

out of the county or dispose of such property, it shall be the duty of such treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands as provided by law.

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 All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] An emergency existing in that by general law the 5 per cent. penalty on delinquent taxes is added on the first day of February of each year, and all personal property taxes can then be collected by distress sale, and it is necessary that this act take effect and become operative at a time long prior to July 1, next; therefore, this act shall take effect and be in force immediately from and after its passage and approval.

Approved January 22, 1890.

SCHOOL LANDS.

CHAPTER 146.

[H. F. 32.]

PROVIDING FOR LEASE AND SALE OF PUBLIC SCHOOL LANDS.

AN ACT to Provide for the Leasing and Sale of the Common School Lands of North Dakota.

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

§ 1. BOARD OF UNIVERSITY AND SCHOOL LANDS TO HAVE CONTROL OF SCHOOL LANDS—COUNTY BOARDS OF APPRAISAL.] The Superintendent of Public Instruction, Governor, Attorney General, Secretary of State and State Auditor shall constitute a board of commissioners which shall be denominated the "Board of University and School Lands," and subject to the provisions of Article 9 of the Constitution and the provisions of this act. Said board shall have the control of appraisements, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer. The superintendent of schools, the chairman of the county board of commissioners, and the county auditor of each county, shall constitute the "county board of appraisal" of the common school lands, in and for their respective counties.

§ 2. LISTS OF SCHOOL LANDS, HOW MADE.] The superintendent of schools of each county of this State, in which the common school lands have been surveyed and designated, shall immedi-

ately upon the passage, approval and taking effect of this act, and in the manner and form prescribed by the Board of University and School Lands, make a complete list of the school lands within his county, with such facts and information concerning the occupancy and cultivation of the several tracts thereof, as said Board of University and School Lands may require, and upon the completion of said list shall at once transmit a copy thereof to the State Superintendent of Public Instruction.

§ 3. LANDS TO BE LEASED.] The Board of University and School Lands upon the receipt of said lists of school lands from the respective county superintendents, shall proceed to advertise for lease and to lease and offer for lease such school lands, or such part thereof, as in the judgment of said board can be leased with profit to the school fund of the State, or as the Legislature may by law order to be leased. Such lands as shall be leased in the year 1890 for the first time, shall be leased either until September 1, 1891, or for a longer period, not exceeding five years, in the discretion of said Board of University and School Lands, unless otherwise provided by law.

§ 4. ADVERTISEMENT.] All such lands to be leased or offered for lease lying within the respective counties shall be advertised for lease by publication once a week for not less than sixty days in some newspaper of general circulation in the vicinity of such lands, and in one newspaper at the seat of government; such advertisement shall contain the designation or proper description of each tract or parcel of land so to be leased, the time when and place where such lands will be so leased, and the terms of the lease. A copy of such advertisement shall also be posted in a conspicuous place at the court house of the county.

§ 5. LANDS, HOW LEASED—ANNUAL RENT, HOW PAID.] The leasing shall be at public auction to the highest bidder at the door of the court house of the county within which the lands to be leased are situated, and between the hours of 10 o'clock a. m. and 5 o'clock p. m. only. Said leasing shall continue from day to day until all tracts or parcels of lands advertised for lease shall have been leased or offered for lease; *Provided*, That it may be adjourned over the Sabbath or any legal holiday. In counties where a large number of tracts of land are to be leased the lands situated in certain townships may be designated in the advertisement to be leased on designated days, and in such case said lands shall be leased or offered for lease on such designated days, or for want of time for the leasing or offering for lease of all such designated lands, the leasing of those unoffered may be adjourned until the following day or days, when they must be the first lands offered for lease. Such lands as shall not have been specially subdivided shall be leased or offered for lease in tracts of one-quarter section each, and those so subdivided in the smallest subdivision thereof. The rent in all cases of lease shall be payable annually in advance.

§ 6. LEASING, HOW CONDUCTED—RECORD OF.] It shall be the duty of the superintendent of schools and the county auditor of the respective counties in which the leasing of such lands are to be made, to conduct the leasing of said lands in accordance with the provisions of this act, and such directions as shall be prescribed therefor by the Board of University and School Lands. After all such lands so advertised shall have been leased or offered for lease, said superintendent and auditor shall make in triplicate a certified statement of the tracts of lands so leased, the time for which they were leased, the name of the lessees, whether leased for cultivation or meadow and pasturage, and the amount to be paid annually for such lease. One copy of this statement shall be transmitted to the Board of University and School Lands, one copy shall be delivered to the county treasurer, and the third copy shall be filed in the office of the superintendent of schools of the county.

§ 7. CONTRACT OF LEASE, HOW EXECUTED—RENTS TO BE PAID OVER TO STATE TREASURER.] Within three days after the leasing of each tract the lessee thereof and the county auditor shall execute in duplicate a contract of lease for said tract in the form prescribed by the Board of University and School Lands, and the lessee shall pay to the county treasurer the rental of said tract of land, taking his receipt therefor. One copy of said contract of lease shall be retained by the lessee, and the county auditor shall file the other copy of said contracts of lease with the Auditor of State, who shall deposit them in the archives of the Board of University and School Lands. The county treasurer shall pay over the amount received by him as rent for said lands, with an accurate statement thereof, to the Treasurer of the State, and such amounts so received as rent shall be and constitute a part of the interest and income of the permanent school fund of the State.

§ 8. LESSEE NOT TO DESTROY TIMBER.] No lessee of any tract or tracts of the common school lands of the State, or his heirs or assigns, shall cut down or take from any such tract or tracts any timber, trees or wood, or suffer or cause the same to be done by any other person or persons, except that such lessee may cut down or use such an amount of dead or prostrate trees or timber as may be sufficient to supply him with fuel for his family or the families of his employes actually residing upon such tract or tracts. Any lessee violating the provisions of this section shall forfeit his lease and all rights and interests thereunder, to possession or use, and shall furthermore be liable to the State for damages by such acts incurred, and shall also be liable to criminal prosecution under the laws of the State.

§ 9. LESSEE NOT TO BREAK UNCULTIVATED LAND.] No lessee, or the heirs or assigns of any lessee, of any tract or tracts of the common school lands of this State, leased for meadow or pasturage purposes, or lessee of any tract or tracts of school lands leased for purposes of cultivation which may contain any unculti-

vated or unbroken land, shall break, plow or cultivate any unbroken or uncultivated land in any tract or tracts of school lands, or cause or suffer it to be done by any other person. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and the same liabilities as provided by the preceding section.

§ 10. HAY NOT TO BE CUT BEFORE JULY 10TH.] No lessee, or his heirs or assigns, shall mow or cut for hay or feed, any grass on any uncultivated land, or unbroken land, or cause or suffer the same to be done by any other person, any year before the 10th day of July therein. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and the same liabilities as are provided by the preceding section.

§ 11. FEES FOR CONDUCTING THE LEASING OF SCHOOL LANDS.] The county auditor shall receive for his services in conducting the leasing of such school lands, the execution of said leases with the several lessees, the making out of the list of said leased lands, the sum of fifty (50) cents for the execution of the lease for each tract of land leased as herein provided, to be paid out of the interest and income of the permanent school fund by the State Treasurer upon the warrant of the State Auditor. The county treasurer shall receive for his services in connection with said leasing of said lands one-half of 1 per cent. upon the amount of rent by him received and paid over to the State Treasurer, to be by him reserved from such rent.

§ 12. WHEN SCHOOL LANDS TO BE APPRAISED—OATH OF APPRAISER.] Between the first day of June and the first day of July, 1890, the board of appraisal of the several counties shall appraise at their actual cash value all the common school lands lying within their respective counties. Each quarter section shall be separately appraised, except that when such lands have been specially subdivided, each smallest subdivision shall be separately appraised. Each member of said county board of appraisal before entering upon his duties shall take and subscribe an oath or affirmation justly and impartially to perform the duties of his office to the best of his judgment and ability, which oath of office shall be filed in the office of the Secretary of State.

§ 13. RETURNS OF APPRAISAL TO BE MADE TO STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.] Between the first day of July and the first day of August, 1890, said boards of appraisal shall make to the State Superintendent of Public Instruction a certified return of their appraisal of said common school lands in the manner and form prescribed therefor by the Board of University and School Lands, setting forth for each tract of land so appraised its proper description, the number of acres therein, its cash value per acre, together with such facts and information concerning the cultivation and occupancy of such tract, and the kind and value of the improvements thereon, as the Board of University and School Lands may require.

§ 14. WHAT LANDS TO BE DESIGNATED FOR SALE—WHEN LANDS TO BE SOLD.] The Board of University and School Lands shall designate for sale from the most valuable lands so appraised in their discretion, an amount not exceeding in the aggregate 100,000 acres, which land so selected and designated by said board shall be sold or offered for sale between June 20, 1891, and July 20, 1891, in the manner prescribed by this act.

§ 15. MANNER OF ADVERTISING AND CONDUCTING SALES.] The Board of University and School Lands shall certify to the county boards of appraisers the lists of lands within their respective counties to be sold or offered for sale, and shall fix and appoint the day and hour for the sale thereof. The county boards of appraisal shall cause to be published for at least sixty days before the day appointed for the sale of said lands, in a newspaper in general circulation in the vicinity of such lands, and in one newspaper published at the seat of government of North Dakota, a notice of said sale, specifying by their proper description the lands to be sold, with the appraised value thereof, and the terms and conditions of such sale.

§ 16. SALE TO BE MADE AT AUCTION.] On the day and hour appointed for said sale the county board of appraisers in each county in which said lands are to be sold shall proceed to sell or offer for sale at public auction to the highest bidder at the door of the court house, said lands so advertised. No tract shall be sold for less than its appraised value, and in no case for less than ten (10) dollars an acre. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest divisions.

§ 17. HOURS OF SALE.] Said sale shall take place only between the hours of 10 o'clock a. m., and 5 o'clock p. m., but it may be adjourned from day to day, or over Sunday or any legal holiday. All tracts of lands advertised for sale shall be sold or offered for sale in the order in which they occur in the advertisement for sale.

§ 18. TERMS OF SALE—POSSESSION, WHEN MAY BE HAD.] Each tract of land shall be sold upon the following terms, to-wit: The purchaser shall pay one-fifth of the price in cash at the time of sale, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years, and one-fifth in twenty years, with interest at 6 per cent. payable annually in advance. Purchasers of lands, under lease at the time of purchase, when such leases expire September 1st following, shall be entitled to possession on said September 1st, subject to the right of the lessee to remove the crops from said land. Purchasers of land not leased shall have immediate possession after the approval and confirmation of said sale by the Board of University and School Lands.

§ 19. LIST OF LAND SOLD TO BE CERTIFIED TO STATE AUDITOR—SALES TO BE APPROVED BY STATE BOARD.] Within five days after

such sale shall have been concluded, the county board of appraisers shall certify to the State Auditor a list of the land sold as provided in the preceding sections with the price thereof, and the name of the purchaser of each tract; and the Board of University and School Lands shall approve and confirm the sale of such said tracts, as upon examination of such certified lists and such further information and investigation as shall be deemed necessary, shall be found to have been sold in accordance with the law and without fraud or collusion.

§ 20. BOARD TO CERTIFY LIST APPROVED TO COUNTY BOARD OF APPRAISERS—NOTIFICATION OF SUCCESSFUL PURCHASERS.] The Board of University and School Lands shall return to the county board of appraisers a certified list of the lands so sold, the sale of which shall have been approved as aforesaid, and a duplicate list also to the treasurers of the respective counties. The county boards of appraisers shall thereupon in writing notify the purchasers of said lands respectively of the approval of said sale by said Board of University and School Lands.

§ 21. EXECUTION OF CONTRACTS—PAYMENT OF INTEREST ON DEFERRED PAYMENTS.] Within ten days after such notification to the purchasers of lands the sale of which has been approved as aforesaid, the respective purchasers of said lands shall pay to the treasurers of the respective counties the annual interest on the deferred payments as provided in this act, and shall execute contracts for the purchase of their respective tracts in the form prescribed by the Board of University and School Lands, which contract shall be filed with the Secretary of State. All the deferred payments as they become due, and all the annual interest on such deferred payments, shall be paid to the county treasurers of the respective counties in which such lands so sold are situated. The county treasurers of their respective counties shall pay to the State Treasurer the money received by them as payments of the purchase price of said lands, which said money shall by said State Treasurer be credited to the permanent school fund of the State. They shall also pay to said State Treasurer the amount received as interest on said deferred payments of purchase price of said school lands, which amount shall be credited by the State Treasurer to the account of the interest and income of the permanent school fund.

§ 22. WHEN GOVERNOR TO ISSUE PATENT.] When the lands sold under the provisions of this act shall have been fully paid for, both purchase price and interest thereon as provided in this act, the Governor of the State shall issue to the purchasers of said lands, their heirs or assigns, patents conveying the title of the State to said lands.

§ 23. WHEN LANDS SUBJECT TO TAXATION—CONTRACT OF SALE VOID IF TAX NOT PAID WITHIN ONE YEAR.] The lands contracted to be sold by the State as herein provided shall be subject to taxation from the date of such contract. In case the taxes assessed

against any of said lands any year remain unpaid until the first Monday of October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

§ 24. EXPENSES OF LEASE AND SALE, HOW PAID.] The expense of publishing the notices for the leasing and sale of the school lands as provided for in this act shall be paid by the State Treasurer out of the proceeds of the permanent school fund upon the warrant of the State Auditor. All bills for such publishing shall be verified by the publishers of the newspapers and certified as correct by the auditors of the counties, respectively.

§ 25. EMERGENCY.] An emergency exists, in that if this act shall not take effect until July 1, 1890, it will delay to the purchasers and lessees for at least a year, the cultivation of the tracts sold or leased and thereby postpone the benefit to be derived from this act; therefore this act shall be in force immediately from and after its passage and approval

Approved January 10, 1890.

CHAPTER 147.

[S. F. 232.]

EXTENDING TIME FOR SALE OF SCHOOL LANDS.

(Amendment to preceding chapter,)

AN ACT to Amend Section 14 of An Act Entitled "An Act to Provide for the Leasing and Sale of the Common School Lands of North Dakota," Approved January 10, 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota.

§ 1. AMENDMENT.] That Section 14 of an act entitled "An act to provide for the leasing and sale of the common school lands of North Dakota," approved January 10, 1890, be amended so as to read as follows:

"Sec. 14. WHAT LANDS TO BE DESIGNATED FOR SALE—WHEN LANDS TO BE SOLD.] The Board of University and School Lands shall designate for sale from the most valuable lands so appraised in their discretion an amount not exceeding in the aggregate 100,000 acres, which land so selected and designated by said board shall be sold or offered for sale between April 15, 1891, and June 1, 1891, in the manner prescribed by this act; *Provided, however,* That if any lands so sold have been leased by the Board of University and School Lands, it shall be unlawful for the purchaser of such land to cultivate or in any manner interfere with such lands without the consent of the lessee.

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

§ 3. EMERGENCY.] There being an emergency in that the time fixed by the section proposed to be amended fixes the time of sale too late in the season for the purchaser of such lands to break and prepare the same for crop the year they are purchased; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

CHAPTER 148.

[H. F. 52.]

TO PREVENT TRESPASS UPON SCHOOL LANDS.

AN ACT to Prevent the Trespassing upon School and Public Lands, and to Recover Damages Therefor.

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

§ 1. PENALTY FOR TRESPASS ON SCHOOL LANDS.] Whoever commits any willful trespass upon any of the common school lands or any other lands owned or held in trust or otherwise by this State, either by cutting down or destroying any timber or wood standing or growing thereon, by carrying away any timber or wood therefrom, by mowing or cutting any hay or grass standing or growing thereon, or who injures or removes any buildings, fences, improvements or other property belonging or appertaining to said lands, or unlawfully breaks or cultivates any of said lands, or aids, directs or countenances any such trespass or other injury, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred (500) dollars, or by both such fine and imprisonment, in the discretion of the court.

§ 2. WHO HELD TO BE TRESPASSER.] Whoever is occupying, residing upon, or is in possession of any common school lands or any other lands owned or held in trust or otherwise by the State, at the time of the passage, approval and taking effect of this act, and who continues in such occupancy, residence or possession of such land after the fifteenth day of April, 1890, without a valid lease therefor, shall be deemed and held to be a trespasser thereon and guilty of trespass upon such land, and upon conviction thereof shall be punished as provided for in Section 1 of this act.

§ 3. COURTS TO CHARGE GRAND JURIES.] It shall be the duty of every court having jurisdiction of the same especially to charge

the grand jury, at each term of court, to inquire into all offenses against the provisions of this act and present any person who may be guilty of any such offense within their county.

§ 4. TREBLE DAMAGES FOR WILLFUL TRESPASS.] Whoever commits any trespass upon any of the lands owned or held in trust or otherwise by this State, shall be liable in treble damages, in an action of trespass, to be brought in the name of the people of the State, if such trespass is adjudged to have been willful; but single damages only shall be recovered in such action, if such trespass is adjudged to have been casual and involuntary.

§ 5. FORCIBLE ENTRY AND DETAINER, WHEN APPLICABLE.] In case any person holds or continues in possession of any lands mentioned in this title, contrary to the conditions or covenants of any lease or written agreement, he shall be liable to an action of forcible entry and detainer; or any other proper action for the recovery of possession of such lands, and damages for the detention of the same.

§ 6. DUTIES OF STATE'S ATTORNEYS.] The state's attorneys of the several counties shall promptly report to the Board of University and School Lands, all trespasses committed upon said lands which may come to their knowledge, and shall, when directed by the Attorney General, prosecute all actions for any trespass or injury thereto, or for the recovery of possession thereof, or otherwise.

§ 7. DUTY OF ATTORNEY GENERAL.] The Attorney General, whenever requested by the Board of University and School Lands, shall advise with and give his opinion upon all questions of law which are submitted to him by said board relating to the duties of their office, and prosecute, or cause to be prosecuted by the state's attorneys whenever in his opinion the public interest requires it, any person who may be charged with any indictable offense under this act.

§ 8. DAMAGES TO BE PAID OVER TO STATE TREASURER.] All damages recovered for any trespass or other injury upon or to any of the lands mentioned in this act, shall be paid over to the State Treasurer, for the benefit of the fund to which the same properly belongs.

§ 9. EMERGENCY.] Whereas, an emergency exists in the necessity for the immediate protection of the school and public lands of the State, this act shall take effect and be in force from and after its passage and approval.

Approved January 13, 1890.