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# WAREHOUSES.

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## CHAPTER 187.

[H. F. 50.]

### TO REGULATE THE BUYING, SELLING AND HANDLING OF GRAIN OF ALL KINDS.

AN ACT Entitled "An Act to Regulate the Buying, Selling and Handling of Grain of all Kinds, and to Regulate the Grading of the Same and to Provide for the Manner in which Grain may be Received for Storage, and the Conditions on which the Same may be Returned to the Owner, and to Regulate Matters Connected with the Business of Warehousing and Grain Dealing."

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

§ 1. WHO DECLARED PUBLIC WAREHOUSEMEN.] For the purposes of this act all persons engaged in the business of buying and selling grain at a fixed place, and in a building erected and maintained for that purpose, are declared to be public warehousemen.

§ 2. WHO SUBJECT TO PROVISIONS OF THIS ACT.] Any person or persons, or company, firm or corporations who shall be engaged, or engage in the business expressed in Section 1 of this act, shall be subject to the rules and regulations as hereinafter provided for.

§ 3. NOTICE OF INTENTION TO ENGAGE IN BUSINESS TO BE FILED WITH REGISTER OF DEEDS.] Before engaging in the business expressed in the title of this act, all persons, firms, companies or corporations shall file or cause to be filed with the register of deeds of the county in which the business is to be conducted a notice of intention to engage in such business, stating at what particular point within the county the business is to be transacted, and in what building.

§ 4. WHAT NOTICE TO CONTAIN—BOND.] In filing notice as provided in Section 3 of this act the person or persons, firm, company or corporation shall state whether or not the business of storing grain for a compensation is to be carried on in connection with the buying and selling, and if such storage business is contemplated, then the person or persons, firm, company or corporation giving such notice, shall likewise cause to be filed with the register of deeds in the county where the business is to be con-

ducted a bond in the sum of \$2,000 for every elevator or warehouse of 10,000 bushels capacity or less, and a bond of \$3,000 for every elevator or warehouse of more than 10,000 bushels and not exceeding 20,000 bushels, and a bond of \$5,000 for every elevator or warehouse of more than 20,000 bushels and not exceeding 40,000 bushels capacity, and a bond of \$7,000 for every elevator or warehouse whose capacity shall exceed 40,000 bushels but not exceed 60,000 bushels, and for all elevators or warehouses whose capacity shall exceed 60,000 bushels a bond for \$10,000 shall be given, such bonds to be given to the State of North Dakota, and to be conditioned on a faithful compliance with the provisions of this act.

§ 5. BONDS, HOW APPROVED.] Any and all bonds given by any person or persons, firm, company or corporations shall be signed by at least two good and sufficient sureties, and the bond and sureties thereon shall be approved by the register of deeds of the county where the elevator is situated, for which purpose he is hereby empowered.

§ 6. BOND, WHEN DEEMED CONTINUOUS.] The bonds provided for in this act shall continue in effect until August 1st next after the making of the same; *Provided*, That for the purpose of securing persons who may hold or have held storage receipts during the continuance of the bond or bonds against abuse, discrimination, loss or fraud by or on the part of the person or persons, firm, company or corporation, conducting or having conducted or doing such storage business, the bond shall be deemed continuous.

§ 7. BOND NOT REQUIRED, WHEN.] No person or persons, firm, company or corporation who shall buy and sell grain, but shall not store the same for a compensation, shall be required to give a bond as hereinbefore provided.

§ 8. ALL PUBLIC WAREHOUSEMEN SUBJECT TO ALL THE PROVISIONS OF THIS ACT.] Any person or persons, firm, company or corporation, who shall be or become public warehousemen under this act shall be subject to the supervision, control, direction, penalties and other provisions prescribed by this act.

§ 9. WHAT STORAGE RECEIPT SHALL EXPRESS.] Any storage receipt issued within the boundaries of this State, shall provide by express agreement that at the option of the holder of such receipt the kind, quality and quantity of grain for which such receipt was issued shall be delivered back to him at the same place where it was received upon the payment of a reasonable charge per bushel for receiving, handling, storing and insurance charges, such charges to be fixed by express terms in the storage receipt at the time of receiving the grain at the elevator or warehouse, and at the time of issuing the receipt; *Provided*, That no charges shall be made for cleaning grain unless such grain has been actually cleaned.

§ 10. WHAT RECEIPT TO EXPRESS IN CASE OF STORAGE OF INFERIOR GRAIN.] When a storage receipt is issued for any kind of

grain, the quality of which falls below the highest standard, then such storage receipts shall not only express and determine the grade, but shall likewise expressly state how many cents per bushel below the price for the highest grade such grain shall be bought at when sold; *Provided*, That the warehouseman with whom the grain is stored shall pay the same price per bushel for such stored grain as is by him paid for grain of a like quality upon the market the same day, less his charges, as provided for in this act.

§ 11. WHEN AND HOW STORED GRAIN MAY BE RECEIVED BACK.] When any person or persons holding a storage receipt for any kind of grain shall desire to receive such grain back from the warehouseman, he shall make a tender of payment in full of all reasonable charges allowable under the provisions of this act, and thereupon the warehouseman shall make full delivery without unreasonable delay, and shall receive back the storage receipt or receipts issued for such grain, which shall be marked or stamped "cancelled."

§ 12. BOOKS OF WAREHOUSEMEN TO BE OPEN FOR INSPECTION.] The books, papers and all other written or printed matter kept by or for a public warehouseman in the prosecution of his business (except such as are of a private nature), shall be open for the inspection of the public during reasonable business hours, and shall be accessible to any and all persons who shall make a reasonable demand for examination of the same; *Provided*, That no such books, papers, written or printed matter shall be removed from the office of the warehouseman, except on the order of a court of competent jurisdiction and for judicial proceedings; *Provided, further*, That all books, papers, written or printed matter that are used for the purpose of registering the weight, grade, dockage, price, etc., of any grain and which is the memorandum upon which the purchase, storage, handling shipping, or other transaction is based by the warehouseman in his dealings with any person or persons in the prosecution of his business shall not be deemed private.

§ 13. EXAMINATION OF SCALES, GRAIN TESTERS, ETC., TO BE ALLOWED AT ALL TIMES.] All persons, firms, companies or corporations who are declared to be public warehousemen under the provisions of this act shall permit at any and all times the examination of scales, grain testers and other appliances or tools used to determine the weight, grade or dockage in the prosecution of their business, when such examination is demanded by any person having authority under the laws of this State to supervise, regulate or in any manner control or direct the manner in which a public warehouseman shall conduct his business, or a public warehouse or elevator be conducted.

§ 14. LICENSES, HOW PROCURED.] At the time of filing notice of intention to engage in the business of a public warehouseman, the person or persons, firm, company or corporation shall likewise procure a license for the prosecution of such business, which

license shall be issued by the county auditor of the respective counties, and a fee of one (1) dollar per thousand bushels of elevator capacity shall be collected for the same and turned into the county treasury for the benefit of the general fund.

§ 15. POWER OF RAILROAD COMMISSIONERS.] The Commissioners of Railroads of the State of North Dakota are hereby declared to have and possess all needed authority to supervise and take charge of any and all matters provided for in this act except as hereinafter specially provided for.

§ 16. MAY CORRECT ABUSES—MANDATORY POWER.] Section 15 of this act shall not be construed to give authority to the Commissioners of Railroads to take charge of and conduct any elevator or warehouse in the capacity of warehousemen, but shall be construed to give authority to correct abuses, direct the putting in of new scales, testers or other tools or appliances which are used for the purpose of weighing, grading or docking grain where those already provided and in use shall be found defective or unsafe. And, further, Section 15 shall be construed to give the Commissioners of Railroads mandatory power to carry out the provisions of this act.

§ 17. STATE'S ATTORNEYS TO PROSECUTE.] The state's attorney of each county shall prosecute all violations of this act, and such prosecution shall run in the name of the State of North Dakota, except such violations as are wholly of a civil character.

§ 18. RIGHT OF PERSONS TO SHIP THEIR OWN GRAIN RESERVED.] Nothing in this act shall be construed to prevent any person or persons from shipping their own grain, or any other grain that may be purchased by them independently of any elevator or warehouse or other building kept for that purpose without having first procured a license and filed a bond as provided in this act.

§ 19. POOLING ON PRICES OF WAREHOUSEMEN PROHIBITED.] Pooling on prices or the amount of grain to be purchased by each warehouseman at any point or points, or the pooling of profits or losses, or pooling in any other manner which shall interfere with the free and unrestricted trade and traffic in any and all kinds of grain is hereby prohibited.

§ 20. PENALTY FOR VIOLATION OF THIS ACT.] Any person or persons, firm, company or corporation who shall knowingly violate any of the provisions of this act or who shall aid or assist in such violations shall be fined in a sum of not less than fifty (50) dollars nor more than \$1,000; *Provided*, That when the amount of damages caused by such violation can be ascertained to a certainty such fine shall be double the amount of such damage, to a sum not exceeding \$1,000; *Provided, further*, That any fine which shall be assessed under this act shall constitute a lien against the elevator or warehouse, and any or all grain or property belonging to the warehouseman and used in the prosecution of his business, until such fine shall have been fully paid.

§ 21. WHO MAY MAKE COMPLAINT.] Any person may make

complaint against any person or persons, firm, company or corporation operating under this act, and may maintain in action the same; but if the court shall certify in his own handwriting after hearing the action that the prosecution was malicious, then the costs shall be taxed to and payable by the plaintiff in a civil case and by the complaining witness in an action of a criminal character.

§ 22. MAXIMUM RATES FOR WAREHOUSING—RESPONSIBILITY OF WAREHOUSEMEN.] No public elevator or warehouse shall charge more than two (2) cents per bushel for receiving, elevating, insuring, delivering and thirty days' storage, and for storing and insuring for each additional thirty days or part thereof not to exceed one-half ( $\frac{1}{2}$ ) cent per bushel. All persons, firms or corporations operating elevators or warehouses shall be responsible to any owner of grain held by them for any and all damage thereto caused by their negligence or want of proper care.

§ 23. GRAIN IN STORE, HOW TAXED.] Grain stored in any public warehouse and remaining in store at the time the same becomes taxable, shall be taxed to the owner thereof, and every person, persons, company or corporation having the same in store shall make a proper exhibit of such grain, specifying the amount each person holds, the name, and if possible, the place of residence of such person, and the amount, kind and quality of such grain, which exhibit shall be used by the assessor of place or locality for the purposes of assessment.

§ 24. FEES OF REGISTER OF DEEDS.] The fees of the register of deeds for filing notice of intention as provided in this act shall be twenty-five (25) cents; for approving, acknowledging and filing bond the sum of one (1) dollar.

§ 25. All the acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

Approved March 8, 1890.

## CHAPTER 188.

[H. F. 265.]

### PRESCRIBING THE DUTIES OF WAREHOUSEMEN AND ESTABLISHING "NORTH DAKOTA GRADES."

AN ACT to Regulate Warehouses, Inspection, Weighing and Handling of Grain.

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

§ 1. PUBLIC WAREHOUSES UNDER THIS ACT.] All elevators or warehouses located or to be located at Grand Forks, Fargo, Wahpeton and Fairmount, in this State, in which grain is stored in bulk, and in which the grain of different owners is mixed together, or in

which grain is stored in such a manner that the identity of different lots or parcels cannot be accurately preserved, and doing business for a compensation, are hereby declared to be public warehouses.

§ 2. LICENSE, HOW PROCURED, WHAT TO CONTAIN—WHEN LICENSE REVOKABLE.] The proprietor, lessee or manager of any public warehouse shall be required before transacting any business to procure from the Commissioners of Railroads a license permitting such proprietor, lessee or manager to transact business as a public warehouseman under the laws of this State, which license shall be issued by the Commissioners of Railroads upon written application, which shall set forth the location and name of such warehouse, and the individual name of each person interested as owner or principal in the management of the same; if the warehouse be owned or managed by a corporation, the name of the president, secretary and treasurer of such corporation shall be stated, and the said license shall give authority to carry on and conduct the business of public warehouse, in accordance with the laws of the State, and shall be revocable by said Commissioners upon a summary proceeding before the Commissioners, upon complaint of any person in writing, setting forth the particular violation of law, and upon satisfactory proof to be taken in such manner as may be directed by the Commissioners.

§ 3. BOND.] The person receiving a license as herein provided shall file with the commissioners granting the same, a bond to the State of North Dakota with good and sufficient sureties to be approved by said commissioners, in the penal sum of not less than \$10,000 nor more than \$50,000, in the discretion of the Commissioners of Railroads for each warehouse licensed in the county, conditional for the faithful performance of his duty as a public warehouseman and his full and unreserved compliance with all laws of this State in relation thereto; a fee for the issuance of each license of two (2) dollars shall be paid by the person applying for the same; *Provided*, That when any person or corporation procures a license for more than one warehouse in any one county in the State, no more than one bond need be given.

§ 4. PENALTY FOR FAILURE TO PROCURE LICENSE.] Any person who shall transact the business of a public warehouseman without first procuring a license as herein provided, or who shall continue to transact any such business after such license has been revoked (save only that he may be permitted to deliver property previously stored in such warehouse), shall on conviction by indictment be fined in a sum not less than one hundred (100) dollars, nor more than five hundred (500) dollars, for each and every day such business is carried on, and the Commissioners of Railroads may refuse to renew any license or grant a new one to any of the persons whose license has been revoked within one year from the time the same was revoked.

§ 5. DUTY OF WAREHOUSEMAN—DISCRIMINATION PROHIBITED—

INSPECTION AND GRADING.] It shall be the duty of every public warehouseman to receive for storage any grain, dry and in a suitable condition for warehousing, that may be tendered to him in the usual manner in which such warehouses are accustomed to receive the same in the ordinary and usual course of business, not making any discrimination between persons desiring to avail themselves of warehouse facilities. Such grain in all cases to be inspected and graded by a duly authorized inspector, and to be stored with grain of a similar grade. And in no case shall grain of a different grade be mixed together while in store, but if the owner or consignee so requests and the warehouseman consents thereto, his grain of the same grade may be kept in a bin by itself, apart from that of other owners, which bin shall thereupon be marked and known as a special bin. If a warehouse receipt be issued for grain so kept separate, it shall state on its face that it is in a special bin, and shall state the number of such bin and all grain delivered by a duly authorized inspector of grain. Nothing in this section shall be construed so as to require the receipt of any kind of grain into any warehouse in which there is not sufficient room to accommodate or store it properly, or in cases where such warehouse is necessarily closed. The charges for inspection, upon receipt and delivery shall be paid by the warehouseman and may be added to the charge of the storage. The chief inspector may recover such charges of the warehouseman by an appropriate action in his name.

§ 6. WAREHOUSE RECEIPT, WHAT TO CONTAIN.] Upon application of the owner or consignee of grain stored in a public warehouse, the same being accompanied with evidence that all transportation or other charges, which may be a lien upon the grain, including charges for inspection and weighing have been paid, the warehouseman shall issue to the person entitled to receive it a warehouse receipt therefor, subject to the order of the owner or consignee, which receipt shall bare date corresponding with the receipt of the grain in store, and shall state upon its face the quantity and inspected grade of the grain, and that the grain mentioned on it, has been received into store to be stored with grain of the same grade by inspection, and that it is deliverable upon the return of the receipt properly endorsed by the person to whose order it was issued and the payment of proper charges for storage. All warehouse receipts for grain issued by the same warehouse shall be consecutively numbered, and no two receipts bearing the same number shall be issued from the same warehouse during any one year, except in case of a lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original, and shall be plainly marked on its face "duplicate." If the grain was received from railroad cars, the number of each car shall be stated upon the receipt with the amount it contained, if from barges or other vessels, the name of

such craft, if from team or by other means, the manner of its receipt shall be stated on its face.

§ 7. GOVERNING ISSUANCE OF RECEIPTS.] Upon the delivery of grain from store upon any receipt, such receipt shall be plainly marked across its face the word "cancelled," with the name of the person cancelling the same, and shall thereafter be void, and shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No warehouse receipt shall be issued, except upon actual delivery of grain into store in the warehouse from which it purports to be issued and which is to be represented by the receipts. Nor shall any receipt be issued for a greater quantity of grain than was contained in the lot or parcel stated to have been received. Nor shall more than one receipt be issued for the same lot of grain, except in cases where receipt for a part of a lot is desired, and then the aggregate receipt for a particular lot shall cover that lot and no more. In cases where a part of the grain represented by the receipt is delivered out of store, and the remainder is left, a new receipt may be issued for such remainder, but the new receipt shall bear the same date as the original, and shall state on the face that it is balance or receipt of the original number, and the receipt upon which a part has been delivered, shall be cancelled in the same manner as if it had all been delivered. In case it be desirable to divide one receipt into two or more, or in case it be desirable to consolidate two or more receipts into one, and the warehouseman consents thereto, the original receipt shall be cancelled the same as if the grain had been delivered from the store, and the new receipts shall express on their face that they are a part of another receipt or a consolidation of other receipts, as the case may be, and the numbers of the original receipts shall also appear upon the new ones, issued as explanatory of the change, but no consolidation of receipts of dates differing more than ten days shall be permitted. And all new receipts issued for old ones cancelled as herein provided, shall bear the same date as those originally issued as near as may be.

§ 8. MODIFICATION OF LIABILITIES OF WAREHOUSEMEN NOT TO BE STATED IN RECEIPT.] No warehouseman in the State shall insert in any receipt issued by him any language in anywise limiting or modifying his liabilities or responsibility as imposed by the laws of this State.

§ 9. DUTY OF WAREHOUSEMAN ON RETURN OF RECEIPT.] On the return of any warehouse receipt by him, properly endorsed and the tender of all proper charges upon the property represented by it, such property shall be immediately delivered to the holder of such receipt, and it shall not be subject to any further charges for storage after demand for such delivery shall have been made, and the property represented by such receipt shall be delivered within twenty-four hours after such demand shall have been made, and the cars or vessels for the same shall have been furnished. The warehouseman in default shall be liable to the owner of such



receipt for damages for such default in the sum of one (1) cent per bushel, and in addition thereto one (1) cent per bushel for each and every day of such neglect or refusal to deliver; *Provided*, No warehouseman shall be held to be in default in delivering if the property is delivered in the order demanded, and as rapidly as due diligence, care and prudence will justify.

§ 10. STATEMENT OF CONDITIONS, ETC., TO BE FURNISHED TO RAILROAD COMMISSIONERS.] It shall be the duty of every owner, lessee and manager of every public warehouse in this State to furnish in writing, under oath, at such times as the Commissioners of Railroads shall require and prescribe, a statement concerning the condition and management of the business as such warehouseman.

§ 11. STATEMENT OF GRAIN IN STORE TO BE POSTED WEEKLY—STATEMENT TO WAREHOUSE REGISTRAR, WHAT TO CONTAIN.] The warehouseman of every public warehouse located at Grand Forks, Fargo, Wahpeton and Fairmount shall, on or before Tuesday morning of each week, cause to be made out, and shall keep posted up in the business office of his warehouse, in a conspicuous place, a statement of the amount of each kind and grade of grain in store in his warehouse at the close of business on the previous Saturday, and shall also on each Tuesday morning render a similar statement made under oath before some officer authorized by law to administer oaths, by one of the principal owners or operators thereof, or by the bookkeeper thereof having personal knowledge of the facts, to the warehouse registrar appointed as hereinafter provided. They shall also be required to furnish daily to the said registrar a correct statement of the amount of each kind and grade of grain received in store in such warehouse on the previous day, also the amount of each kind and grade of grain delivered or shipped by such warehouseman during the previous day, and what warehouse receipts have been cancelled, upon which the grain has been delivered on such day, giving the number of each receipt and amount, kind and grade of grain received and shipped upon each, also how much grain, if any, was so delivered or shipped, and the kind and grade of it, for which warehouse receipts had not been issued, and when and how such unreceipted grain was received by them, the aggregate of such reported cancellations and delivery of unreceipted grain corresponding in amount, kind and grade with the amount so reported delivered or shipped. They shall also at the same time report what receipts if any, have been cancelled and new ones issued in their stead as herein provided for, and the warehouseman making such statements shall in addition furnish the said registrar any further information regarding receipts issued or cancelled, that may be necessary to enable him to keep a full and correct record of all receipts issued and cancelled, and of grain received and delivered.

§ 12. SECRETARY OF COMMISSIONERS OF RAILROADS TO ACT AS REGISTRAR.] It is hereby made the duty of the secretary of the

Commissioners of Railroads to act as registrar in accordance with the spirit and intent of Section 11 of this act.

§ 13. SCHEDULE OF RATES TO BE PUBLISHED ANNUALLY—MAXIMUM RATES.] Every warehouseman of public warehouses located at Grand Forks, Fargo, Wahpeton and Fairmount shall be required during the first week in September of each year to publish in one or more of the newspapers (daily if there be such) published in the city or village in which such warehouse is situated, a table or schedule of rates for the storage of grain in his warehouse during the ensuing year, which rates shall not be increased during the year, and such published rates or any published reduction of them shall apply to all grain received into such warehouse from any person or source, and no discrimination as to rates shall be made directly or indirectly by such warehouseman for the storage of grain. The maximum charge for storage, insuring and handling of grain, including the cost of receiving and delivering shall be for the first fifteen days or part thereof, one and one-half ( $1\frac{1}{2}$ ) cents per bushel, and for each fifteen days or part thereof, after the first fifteen days, one-half ( $\frac{1}{2}$ ) cent per bushel, and for continuous storage between the fifteenth day of November, and the fifteenth day of May following, not more than four (4) cents per bushel.

§ 14. MIXING GRADES UNLAWFUL.] It shall not be lawful for any public warehouseman to mix any grain of different grades together or to select different qualities of the same grade for the purpose of storing or delivering the same, nor shall he attempt to deliver grain of one grade for another, or in any way tamper with grain while in his possession or custody, with a view of securing any profit to himself or any other person, and in no case, even of grain stored in a separate bin, shall he be permitted to mix grain of different grades together while in store. He may, however, on request of the owner of any grain stored in a private bin, be permitted to dry, clean, or otherwise improve the condition or value of any such lot of grain; but in such case it shall only be delivered as such separate lot, or as the grade it was originally inspected when received by him, without reference to the grade it may be as improved by such process of drying or cleaning. Nothing in this section, however, shall prevent any warehouseman from moving grain within his warehouse for its preservation or safe keeping.

§ 15. WAREHOUSES, SCALES, ETC., ALWAYS OPEN TO INSPECTION AND TEST.] All persons owning property, or who may be interested in the same in any public warehouse, and all duly authorized inspectors of such property shall at all times, during ordinary business hours, be at full liberty to examine any and all property stored in any public warehouse in this State, and all proper facilities shall be extended to such person by the warehouseman, his agents and servants for an examination, and all parts of the public warehouses shall be free for the inspection and examination of any

person interested in property stored therein, or of any authorized inspector of such property. And all scales used for the weighing of property in public warehouses shall be subject to examination and test by any duly authorized inspector, weighmaster, or scaler of weights and measures, at any time when required by any person or persons, agent or agents whose property has been or is to be weighed on such scales. The expense of such test by an inspector or scaler to be paid by the warehouse proprietor if the scales are found incorrect, but not otherwise. Any warehouseman who may be guilty of continuing to use scales found to be in an imperfect or incorrect condition by such examination and test until the same shall have been pronounced correct and properly sealed, shall be liable to be proceeded against as hereinbefore provided.

§ 16. STATE WEIGHMASTER AND ASSISTANTS, HOW APPOINTED.] The Commissioners of Railroads shall appoint in all cities where there is a State inspection of grain a State Weighmaster and such assistants as shall be necessary.

§ 17. DUTIES OF.] Said State Weighmaster and assistants shall, at the places aforesaid, supervise and have exclusive control of the weighing of grain and other property which may be subject to inspection; and the inspection of scales and the action and certificate of such Weighmaster and assistants in the discharge of their aforesaid duties shall be conclusive upon all parties in interest.

§ 18. FEES FOR WEIGHING, HOW PAID.] The Commissioners of Railroads shall fix the fees to be paid for the weighing of grain or other property, which fees shall be paid by the warehouseman and may be added to the charges for storage.

§ 19. QUALIFICATION OF WEIGHMASTERS—BOND.] Said State Weighmaster and assistants shall not be a member of any board of trade or association of any like character; they shall give bonds in the sum of \$5,000, conditioned for the faithful discharge of their duties, and shall receive such compensation as the Commissioners of Railroads shall determine.

§ 20. RULES AND REGULATIONS.] The Commissioners of Railroads shall adopt such rules and regulations for the weighing of grain and other property as they shall deem proper.

§ 21. PENALTY FOR OBSTRUCTING WEIGHMASTER IN PERFORMANCE OF HIS DUTY.] In case any person, warehouse or railroad corporation or any of their agents or employees shall refuse or prevent the aforesaid State Weighmaster or either of his assistants from having access to their scales in the regular performance of their duties in supervising the weighing of any grain or other property in accordance with the tenor and meaning of this act, they shall forfeit the sum of one hundred (100) dollars for each offense, to be recovered in an action of debt before any justice of the peace, in the name of the State of North Dakota, such penalty or forfeiture to be paid to the State Treasurer for the benefit of the grain

inspection fund, and shall also be required to pay all costs of prosecution.

§ 22 CHIEF INSPECTOR OF GRAIN, HOW APPOINTED—BOND.] It shall be the duty of the Commissioners of Railroads to appoint a suitable person as chief inspector of grain in the State of North Dakota who shall hold his office for the term of two years, unless sooner removed by said Commissioners of Railroads, who shall, before entering upon the duties of his office take an oath of office, as in case of other State officers, and shall execute a bond to the State of North Dakota, in the penal sum of \$10,000, with good and sufficient sureties, to be approved by the Commissioners of Railroads, conditioned that he will faithfully and impartially discharge the duties of the office of chief inspector according to law and the rules and regulations of said Commissioners of Railroads and that he will pay all damages to any person or persons who may be injured by reason of his neglect or failure to comply with the law or the rules and regulations aforesaid.

§ 23. DEPUTY INSPECTORS.] Said chief inspector shall appoint, subject to the approval of the Commissioners of Railroads, such number of deputy inspectors as may be required. One of which deputies in each of the cities of Grand Forks, Fargo, Wahpeton and Fairmount shall be denominated and styled chief deputy.

§ 24. OATH AND BOND OF DEPUTIES.] Such deputy inspector shall take a like oath of office to that required from the chief inspector, and shall give a bond to the State of North Dakota, in the penal sum of \$5,000, with such good and sufficient securities as may be approved by the Commissioners of Railroads and conditioned in like manner as the Commissioners of Railroads require from the chief inspector.

§ 25. BONDS, WHERE FILED—SUIT ON SAME, HOW BROUGHT.] The bonds given by the chief inspector and the deputy inspectors shall be filed in the office of the Secretary of State for the State of North Dakota and suit may be brought upon said bond or bonds in any court having jurisdiction thereof, for the use of the person or persons so injured.

§ 26. CHIEF INSPECTOR MAY REMOVE DEPUTIES AT PLEASURE.] The chief inspector shall have power to remove any of the deputy inspectors at pleasure, and said deputy inspectors shall act under the immediate control and supervision of said chief inspector.

§ 27. INSPECTORS TO BE GOVERNED BY RULES PRESCRIBED BY COMMISSIONERS OF RAILROADS—COMPENSATION, HOW FIXED.] The chief inspector of grain and all deputy inspectors shall be governed in their inspection duties by such rules and regulations as may be provided by the Commissioners of Railroads, and the said commissioners shall have power to fix the rate of charges for inspection of grain, and the manner in which the same shall be collected, and which

charges shall be regulated in such manner as will in the judgment of said commissioners produce sufficient revenue to meet the necessary expenses of the inspection service, and no more. Said Commissioners of Railroads shall fix the amount of compensation to be paid to the chief inspector and deputy inspectors, and prescribe the time and manner of payment thereof; which compensation shall be paid out of the grain inspection fund, hereinafter created, on the order of the Commissioners of Railroads.

§ 28. QUALIFICATION OF INSPECTORS.] No chief inspector or deputy inspector of grain shall, during his term of service, be interested, directly or indirectly, in the handling, storing, shipping, purchasing or selling of grain, nor shall he be in the employment of any person or corporation interested in the handling, storing, shipping, purchasing, or selling of grain.

§ 29. WHEN INSPECTORS MAY BE REMOVED.] Upon complaint in writing of any person to the Commissioners of Railroads, supported by reasonable and satisfactory proof, that the chief inspector or any of his deputies have violated any of the rules prescribed for his government, or has been guilty of any improper official act, or has been found inefficient or incompetent for the duties of his position, said person shall be by said Commissioners of Railroads immediately removed from office.

§ 30. IMPOSTORS, HOW PUNISHED.] Any person who shall assume to act as an inspector of grain, who has not first been so appointed and sworn, shall be held to be an impostor, and shall be punished by a fine of not less than fifty (50) dollars, nor more than one hundred (100) dollars, for each and every attempt to so inspect grain, to be recovered before a justice of the peace in an action of debt in the name of the State of North Dakota for the use of any person choosing to sue.

§ 31. PENALTY FOR NEGLECT OF DUTY BY INSPECTORS.] Any duly authorized inspector or deputy inspector of grain, who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect or grade any grain improperly, or who shall accept any money, or other consideration, directly or indirectly, for any neglect of duty or any improper performance of duty as such inspector of grain, or any person who shall improperly influence any inspector of grain in the performance of his duty as such inspector shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred (100) dollars nor more than \$1,000, or shall be imprisoned in the county jail not less than thirty days nor more than one year, or both, in the discretion of the court.

§ 32. INSPECTION CHARGES TO CONSTITUTE A LIEN ON GRAIN.] The charge for the inspection and weighing of grain shall be and constitute a lien on grain so inspected, and whenever such grain is in transit the said charges shall be treated as advance charges, to be paid by the common carrier in whose possession the same is at the time of inspection.

§ 33. DECISION OF INSPECTOR FINAL, EXCEPT WHEN.] The decision of the Chief Inspector or any of the deputy inspectors as to the grade of grain shall be final and binding on all parties, unless an appeal is taken from such decision as hereinafter provided.

§ 34. AGGRIEVED PARTIES MAY APPEAL TO COMMISSIONERS OF RAILROADS, WHOSE DECISION IS FINAL.] In case any owner, consignee or shipper of grain, or any warehouse manager shall be aggrieved by the decision of the Chief Inspector or any of his deputies, an appeal may be had to the Commissioners of Railroads, and a decision of a majority of such Commissioners shall be final, and the Commissioners of Railroads are authorized to make all necessary rules governing such appeal; *Provided*, That the party appealing shall pay to the Chief Inspector a sum not to exceed five (5) dollars per case before said case be entertained, which sum shall be refunded in case such case is sustained.

§ 35. IN CASE OF DISSATISFACTION, HOW PARTY OWNING GRAIN SHALL PROCEED—DUTY OF WAREHOUSEMAN AND RAILROAD COMPANY IN RELATION THERETO.] In case any owner or consignee of grain shall be dissatisfied with the inspection of any lot of grain, or shall from any cause desire to receive his property without its passing into store, he shall be at liberty to have the same withheld from going into any public warehouse (whether the property may have been consigned to such warehouse or not) by giving notice to the person or corporation in whose possession it may be at the time of giving such notice; and such grain shall be withheld from going into store, and be delivered to him, subject only to such proper charges as may be a lien upon it prior to such notice—the grain in railroad cars to be removed therefrom by such owner or consignee within twenty-four hours after such notice has been given to the railroad company having it in possession; *Provided*, Such railroad company placing the same in a proper and convenient place for unloading; and any person or corporation refusing to allow such owner or consignee to receive his grain shall be deemed guilty of conversion, and shall be liable to pay such owner or consignee double the value of the property so converted. Notice that such grain is not to be delivered into store may also be given to the owner or manager of any warehouse into which it would otherwise have been delivered, and if, after such notice, it be taken into store in such warehouse, the proprietor or manager of such warehouse shall be liable to the owner of such grain for double its market value.

§ 36. WHAT COMBINATIONS UNLAWFUL.] It shall be unlawful for any proprietor, lessee or manager of any public warehouse to enter into any contract, agreement, understanding or combination with any railroad company or other corporation, or with any individual or individuals, by which the property of any person is to be delivered to any public warehouse for storage or for any pur-

pose, contrary to the direction of the owner, his agent or consignee.

§ 37. "NORTH DAKOTA GRADES," WHEN ESTABLISHED.] The Commissioners of Railroads shall before the 15th day of September in each year establish a grade for all kinds of grain bought or handled by any public warehouse in the State, which shall be known as "North Dakota" grades, and the grades so established shall be published in some daily newspaper, in each of the three places of Grand Forks, Fargo and Wahpeton, each day, for the space of one week.

§ 38. STANDARD SAMPLES TO BE FURNISHED WHEN REQUESTED BY WAREHOUSEMEN.] It shall be the duty of the chief inspector of grain to furnish any elevator or warehouse in this State standard samples of grain as established by the official inspection, when requested so to do by the proprietor, lessee or manager thereof, at the actual cost of such sample.

§ 39. DUTIES OF COMMISSIONERS OF RAILROADS.] It will be the duty of the Commissioners of Railroads to assume and exercise a constant supervision over the grain interests of this State, to supervise the handling, inspection, weighing and storage of grain, to establish all necessary rules and regulations for the weighing, grading, inspection and appeal on inspection of grain, and for the management of the public warehouses of the State as far as such rules and regulations may be necessary to enforce the provisions of this act, or any law of this State in regard to the same, to investigate all complaints of fraud or oppression in the grain trade, and to correct the same as far as it may be in their power.

§ 40. RULES AND REGULATIONS TO BE PUBLISHED—WHEN IN FORCE AND EFFECT.] The aforesaid rules and regulations not being contrary to the provisions of law, shall be published by said Commissioners of Railroads in a daily paper in Grand Forks, Fargo, Wahpeton and Fairmount, and shall be in force and effect until they shall be changed or abrogated by said commissioners in a like public manner.

§ 41. WHAT MONIES TO BE PAID IN STATE TREASURY.] All monies collected by State Grain Inspectors, Weighmasters and other officers, as herein provided for, shall by them be paid into the State Treasury.

§ 42. TREASURER TO KEEP IN SEPARATE ACCOUNT.] It shall be the duty of the Treasurer of the State of North Dakota to receive all monies aforesaid, and all fines and penalties collected by virtue of this act, and to keep a separate account of the same, and to pay the same on the order of the Commissioners of Railroads and not otherwise.

§ 43. DUTY OF ATTORNEY GENERAL—WHEN COUNTY ATTORNEY TO PROSECUTE.] The Attorney General of the State of North Dakota shall be *ex-officio* attorney for the Commissioners of Railroads, and shall give them such counsel and advice as they may from

time to time require, and he shall institute and prosecute any and all suits which said Commissioners of Railroads may deem expedient and proper to institute, and he shall render to such Commissioners of Railroads all counsel, advice and assistance necessary to carry out the provisions of this act, according to the true intent and meaning thereof. In all criminal prosecutions against a warehouseman for the violation of any of the provisions of this act, it shall be the duty of the county attorney of the county in which such prosecution is brought, to prosecute the same to a final issue.

§ 44. MAY SELL BY SAMPLE.] Nothing in this act shall be so construed as to prevent any person from selling grain by sample regardless of grade.

§ 46. REPEAL.] All acts and parts of acts, general or special, conflicting with this act are hereby repealed.

§ 47. APPROPRIATION.] The sum of five hundred (500) dollars, or as much thereof as is necessary to carry out the provisions of this act, is hereby appropriated out of any money in the State Treasury not otherwise appropriated.

§ 48. GRAIN IN STORE AND INSPECTION THEREOF AT TIME OF TAKING EFFECT OF THIS ACT NOT AFFECTED HEREBY.] But the provisions of this act shall not charge the liabilities of warehousemen on grain now in store, nor the inspection thereof; but said inspection shall be had under the same system which it was received into store.

§ 49. WHEN ACT TO TAKE EFFECT.] This act shall take effect and be in force after the expiration of sixty days after its passage.

Approved March 31, 1890.

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## CHAPTER 189.

[H. F. 175.]

### PROVIDING FOR ERECTION OF GRAIN WAREHOUSES ON RAILROAD RIGHT OF WAY.

AN ACT Providing for the Erection of Public Grain Warehouses and Elevators, on the Right of Way of Railroad Corporations and Contiguous Thereto, and Prescribing Condemnation Proceedings in Connection Therewith.

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

§ 1. APPLICATION TO CONSTRUCT WAREHOUSE ON RAILROAD RIGHT OF WAY—DUTY OF RAILROAD COMPANY.] Any two or more persons, corporation or association, who have or shall, by articles of agreement in writing, associate themselves together under



any name assumed by them, for the purpose of operating a warehouse or elevator, by and for the purchase, storage and shipping of wheat or other grain within this State, may make an application in writing to any railroad company or corporation organized under the laws of this State, or doing business therein, to be permitted to construct, to maintain and operate a warehouse or elevator at any of its regular way stations upon its right of way, to be used for the purpose aforesaid, and the railroad company or corporation so applied to shall grant such application, without regard to the capacity of such elevator or warehouse and without discrimination as to persons, and in the order in which such applications shall be presented.

§ 2. SUCH WAREHOUSES DECLARED TO BE PUBLIC WAREHOUSES—HOW RENTAL OF WAREHOUSE SITE TO BE DETERMINED.] All elevators or warehouses erected under the provisions of this act shall be kept open for the transaction of business during such portion of the year as may be required by the statutes of the State, or the Board of Railroad Commissioners. The associations or corporations which shall avail themselves of the benefits or privileges of this section are declared to be public corporations, subject to legislative supervision and control at all times and in all particulars in which rights or powers are conferred upon them by this act. Before the application hereinbefore mentioned need be granted by any railroad company or corporation, the association making the same shall pay or secure to such railroad company or corporation such compensation for the right, privilege or franchise demanded in such petition as may be agreed upon between the parties as a just and reasonable yearly rental therefor, or a fixed or certain amount to be paid in one sum in lieu of a rental to be paid annually for the use and occupation of the site occupied by such warehouse or elevator and the uses and privileges connected therewith. If the parties fail to agree upon such yearly rental, or upon a lump sum to be paid in lieu thereof, the same may be determined and assessed upon petition to the district court for the district in which the station, at which the warehouse or elevator is located, may be situated pursuant to the provisions of the statute for the condemnation of private property for public uses. All notices to be served upon the railroad company or corporation in the initiation or of such condemnation proceeding or during the progress thereof may be served in manner provided by the laws of this State for the service upon such corporations of summons in an action in the district court; *Provided*, That either party shall have the right to appeal from the decisions of the commissioners to the district court for the district aforesaid within twenty days from the filing of the same and service of notice of the filing of such decision; and such appeal shall be taken, and heard and determined in like manner as appeals from the reports of the commissioners for condemning lands for the use of railroad corporations, as far as the

same may be applicable; *Provided, further,* That in case of condemnation proceedings the commissioners shall find, determine and return both the rental to be paid annually and a lump sum in lieu thereof. If the association making the application shall prefer to pay the annual rental so found by the commissioners or by the jury on appeal, in lieu of the lump sum found by them as aforesaid, the same shall be paid annually in advance, and in default thereof the warehouse or elevator shall not be erected, or if erected shall be moved in thirty days after notice from the railroad company or corporation, and in default to so remove the same it shall be forfeited to said company or corporation.

§ 3. DUTY OF RAILROAD COMPANIES TO PROVIDE SUITABLE SIDETRACKS, ETC.] Every railroad company or corporation organized under the laws of this State, or doing business therein, shall upon application in writing, provide reasonable sidetrack facilities and running connections between its main track and elevators and warehouses upon or contiguous to its right of way at such stations; and every such railroad corporation shall permit connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse or elevator, without reference to its size, cost or capacity, where grain is or may be stored; *Provided,* That this shall not be so construed as to require any railroad company to construct or furnish any sidetracks off its own land or right of way; *Provided, further, however,* That such elevators and warehouses shall not be constructed within one hundred feet of any existing structure and shall be at safe fire distance from the station buildings and so as not to essentially conflict with the safe and convenient operation of the road; and that where stations are ten miles or more apart the railroad company when required to do so by the Railroad Commissioners, shall construct and maintain a sidetrack for the use of shippers between such stations.

§ 4. INDIVIDUALS GUARANTEED SAME RIGHTS AND PRIVILEGES AS CORPORATIONS.] Individual persons shall have the same rights and privileges under the provisions of this act as associated persons, corporations and associations.

§ 5. EMERGENCY.] Whereas, an emergency exists by reason of the fact that it is necessary that this act shall take effect immediately; therefore, it shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 3, 1890.

## CHAPTER 190.

[H. F. 136.]

## DEFINING PUBLIC WAREHOUSES.

AN ACT to Amend Section 4, Chapter 130, Laws of 1887 of the Political Code, Entitled, "Grain Warehouses," Defining the Term of "Public Warehouses," and Requiring Additional Duties.

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

§ 1. PUBLIC WAREHOUSES.] That Section 4, Chapter 130, Laws of 1887 of the Political Code, entitled "Grain Warehouses," be amended so as to read as follows:

"All elevators or warehouses in this State, erected and operated for the purpose of buying, selling, or storing or handling grain for profit, are hereby declared "public warehouses," and none of the provisions of this act shall be construed so as to permit discrimination with reference to the buying, receiving or handling of grain of standard grades, or in regard to parties offering such grain for sale, storage or handling at such public warehouses while same are in operation."

Approved February 13, 1890.

## MISCELLANEOUS.

## CHAPTER 191.

[H. F. 115.]

## CEDING JURISDICTION OVER CERTAIN LANDS TO THE UNITED STATES.

AN ACT to Cede Jurisdiction to the United States Over Certain Lands, and for the Purchase and Condemnation Thereof.

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

§ 1. MAY PURCHASE OR CONDEMN.] The United States shall have power to purchase or to condemn in the manner prescribed by law, upon making just compensation therefor, any land in this