amount of interest due. (For s. 1661 Comp. Laws.)

SECTION 2096. He shall immediately after each settlement with the county commissioners of his county, on demand and presentation of the order of the county auditor issued by direction of the county commissioners therefor, pay over to the district treasurer, city treasurer or other proper officer all moneys in the county treasury belonging to any district, city, village or school district; but such moneys may by the direction of the proper local officers remain in the county treasury on the order of the county auditor as aforesaid. (For s. 1663 Comp. Laws.)

SECTION 2097. Each county treasurer is required to keep a book called the "Warrant Book," in which he shall enter

every State, county, road or other warrant or order by him paid, specifying the date at which the same was received and cancelled, from whom received, the payee or person in whose favor it was drawn, its number and date, the amount for which it was originally drawn, the total amount of endorsements or payments made thereon, the principal sum for which it was received, the interest allowed, and total amount for which it was received; he shall also keep an account of all endorsements made on warrants or orders on part payment thereof. (For s. 1647 Comp. Laws.)

SECTION 2098. When any moneys shall be paid to the county treasurer he shall make the proper duplicate receipts for the same, as in the case of the payment of taxes, and shall give one of such receipts to the person paying such money and the other to the county auditor within one month thereafter. (For s. 1651 Comp. Laws.)

SECTION 2099. When the county treasurer pays any warrant or order drawn on him according to law, he shall write on the face of such warrant or order: "Redeemed," and the date of redemption, and shall sign his name thereto. (For s. 1653 Comp. Laws.)

SECTION 2100. If any county treasurer shall fail to make return, fail to make settlement, or fail to pay over all money with which he may stand charged, at the time and in the manner prescribed by law, it shall be the duty of the county auditor on receiving instructions so to do from the State Auditor, or from the county commissioners of his county, to cause suit to be instituted against such treasurer and his sureties, or any of them, in the district court of his county. [For s. 1656 Comp. Laws.]

SECTION 2101. Whenever suit shall have been commenced against any delinquent county treasurer as aforesaid, the board of county commissioners of such county may in their discretion, remove such treasurer from office, and appoint some suitable person to fill the vacancy thereby created, temporarily. [For s. 1657 Comp. Laws.]

SECTION 2102. The county auditor and county treasurer conjointly shall make out quarterly a detailed exhibit under oath, showing the receipts and disbursements of the

county for the preceding quarter and also the assets and liabilities at the time of making out the same. Such exhibits shall show the amount of all orders on the treasury issued during the quarter next preceding, on what account, and also the liabilities of the county, stated in detail, and the assets of every kind as near as may be, showing also the amount of funds in the treasury at the time of making such exhibit, on what account paid in, the kind of funds and the place where such funds are deposited. Such exhibits shall be made out quarterly, and posted up in the office of the treasurer on the first Monday in April, July, October and January of each year, and the same shall also be published within ten days thereafter in the official newspaper of the county. Where one of the official newspapers of the county publishes both a daily and weekly edition, such statement shall be published in said paper; *provided*, the expense of publishing such statements in both editions thereof shall be no greater than if published in a single edition only. [For s. 1, c. 131, '90.]

#### ARTICLE 10.—COUNTY AUDITOR.

SECTION 2103. The county auditor shall by virtue of his office be clerk of the board of county commissioners of his county, and he shall keep an accurate record of its official proceedings, and carefully preserve all the documents, books, records, maps and other papers required to be deposited or kept in his office, and prepare a financial statement of the county annually, unless otherwise ordered by the board, and carefully do and perform all other acts and duties required by law. (For s. 649 Comp. Laws.)

SECTION 2104. He shall keep an accurate account current with the treasurer of his county, and when any person shall deposit with him any receipt given by the treasurer for money paid into the treasury, he shall file such receipt in his office and charge the treasurer with the amount thereof. (For s. 650 Comp. Laws.)

SECTION 2105. On going out of office he shall deliver up to his successor in office all the moneys, books, records, documents, maps, papers, vouchers and other property in his hands belonging to the county, and in case of his death, his personal representatives shall in like manner deliver

the same to his successor as aforesaid. (For s. 651 Comp. Laws.)

SECTION 2110. He shall draw warrants on the county treasurer in favor of all persons entitled thereto in payment of all claims and demands chargeable against the county which have been legally examined, allowed and ordered paid by the board of county commissioners; also, for all debts and demands against the county when the amounts are fixed by law, and which are not directed to be audited by some other person or tribunal. All warrants must distinctly specify the liability for which they are drawn, and when it accrued. (For s. 652 Comp. Laws.)

SECTION 2111. All warrants issued by the county auditor during each year, commencing with the first Monday in January, must be numbered consecutively, and the number, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, must be stated therein, and they must, at the time they are issued, be registered by him. (New.)

SECTION 2112. He shall do, perform and transact all county business without any extra or greater compensation than is allowed by law; and shall keep all the books required to be kept by the county commissioners; shall file and preserve in his office all accounts, vouchers and other papers pertaining to the settlement of any and all accounts to which the county shall be a party; copies of which, certified under the hand and seal of the auditor, shall be admitted as evidence in all courts in this State. (For s. 644 Comp. Laws.)

SECTION 2113. He shall perform all the duties required of him by law relative to the making out and delivering notices of general and special elections, making abstracts of and canvassing the votes cast at any such election, issuing certificates of election to members of the Legislative Assembly, county and precinct officers, and forwarding the abstracts of votes cast at such elections to the Secretary of State; and whenever the county commissioner for any cause shall fail or refuse to call special elections, the county auditor shall have authority to provide for and call any such election upon the petition of a majority of the legal voters of the

county, to be determined by the poll lists of the last preceding general election. [For s. 645 Comp. Laws.]

SECTION 2114. If any county auditor fails to make settlement or pay over any moneys with which he stands charged at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence an action against him and his sureties in the district court of such county, and he shall be proceeded against as provided by law in other cases. In case of suspension under the provision of this section, such auditor if restored to office shall not be deprived of his salary during the time of such suspension and the reasonable expenses of his defense upon such hearing shall be paid by the county. If upon the trial of such action such auditor is adjudged guilty of any neglect of duty, his office shall be deemed vacant. (For s. 656 Comp. Laws.)

#### ARTICLE 2.—STATE'S ATTORNEYS.

SECTION 2115. The state's attorney is the public prosecutor, and must:

1. Attend the district court and conduct on behalf of the State all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the district court, must attend upon the magistrates in cases of arrest when required by them, except in cases of assault and battery and petit larceny and attend before and give advice to the grand jury whenever cases are presented to them for their consideration.

3. Draw all indictments and information, defend all suits brought against the State or his county, prosecute all bonds forfeited in the courts of record and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the State or his county.

4. Deliver receipts for money or property received in

his official capacity, and file duplicate receipts thereof with the county auditor.

5. On the first Mondays of January, April, July and October, in each year, file with the county auditor, an account, verified by his oath, of all money received by him in his official capacity during the preceding three months, and at the same time pay it over to the county treasurer.

6. Give, when required, and without fee, his opinion in writing to the county, district, township and school district officers, on matters relating to the duties of their respective offices.

7. Keep a register of all official business, in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein. (For ss. 428-430 Comp. Laws.)

SECTION 2116. He is the legal adviser of the board of county commissioners. He must attend their meetings when required, and must oppose all claims and accounts presented against the county which are unjust or illegal. (New.)

SECTION 2117. If the board of county commissioners, without authority of law, orders any money paid as a salary, fees or for any other purpose, and such money has been actually paid; or if any other county officer has drawn any warrant in his own favor or in favor of any other person, without being authorized by the board of county commissioners or by law, and the same has been paid, the state's attorney is empowered, and it is his duty to institute an action in the name of the county against such person to recover the money so paid, and no order of the board of county commissioners therefor is necessary to maintain such action; but when the money has not been paid on such order or warrants, it is the duty of the state's attorney upon receiving notice thereof, to commence an action in the name of the county to restrain the payment of the same, and no order of the board of county commissioners is necessary to maintain such action. (New.)

SECTION 2118. The states' attorney, except for his own services, must not present any claim, account, or other

demand for allowance against the county, nor in any way advocate the relief asked on the claim or demand made by another. (New.)

SECTION 2119. He shall not receive any fee or reward from or on behalf of any prosecutor, or other individual, for services in any prosecution or business to which it shall be his official duty to attend, nor be concerned as attorney or counsellor for either party other than for the State or county in any civil action depending on a state of facts upon which any criminal prosecution then pending, shall depend; nor shall any states' attorney be eligible to or hold any judicial office whatever; but if he is required to go to any other county or from one part to another part of his county to transact any official business as such states' attorney, he shall be entitled to receive from his county the amount of his actual and necessary expenses in transacting such business, in addition to the salary fixed by law, which expenses shall be audited and paid by the board of county commissioners as other county expenses are audited and paid. (For s. 433 Comp. Laws.)

SECTION 2120. It shall be his duty, whenever he shall receive any moneys from fine, bonds, penalties or costs, to deliver to the officer or person paying the same duplicate receipts, one of which shall be filed by such officer or person in the office of the county treasurer. (For s. 435 Comp. Laws.)

SECTION 2121. Whenever such states' attorney shall refuse or neglect to account for or pay over the moneys so received by him as required by law, he shall be liable to a fine of not less than fifty dollars nor more than two hundred dollars, and it shall be the duty of the county treasurer to cause an action to be instituted upon the bond of such states' attorney for the recovery of the moneys so received and unpaid by him. (For s. 437 Comp. Laws.)

#### ARTICLE 12.—CLERK OF DISTRICT COURT.

SECTION 2122. The clerk of the district court shall perform the following duties:

1. Take charge and safely keep or dispose of, according to law, all books, papers and records which may be filed or deposited in his office.

2. Act as clerk of the district court, and attend each session thereof and upon the judge at chambers when required.

3. Issue all process and notices required to be issued; enter all orders and judgments proper to be entered; keep in his office a register of all actions, which must state the names of the attorneys and all fees charged therein, and such other matters as are required by law.

4. Keep for the district court, in separate volumes, an index of all suits, labeled, "General Index—Plaintiffs," each page of which must be divided into seven columns, under their respective heads alphabetically arranged as follows: "Number of Action," "Plaintiffs, Defendants," "Date of Judgment," "Number of Judgment," "Page of Entry of Judgment," and "Judgment Book," "Page of Minute Book of District Court;" also an index labeled "General Index—Defendant," each page of which must be divided into seven columns as above provided.

5. Keep a minute book, which must contain the daily proceedings of the court, which may be signed by the clerk, which book must be indexed in the names of both plaintiff and defendant.

6. Keep two books, in one of which must be entered in alphabetical order the names of all persons who from the organization of the court have declared, or who may hereafter declare, their intention to become citizens of the United States, and the date of such declaration, which book must be labeled: "Declaration of Intention to Become Citizens of the United States," and in the other of which must be entered in alphabetical order the names of all persons who have been or may be hereafter admitted citizens of the United States, by the court of which he is clerk, which book must be labeled: "Naturalization—Final Papers," and enter in a separate column, opposite each name, the country of which such person was before a citizen or subject, the date of his admission, and the page of the minute book or book of record containing the order admitting him a citizen.

7. Keep a book called "Register of Criminal Actions," in which must be entered the title and number of the action,

with a memorandum of each paper filed, order or proceeding had therein, with the date thereof, and the name of each witness, number of days in attendance and his legal fees, with a proper index to the same.

8. Keep a book called a "Book of Jurors' Certificates," in which must be contained the blank certificates and stubs to be filled, as provided in this Code.

9. Keep a "Witness Book," in which must be contained blank certificates and stubs to be filled as provided in this Code.

10. Keep a record of the attendance of all jurors, and of witnesses in criminal actions, and compute the mileage of each.

11. Keep such other records and perform such other duties as are prescribed by law. (New.)

SECTION 2123. Any person, who may at any time, be injured or aggrieved by reason of the violation of the duties of his office upon the part of any such clerk, or by any willful neglect or refusal to perform any of the duties of his office, may institute legal proceedings upon the bond of such clerk, and collect therein double the amount of damages actually sustained by such aggrieved person; and the county treasurer is also authorized and required for every such violation and neglect of duty, to collect a fine of not less than fifty dollars for every such violation of duty, or refusal or neglect on the part of such clerk. (For s. 440 Comp. Laws.)

SECTION 2124. Whenever the judge whose duty it may be to preside at any term of the district court, is hindered or delayed from any cause from being at the place of holding the same on the first, second or third day of the term, such clerk is authorized, and it shall be his duty to adjourn such court from day to day, until the fourth day of the term, and if such judge does not appear and take his seat to preside therein on the fourth day of such term, and the clerk does not receive a written order of adjournment, he shall adjourn such court without day; but the judge may by written order to the clerk adjourn such court to such other time as he may appoint, and such adjourned

term shall be considered as a regular term for all purposes.  
(For s. 442 Comp. Laws.)

ARTICLE 13.—SHERIFF.

SECTION 2125. It is the duty of the sheriff:

1. To preserve the peace.
2. To arrest and take before the nearest magistrate, or the magistrate who issues the warrant, all persons who attempt to commit or have committed a public offense.
3. To prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.
4. To attend each term of the district court held within his county, and obey its lawful orders and directions.
5. To command the aid of as many male inhabitants of his county as he may think necessary in the execution of his duties.
6. To take charge of and keep the county jail and the prisoners therein.
7. To indorse upon all notices and process received by him for service, the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of his fees, a certificate showing the names of the parties, title of paper and time of reception.
8. To serve all process or notices in the manner prescribed by law.
9. To certify under his hands upon process or notices the time and manner of service, or, if he fails to make service, the reasons of his failure, and return the same without delay. [New.]

SECTION 2126. When process or notices are returnable to another county, the sheriff may enclose such process or notice in an envelope, addressed to the officer or person sending them, and deposit it in the postoffice, prepaying postage. [New.]

SECTION 2127. The return of the sheriff upon process or notices is *prima facie* evidence of the facts stated in such return. [New.]

SECTION 2128. If the sheriff does not return a notice or process with the necessary indorsement thereon without delay, he is liable to the party aggrieved for all damages sustained by him. [New.]

SECTION 2129. If the sheriff to whom a writ of execution or attachment is delivered neglects or refuses, after being required by the creditor or his attorney, to levy upon or sell any property of the party charged in the writ which is liable to be levied upon or sold, he is liable to the creditor for the value of such property. [New.]

SECTION 2130. If he neglects or refuses to pay over on demand to the person entitled thereto any money which may come into his hands by virtue of his office, after deducting his legal fees, the amount thereof, with twenty-five per cent damages, and interest at the rate of ten per cent per month from the time of demand, may be recovered by such person. (New.)

SECTION 2131. A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment was made, is liable as follows :

1. When the arrest is upon an order to hold to bail or upon a surrender in exoneration of bail before judgment, he is liable to the plaintiff as bail.
2. When the arrest is on an execution or commitment to enforce the payment of money, he is liable for the amount expressed in the execution or commitment.
3. When the arrest is on an execution or commitment other than to enforce the payment of money, he is liable for the actual damages sustained.
4. Upon being sued for damages for an escape or rescue he may introduce evidence in mitigation or exculpation. [New.]

SECTION 2132. He is liable for a rescue of a person arrested in a civil action, equal as for an escape. [New.]

SECTION 2133. An action cannot be maintained against the sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff. [New.]

SECTION 2134. When the sheriff is committed under an execution or commitment for not paying over money received by him by virtue of his office, and remains committed for sixty days, his office is vacant. [New.]

SECTION 2135. A sheriff, or other ministerial officer, is justified in the execution of and must execute all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceeding upon which they were issued. [New.]

SECTION 2136. The officer executing such process must at all times, so long as he retains it, upon request, show the same with all papers attached, to any person interested therein. [New.]

SECTION 2137. The sheriff in attendance upon court must act as the crier thereof, and make proclamation of the opening and adjournment of the court, and of any other matter under its direction. [New.]

SECTION 2138. Service of a paper, other than process, may be made upon the sheriff by delivering it to him or to one of his deputies, or to a person in charge of the office during office hours, or if no such person is there, by leaving it in a conspicuous place in the office. [New.]

SECTION 2139. When the sheriff is a party to an action or proceeding the process and orders therein, which it would otherwise be the duty of the sheriff to execute, must be executed by the coroner of the county. [New.]

SECTION 2140. The sheriff must perform such other duties as are required of him by law. [New.]

#### ARTICLE 14.—CORONER.

SECTION 2141. When there shall be no sheriff or deputy sheriff in any organized county, it shall be the duty of the coroner in such county to exercise all the powers and

duties of that office until the same shall be filled as provided by law; and when the sheriff is committed to jail or otherwise disqualified the coroner shall be the keeper of the jail and perform the duties of sheriff during the continuance thereof. When the sheriff is sued the coroner shall serve the papers on him if required, and his return on all papers served by him shall have the same credit as the sheriff's return; and he shall receive the same fees as the sheriff for like service. [For s. 663 Comp. Laws.]

SECTION 2142. The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means, except as otherwise specially provided. When he has notice of the dead body of a person supposed to have died by unlawful means, found or being in his county, he is required to issue his warrant to the sheriff or any constable of his county, requiring him to summon forthwith three electors having qualifications of jurors of the county, to appear before the coroner at the time and place named in the warrant, or when the services of such sheriff or constable cannot conveniently be procured, then the coroner may summon such electors from the bystanders. [For s. 664 Comp. Laws.]

SECTION 2143. The warrant may be in substance as follows :

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

To the sheriff or any constable of said county :

You are hereby required to summon forthwith three electors having the qualifications of jurors, of your county, to appear before me at (name the place) at (name the day and hour or say forthwith), then and there to hold an inquest on the dead body of ..... there lying and find by what means he died.

Witness my hand this ..... day of ....., 18..

.....  
 Coroner.

(For s. 665 Comp. Laws.)

SECTION 2143. If any juror fails to appear, the coroner shall cause the proper number to be summoned from the bystanders and immediately proceed to empanel them and administer the following oath, in substance :

“You do solemnly swear (or affirm) that you will diligently inquire, and true presentment make, when, how and by what means the person whose body here lies dead came to his death, according to your knowledge and the evidence given you.” (S. 666 Comp. Laws.)

SECTION 2144. The coroner may issue subpœnas within his county for witnesses, returnable forthwith or at such time and place as he shall direct, and witnesses shall be allowed the same fees as in cases before a justice of the peace, and the coroner has the same authority to enforce the attendance of witnesses and to punish them and jurors for contempt in disobeying his process, as a justice of the peace has when his process issues in behalf of the State. [For s. 667 Comp. Laws.]

SECTION 2145. An oath shall be administered to the witness in substance as follows:

You do solemnly swear that the testimony which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth and nothing but the truth, so help you God. [S. 668 Comp. Laws.]

SECTION 2146. The testimony shall be reduced to writing under the coroner's order, and be subscribed by the witnesses. [S. 669 Comp. Laws.]

SECTION 2147. The jurors having inspected the body, heard the testimony and made all needful inquiries, shall return to the coroner their inquisition in writing under their hands, in substance as follows, and stating the matters in the following form suggested, as far as found:

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

An inquisition held at ..... in ..... county, State aforesaid, on the ..... day of ..... A. D. 18...., before ..... coroner of such county, upon the body of ..... [or person unknown] there lying dead, by the jurors whose names are hereto subscribed. The said jurors upon their oaths do say [here state when, how, by what person, means, weapon, or accident, he came to his death, and whether feloniously].

In testimony whereof, said jurors have hereunto set their hands the day and year aforesaid. Such inquisition shall be attested by the coroner. [For s. 670 Comp. Laws.]

SECTION 2148. If at such inquisition it is found that a crime has been committed on the deceased, the name of the person whom the jury believe has committed it shall not be made public until after the arrest directed in the next section. [For s. 671 Comp. Laws.]

SECTION 2149. If the person charged is present, the coroner may order his arrest by an officer or any other person present, and shall then make a warrant requiring an officer or other person to take him before a justice of the peace. If the person charged is not present, and the coroner believes he can be taken, the coroner may issue a warrant to the sheriff and constables of the county, requiring them to arrest the person and take him before a justice of the peace. [S. 672 Comp. Laws.]

SECTION 2150. The warrant of the coroner in such case shall be of equal authority with that of the justice of the peace, and when the person charged is brought before the justice the same proceeding shall be had as in other cases under a complaint, and he shall be dealt with as a person under a complaint in the usual form in criminal cases. [S. 673 Comp. Laws.]

SECTION 2151. The warrant of the coroner shall recite substantially the transactions before him and the verdict of the jury of the inquest leading to the arrest, and such warrant shall be sufficient foundation for the proceedings of the justice. [For s. 674 Comp. Laws.]

SECTION 2152. The coroner shall then return to the district court the inquisition, the written evidence and a list of the witnesses who testified to material matter. [For s. 675 Comp. Laws.]

SECTION 2153. The coroner shall cause the body of a deceased person which he is called to view to be delivered to his friends, if any, but if not, he shall cause him to be decently buried, and the expenses therefor shall be paid from the county treasury, and the county shall be reimbursed therefor out of any property found with his body.

The coroner shall certify an account of such expense to the county auditor, and the board of county commissioners shall allow the same, if deemed reasonable, and direct a warrant to issue therefor. [For s. 676 Comp. Laws.]

SECTION 2154. When there is no coroner, or in case of his absence or inability to act, any justice of the peace of the county is authorized to perform the duties of coroner in relation to dead bodies, and in such case he may cause the person charged to be brought before him by his warrant, and may proceed with him as a justice of the peace. [For s. 677 Comp. Laws.]

SECTION 2155. In the above inquisition by a coroner, when he or the jury deem it requisite, he may summon one or more physicians or surgeons to make a scientific examination, and shall allow in such case a reasonable compensation, instead of witness fees. [S. 678 Comp. Laws.]

SECTION 2156. The coroner must, within thirty days after an inquest upon a dead body, deliver to the county treasurer any money or other property which may be found upon the body, unless claimed in the meantime by the legal representatives of the deceased. If he fails to do so the treasurer may proceed against him for its recovery, by a civil action in the name of the county. [S. 679 Comp. Laws.]

SECTION 2157. Upon delivery of money to the treasurer he must place it to the credit of the county. If it is other property he must within thirty days sell it at public auction upon reasonable public notice and must in like manner place the proceeds to the credit of the county. (S. 680 Comp. Laws.)

SECTION 2158. If the money in the treasury is demanded within six years by the legal representatives of the deceased the treasurer must pay it to them after deducting the fees and expenses of the coroner and of the county in relation to the matter; or it may be paid at any time thereafter upon the order of the board of county commissioners. (S. 681 Comp. Laws.)

SECTION 2159. Before auditing and allowing the account of the coroner, the board of county commissioners must

require him to render a statement in writing of any money or other property found upon persons on whom inquests have been held by him, verified by his oath, to the effect that the statement is true, and that the money or property mentioned in it has been delivered to the legal representatives of the deceased or to the county treasurer. (S. 682 Comp. Laws.)

SECTION 2160. The coroner must perform such other duties as may be prescribed by law. (New.)

#### ARTICLE 15.—COUNTY SURVEYOR.

SECTION 2161. The county surveyor shall make in a good and professional manner all surveys of land within his county which he may be called upon by the owner thereof or his representative, or directed by the district or county courts or the board of county commissioners, or the board of township supervisors, to make; and also all lands, tracts or lots owned by the county, and public roads, when so directed by said board; and his surveys shall be held as presumptively correct. (For s. 689 Comp. Laws.)

SECTION 2162. He shall transcribe the field notes and plats of such surveys into convenient and substantial record books to be furnished by the county, when the board of commissioners shall deem it advisable, and said records shall be entered in an orderly, manner, easy of reference, and shall be delivered to his successor in office. They may be kept in the office of the county auditor and said record shall be competent evidence in all courts of the facts therein set forth. (S. 690 Comp. Laws.)

SECTION 2163. The survey and subdivision of lands by all surveyors shall be according to the laws of the United States, and the instructions issued by the officers thereof in charge of the public land surveys, in all respects; and in the subdivision of fractional sections, bounded on any side by a meandered lake or river, or the boundary of any reservation or irregular survey, the subdivision lines running toward and closing upon the same shall be run at courses in all points intermediate and equidistant, as near as may be, between the like section lines established by the original survey. (S. 691 Comp. Laws.)

SECTION 2164. Whenever the survey made is of lines and monuments in dispute between parties, or by order of the district or county courts, the chainmen must be disinterested persons, approved and sworn by the surveyor to measure justly and impartially to the best of their skill and ability. (For s. 602 Comp. Laws.)

SECTION 2165. The record of the field notes and plats shall show distinctly of what piece of land it is a survey, at whose request it was made, what owners were notified and present, the dates of the survey, the names of the chainmen, and that they were approved and sworn by the surveyor, when so required by law. The courses shall be taken according to the true meridian, and the variation of the magnetic needle therefrom shall be noted, and also when any material change therein shall occur. (S. 693 Comp. Laws.)

#### CERTIFICATE OF DEBT LIMIT.

SECTION 2214. No bond or evidence of debt of any county, or bond of any township or political subdivision of this State, shall be valid unless the same has indorsed thereon a certificate stating that such bond or evidence of debt is issued pursuant to law and is within the debt limit, which certificate in the case of a county shall be signed by the county auditor, and in the case of a township or other political subdivision shall be signed by the treasurer of such township or other political subdivision. (For s. 1. c. 33 '90.)

#### CONTESTS OF ELECTION OF PRESIDENTIAL ELECTORS.

SECTION 592. The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who shall be president of the board, and two judges of the district courts, to be designated by the Governor. If the chief justice shall for any cause be unable to attend at such trial, the next senior judge on the supreme bench, shall preside in place of the chief justice. The Secretary of State shall be the clerk of the board, or in his absence or inability to act, the clerk of the supreme court shall be the clerk. Each member of the board before entering upon the discharge of his duties shall take an oath before the Secretary of State or some

officer qualified to administer oaths, that without fear, favor, affection or hope of reward, he will, to the best of his knowledge and ability, administer justice according to law and the facts in the case. (S. 2 S. B. No. 2 Sp. Sess. '92.)

SECTION 593. Any person who by the proclamation of the Governor, as hereinbefore provided, appears to have received not less than one-fifth of the votes cast in an election for electors of President and Vice-President of the United States may apply to the board provided for in the preceding section for a declaration of his election as elector. (S. 3 id.)

SECTION 594. Such application shall be made by petition in writing to be filed in the office of the Secretary of State within ten days from the date of the proclamation provided for in Section 562 who shall forthwith convene the board. The petition shall set forth the names of the persons whose election is contested, and the grounds for such contest. The petitioner shall before any proceedings are had upon the petition, except the convening of the board, file a bond to the State in such sum and with such surety as the board shall order, conditioned for the payment of all costs incurred in the prosecution of such contests, in case he shall not prevail. (For s. 4 id.)

SECTION 595. Upon the filing of such petition and the giving of such bond the board shall order notice of the petition to be given in such manner as it may direct, to the Governor and to the person whose election is contested, which notice shall be published in such newspaper as the board shall order. Such notice shall contain a concise statement of the facts alleged in the petition and shall designate the time and place fixed by the board for the hearing of the same, which time shall be not less than three nor more than fifteen days from the filing of the petition. (For s. 5 id.)

SECTION 596. At the day fixed for the hearing the petitioner shall appear and produce his evidence and the person whose election is contested may appear and produce evidence in his behalf. Either party may appear in person or by attorney, and no other person shall be entitled to be made a party to such proceedings or to be heard personally

or by counsel therein. *Provided*, that if more than one petition is pending, or more than one election is contested, the board may order the contests to be heard together in its discretion. (For s. 6 *id.*)

SECTION 597. The board shall thereupon hear the contest and decide all questions of law and fact involved. The burden of proof in each case shall be upon the petitioner and the hearing shall be confined to the grounds stated in the petition, but the board may in its discretion allow the petition to be amended. No *ex-parte* affidavit shall be competent evidence at such hearing. No person shall be excused from testifying or from producing papers or documents at such hearing on the ground that such testimony will tend to criminate himself; but no person testifying shall be liable to any suit or prosecution, civil or criminal for any matters or causes in respect to which he shall be so examined or to which his testimony shall so relate. The board shall have the same power to compel the attendance of witnesses as the district courts of this State possess, and nothing in this article contained shall be held to limit the power of the board to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this article, and the board shall have all powers necessary to the complete carrying out and performance of the authority conferred upon it by this article. (For s. 7 *id.*)

SECTION 598. The board shall determine in each case which of the parties to the proceedings is entitled to the office of elector, and shall cause such determination to be entered of record in such manner and form as it shall direct, and shall forthwith certify the same to the Governor and Secretary of State, and such determination so certified shall be final and conclusive that the person therein stated to have been elected is duly elected, and the Governor shall forthwith transmit to such person a certificate of his election, and every such certificate shall recite that it is issued pursuant to a determination under this article, referring to this article. The board shall so arrange and conduct the trial of such contest that a final determination thereof shall be rendered at least six days prior to the second Monday in January next following. (For s. 8 *id.*)

SECTION 599. If any petitioner shall fail to appear and prosecute his petition against any person who has been made a respondent thereto, according to the requirements of this article and of such rules as the board shall make, the board shall determine that he has so failed, and shall cause such determination to be entered of record in such manner and form as it shall direct, and shall forthwith certify such determination to the Governor and Secretary of State; and the same shall be a final and conclusive bar to the claim of the petitioner against such respondent as fully and completely as if such claim had been heard and determined on its merits, and the Governor shall issue such certificate as provided in the preceding section. [For s. 9 id.]

SECTION 600. The costs of all proceedings under this article shall be taxed under the direction of the board, and if two or more cases are heard together the costs shall be apportioned as the board shall direct, and in each case in which the petitioner shall not finally prevail, the costs shall be paid by him and in each case in which the petitioner shall finally prevail, the costs shall be borne by the State in which case the board shall certify the costs to the State Auditor, who shall issue his warrant upon the State Treasurer in payment of the same. [For s. 10 id.]

SECTION 601. The final hearing and determination under this article shall be by a majority of the board, but any single member may exercise any other of the powers given to the board by this article. (For s. 11 id.)

SECTION 602. The members of the board shall be entitled to receive for their travel and attendance the sum of six dollars per day and ten cents per mile for each mile necessarily traveled, to be paid from the State treasury upon the warrant of the State Auditor. (For s. 13 id.)

SECTION 796. Whenever any bonds are issued under the provisions of this chapter, they shall be lithographed or printed on bond paper, and shall state upon their face the date of their issue, the amount of bond, to whom and for what purpose issued, also the time and place of payment and the rate of interest to be paid. They shall have printed upon the margin the words "Authorized by Act of the Legislative Assembly of the State of North Dakota of 1890 and the Amendments Thereto." Immediately after the issuing

of school bonds pursuant to this chapter, the clerk of the school district so issuing its bonds, shall file with the county auditor of the county in which such district is situated, certified copies of all the proceedings had in such district relative to the issuing of such bonds, and also a statement of the amount of the indebtedness of such school district; and before any of the bonds are disposed of, they shall be presented to the county auditor of the county in which the school district issuing the same is situated'. He shall carefully examine the records of the proceeding of such school district upon the question of issuing such bonds as the same are filed with him as hereinbefore directed, and shall satisfy himself by the evidence thus furnished whether or not all the laws of the State relative to the issuing of such bonds have been complied with. If satisfied that they have been and that the bonds in question have been legally issued, he shall in a book kept for such purpose preserve a register of each bond, showing in separate columns the name of the school district issuing the bonds, the number of such bonds, the denomination thereof, the date of its issue, the date when it will mature, the names of the school officers executing the same and such other facts as may be pertinent, and he shall then endorse on each of such bonds the following certificate:

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

I.....County Auditor do hereby certify that the within bond is issued pursuant to law and is within the debt limit prescribed by the Constitution of the State of North Dakota, and in accordance with the vote of .....school district.....at a..... (regular or special).....meeting held on the....day of.....A. D. 189...to issue bonds to the amount of.....dollars and is a legal and valid debt of such school district;

That such bonds are duly registered in this office, and that such school district is legally organized and the signature affixed to such bonds are the genuine signatures of the proper officers of such school district. The blank shall be filed according to the forms and the certificate officially signed by the county auditor and attested by his official seal.

SECTION 1050. All section lines are public highways as far as practicable, and all existing highways shall continue as such until changed or vacated according to law; but no road traveled or used by one or more persons over another's land shall hereafter become a public highway by use.

SECTION 1051. Public highways along section lines shall be sixty-six feet wide and shall be taken equally from each side of such lines.

SECTION 1052. Public highways laid out upon a line dividing the lines of two individuals shall be taken equally from the land of each so far as practicable.

SECTION 1053. In opening, vacating or changing of a highway, outside of the limits of incorporated cities, villages or towns, all proceedings relating thereto, to acquiring right of way and to all other matters connected therewith shall be under the charge and in the name:

1. Of the board of county commissioners, if the county is without a civil township organization, and if the road is in territory not organized, into a civil township in the counties having civil township organization.

2. Of the board of township supervisors of organized townships in counties having civil township organization.

3. Of the boards of county commissioners of each county in case the road is between or in two or more counties.

4. Of the board of township supervisors of each organized civil township in which any part of the road is situated if the road is situated between two civil townships or in more than one civil township.

5. Of the board of township supervisors of each organized township and of the board of county commissioners in case the road is situated partly in an organized township and partly in an unorganized township in a county having civil township organization.

SECTION 1054. Any ten persons owning lands in the vicinity of the highway proposed to be opened, vacated or changed may petition in writing the board having jurisdiction as provided by the provisions of the last section to

vacate or change a highway or to lay out a new highway. When the petition is for the vacation or change of a highway or the opening of a new highway upon the dividing line, or in two or more counties or townships, the same course must be pursued as in other cases, except that a copy of the petition must be presented to the board of each county or township which must appoint viewers to act jointly and report to their respective boards the action of such viewers.

SECTION 1055. The petition shall set forth and describe particularly the highway to be vacated, changed or opened, and if the same is changed or opened, the beginning, course and termination of the highway proposed to be changed or opened, together with the names of the owners, so far as ascertainable, of the lands through which the same passes, whether such of the owners as can be found consent thereto, and if not, the probable cost of the right of way where such consent is not had, the necessity for and the advantage of the proposed road.

SECTION 1056. Upon filing such petition, the board with which the same is filed, must appoint three viewers to view any proposed change of an old or any new road proposed to be opened and submit to the board an estimate of the cost of the change or opening, including the purchase of the right of way and their views of the necessity thereof.

SECTION 1061. If the board approves the report and there are no non-consenting land owners the highway must by order be declared a public highway, and the road supervisor ordered to open the same to the public, and if the board orders it the county surveyor shall survey and plat the same and file his field notes with the clerk of the board.

The board upon making an order establishing the location or change of any highway must order the amount of damages sustained by each person owning or claiming lands or any improvements thereon and affected thereby, as finally fixed and assessed by it to be set apart in the treasury out of the proper fund to be paid to the proper owner or claimant, if known, and to be kept for the owner or claimant if unknown, and to be paid to him upon the order of the board upon his showing or establishing his right or title to such lands or improvements. Any money

set apart as herein provided for must be returned to the fund from which they were set apart if not paid to or accepted by the proper owner or claimant. If the awards are all accepted the road must be declared a public highway and be opened as above provided.

SECTION 1062. The damages must be determined by ascertaining the benefits and damages accruing to any person by reason of the changing or laying out such road, and the same estimated as benefits must be deducted from the same estimated as damages for the amount of damages awarded.

SECTION 1063. If any awards for damages is not accepted within thirty days from the date of award, it shall be deemed rejected by the land owners. The board must, if any award for damages is rejected, by order, direct proceedings to procure the right of way to be instituted by the state's attorney of the county under and as provided in a chapter on eminent domain in the Code of Civil Procedure, against all non-accepting land owners, and when thereunder the right of way is procured, the road must be declared a public highway, and opened as hereinbefore provided.

SECTION 1064. All awards by agreement, ascertainment by the board or by the court, and all expenses of viewing, surveying, laying out or changing any road must be paid out of the road fund upon the order of the board.

SECTION 1065. If the highway is opened or changed, the final report of the viewers, including the plat, field notes and report of surveyor must be recorded in the office of the county auditor in a book kept for that purpose.

SECTION 1066. No highway must be ordered opened through fields of growing crops or along the line where crops would thereby be exposed to stock until the owner thereof has sufficient time to harvest and care for such crops.

SECTION 1067. When any highway is to be changed or laid out, the county auditor or the clerk of the board, as the case may be, must notify the road supervisor of the proper district and furnish him with a certified copy of the order of the board.

SECTION 1068. In all cases where consent to use the right of way for a highway is voluntarily given, purchased, or condemned and paid for, either an instrument in writing, conveying the right of way and incidents thereto executed and acknowledged by the party making it, or a certified copy of the judgment of the court condemning the same, in which the land so conveyed or condemned must be particularly described, must be made and filed and recorded in the office of the register of deeds.

SECTION 1069. Whenever highways are laid out across railroads, canals or ditches on public lands, the owners must at their own expense so repair their roads, canals or ditches that the public highway may cross the same without damage or delay, and when the right of way of a public highway is obtained through the judgment of any court over any railroad, canal or ditch, no damages must be awarded for the simple right to cross the same.

SECTION 1070. When the change of an old or the opening of a new road makes it necessary to remove fences on land given, purchased or condemned by the order of the court for the road or highway purposes, notice to remove the fences must be given by the road supervisor to the owner, occupant or agent, or by posting the same on the fences; and if the same is not removed within ten days thereafter or the removal commenced and pursued with due diligence, the road supervisor may cause it to be removed at the expense of the owner and recover of him the cost of such removal and the fence material may be sold to satisfy the judgment.

SECTION 1071. Highways must be laid out and opened when practicable upon subdivision or section lines.

SECTION 1072. Upon a petition for that purpose by a majority of the owners of the lands bordering upon or through which any highway passes, when it can be done without material damage, the board may change such highway to subdivision or section lines, and lay out and open the same thereon.

#### DITCHES FOR DRAINING HIGHWAYS.

SECTION 1206. Whenever any overseer of highways or road supervisor shall file with the board of supervisors of

the township in which his road district is located, or with the board of county commissioners, as the case may be, his affidavit stating that a certain road in his district runs into or through swamp, bog, meadow or other low land, and that it is necessary or expedient that a ditch should be constructed and maintained through land belonging to any person, also stating the probable length of such ditch and the width and depth of the same as near as may be, the point at which it is to commence, its general course and the point near which it is to terminate, the names of the persons owning the land, if known, and a description of the land over which such ditch must pass, the board of township supervisors or of county commissioners, as the case may be, if the right to construct and maintain such ditch is not voluntarily given by the person owning the land over which it is to pass, shall cause proceedings to be instituted in its name under the provisions of the chapter on eminent domain in the Code of Civil Procedure, to acquire the right to construct and maintain the same.

#### GAME WARDENS.

SECTION . . . . There shall be appointed by the Governor a State game warden, whose term of office shall be two years commencing on the first Tuesday in April next succeeding his appointment and until his successor is appointed and qualified. He shall give a bond to be approved by the Governor, in the sum of two thousand dollars, conditioned for the faithful performance of his duties.

SECTION . . . . It is the duty of the State game warden to superintend and aid in the enforcement of all laws of this State for the preservation of game therein. He shall appoint deputy game wardens as follows: In each county having less than three thousand inhabitants, one deputy; in each county having more than three thousand and less than seven thousand inhabitants, two deputies; in every other county, three deputies. Such deputies shall be electors of the counties in which they are appointed, and shall hold office at the pleasure of the State game warden.

SECTION . . . . It shall be unlawful for any non-resident of this State to hunt, kill or wound in this State any of the wild animals or birds mentioned in Chapter . . . of the Penal Code, without having first obtained the permit for

non-residents hereinafter provided for. It shall be unlawful for any resident of this State, either alone or with another or others, to use any dog in hunting, setting, pointing or retrieving any game unless such resident shall hold a permit good at the place where he so uses a dog, as hereinafter provided. Such permits shall be subject to inspection of any person upon demand.

SECTION.... The State game warden shall cause forms of such permits to be printed which shall be substantially as follows:

State of North Dakota,  
County of....., ss. ....  
..... a non-resident of North Dakota  
is hereby licensed to hunt in North Dakota under the provisions and conditions of the game laws thereof until the first day of January next after the date of this permit.  
Dated at.....this....day of....189..  
.....  
County Auditor.

RESIDENT PERMIT.

State of North Dakota,  
County of....., ss. ....  
a resident of.....county, State of North Dakota  
is hereby licensed to hunt in this State with a dog or dogs until the first day of January next after the date hereof.  
Dated at.....this....day of....189..  
.....  
County Auditor.

Such permits shall be endorsed by the State game warden and issued by him to the county auditors of the several counties of the State.

SECTION.... The county auditor shall fill out and issue one of such permits to any person applying therefor on payment of twenty-five dollars if the applicant is a non-resident of the State, and on payment of five dollars if the applicant is known to the auditor or satisfactorily proved to him to be a resident of the county, and in addition to such charge the auditor shall charge a fee of twenty-five cents for each permit issued by him. No permit shall be

valid unless indorsed by the State game warden, signed by the county auditor and sealed with the county seal. Such permits shall authorize the holder to hunt throughout the State, either with or without a dog. All permits shall expire on the first day of January next after their issuance.

SECTION.... On the first day of November each year, each county auditor shall make a statement to the State game warden showing the number of each kind of permits issued by him during the preceding twelve months, and shall at the same time remit to him that part of the license fees which he is entitled to receive. Not later than November first each year, the county auditor shall pay to the deputy game warden of his county that part of the license fees to which they are entitled.

SECTION.... For the purpose of enforcing the laws of this State for the protection of game, the State game warden and his deputies shall have all the powers conferred by law upon constables. It shall be the duty of each deputy game warden diligently to inform himself of all violations of such laws, and to make report thereof to the state's attorney who shall forthwith prosecute the same. Upon any conviction had upon such report there shall be paid to the deputy a fee of five dollars to be taxed and collected as a part of the costs in the case.

SECTION.... One-third of all moneys paid for permits issued under Section...., shall be paid by the county auditor to the State game warden, and shall be in full of all compensation to be paid him. Two-thirds of all moneys paid for such permits shall be divided by the county auditor equally among the deputy game wardens of his county and shall be in full of their compensation.

SECTION.... A municipal court is hereby established in any incorporated city of this State, having a population of five thousand inhabitants or over. When so established such municipal courts shall have in addition to the jurisdiction hereinafter conferred, exclusive jurisdiction of all violations of ordinances of the city in which it is established, and from the time of its creation all the jurisdiction and the powers heretofore exercised by police magistrates

in such cities shall cease. Such courts shall be the court of record and have a clerk and a seal, and the jurisdiction of such court shall be co-extensive with the limits of the county in which such city is situated.

SECTION.... Such court shall exercise the jurisdiction as is or may hereafter be conferred by law in civil and criminal actions in the county court in counties having increased jurisdiction, and in addition thereto they shall have and exercise the same jurisdiction as is now conferred upon police magistrates and justices of the peace. No municipal court shall have any jurisdiction in probate matters.

SECTION.... The municipal court shall have power and authority to issue all process, civil and criminal, necessary and proper to carry into effect its jurisdiction and its judgments and orders; *provided*, such courts shall not have power to issue writs of *habeas corpus*, *quo warranto*, *mandamus* or prohibition.

SECTION.... There shall be a judge of such court, the time of whose office shall be two years and until his successor is elected and qualified.

SECTION.... A judge of such court shall be elected by the qualified electors of such city at the city general election held in April, 1896, and thereafter at the general election of city officers in each even numbered year, and the person receiving the highest number of votes at such election, shall be declared duly elected.

SECTION.... In case of a vacancy in the office of municipal judge by reason of the death, removal from office of such judge or otherwise, his place may be filled as in the manner provided for filling vacancies in other elective city offices.

SECTION.... The judge of such court shall be a resident of such city, a person learned in law and duly admitted to practice as an attorney in the courts of this State; and before entering on the duties of such office he shall take and subscribe the oath prescribed in Section 211 of the Constitution, which oath shall be filed in the office of the city auditor.

SECTION. . . . A municipal judge shall have the general powers of judges of courts of record, may administer oaths and take acknowledgments. He shall see that the criminal laws of the State and the ordinances of the city are obeyed and executed; and for that purpose he shall hold court each day, Sundays and legal holidays excepted, and proceed to hear and dispose of, in a summary manner, all cases which are brought before him by the police officers of the city or otherwise, either with or without process, for the violation of the criminal laws of this State committed within the county in which such city is situated, or of the ordinance of such city. A judge of such court shall be the chief judicial magistrate of the city.

SECTION. . . . Such judge shall have power to make and prescribe such rules and regulations for the government of the court as he shall deem proper, not inconsistent with law.

SECTION. . . . The city auditor shall be *ex-officio* clerk of such court and he shall have power to appoint, subject to the approval of the judge of the municipal court, a deputy clerk who shall act under his authority.

SECTION. . . . The clerk shall have the care and custody of the books, papers and records of the court. He may administer oaths to witnesses and jurors and other persons, and may take acknowledgments. He shall keep minutes of the proceedings, enter judgments, orders and summons, issue commitments as well as all other writs and processes, and keep the record of the court under the direction of the judge, and when the judge is absent, adjourn the court from day to day. He shall tax all costs and disbursements allowed in each action subject to review by the judge, and do all other acts necessary and proper in the enforcement of the jurisdiction of the court. He shall receive all fines, penalties and fees of every kind accruing to the court or any officer thereof, including police officers, and keep full, accurate and detailed accounts of the same, and shall on each day deliver to the State Treasurer all moneys so received with an itemized account thereof taking the Treasurer's receipt therefor. A clerk as well as the judge is a conservative of the peace, vested with the same authority to act on receiving complaints and issuing war-

rants. The city shall furnish all books and blanks necessary for such court.

SECTION.... The city attorney shall have charge of the prosecution of all violations of ordinances of the city, and the state's attorney for the prosecution of offenses against the State or examination or offenses against the laws of the State.

SECTION.... The judge of such court may appoint a stenographer thereof and fix his compensation, which compensation shall not exceed the sum of (\$5) five dollars per day for each day actually employed, to be audited by the city auditor and paid out of the city treasury upon the certificate of the judge, and in the performance of his duties such stenographer shall be subject to the orders and directions of the court who may at any time discharge such stenographer and employ and appoint another.

SECTION.... When the stenographer is required by any party to an action, proceeding or examination, to transcribe his record into longhand, the party requiring the same shall pay to the clerk of such court five cents per folio of one hundred words for such transcript and three cents per folio of one hundred words for each copy thereof, two-thirds of such amount to be paid to the stenographer and one-third to be paid into the city treasury. If a transcript is ordered by the state's attorney on behalf of the county, the expense thereof shall be audited by the county auditor and paid out of the county treasury upon the certificate of the judge.

SECTION.... Such court shall hold regular terms for the trial of civil actions and the hearing of motions on each Tuesday of every month, which term shall continue from day to day until the business of such term is finished. The judge may set cases for trial upon any day in that or any subsequent term. The terms of such court shall open at 10 o'clock in the forenoon.

SECTION.... The clerk of the court shall prior to each term, make up a calendar of the causes which will come up for trial or other disposition before the court at such time in the manner directed by the judge.

SECTION.... All civil actions and proceedings in such court shall be commenced and conducted as prescribed in the Code of Civil Procedure relating to the commencement, pleading, practice and procedure in the district court, as far as the same may be practicable, except as in this act otherwise provided.

SECTION.... The time within which any act is to be done in such court shall be one-half of the statutory period prescribed in the district court proceedings; *provided*,

1. No such period shall be less than three days.
2. Two days notice of taxation of cost shall be given.
3. Notice of issue shall be filed at least three days before the term, and notice of trial shall be served at least four days before the term.

4. The time within which motions for a new trial and appeal may be made and taken, shall be the same as in the district court.

5. The notice required for taking depositions to be used in such court shall be the same as in the district court.

6. Defaults may be opened and judgments and orders set aside or modified for cause shown within sixty days after the party affected thereby shall acquire knowledge of the same.

SECTION.... Proceedings by attachment and in arrest and bail and claim and delivery in such court, shall be the same as in the district court.

SECTION.... Depositions may be taken and used in such court in like manner as in the district court.

SECTION.... Tenders of money may be pleaded and made in such court in like manner and with like effect as in the district court.

SECTION.... Executions may be stayed in such court in like manner as in the district court.

SECTION.... Judgments may be confessed and filed and entered in such court as in the district court.

SECTION.... All process, except summons, shall be

tested in the name of the judge of such court and issued under the seal of the court and signed by the clerk and directed for service to the sheriff of the proper county, except as herein otherwise provided.

The forms of process may be prescribed by the court by rule or otherwise, and any form so prescribed shall be valid and sufficient and such forms may be changed by the court at any time.

In the absence of such prescribed forms, the forms in use in the district court may be changed and adapted to the style of the municipal court, and used at the discretion of such court.

The provisions of the Code of Civil Procedure relating to the form of summons and the subscription of the same shall as far as applicable be followed in the municipal court.

SECTION . . . . The summons and subpoenas may be served by the sheriff or any constable of the county, or any police officer of the city, or by any other person not a party to the action.

#### CRIMINAL PROCEEDINGS—HOW CONDUCTED.

SECTION . . . . When sitting as a committing magistrate in the examination of offenses which the municipal court has not jurisdiction to hear, try and determine, the provisions of the Justice Code and the Code of Criminal Procedure relating to such proceedings shall be applicable to, and govern municipal courts. When trying offenses against the ordinances of the city, the provisions of Chapter . . . . of the Political Code relating to police justices of the peace in cities, shall be applicable to, and govern municipal courts.

The provisions of the Justice Code shall be applicable to, and control municipal courts in the trial of offenses of which such courts have jurisdiction to hear, try and determine.

SECTION . . . . In all actions in which the amount of the judgment or the value of the property recovered is less than two hundred dollars, the cost and attorney's fees shall be the same as in justice courts.

In actions in which the amount of judgment or the value of the property recovered exceeds two hundred dollars, the cost and attorney's fees shall be the same as in the district court.

SECTION.... Trial by jury in such court shall in all respects be conducted as in the district court of this State, and all laws of a general nature applicable to jury trials in such district courts shall apply to such municipal court.

SECTION.... The judge of the municipal court and the president of the common council of the city shall, on the last Saturday of each and every month, meet at the municipal court room in such city, and from the electors of such city select and designate forty-eight of such electors as the jurors of such court, to serve therein when required and drawn during the succeeding month and until their successors are selected. The clerk of the court shall thereupon write the names of the jurors so selected upon separate slips of paper, and place the same in a wheel or box, and whenever a jury is required in such court he shall thereupon by law, draw for a jury of six men, twelve jurors, and for a jury of twelve men, twenty-four jurors. The jurors so drawn shall be summoned to attend the trial of the case wherein they were drawn.

The first six or twelve jurors drawn shall constitute a jury unless some of said jurors are excused or challenged, in which case the clerk shall call so many of the remaining jurors as shall be required to fill the place of the jurors excused. In the event that a jury cannot, for any cause, be filled and sworn from the jurors so summoned, then the clerk shall draw their names from such boxes or wheel and summon the same until the jury is filled; *provided*, That each party to a civil or criminal action shall be entitled to three peremptory challenges and no more.

SECTION.... Each juror so summoned, and attending as aforesaid in such court, and duly sworn as such by the trial of any action, shall be entitled to like compensation as jurors in justice court; but the party demanding a jury in any civil action shall be required to advance the fees of such jury before the venire shall issue.

SECTION.... Municipal courts shall have power to call

new trials of all causes tried before such courts and the provisions of the Code of Civil and Criminal Procedure relating to new trials shall be applicable to such courts.

SECTION.... Any cause in which the amount of judgment or the value of property recovered exceeds the sum of two hundred dollars, or in which the trial or boundary to real property comes in question may be removed from the municipal court to the supreme court of the State, in like manner and upon like proceedings, and with like effect as from the district court, and the supreme court shall have the same power on any such appeal as on appeals from the district court, and all the provisions of the Code of Civil Procedure relative to appeals from the district court shall be applicable to such appeals.

Any cause in which the amount of judgment or value of the property recovered amounts to two hundred dollars or less and actions of forcible detainer may be removed from the municipal court to the district court in like manner and upon like proceedings and with like effect as appeals from courts of justice of the peace, and the provisions of the Justice Code relating to appeals to the district court shall be applicable to all appeals in such cases.

SECTION.... No judgment rendered in such court shall attach as a lien upon real property until an abstract thereof is filed in the district court. Any person in whose favor the judgment is rendered in any such municipal court may demand and receive from such clerk an abstract of such judgment, duly certified, and to file the same in the office of the clerk of the district court in the proper county, who shall file and docket the same as in the case of abstracts of judgments from justice courts. Every judgment shall become a lien upon the real estate of the debtor, from the time of filing such abstract, to the same extent as a judgment of the district court, and shall thereafter, so far as relates to the enforcement of the same, be exclusively under the control of such district court and carry into execution by its process, the same as if rendered in such district court.

SECTION.... The police officers of the city are vested with all the powers of constables in matters pertaining to

the municipal court. The police officers of such city must serve all process or other papers delivered to them in such court. All such process shall be delivered to the chief of police, and he shall see that the same is faithfully served and duly executed, except as otherwise provided herein.

SECTION.... The mayor of the city shall designate a police officer to attend upon such court, and such officer shall so attend and obey its mandates and obey orders in its proceedings.

SECTION.... The salary of the judge of any such municipal court shall be two thousand dollars per annum, and be paid out of the city treasury in equal monthly installments.

The clerk of the municipal court shall receive a salary of nine hundred dollars per annum, to be paid out of the city treasury in equal monthly installments.

SECTION.... The fees, commissions and mileage of the officers serving or executing any process of such court shall be the same as in similar cases in the district court. The fees of police officers serving process, except mileage, shall be covered into the city treasury. The fees of the clerk of such court shall be the same as fees of clerks of the district court, and shall be paid into the city treasury and an account thereof kept and rendered substantially as provided in Chapter.... of the Political Code, and the provisions of such chapter shall be applicable to clerks of municipal courts.

SECTION.... The judge of the municipal court may hold sessions and act as such court, and shall be fully possessed of all the powers and authority of such court.

Such judge may act at any time or upon any occasion deemed proper by him.

SECTION.... Such judge may practice in the district courts and supreme court of this State in all cases which have not arisen in the municipal court of which he is judge.

SECTION 2080. It is the duty of the officers mentioned in the preceding section to comply with the provisions hereof: *provided*, that in counties where only one bank is located

the board of county commissioners shall designate such bank a depository without advertising for bids, if such bank agrees to pay interest at the rate of at least three per cent per annum, and complies with the provisions of the foregoing section. In counties where there is no bank located, or where no bank offers to comply with the requirements of this article the board may, if in its judgment it is for the best interests of the county, designate some bank or banks outside of such county as depositories, but such bank or banks must furnish bonds according to the provisions hereof. (For s. 11 id.)

SECTION 2080. When the funds of any county are deposited by the county treasurer as provided herein, such treasurer and his sureties shall be exempt from all liability thereon by reason of loss of any such funds from the failure, bankruptcy or any other act of any such bank to the extent only of such funds in the hands of such bank or banks at the time of such failure or bankruptcy. (For s. 12 id.)

SECTION 2081. Any officer violating any of the provisions of the last twelve sections shall be deemed guilty of a misdemeanor. (For s. 13 id.)

SECTION 2083. He shall provide himself with a seal and make an impression of the same upon each instrument to which he attaches his official signature. Said seal shall bear the following inscription: "Register of Deeds of . . . . . county" as the case may be. (For s. 625 Comp. Laws.)

SECTION 2084. He shall prepare from the records of his office, and thereafter keep a numerical index of the deeds, mortgages, and other instruments of record in his office affecting or relating to the title to real property. (For s. 626 Comp. Laws.)

SECTION 2086. He shall prepare from the records of his office, and keep grantor and grantee indexes of the deeds, mortgages and other instruments of record in his office, affecting or relating to the title of real property, in addition to the numerical indexes above provided for. (For s. 629 Comp. Laws.)

SECTION 2087. He shall prepare and keep one index of

the deeds and contracts and other instruments not liens merely, and another index of the mortgages and other instruments which are liens, which indexes shall show the name of the grantor and grantee, dates of instruments, dates of filing and description of property affected. (For s. 630 Comp. Laws.)

SECTION ... It shall be the duty of the registers of deeds in the various counties within the State when any deed, patent, mortgage, receiver's receipt, contract, notice of *lis pendens*, copy of decree or instrument or paper of any kind whatever affecting the title to, or creating a lien upon any real estate within his county, is filed in his office, to immediately write or stamp thereon a document number, which said numbers shall be consecutive in the order of filing, commencing with No. 1 in each county, and following in the order of filing of the various documents, and he shall enter such number as a part of the entry relating to such instrument or paper in all the indexes kept in his office; and priority of number shall be *prima facie* evidence of priority of filing; *provided*, that when such register of deeds shall receive by mail or other like enclosure more than one instrument at a time he shall affix such numbers in the consecutive order in which such instruments actually come to his hand on opening said enclosure save that when more than one instrument is received from the same source at the same time he may follow such directions if any, as the sender may give in such numbering.

SECTION ... There shall be provided by the county commissioners of each county in the State, in the same manner that other record books are provided, a book for use in the office of the register of deeds to be known as the reception book, in which said book shall be entered immediately after numbering, all documents and papers as enumerated in last section, and such book shall be ruled in parallel columns showing in first column at the left hand side of the page the document number, in the second column the date of filing, in the third column the grantor, in the fourth column the grantee, in the fifth column the character of the instrument, in the sixth the book and page where recorded, in the seventh to whom delivered, and in the last column at the right a brief description of the property, if any property, is described therein, and

such book shall be deemed a part of the public records of the office and open to public inspection during office hours.

SECTION ... When said instrument shall have been so numbered and shall have been entered in the reception book and indexed, it shall be recorded or filed as now provided by law, and it shall be the duty of the register of deeds to write or stamp, or cause to have written or stamped at the beginning of the record thereof, if recorded, the words "Document No. ....," and add thereto the number stamped or written on said document, and to add immediately after the record of said instrument a certificate setting forth that said instrument was filed in his office, giving date and hour, as now provided by law, which said certificate he shall authenticate with his official signature, but to which he need not affix his official seal.

SECTION ... The affixing of the signature of the register of deeds to said record, shall be deemed to have completed the record thereof, and any person, who shall thereafter wilfully erase, add to, interline, mutilate, conceal, destroy or in any manner change said record, shall be deemed guilty of a violation of Section 6348 of the Penal Code of this State, and on conviction thereof, be punished as therein provided.

SECTION ... This act shall not be construed to extend to or cover the filing and indexing of chattel mortgages as now provided by law.

SECTION 2088. It shall be the duty of each register of deeds in this State when any deed, patent, mortgage, receiver's receipt, contract, notice of *lis pendens*, copy of decree or other instrument affecting the title to, or creating a lien upon any real estate within his county, is filed in his office, immediately to write or stamp thereon a document number, which numbers shall be consecutive in the order of filing, commencing with number 1 in each county, and following in the order of filing of the various documents; and priority of number shall be *prima facie* evidence of priority of filing; *provided*, that when such register of deeds shall receive by mail or other like enclosure more than one instrument at a time he shall affix such numbers in the consecutive order in which such instruments actually come to his hand on opening such enclosure save that when

more than one instrument is received from the same source at the same time he may follow such directions if any, as the sender may give in such numbering.

SECTION 2088a. There shall be provided by the county commissioners of each county in the State, in the same manner that other record books are provided, a book for use in the office of the register of deeds to be known as the reception book, in which shall be entered immediately after numbering, all documents and papers enumerated in the last section and such book shall be ruled in parallel columns showing in the first column at the left hand side of the page the document number, in the second column the date of filing, in the third column the grantor, in the fourth column the grantee, in the fifth column the character of the instrument, in the sixth the book and page where recorded, in the seventh to whom delivered, and in the last column at the right a brief description of the property, if, any described therein, and such book shall be a part of the public records of the office and open to public inspection during office hours.

SECTION 2088b. When such instrument shall have been numbered and entered in the reception book and indexed, it shall be recorded or filed as now provided by law and it shall be the duty of the register of deeds to write or stamp, or cause to have written or stamped at the beginning of the record thereof, if recorded, the words "document number" and add thereto the number stamped or written on such document and to add immediately after the record of such instrument, a certificate setting forth that the same was filed in his office, giving date and hour, as now provided by law, which certificate he shall authenticate with his official signature, but to which he need not affix his official seal.

SECTION 2088c. The affixing of the signature of the register of deeds to such record, shall be deemed to have completed the record thereof, and any person, who shall thereafter wilfully erase, add to, interline, mutilate, conceal, destroy or in any manner change such record shall be deemed guilty of a violation of Section 6348 of the Penal Code of this State and on conviction thereof be punished as therein provided.

SECTION 2088d. The last four sections shall not be construed to extend to or cover the filing and indexing of chattel mortgages as now provided by law.

SECTION 2166. In retracing lines or making any survey he shall take care to observe and follow the boundaries and monuments as run and marked by the original survey, but shall not give undue weight to partial and doubtful evidence or appearances of monuments, the recognition of which shall require the presumption of marked errors in the original survey, and he shall note an exact description of such apparent monuments. (S. 694 Comp. Laws.)

SECTION 2167. All necessary chainmen and other assistants must be paid for their services by the person for whom the survey is made, unless otherwise specially agreed. (S. 695 Comp. Laws.)

#### ARTICLE 16.—COUNTY BONDS.

SECTION 2168. Each organized county in this State is authorized and empowered by and through its board of county commissioners, and such others as may be by law provided for incorporated cities or villages, when in the judgment of said board it is deemed to be to the best interests of the county, to issue its negotiable bonds in the name of said county for the sole purpose of funding or refunding the outstanding indebtedness of such county, represented by the county warrants, bonds or orders of such county; or for the purpose of funding and paying claims against such county which have heretofore been disputed, but which may have been or may hereafter be adjusted and allowed by such board; or for the purpose of paying any final judgment which may have been rendered against such county; *provided*, that the board in making settlement of disputed claims shall not allow interest at a greater rate than seven per cent. per annum; *provided, however*, no county shall in any event issue its bonds in any amount, which with its prior bonded indebtedness will exceed the maximum indebtedness allowed by law; but the issuing of new bonds in lieu of outstanding bonds or indebtedness shall not be considered as the creation of a new debt. (For s. 1. c. 30, '90.)

SECTION 2169. Whenever any disputed or litigated claim shall have been adjusted and determined by the board, an appeal may be taken from said settlement in the manner and within the time now allowed by law, to the district court in and for said county; and no bonds shall be issued as hereinafter provided until the expiration of the period allowed by law within which said appeal may be taken. (For s. 2 id.)

SECTION 2170. Said bonds shall be in denomination of not less than one hundred nor more than one thousand dollars, shall bear the date of their issue, and shall be made payable to the order of the purchaser, in not less than five nor more than twenty years from their date, and bear interest not to exceed six per cent per annum, payable semi-annually, with coupons attached for each interest installment; said bonds and coupons shall be signed by the chairman of the board of county commissioners, and shall be attested by the county auditor. The seal of the county shall be printed, lithographed or engraved on good bond paper, and each bond shall state on its face that it is issued in accordance with an act of the Legislative Assembly of the State of North Dakota, entitled "An act authorizing counties to fund outstanding indebtedness, and adjust disputed claim to issue and dispose of bonds, and to provide for the payment of the principal and interest thereof," approved.....1890 (here insert date of approval of this act), and a copy of this act shall be printed on the back of each bond. Said bonds may be made payable anywhere in the United States. (S. 3 id.)

SECTION 2171. Said bonds may be exchanged at par value for an equal amount of indebtedness of said county with the holder of such indebtedness, whether evidenced by county warrants, bonds or orders, judgment or adjusted claim; or said bonds may be sold by the board at not less than par value, and the proceeds applied solely to the payment of the indebtedness for which they were issued. A record of each bond so issued shall be kept by the county treasurer showing the number of each bond so issued, its date, amount, rate of interest, when and where payable, the amount received therefor, to whom sold, and how the proceeds were disposed of, and it shall be the duty of the

county clerk or auditor to keep a duplicate account of the same. (For s. 4 id.)

SECTION 2172. The board of county commissioners shall levy each year upon the taxable property of the county a sufficient tax to pay the interest on said bonds as the same accrues, and a reasonable time before maturity a sufficient tax to provide a sinking fund for the payment of the bonds when they mature. (For s. 5 id.)

SECTION 2173. When said bonds and the coupons thereto attached mature, it shall be the duty of the county treasurer to pay the same on presentation, out of any funds in his hands applicable thereto; and he shall then cancel them by writing or stamping across the face of each coupon or bond, the words: Paid this.....day of..... (inserting the date of the payment). (S. 6. id.)

SECTION 2174. The county treasurer shall be allowed a commission of one-fourth of one per cent on the face value of said bonds for receiving and disbursing all funds arising from the sale or exchange and the commission herein provided for shall be in lieu of all other commissions allowed by law, and shall be paid into the salary fund and be disposed of as is not provided by law. (For s. 7 id.)

SECTION 2175a. Bonds issued in substantial conformity with this act shall in law be deemed negotiable. (S. 8 id.)

SECTION 2177. No county shall issue its bonds under the provisions of this article in excess of five per cent of its valuation according to the last assessment thereof, and including all the outstanding indebtedness of such county at the time of issuing such bonds. (For s. 2, id, as amended by c. 31, '90.)

SECTION 2178. Whenever, in the judgment of a majority of the board of county commissioners in any county which comes under the provisions of this act, such county has insufficient or inadequate buildings for its uses for court house or jail, or both, such board may order an election for the purpose of determining by a vote of the electors of such county the question of issuing its bonds for the purpose of the erection of a court house or jail, or both, as by this article provided, including the purchase of a site, for

such court house, jail, or both, at such county seat, if none is provided. Such election shall be held in the manner and upon the notice prescribed by law for other elections, but the published and posted notices of such shall state its object, the amount of bonds to be issued, the denominations of such bonds, the length of time for which they shall run, and the rate of interest which they shall bear, and the ballots shall have printed or written or partly printed and partly written thereon "For issue of bonds," or "Against issue of bonds," and if a majority of the ballots so cast shall be for the issue of bonds, then the county commissioners shall issue and dispose of said bonds, as provided by this article, and erect a court house or jail, or both, for the use of such county according to the provisions hereof. (For s. 3 id.)

SECTION 2179. The board of county commissioners of any county erecting county buildings under the provisions of this article shall have power to purchase ground for a site if necessary, let contracts for the building and completion of such court house or jail, or both, and the buildings connected therewith, and shall have the entire supervision of its construction; *provided*, that all contracts connected with the erection of such buildings shall be let to the lowest responsible bidder after notices of the letting of such contracts shall have been published in one of the newspapers of such county, and in case there are no newspapers in such county, then in a newspaper in some adjoining county, for at least once a week for four consecutive weeks, before the letting of such contracts, and the board shall have power to reject any or all bids. (S. 4 id.)

SECTION 2180. The county auditor, county treasurer and some qualified elector and freeholder of such county appointed by the board of county commissioners outside of its own number, shall act as a board of auditors to audit accounts of such board of county commissioners in connection with the erection of county buildings, pursuant to the provisions hereof, and said board of auditors shall receive for their services the sum of three dollars each for every day actually and necessarily employed in such capacity, to be paid upon the warrant of such board of county commissioners. (S. 5 id.)

SECTION 2181. All bonds issued pursuant to and under the provisions hereof shall be in denominations of not less than one hundred dollars and not more than one thousand dollars, shall bear the date of their issue, shall be made payable to purchaser or bearer, and become due in not less than ten and not more than twenty years from their date, and shall bear interest at the rate of not exceeding seven per cent per annum, payable annually with coupons attached for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of county commissioners, and shall be attested by the county auditor. The seal of the county shall be affixed to each bond, but not to the coupons, and said bonds shall each contain a recital in substantially the following words: "Issued in pursuance of Article 16, Chapter 20, of the Political Code of the State of North Dakota, authorizing and empowering organized counties to erect county buildings for court house and jail purposes, and to issue and dispose of bonds to provide funds to pay therefor, and to provide for the payment of the principal and interest of such bonds." Said bonds shall be printed, engraved or lithographed on bond paper; such bonds may be payable anywhere in the United States; shall be sold by the board of county commissioners at not less than their par value, and the proceeds applied solely to the payment of the indebtedness incurred in the erection of court house or jail, or both, and the purchase of a site therefor. Such bonds or any of them shall not be sold until after having been duly advertised at least once a week for four consecutive weeks in one of the newspapers published at the seat of government, and for the same length of time at any other point deemed advisable by the board. The proceeds of the sale of said bonds shall be deposited in the treasury of said county, to be paid out by the county treasurer on the order of said board. The county treasurer shall give an additional bond in double the amount of the bonds so issued and sold, and shall receive as compensation for the bonds so issued and sold, and shall receive as compensation for the receiving and disbursing of all funds arising from the sale of said bonds one per centum of the par value of said bonds, and the compensation herein provided for shall be in lieu of all other commissions allowed him by law. (For s. 6 id.)

SECTION 2182. The board of county commissioners at or before the issuance of such bonds shall levy upon the taxable property of the county a sufficient tax to pay the interest on such bonds as the same accrues and the principal thereof when due.

CLERK OF THE DISTRICT COURT.

SECTION 2216a. As compensation for his services there shall be allowed and paid to the clerk of the district court in each county, an annual salary based upon the population of his county as follows:

For the first three thousand inhabitants or fraction thereof, the sum of four hundred dollars.

In counties having more than three thousand inhabitants and not exceeding seven thousand, for the first three thousand inhabitants, four hundred dollars, and for each additional thousand or major fraction thereof, two hundred dollars.

In counties having more than seven thousand inhabitants, the sum of twelve hundred dollars for the first seven thousand and for each additional one thousand or major fraction thereof, fifty dollars; but in no case to exceed two thousand dollars.

SECTION 2216e. For the purpose of reimbursing the county for the salaries of the clerk and his deputy, such clerk shall pay into the county treasury all fees of every description received by him. A violation of the provisions of this section shall constitute embezzlement.

SECTION 2216f. The clerk shall keep in a book open to public inspection a correct itemized account of all money received by him as fees, and on the first day of each month he shall make a full and correct report to the board of county commissioners of all such money received by him during the previous month and since his last report, which report shall be duly itemized and verified by his oath. He shall pay into the county treasury on the first day of each month all money received as fees during the preceding month, and shall file the treasurer's receipt therefor with his report to the board of county commissioners.

SECTION 2216g. Clerks of the district court shall charge and collect the following fees:

SECTION 2216b. The population of each county shall be determined for the purpose of ascertaining the salary of such clerk, in the manner provided in Section ....

SECTION 2216c. In counties having more than fifteen thousand inhabitants, to be ascertained in the manner provided in Section .... there shall be a deputy clerk of the district court; and in counties having a less population than fifteen thousand, the board of county commissioners may authorize the appointment of such deputy in its discretion, to serve for such time as the board deems necessary. The deputy shall be appointed by the clerk and shall receive a salary equal to one-half of the salary of the clerk during the time for which he is employed.

SECTION 2216d. It shall be a misdemeanor for a clerk of the district court to demand or receive any part of the salary of his deputy.

In actions for the recovery of money only, in which judgment is entered by default, for all services prior to execution .....	\$2.00
In all other actions in which judgment is entered by default, for services prior to execution.....	3.50
In special proceedings, for all services prior to appeal	4.00
In actions in which an issue of fact is tried for all services prior to execution.....	5.00

In actions in which only a question of law is tried, the fees shall be the same as on default in like actions.

In addition to the foregoing fees, for all services growing out of a provisional remedy, there shall be charged and paid at the time the remedy is applied for or the first paper in connection therewith filed	\$2.50
For issuing execution in any action.....	1.00
For filing and indexing a mechanic's lien.....	1.00
For filing and indexing any other paper authorized to be filed in his office, but not connected with any civil action or proceeding.....	.25

For making certified abstract of any judgment or certi-

fied copy of any judgment order, or other paper filed or recorded in his office:

For the first four folios.....	\$ .50
For each additional folio.....	.10
For entering satisfaction of any judgment or lien.....	.25
For taking declaration of intention to become a citizen of the United States and certified copy of the record thereof.....	1.00
For final naturalization papers, including copy of the record thereof.....	1.00
For each additional copy of either of such citizen's papers.....	.50
For entering and indexing commission of notary public.....	.50
For taking an acknowledgment or administering an oath.....	.25

For recording and indexing any paper not filed in an action or proceeding:

For the first four folios.....	\$ .50
For each additional folio.....	.10
For a certificate of the official capacity of a notary public or other officer.....	.50
For certifying an abstract of real property as to judgments and liens, for each person named in the abstract as to whom search is made.....	.10

For receiving, keeping and paying out money in pursuance of law or an order of court, one per cent of the amount, which shall be paid by the person receiving such money.

For issuing commission to take deposition.....	\$ .50
For certifying the record on appeal to the supreme court, or to the district court of any other county and transmitting the same.....	1.00
For all services on <i>remittitur</i> from the supreme court.	2.00
For taking depositions per folio.....	.10

ARTICLE 17.—FEES AND SALARIES OF COUNTY, TOWNSHIP AND OTHER OFFICERS—STATE'S ATTORNEYS.

SECTION 2215. As compensation for their services, there shall be allowed and paid to the state's attorney in each

county in this State, an annual salary, based upon the population of such county, as follows:

For the first six thousand inhabitants or fraction thereof, the sum of six hundred dollars; and for each additional one thousand inhabitants or major fraction thereof, the further sum of one hundred dollars, payable monthly; *provided*, that the compensation of such state's attorney shall not exceed the sum of two thousand five hundred dollars per annum in any county. (New.)

SECTION 2216. The county auditor shall determine the population of his county for the purpose of the foregoing section, by taking the last census taken by the State or by the United States, and adding five per cent of the population as shown by such census for each year expiring after the year in which such census was taken. (New.)

#### COUNTY JUDGES.

SECTION 2217. As compensation for their services, there shall be allowed and paid to the judges of the county courts in all counties an annual salary, based upon the population thereof as follows: For the first 3,000 inhabitants or fraction thereof, the sum of three hundred dollars; for the next three thousand inhabitants or fraction thereof, the sum of one hundred dollars additional; for each one thousand inhabitants or fraction thereof, and for each additional one thousand inhabitants or fraction thereof, the sum of fifty dollars additional, to be paid by the county treasurer upon the warrant of the county auditor; and in all counties wherein the county court has both civil and criminal jurisdiction, the county judge as compensation for such additional services, in addition to the salary hereinbefore provided, shall be paid one-half as much more; *provided*, that the salary of the county judge shall not exceed the sum of two thousand dollars in any county; *Provided*, that the county judges may receive such fees as are allowed by law, in taking acknowledgment of deeds or other instruments and other acts, other than in the settlement of the estates of decedents, of wards, the guardianship of infants, and the adjudication of civil and criminal actions, and all causes in probate commenced prior to March, 1890. shall not be affected thereby. [For s. 1, c. 50, '90.]

SECTION 2218. The clerk of the county court shall receive no compensation from the county for his services unless such county shall have a population of at least fifteen thousand inhabitants, in which case there shall be allowed and paid to the judge of the county court for clerk hire the sum of six hundred dollars per annum. And in counties having a greater population than fifteen thousand inhabitants, an additional sum of fifty dollars per annum for each additional one thousand inhabitants or fraction thereof, such sum to be paid in the same manner as the salary of the county judge. *Provided*, that in all counties having county courts with civil and criminal jurisdiction with a population of five thousand inhabitants or more, there shall be allowed and paid to the judge of such court as clerk hire, in lieu of that hereinbefore provided for, the sum of four hundred dollars per annum for the first five thousand inhabitants, and the further sum of fifty dollars per annum for each additional one thousand inhabitants or major fraction thereof, such sum to be paid as above provided. (For s. 2, c. 50. Laws of '90, and s. 12, c. 51, '91.)

SECTION 2219. The county auditor shall determine the population of his county for the purpose of ascertaining the compensation to be paid to the county judge and the amount of such clerk hire, in the manner provided in Section 2216. (For s. 3 c. 50, '90.)

SECTION 2220. For the purpose of reimbursing the county for the salaries provided in the foregoing section to be paid to the judges of the county courts, each petitioner for letters testamentary, administration or of guardianship, before filing the same in the county court, shall pay or cause to be paid into the county treasury, for the use and benefit of the county in whose county court proceedings are to be instituted to settle the estate of any deceased person, or for the appointment of a guardian, the following sums according to the value of the estate of such deceased person or of such ward, as appears from the sworn statement in the petition of such applicant, that is to say: Five dollars when the value of the estate does not exceed the sum of five hundred dollars; ten dollars when the value of the estate exceeds \$500 but does not exceed fifteen hundred dollars; fifteen dollars when the value of the estate exceeds \$1,500 but does not exceed twenty-five hundred dollars;

twenty dollars when the value of such estate exceeds \$2,500 but does not exceed five thousand dollars; twenty-five dollars when the value of such estate exceeds five thousand dollars but does not exceed ten thousand dollars; thirty dollars when such estate exceeds ten thousand dollars but not fifteen thousand dollars; forty dollars when the value of such estate exceeds fifteen thousand dollars but not twenty thousand dollars; fifty dollars when the value thereof exceeds twenty thousand dollars but not twenty-five thousand dollars, and seventy-five dollars in all cases where the value of such estate exceeds the sum of twenty-five thousand dollars, and in all cases, in addition, all sums necessarily expended in publishing and serving notices required by law. And in the adjudication of all civil and criminal actions, the same fees and costs shall be paid as in like actions in the district court, the same to be paid to the judge of the county court, a record to be kept of and the same turned over by him to the county treasurer. (For s. 4 c. 50, '90.)

SECTION 2221. When the payments provided for in the foregoing sections are made to the treasurer of the proper county, he shall execute therefor duplicate receipts, one of which shall be filed with the county auditor, and one with the judge of the county court. (For s. 5 id.)

#### COUNTY AUDITORS.

SECTION 2222. The salary of the county auditor shall be regulated by the value of the property in his county as fixed by the State Board of Equalization for the preceding year as follows: He shall be entitled to receive four mills on the dollar on the first one hundred thousand dollars, and one mill on the next three hundred thousand dollars and one-third of one mill on all sums in excess of said sums not exceeding two million dollars, and one-fifth of one mill on all sums exceeding two million dollars; *provided*, that no county auditor shall receive for his personal services an amount to exceed two thousand dollars in any one year; *provided*, that such officer shall not be required to account for fees for certifying to deeds. All fees received by such officer in excess of the above amount shall be paid into the salary fund of the county at the end of each month. (For s. 1 c. 52, '91.)

SECTION 2223. If in the judgment of the board of county commissioners of any county it is deemed necessary for the prompt and accurate dispatch of the business in the office of the county auditor, that clerks or deputies be employed therein, they shall authorize the same, and the allowance for such clerk hire shall be paid in the same manner as all other similar claims against the county, but in no case shall the auditor be allowed for clerk hire unless such services have been actually rendered. (For s. 2 id.)

REGISTER OF DEEDS.

SECTION 2224. The register of deeds shall be entitled to receive eight hundred dollars in counties where the assessed valuation does not exceed one million dollars; one thousand dollars in counties where the assessed valuation exceeds one million dollars but does not exceed one million five hundred thousand dollars; twelve hundred dollars in counties where the assessed valuation exceeds one million five hundred thousand dollars but does not exceed two million dollars, fourteen hundred dollars in counties where the assessed valuation exceeds two million dollars but does not exceed two million five hundred thousand dollars, sixteen hundred dollars in counties where the assessed valuation exceeds two million five hundred thousand dollars but does not exceed three million dollars; *provided*, that no register of deeds shall receive for his personal services an amount to exceed two thousand dollars in any one year. (S. 3, c. 52 '91.)

SECTION 2225. Each register of deeds shall keep a book provided by the county in which shall be entered each item of fees for services rendered, and shall within three days after the close of each calendar month, and also at the end of his term of office, file with the county auditor a statement under oath showing the fees which he has received as such officer since the date of his last report, and also within three days deposit with the county treasurer the total sum of such fees, which sum so deposited shall be placed to the credit of the special salary fund. Any register of deeds who shall neglect or omit to charge or collect the fees allowed by law for services rendered, or shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor, with intent

to evade the provisions of this section shall be deemed guilty of a misdemeanor. (S. 4 id.)

SECTION 2226. In case the fees paid into the county treasury by the register of deeds shall not equal his salary as fixed herein, then such officer shall only be entitled to receive a sum equal to the fees paid into the treasury; but in case there is a deficiency in the salary of such officer for any month, such deficiency shall be made up from any excess of fees that may be paid into the county treasury by such officer during the calendar year in which such deficiency occurred. (For s. 5 id.)

SECTION 2227. If in the judgment of the board of county commissioners it shall be deemed necessary for the prompt and accurate dispatch of the business in the office of the register of deeds that deputies or clerks be employed therein, they shall by resolution fix the number of clerks to be employed and the compensation which they shall receive, which compensation shall be paid monthly from the special salary fund by warrant; *provided*, that the officers in whose office such deputies or clerks are to be employed shall have the sole power of appointing and removing them at pleasure. *Provided, further*, that the total amount paid to the register of deeds for salary and clerk hire shall not exceed the amount of fees by such officer collected, and in no case exceed the sum of five thousand dollars. Any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed to any such clerk or deputy shall be guilty of a misdemeanor. [For s. 6 id.]

SECTION 2228. The register of deeds shall charge and collect the following fees:

For recording a deed, mortgage, or other instrument, and indexing, for the first four hundred words, seventy-five cents.

For each additional folio, ten cents.

Copy of record, for each ten cents, one cent.

Certificate and seal, twenty-five cents.

Entering satisfaction of mortgage or lien, twenty-five cents.

For discharging *lis pendens*, twenty-five cents.

For recording marks and brands, each twenty-five cents.

For filing and indexing a chattel mortgage, or for filing and indexing a renewal of a chattel mortgage, twenty-five cents, but no fee shall be charged for releasing the same.

For filing and indexing instruments authorized by law to be filed, twenty-five cents.

For recording a final receipt from the receiver of any United States Land Office, fifty cents. [S. 1407 Comp. Laws as amended by c. 63, '93.]

#### COUNTY TREASURER.

SECTION 2229. The county treasurer of each county shall be allowed, at the time of his settlement, all sums paid by him for printing such advertisements as he is required to have done, at the rates prescribed by law; and all the sums paid by him for blank books and stationery necessarily used in his office, and shall receive for his services such sums as may be allowed by law for the collection and paying over all money collected or received by him for the leasing, sale or interest on school or other state lands, and on all other public money by him collected or received as such county treasurer, for each year's services, as follows: Four and one-half cents on each dollar for the first ten thousand dollars; three cents on each dollar on the second twenty thousand dollars; and two cents on each dollar on all sums over thirty thousand dollars and less than sixty thousand dollars; and one cent on each dollar on all sums over sixty thousand dollars; to be paid on the warrant of the county auditor out of the salary fund, and whenever the salary fund shall be exhausted the auditor shall draw his warrant on the general fund; *provided*, that no compensation shall be allowed the treasurer from any moneys received from his predecessor in office, or his legal representatives, nor on any moneys received from the current school funds of the State arising from the lease or sale of school lands; *provided*, that no treasurer shall receive more than twelve hundred dollars for his personal services in any one year in counties where the valuation of taxable property is less than two million dollars, nor more than fifteen hundred dollars in counties where the valuation of taxable property exceeds two million dollars but does not exceed four million dollars; nor more than two thousand dollars in counties where the valuation of taxable property exceeds four million dollars and does not

exceed six million dollars; nor more than two thousand five hundred dollars in counties where the valuation of taxable property exceeds six million dollars and does not exceed nine million dollars; nor more than three thousand dollars in counties where the valuation of taxable property exceeds nine million dollars and does not exceed twelve million dollars; nor more than thirty-five hundred dollars in counties where the valuation of taxable property exceeds twelve million dollars; and all moneys received as fees for certifying to abstracts in excess of the amount provided for in this article, shall be paid by the county treasurer at the end of each month into the revenue fund of the county; *provided, further*, that whenever the salary of the county treasurer is limited to a fixed sum by the second proviso of this section, such sum shall be paid in the manner provided above, at the end of each month, in twelve equal installments, and no treasurer receiving pay for his services under said second proviso, whose salary cannot be certainly and exactly fixed at the beginning of his official year, shall receive more than one-twelfth of his annual salary at the end of each month, as carefully estimated and recorded by the board of county commissioners at their January meeting each year. And the balance of the year's pay found to be due the treasurer shall be paid to him on the computation by said board of commissioners at their next January meeting. (Sec. 1, c. 53, '91.)

SECTION 2230. If in the judgment of the board of county commissioners of any county it shall be deemed necessary for the prompt and accurate dispatch of business in the office of the county treasurer, that a deputy or clerk be employed therein, they shall by resolution fix the number of deputies or clerks to be employed, and the length of time they shall be employed, together with the compensation which they shall receive, which compensation shall be paid monthly, in the same manner as the salary of the county treasurer; but the officer in whose office such deputy or clerks are to be employed shall have the sole power of appointing and removing them at pleasure. Any county treasurer who shall receive and appropriate to his own use any part of the salary allowed any clerk or deputy in his office shall be deemed guilty of a misdemeanor. [For s. 2 id.]

## SHERIFF.

SECTION 2231. The sheriff shall be entitled to charge and receive the following fees:

Serving *capias* with commitment or bail bond and return, two dollars.

For each search on search warrant, one dollar.

Arresting under search warrant, each defendant, one dollar.

Serving summons, warrant of attachment, order of replevin, injunctional order, citation or other *mesne* process, and return thereon, sixty cents.

Each defendant besides the first, fifty cents.

Copy of summons, or order of attachment, twenty-five cents.

Copy of injunctional order, twenty-five cents.

Serving subpoena for witness, each person, twenty-five cents.

Taking and filing bond in claim and delivery or other undertaking to be furnished and approved by the sheriff, one dollar.

Traveling expenses, for each mile actually and necessarily traveled, ten cents.

Making copy of any process, bond or paper other than herein provided for each ten words, one cent.

Levying writ of execution and return thereof, one dollar.

Levying writ of possession with the aid of the county, three dollars and fifty cents.

Levying writ of possession without the aid of the county, two dollars.

Summoning grand jury, including mileage, to be paid by the county, eight dollars.

Summoning petit jury, including mileage, to be paid by the county, sixteen dollars.

Summoning special jury, for each person impaneled, twenty-five cents.

Serving notice of motion or other notice or order of court, fifty cents.

Executing writ of *habeas corpus* and return, one dollar and twenty-five cents.

Serving writ of restitution and return, one dollar and twenty-five cents.

Calling inquest to appraise any goods and chattels which

he may be required to have appraised, sixty cents, and to each appraiser to be taxed as costs, one dollar.

Advertising sale in newspaper, in addition to the publisher's fees, sixty cents.

Advertising in writing for sale of personal property, one dollar.

Executing writ or order of partition, two dollars.

Making deed for land sold on execution or order of sale, two dollars.

Committing prisoner to prison, or discharging therefrom, fifty cents.

Opening court and attending thereon per day, to be paid by the county, four dollars; but this per diem shall not be construed to apply to deputies, and shall not be allowed for attendance on justice's courts.

Commission on all money received and disbursed by him on execution, order of sale, order of attachment, decree, or on sale of real and personal property, shall be:

For each dollar not exceeding four hundred dollars, three cents.

For each dollar above four hundred dollars, not exceeding one thousand dollars, two cents.

For each dollar in excess of one thousand dollars, one cent.

In all cases in the district court where persons in whose favor the execution or order of sale is issued, shall bid in the property sold on execution or judgment, the sheriff or persons making such sale shall receive the following compensation: If the amount for which the property is bid in is one thousand dollars or less, the sum of five dollars and no more; if the amount for which the property is bid in is more than one thousand dollars, the sum of ten dollars and no more. The sheriff making sale of real property under the foreclosure of mortgages by advertisement, shall receive the same fees and no more than are allowed by law for the sale of real property under a judgment of foreclosure and sale of such property.

For boarding prisoners, not exceeding seventy-five cents per day each, to be determined by the board of county commissioners.

For distributing ballot boxes to the various precincts, two dollars per day and mileage.

For executing death warrant, such fee as the board of county commissioners shall deem reasonable and just to be paid by the county. In all cases where personal property shall be taken by the sheriff on execution or under a warrant of attachment, and applied in satisfaction of the debt without sale, he shall be allowed the same percentage on the appraised value thereof, as in case of sale.

For the expense in taking and keeping possession of and preserving property under attachment, execution, or other process such sum as the court or judge may order, not to exceed the actual expense incurred, and no keeper must receive to exceed three dollars per day, nor must he be so employed unless the property is of such character as to require the personal attention and supervision of a keeper. No property must be placed in charge of the keeper if it can be safely and securedly stored, or where there is no reasonable danger of loss. (For s. 1409 Comp. Laws.)

SECTION 2232. The sheriff shall be entitled to receive five cents a mile for each mile actually and necessarily traveled in summoning a grand and petit jury, to be paid by the county in addition to the compensation now allowed by law; *provided*, that no additional mileage shall be allowed as sheriff for summoning talesmen over and above that fixed by law. (For s. 1410 Comp. Laws.)

SECTION 2233. The necessary expenses and legal fees of sheriffs and other officers incurred in conveying prisoners to the penitentiary or reform school, or patients to the hospital for the insane, shall be audited by the State Auditor and paid out of the State treasury. The auditor may allow for such expenses and fees, the following rates:

Three dollars per day for the time of the sheriff or other officer necessarily spent in going to and returning from such penitentiary, reform school or hospital by the nearest route.

Two dollars and fifty cents per day for each guard necessary, and such sums as may be necessary for railroad or stage fare and actual traveling expenses.

Not more than one guard shall be allowed for one prisoner or patient, and one additional guard for every two additional prisoners or patients. When conveyance by

team is necessary, a team and driver may be employed at a rate of compensation not exceeding five dollars per day, but not less than forty miles per day shall be taken as a day's travel. All bills shall be in writing and fully itemized and verified by oath, and accompanied by the receipt of the warden of the penitentiary, superintendent of the reform school or superintendent of the hospital for the insane, for the delivery of such prisoner or patient.

When the commissioners of insanity order the return of a patient, compensation and expenses shall in like manner be allowed and paid out of the State treasury. (S. 1411 Comp. Laws.)

SECTION 2234. The sheriff, for performing the duties required by law to be performed by him in the county or justice's court, shall receive the same fees as are allowed for similar services in the district court, to be taxed against the proper party. (For s. 1412 Comp. Laws.)

SECTION 2235. When any sheriff or other officer shall serve any summons, subpoena bench warrant, venire or other process in any action to which this State or any county is a party, such officer shall be required to indorse upon such writ or process or upon a paper attached thereto, at the time he makes his return of service thereon, a statement of his fees for such service, the number of miles traveled and the amount of his mileage, and in case he shall fail to make his return with such statement and file the same with the clerk of the court from which such process issued before judgment is rendered in the action to which such process relates, he shall receive no fees for such service, and the county commissioners of the county are prohibited from allowing the same. (For s. 1413 Comp. Laws.)

#### CORONER.

SECTION 2236. The coroner shall be entitled to charge and receive the following fees:

For a view of each body and taking and returning an inquest, five dollars.

For a view of each body and examination without inquest, three dollars.

For taking information, fifty cents.

For issuing subpoenas, warrant or order for a jury, fifty cents.

For qualifying an inquest, fifty cents.

For administering an oath or affirmation to a witness, ten cents.

For each adjournment, fifty cents.

For taking deposition, drawing and requiring inquisition, for each ten words, one cent.

For each mile traveled to and returning from an examination or inquest, ten cents.

For physician making post mortem examination of dead body, ten dollars.

Which fees shall be paid out of the county treasury when they cannot be obtained from the estate of the deceased; but in all cases of murder or manslaughter, out of the goods, chattels, lands and tenements of the slayer, if he has any, otherwise by the county, with mileage for distance actually traveled to and from the place of securing the dead body.

For all other services rendered, the same fees are allowed the sheriff and mileage. (S. 1414 Comp. Laws.)

#### REFEREES.

SECTION 2237. Referees shall be entitled to charge and receive the following fees.

For copying any paper or instrument, taking testimony, for every ten words, one cent.

Swearing each witness, ten cents.

Making report of facts or conclusions of law, or upon exceptions, for every ten words, one cent.

And such additional fees as the court shall allow not exceeding in any one case the sum of ten dollars per day, except by agreement of the parties.

Certificate and seal, twenty-five cents.

Taking affidavit, twenty-five cents.

For all services pertaining to the sale of real estate, the same fees as are allowed by law to the sheriff in like cases. (For s. 1415 Comp. Laws.)

#### NOTARIES PUBLIC.

SECTION 2238. Notaries public are entitled to charge and receive the following fees:

For each protest, one dollar and fifty cents.

- For recording the same, fifty cents.
  - For taking affidavit and seal, twenty-five cents.
  - For administering an oath or affirmation, ten cents.
  - For taking a deposition, each ten words, one and a half cents.
  - For each certificate and seal, twenty-five cents.
  - For taking proof of acknowledgment, twenty-five cents.
- (S. 1419 Comp. Laws.)

#### JUSTICES OF THE PEACE.

SECTION 2239. Justices of the peace shall be entitled to charge and receive the following fees:

- Docketing each cause, twenty-five cents.
- Taking affidavit, twenty-five cents.
- Filing petition, bill of particulars or other paper necessary in a cause, ten cents.
- Issuing summons, warrant, subpoena, order of arrest, or venire for jury, fifty cents.
- Issuing execution, order of sale, writ of attachment, and entering return therein, fifty cents.
- Issuing writ of restitution and entering return therein, one dollar.
- Administering oath or affirmation to witness, ten cents.
- Entering judgment in any cause, fifty cents.
- Taking acknowledgment of deed or other instrument, twenty-five cents.
- Swearing jury, twenty-five cents.
- Copy of appeal, copy of pleadings or other papers for any purpose, for each ten words, one cent.
- Taking depositions, for each ten words, one cent.
- Certificate, twenty-five cents.
- Taking information and complaint, fifty cents.
- Discharge to jailer, twenty-five cents.
- Dismissal, discontinuance or satisfaction, twenty-five cents.
- Written notice to party, ten cents.
- Filing notice and opening judgment for rehearing, fifty cents.
- Each adjournment, fifty cents.
- Performing marriage ceremony, three dollars.
- Each day's attendance upon the trial of a cause, after the first day, two dollars.
- Taking and approving bail bond, twenty-five cents.

Entering voluntary appearance of defendant, twenty-five cents.

Issuing attachment, fifty cents.

Entering motion or order, ten cents.

Order of reference to arbitrators, fifty cents.

Entering a ward of arbitrators, twenty-five cents.

Commission on money collected on judgment without execution shall be one per cent on the amount. (S. 1420 Comp. Laws.)

#### CONSTABLES.

SECTION 2240. Constables shall be allowed the same fees as are allowed to sheriffs for like services. (S. 1421 Comp. Laws.)

#### COUNTY SURVEYORS.

SECTION 2241. County surveyors shall be allowed three dollars per day for time actually employed, and mileage.

For each lot laid out and platted in any city or village, twenty-five cents.

For each copy of plat and certificate, fifty cents.

Recording each survey, twenty-five cents.

For each mile actually and necessarily traveled in going to and returning from work, ten cents.

For establishing each corner, twenty-five cents.

For ascertaining the location of a city or village lot in an old survey, and measuring and marking the same, two dollars.

For surveying county roads, three dollars per day.

Expenses of necessary assistance shall in addition be paid by the person requiring the work to be done. (For s. 1422 Comp. Laws.)

#### COUNTY COMMISSIONERS.

SECTION 2242. County commissioners shall each be allowed, for the time they are necessarily employed in the duties of their office, the sum of three dollars per day, and five cents per mile for the distance actually traveled in attending the meetings of the board, and when engaged in other official duties, to be paid out of the general fund of the county. (For s. 1424 Comp. Laws.)

## JURORS.

SECTION 2243. For each day's attendance at any district court as grand, petit or special juror, to be paid by the county, two dollars. Traveling expenses for each mile actually and necessarily traveled each way, to be paid by the county, five cents.

For each day's attendance as juror in justice court, one dollar.

For each day's attendance as juror at coroner's inquest, to be paid by the county, one dollar. (For s. 1426 Comp. Laws.)

## WITNESSES.

SECTION 2246. For each day's attendance before the district court, or before any other court, board or tribunal, in all civil and criminal cases, one dollar; and for each mile actually traveled one way, ten cents; *provided*, that in all criminal cases witness fees shall be paid out of the county treasury of the proper county. (For s. 1429 Comp. Laws.)

SECTION 2247. A witness who is subpoenaed in two or more cases by the same party, shall be entitled only to one compensation from such party for the same day's attendance or travel. (For c. 194 '90)

## PRINTERS.

SECTION 2248. In all cases where publication of legal notices of an kind is required or allowed by law, the person or officer desiring such publication shall be required to pay seventy-five cents per square of twelve lines of nonpareil type or its equivalent for the first insertion, and fifty cents per square for each subsequent insertion. And in all cases of publication of notices in connection with sales upon execution the plaintiff, except in divorce cases, may designate the newspaper published within the county in which such notice shall be published; and all legal advertisements, fractional parts of twelve lines shall be paid for at the rate of ten cents per line of nonpareil type or its equivalent. (S. 1430 Comp. Laws.)

## FEES IN MATTERS OF ESTRAYS.

SECTION 2251. The following fees are allowed in cases of estrays:

To justices of the peace, for issuing any warrant of appraisement, fifty cents.

For filing and entering in his docket the sworn report of appraisers, fifty cents.

Taking and entering the affidavit of the taking up of any estray, fifty cents.

For posting notices of estray, and certifying to a copy of the sworn reports of the appraisers to the register of deeds, fifty cents.

Posting notices and selling an estray, two dollars.

Advertising an estray, if published in a newspaper, three dollars.

To each appraiser, twenty-five cents.

To the register of deeds, for entering certified copy of sworn report of appraisers, twenty-five cents.

And for each inspection of the estray register, ten cents. (S. 1425 Comp. Laws.)

#### MISCELLANEOUS PROVISIONS.

SECTION 2252. Interpreters or translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be paid and collected as other costs, but the same shall not exceed two dollars per day. (S. 1433 Comp. Laws.)

SECTION 2253. Officers authorized by law to take and certify acknowledgments of deeds and other instruments are entitled to charge and receive twenty-five cents each therefor, and for administering oaths and certifying the same, ten cents. (S. 1434 Comp. Laws.)

SECTION 2254. In all actions, motions and proceedings in the supreme, district, county or justice's courts, the costs of the party shall be taxed and entered on record separately. (S. 1435 Comp. Laws.)

SECTION 2255. The clerk of the supreme court and of each district court, the county judge, sheriff, justice of the peace, constable or register of deeds may in all cases require the party for whom any service is to be rendered

to pay the fees in advance of the rendition of such service, or to give security for the same, to be approved by the officer. (For s. 1436 Comp. Laws.)

SECTION 2256. All officers whose fees are by this article determined are required to make a schedule of their respective fees, and keep the same in their respective offices in some conspicuous place; and if any such officer shall neglect to do so, he shall for such neglect forfeit and pay the sum of five dollars, to be recovered by a civil action before any justice of the peace, for the use of the county in which the offense was committed. (For s. 1437 Comp. Laws.)

SECTION 2257. It shall be the duty of the district court at each term thereof, to appoint a competent number of bailiffs to wait on the jury and court during the term, who shall be allowed for their services two dollars per day, to be paid by the county. (For s. 1438 Comp. Laws.)

SECTION 2258. Each officer, whose salary is in the nature of a per diem shall, before drawing any money on account of such salary, subscribe an oath of affirmation in the following form:

I, A. B., do solemnly swear, (or affirm) that I have been .....days necessarily and diligently engaged in the duties of my office as (insert title of office.)

(Officer's name.)

Any disbursing officer of this State who shall pay any portion of the salary of any officer aforesaid, before such oath or affirmation is taken and subscribed, shall forfeit to this State, the sum of fifty dollars, which forfeiture may be sued for by any taxpayer. (For s. 1439 Comp. Laws.)

SECTION 2378. Each and every organized township of this State is hereby authorized and empowered by and through its board of supervisors, when in the judgment of such board it is deemed for the best interest of the township, to issue its negotiable bonds in the name of such township corporation for the sole purpose of refunding any outstanding bonded indebtedness of such town.

SECTION 2379. The necessity of issuing and negotiating bonds under the provisions of this article shall be determined by the board of supervisors of such township. Such

bonds shall be in denominations of not more than one thousand dollars nor less than one hundred dollars, shall bear the date of their issue and shall be made payable to the purchaser or bearer, and be payable in not less than five nor more than fifteen years from their date; and shall bear interest at a rate not higher than the bonds refunded and shall have coupons attached for each interest payment; such bonds and coupons shall be signed by the chairman of the board of supervisors and shall be attested by the town clerk. Each bond shall state on its face that it is issued in accordance with this article, describing it by its proper title. Such bonds may be made payable at such place as may be agreed upon.

SECTION 2380. A record of each bond so issued shall be kept by the town clerk, showing the number of each bond, its date, amount, rate of interest, when and where payable, the amount received therefor, to whom sold and how the proceeds were disposed of.

SECTION 2381. At or before the time of issuing any bonds pursuant to the provisions of this article, it shall be the duty of the board of supervisors to provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due.

SECTION 2382. When such bonds and the coupons thereto attached mature it shall be the duty of the town treasurer to pay the same on presentation out of any funds in his hands applicable thereto; and he shall then properly cancel the same.

## CHAPTER XXV.

### MISCELLANEOUS PROVISIONS.

SECTION 2771. No part of this Code is retroactive, unless expressly so declared.

SECTION 2772. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. The Code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.

SECTION 2773. The provisions of this Code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

SECTION 2774. All persons who, at the time this Code takes effect, hold office under any of the acts repealed, continue to hold the same according to the tenure thereof, except those offices which are not continued by one of the Codes adopted at this session of the Legislative Assembly, and excepting offices filled by appointment.

SECTION 2775. When any office is abolished by the repeal of any act, and such act is not in substance re-enacted or continued in either of the Codes, such office ceases at the time the Codes take effect.

SECTION 2776. No action or proceeding commenced before this Code takes effect, and no right accrued, is affected by its provisions.

SECTION 2779. The following acts passed at the twelfth session of the Legislative Assembly of the Territory of Dakota in the year 1877 are repealed:

1. Chapters one to fifty inclusive of the Political Code of 1877.

2. The following acts passed at the thirteenth session of the Legislative Assembly of the Territory of Dakota in the year 1879 are repealed:

Chapters 2, 3, 6, 12, 13, 15, 18, 19, 20, 22, 23, 24, 26, 27, 28, 29, 30, 34, 37, 38, 44, 45, 48, 49, 52, 54, 56, 58, 59, 60, 61, 62, 63, 64, 65, and the following special laws. An act entitled an act to amend Section 36 of Chapter 27 of the Political Code, and an act entitled an act to amend Section 54 of Chapter 29.

3. The following acts passed at the fourteenth session of the Legislative Assembly of the Territory of Dakota in the year 1881 are repealed:

Chapters 1, 3, 6, 12, 16, 19, 21, 22, 23, 39, 42, 43, 45, 46, 47, 48, 54, 55, 56, 58, 60, 61, 62, 63, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 82, 83, 84, 85, 86, 90, 91, 92, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 137, 139, 140 and 142, and also the following special laws passed at the same session:

Chapters 3, 4, 5, 6, 7, 11, 12, 21, 22, 23, 24, 25, 26, 28, 31, 32, 39, 48, 50, 51, 58, 60, 64, 71 and 72.

4. The following acts passed at the fifteenth session of the Legislative Assembly of the Territory of Dakota in the year 1883 are repealed:

Chapters 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 27, 29, 31, 34, 35, 40, 41, 43, 47, 48, 49, 52, 53, 54, 58, 59, 60, 63, 64, 65, 66, 67, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 90, 94, 95, 98, 99, 100, 101, 102, 103, 104, 107, 108, 109, 110,

112, 113, 114 and 116, and also the following special laws passed at the same session.

Chapters 1, 7, 10, 13, 17, 18, 30, 31, 32, 33, 36, 37, 39, 40, 41, 42 and 43.

5. The following acts passed at the sixteenth session of the Legislative Assembly of the Territory of Dakota in the year 1885 are repealed:

Chapters 3, 4, 5, 6, 8, 9, 13, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 40, 41, 43, 45, 46, 47, 48, 52, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 87, 102, 103, 104, 109, 110, 111, 113, 114, 116, 120, 121, 123, 124, 126, 127, 128, 129, 130, 131, 133, 134, 135, 137, 140, 142, 144, 145, 148, 150, 151, and an act entitled an act to prevent the spread of noxious weeds in the Territory of Dakota, and also the following special laws passed at the same session:

Chapters 1, 2, 4, 6, 7, 8, 10, 12, 13, 14, 16, 18, 20, 21, 22, 25, 26, 29, 35, 36, 37, 38, 40, 41, 44, 45, 48, 49 and 50.

6. The following acts passed at the seventeenth session of the Legislative Assembly of the Territory of Dakota in the year 1887 are repealed:

Chapters 1, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 18, 30, 32, 33, 37, 38, 39, 41, 43, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 64, 66, 68, 70, 71, 72, 73, 75, 76, 77, 78, 79, 80, 84, 97, 100, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 116, 119, 121, 122, 123, 124, 125, 130, 134, 135, 136, 139, 140, 141, 142, 143, 144, 145, 147, 148, 151, 152, 153, 154, 155, 156, 157, 158, 159, 161, 162, 163, 168, 170, 173, 174, 175, 185, 186, 188, 189, 190 and 195.

7. The following acts passed at the eighteenth session of the Legislative Assembly of the Territory of Dakota in the year 1889 are repealed:

Chapters 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 22, 23, 25, 27, 30, 31, 32, 33, 34, 35, 36, 37, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 107, 108, 109, 113, 114, 115, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 130, 131 and 132.

8. The following acts passed at the first session of the Legislative Assembly of the State of North Dakota in the year 1890 are repealed:

Chapters 1, 8, 9, 10, 18, 21, 22, 24, 25, 26, 27, 31, 32, 33, 34, 35, 36, 37, 38, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 73, 79, 80, 81, 82, 85, 86, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 105, 106, 107, 108, 109, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 175, 176, 177, 178, 179, 180, 181, 182, 183, 185, 186, 187, 188, 189, 190, 191, 192, 194, 196 and 199.

9. The following acts passed at the second session of the Legislative Assembly of the State of North Dakota in the year 1891 are repealed:

Chapters 1, 2, 3, 5, 7, 8, 9, 10, 11, 32, 33, 34, 36, 38, 39, 40, 43, 44, 45, 46, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 65, 66, 68, 69, 70, 71, 72, 75, 76, 77, 78, 79, 82, 83, 84, 86, 87, 88, 89, 90, 91, 93, 94, 98, 99, 100, 102, 106, 107, 110, 111, 112, 113, 114, 115, 116, 119, 123, 125, 126, 127, 132 and 133.

10. The following acts passed at the special session of the Legislative Assembly of the State of North Dakota held in the year 1892 are repealed:

House Bills Nos. 1, 5 and 6, and Senate Bills Nos. 1 and 2.

11. The following acts passed at the third session of the Legislative Assembly of the State of North Dakota in the year 1893 are repealed.

Chapters 23, 25, 31, 32, 33, 34, 35, 36, 38, 43, 44, 45, 46, 47, 48, 49, 53, 54, 55, 57, 8, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 76, 77, 80, 90, 91, 92, 93, 94, 95, 96, 97, 98, 06, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 120, 121, 122, 123, 125, 26, 127, 129, 132, 133, 134 and 135.