

THE
REVISED CODES

OF THE
STATE OF NORTH DAKOTA

1899

TOGETHER WITH
THE CONSTITUTION OF THE UNITED STATES AND OF THE
STATE OF NORTH DAKOTA
WITH THE AMENDMENTS THERETO

BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY

BISMARCK, NORTH DAKOTA
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PREFACE.

In publishing this volume of the revised codes of North Dakota it is deemed proper to give briefly a sketch of the enactment and codification of the codes of the territory of Dakota and state of North Dakota.

The legislative assembly of the territory of Dakota at its first session in 1862 adopted a code of civil procedure taken from Ohio. In 1868 this code was repealed, and the code of civil procedure of New York was adopted in its place. At that session there was also adopted a code of criminal procedure. This code was repealed in 1869 and a code of criminal procedure that had been prepared by a New York commission for that state adopted in its stead. This code was again amended and re-enacted in 1875. A justices' code was adopted in 1862, which was repealed and a new code adopted in 1863. This was again repealed in 1866, and another complete code on the subject enacted. A penal code was adopted at the second session of the legislative assembly in 1863, which was repealed in 1865 and the code drafted by the New York commission for that state, adopted in its place. A probate code was adopted in 1865. A civil code taken from that prepared by the New York commission was adopted in 1865, and took effect January 12, 1866. The New York commission referred to was composed of David Dudley Field, William Curtis Noyes and Alexander W. Bradford. It was created in 1857 and reported to the New York legislature in 1865. Of these the penal code alone became a law in that state and it was not adopted until 1882. The territory of Dakota was the first English speaking community to adopt a codification of its substantive law.

In 1875 an act was passed providing for a commission of three to revise and compile the codes of the territory of Dakota, which commission consisted of P. C. Shannon, Granville G. Bennett and Bartlett Tripp. They prepared the revision of 1877. In 1887 E. W. Caldwell and Charles H. Price were appointed commissioners pursuant to chapter 83 of the laws of 1887, and prepared the compilation of 1887, known as the compiled laws. This compilation was in 1889 declared by the legislative assembly to be admissible in the courts of the territory as legal evidence of the statutes therein printed.

Upon the admission of the state of North Dakota it became necessary to adapt the laws then in force in the territory to the constitution of the state, and harmonize the various laws passed by succeeding sessions of the legislative

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assembly since the revision of 1887. Under chapter 82 of the laws of 1891 the governor appointed as commissioners R. M. Pollock, P. H. Rourke and J. G. Hamilton, who upon organization appointed J. F. Philbrick secretary. This commission reported to the legislative assembly in January, 1893, showing in detail those provisions of our statutory law which should be continued in force and those which should be repealed. No legislative action was taken upon this report, but chapter 74 of the laws of 1893, passed at the same session, authorized the appointment by the governor of a new commission on codification, and Hon. Charles F. Amidon, Burke Corbet and George W. Newton were appointed as such commissioners. On organization they appointed Hon. Charles J. Fisk as secretary. When the legislative assembly convened in January, 1895, this commission reported bills providing seven different codes, which comprised the entire statutory law of the state. A special joint committee of the house and senate was appointed, to whom all these bills, together with all other bills making changes in existing laws, were referred. Many changes were made by the committee and the legislative assembly in the reported bills of the commission. The most important of these changes was the substitution of an entirely new law relating to revenue and taxation. All laws in force in the state of North Dakota, previous to the taking effect of the enactments of the legislative assembly of 1895, and in conflict therewith, were specifically repealed by reference to sections and chapters. After the adjournment of the legislative assembly, the revised codes of 1895 were printed by the commission, and by virtue of the governor's proclamation, which had been provided for by law, they became the complete body of laws in force in the state of North Dakota.

The edition of the revised codes of 1895 being exhausted, the present edition was authorized by section 75 of the laws of 1899, which provides that as soon as practicable after the adjournment of the sixth legislative assembly, the secretary of state is authorized, without altering the general plan of the revised codes of 1895, to eliminate such sections, articles and chapters therein as shall have been repealed by the legislative assemblies of 1897 and 1899, to substitute and incorporate under proper headings all new laws enacted, and incorporate all amendments without change or modification; renumber all sections, articles and chapters where necessary, perfect and harmonize the statutes and reindex and arrange the table of contents and in a general way revise the compilation and have charge of the publication of the revised edition of 1899; also empowering the secretary of state to employ one or more expert compilers and digesters who shall be learned in law and familiar with the work to be performed.

In pursuance of this authority R. N. Stevens, a member of the Burleigh county bar, and M. H. Jewell, editor of the Bismarck Tribune, were employed to compile and edit this edition. The gentlemen have performed

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their work in an entirely satisfactory manner, and it is believed their efforts in this regard will be appreciated by all who have occasion to refer to our statutes.

In making the compilation it has been necessary to change and renumber sections. The numbers of the sections of the 1895 codes have, however, been retained so far as possible and in order to prevent disarrangement of the numbers of sections of the old codes a system of sections by letters has been introduced, as for instance, where there have been new laws enacted necessary to be compiled immediately following a certain section of the old law belonging to the same chapter or subject, the old number has been continued as to sections following, as 900a, 900b, 900c, etc. The legislative assembly of 1897 enacted nearly an entirely new revenue law, probate code and corporation law relative to railroads. The legislative assemblies of 1897 and 1899 made a great number of changes in the law relative to education. These laws have been compiled in their proper places and given appropriate numbers as sections conforming as nearly as possible to the sections of the old laws repealed or amended. In 1899 an entirely new law was enacted on the subject of negotiable instruments, which provided however, that the same should not affect instruments executed before the date of the taking effect of the new law (July 1, 1899). This necessitated the printing of the old law upon that subject as the same appears in the codes of 1895, and also the printing of the new law enacted in 1899. It was found impracticable to incorporate in the index, under the head of negotiable instruments, references to both the old and new law and comprising the sections upon that subject of the code of 1895, and for that reason an independent index has been incorporated upon that subject, and to avoid confusion the new law has been printed at the end of the civil code and is referred to in the index by sections and pages.

An effort has been made to improve the index, and to that end it has been enlarged and the cross references extended considerably. Where citations are made to collateral subjects the section numbers have been enumerated wherever it has been possible to do so. In some instances, however, the collateral subject referred to embraces so many different sections in different chapters of the code that it has been found impossible to give in the index the numbers of the sections. These citations enable one to turn immediately to the sections in the code comprising the subject matter referred to. The scheme of the index follows closely that of the Massachusetts statutes, which is fast becoming the prevailing system of indexing. The main subjects are printed in capital letters, and the sub-titles or "catch-lines" and subdivisions thereof are arranged alphabetically and so indented as to present quickly to the eye the various divisions or minor subjects. For instance, the

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subject of bribery of members of the legislative assembly appears in the index as follows:

LEGISLATIVE ASSEMBLY.	
members, agreements for votes	6930
bribe, giving or offering to	6928
receiving	6927
punishment	6928
intimidating	6922
office forfeited, when	9934

The first word in each line is the "catch word" of the subject matter and relates and must be construed in connection with the line above having a different indenture. Thus, in the example cited above, line two transposed would read: "Agreements for votes of members of the legislative assembly." Line three is indented to the right, and the first word, "bribe," relates to "members." Line four cites another section, but relates to the same subject. Line five contains but one word, "punishment," but when coupled with the "catch words" of lines preceding, rounds out the sentence: "Punishment of members of the legislative assembly receiving bribes." In lines six and seven the "catch words" "intimidating" and "office forfeited when," relate to "members," and are therefore indented the same as "bribe" in line three, relating to the same subdivision. Thus a vast amount of verbiage and repetition is omitted and the scheme of the index is simplified. The "catch words" being arranged alphabetically, obviates the necessity of looking through the entire references made under a main head to find what is desired.

There has been added at the close of the index a numerically arranged list of sections of laws and of the constitution of the state which have been either cited or construed by the supreme court of North Dakota, and which are contained in the eight printed volumes of reports of that court. By a reference to the volume and page cited in this list, it can be readily seen in what connection the section is referred to, and if construed, how.

In the margin opposite each section has been indicated the origin of any statute embraced in the codes, taken from the laws of the territory of Dakota or the state of North Dakota, and where entirely new matter was enacted by the legislative assembly of 1895, no reference whatever is contained in the margin.

The task of compiling, indexing and publishing this volume has been greater than anticipated and has required more time than originally contemplated, but it is believed the thoroughness of the work will compensate for the delay.

FRED FALLEY,
Secretary of State.