

LAWS

PASSED AT

THE FOURTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE, ON
TUESDAY, THE EIGHTH DAY OF JANUARY, A. D. 1895,
AND CONCLUDED MARCH EIGHTH, A. D. 1895.

GRAND FORKS, N. D.
HERALD, STATE PRINTERS AND BINDERS.
1895.

THE ENABLING ACT.

[Approved Feb. 22, 1889.]

AN ACT to Provide for the Division of Dakota into Two States, and to Enable the People of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be Admitted into the Union on an Equal Footing with the Original States, and to Make Donations of Public Lands to such States.

Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the inhabitants of all that part of the area of the United States now constituting the territories of Dakota, Montana and Washington, as at present described, may become the states of North Dakota, South Dakota, Montana and Washington respectively, as hereinafter provided.

§ 2. The area comprising the Territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said Territory; and the delegates elected as hereinafter provided to the Constitutional Convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

§ 3. That all persons who are qualified by the laws of said territories to vote for representatives to the Legislative Assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories, respectively, persons are required to possess to be eligible to the Legislative Assemblies thereof, and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionments shall be made by the Governor, the Chief Justice and the Secretary of said territories; and the Governors of said territories shall, by

proclamation, order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the 15th day of April, 1889; and such election shall be conducted, the returns made, the result ascertained and the certificates to the persons elected to such convention issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to Congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively, shall be seventy-five; and all persons resident in said proposed states who are qualified voters of said territories as herein provided shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe not in conflict with this act, upon the ratification or rejection of the constitutions.

§ 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the fourth day of July, 1889, and, after organization, shall declare on behalf of the people of said proposed states that they adopt the Constitution of the United States; whereupon the said conventions shall be, and are hereby authorized to form Constitutions and State Governments for said proposed states, respectively. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First. That the perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereinafter be purchased by the United States or reserved for its

use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all children of said state, and free from sectarian control.

§ 5. That the convention which shall assemble at Bismarck shall form a Constitution and State Government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a Constitution and State Government for a state to be known as South Dakota; *Provided*, That at the election for delegates to the Constitutional Convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot, the words, "For the Sioux Falls Constitution," or the words, "Against the Sioux Falls Constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in Section 3 of this act; and if a majority of all votes cast on this question shall be "For the Sioux Falls Constitution" it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the Constitution framed in Sioux Falls, and adopted November 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the Constitution shall be for the Constitution irrespective of the articles separately submitted, the State of South Dakota shall be admitted as a state in the Union under said Constitution as hereinafter provided, but the archives, records and books of the Territory of Dakota shall remain at Bismarck, the capital of North Dakota; until an agreement in reference thereto is reached by said states. But if at the election for delegates to the Constitutional Convention in South Dakota a majority of all the votes cast at that election shall be "Against the Sioux Falls Constitution," then,

and in that event, it shall be the duty of the convention which will assemble at the city of Sioux Falls on the fourth day of July, 1889, to proceed to form a Constitution and State Government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

§ 6. It shall be the duty of the Constitutional Conventions of North Dakota and South Dakota to appoint a joint Commission, to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also adjust and agree upon the amounts of the debts and liabilities of the territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

§ 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present Territory of Dakota, but shall, after the state adopting its constitution is admitted into the Union, be called by the name of the Territory of North Dakota or South Dakota, as the case may be; *Provided*, That if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the Governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

§ 8. The Constitutional Convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls Constitution of 1885, after having amended the same

as provided in Section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889; but if said Constitutional Convention is authorized and required to form a new constitution for South Dakota, it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the Constitutional Conventions which may assemble in North Dakota, Montana and Washington, shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states respectively, for ratification or rejection, at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitution, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the Secretary of each of said territories, who, with the Governor and Chief Justice thereof, or any two of them, shall canvass the same, and if a majority of the legal votes cast shall be for the constitution, the Governor shall certify the result to the President of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of the said constitution, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments, as herein provided, shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original states from and after the date of said proclamation.

§ 9. That until the next general census, or until otherwise provided by law, said states shall be entitled to one representative in the House of Representatives of the United States, except South Dakota, which shall be entitled to two; and the representatives to the Fifty-first Congress, together with the Governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

§ 10. That upon the admission of each of the said states into the Union, sections numbered 16 and 36 in every township of said proposed states, and where such sections or any part thereof have been sold or otherwise disposed of by or under the authority of

any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such idemnity lands to be selected within said states in such manner as the Legislature may provide, with the approval of the Secretary or the Interior; *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the idemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character, be subject to the grants or to the idemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

§ 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulation as the Legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such lands shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

§ 12. That upon the admission of each of said states into the Union, in accordance with the provision of this act, fifty sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in Section 10 of this act, shall be, and are hereby granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

§ 13. That five percentum of the proceeds of the sales of public lands lying within said states, which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states, respectively.

§ 14. That the lands granted to the territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana respectively, if such states are admitted into the Union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18,

1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the Territory of Washington, as, together with the land confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of seventy-two entire sections, are hereby granted in like manner to the State of Washington for the purposes of a university in said State. None of the lands granted in this section shall be sold at less than \$10 per acre; but said lands may be leased in the same manner as provided in Section 11 of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the Territory of Dakota, for an Asylum for the Insane shall, upon the admission of said State of South Dakota into the Union, become the property of said State.

§ 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "An act appropriating moneys for the erection of a penitentiary in the Territory of Dakota," approved March 2, 1881, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said State of South Dakota, for the purposes therein designated, and the States of North Dakota and Washington shall, respectively, have like grants for the same purposes, and subject to like terms and conditions as provided in said act of March 2, 1881, for the Territory of Dakota. The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana.

§ 16. That 90,000 acres of land to be selected and located as provided in Section 10 of this act, are hereby granted to each of said states except to the State of South Dakota, to which 120,000 acres are granted for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purposes.

§ 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and Section 2479 of the Revised Statutes, making a grant

of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the State of South Dakota: For the School of Mines, 40,000 acres; for the Reform School, 40,000 acres; for the Deaf and Dumb Asylum, 40,000 acres; for the Agricultural College, 40,000 acres; for the University, 40,000 acres; for the State Normal Schools 80,000 acres; for public buildings at the capital of said state, 50,000 acres, and for such other educational and charitable purposes as the Legislature of said State may determine, 170,000 acres; in all, 500,000 acres.

To the State of North Dakota a like quantity of land as in this section granted to the State of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the State of Montana: For the establishment and maintenance of a School of Mines, 100,000 acres; for the State Normal Schools, 100,000 acres; for Agricultural Colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of the State Reform School, 50,000 acres; for the establishment of a Deaf and Dumb Asylum, 50,000 acres; for public buildings at the capital of the State, in addition to the grant hereinbefore made for that purpose, 150,000 acres.

To the State of Washington: For the establishment and maintenance of a Scientific School, 100,000 acres; for the State Normal Schools, 100,000 acres; for public buildings at the state capital, in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state charitable, educational, penal and reformatory institutions, 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided for in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislatures of the respective states may severally provide.

§ 18. That all mineral lands shall be exempted from the grants of this act. But if sections 16 and 36, of any subdivision or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said states.

§ 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects

to said states the number of acres in each heretofore donated by Congress to said territories for similar objects.

§ 20. That the sum of \$20,000 or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota for which the sum of \$40,000 is so appropriated, \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

§ 21. That each of said states when admitted as aforesaid shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth Judicial circuit, except Washington and Montana, which shall be attached to the Ninth Judicial circuit. There shall be appointed for each of said districts one District Judge, one United States Attorney and one United States Marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments on the first day of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Nebraska.

§ 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the Supreme Court of either of the territories mentioned in this act, or that may hereafter lawfully be

prosecuted upon any record from either of said courts, may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the Supreme Court of such state, as the nature of the case may require; *Provided*, That the mandate of execution or of further proceedings, shall in cases arising in the Territory of Dakota, be directed by the Supreme Court of the United States to the circuit or district court of the district of South Dakota, or to the Supreme Court of the State of South Dakota, or to the circuit or district court of the district of North Dakota, or to the Supreme Court of the State of North Dakota, or to the Supreme Court of the Territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts, herein named, shall, respectively, be the successor of the Supreme Court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the Supreme Court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said state into the Union.

§ 23. That in respect to all cases, proceedings and matters now pending in the Supreme or district courts of either of the territories mentioned in this act at the time of the admission into the Union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said Supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the Supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the Union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said Supreme and territorial courts; and all the files, records, indictments and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories mentioned

in this act shall abate by the admission of any such state into the Union, but the same shall be transferred and proceeded within the proper United States circuit, district or state court, as the case may be; *Provided, however,* That in all civil actions, causes and proceedings, in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon the written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request, such cases shall be proceeded with within the proper state courts.

§ 24. That the Constitutional Conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the Fifty-first Congress; but said state governments shall remain in abeyance until the states shall be admitted into the Union, respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the Legislature thereof may assemble, organize and elect two senators of the United States; and the Governor and Secretary of State of such proposed state shall certify the election of the senators and representatives in Congress; and when such state is admitted into the Union, the senators and representatives shall be entitled to be admitted to seats in Congress, and to all the rights and privileges of senators and representatives of other states in the Congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the Constitutional Conventions, shall proceed to exercise all the functions of state officers; and all laws in force made by said territories, at the time of their admission into the Union, shall be in force in said states, except as modified or changed by this act, or by the constitutions of the states, respectively.

§ 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the Legislatures of said territories or by Congress, are hereby repealed.

Constitution of the State of North Dakota.

[Adopted Oct. 1, 1889; yeas, 27,441; nays, 8,107.]

PREAMBLE.

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

§ 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

§ 3. The State of North Dakota is an inseparable part of the American Union and the Constitution of the United States is the supreme law of the land.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall be forever guaranteed in this State, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

§ 5. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

§ 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witness shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

§ 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record, may consist of less than twelve men, as may be prescribed by law.

§ 8. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information. The Legislative Assembly may change, regulate or abolish the grand jury system.

§ 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or information for libel, the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

§ 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be maintained by this State in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

§ 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

§ 14. 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 no right of way shall be appropriated to the use of any corporation; other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

§ 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in

such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

§ 16. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

§ 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

§ 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized

§ 19. Treason against the State shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislative Assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

§ 21. The provisions of this Constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

§ 22. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State in such manner, in such courts and in such cases, as the Legislative Assembly may, by law, direct.

§ 23. Every citizen of this State shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

§ 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is expected out of the general powers of government and shall forever remain inviolate.

ARTICLE II.

THE LEGISLATIVE DEPARTMENT.

§ 25. The legislative power shall be vested in a Senate and House of Representatives.

§ 26. The Senate shall be composed of not less than thirty nor more than fifty members.

§ 27. Senators shall be elected for the term of four years, except as hereinafter provided.

§ 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the State or Territory for two years next preceding his election.

§ 29. The Legislative Assembly shall fix the number of senators, and divide the State into as many senatorial districts as there are senators, which districts as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

§ 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class elected in the year 1890 shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially.

§ 31. The Senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president *pro tempore*, who may take the place of the Lieutenant Governor under rules prescribed by law.

§ 32. The House of Representatives shall be composed of not less than sixty, nor more than one hundred and forty members.

§ 33. Representatives shall be elected for the term of two years.

§ 34. No person shall be a representative who is not a qualified elector in the district from which he may be chosen, and who shall have not attained the age of twenty-one years, and have been a resident of the State or Territory for two years next preceding his election.

§ 35. The members of the House of Representatives shall be apportioned to and elected at large from each senatorial district. The Legislative Assembly shall, in the year 1895, and every tenth year, cause an enumeration to be made of all the inhabitants of this State, and shall at its first regular session after each such enumeration, and also after each federal census, proceed to fix by law the number of senators, which shall constitute the Senate of North Dakota, and the number of representatives which shall constitute the House of Representatives of North Dakota, within the limits prescribed by this Constitution, and at the same session

shall proceed to reapportion the State into senatorial districts, as prescribed by this Constitution, and to fix the number of members of the House of Representatives, to be elected from the several senatorial districts; *Provided*, That the Legislative Assembly may, at any regular session, redistrict the State into senatorial districts, and apportion the senators and representatives respectively.

§ 36. The House of Representatives shall elect one of its members as Speaker.

§ 37. No judge or clerk of any court, Secretary of State, Attorney General, register of deeds, sheriff or person holding any office of profit under this State, except in the militia or the office of attorney at law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of \$300, shall hold any office in either branch of the Legislative Assembly or become a member thereof.

§ 38. No member of the Legislative Assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime, shall be eligible to the Legislative Assembly, or to any office in either branch thereof.

§ 39. No member of the Legislative Assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this State, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the Governor, or Governor and Senate, during the term for which he shall have been elected.

§ 40. If any person elected to either houses of the Legislative Assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, in consideration, or upon conditions, that any other person elected to the same Legislative Assembly 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, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or offer, promise or assent so to do upon condition that 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 in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery. And any person, member of the Legislative Assembly or person elected

thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the Legislative Assembly, and, on conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

§ 41. The term of service of the members of the Legislative Assembly shall begin on the first Tuesday in January, next after their election.

§ 42. The members of the Legislative Assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 43. Any member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member and shall not vote thereon without the consent of the house.

§ 44. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislative Assembly.

§ 45. Each member of the Legislative Assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the Legislative Assembly on the most usual route.

§ 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner, and under such a penalty, as may be prescribed by law.

§ 47. Each house shall be the judge of the election returns and qualifications of its own members.

§ 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the Legislative Assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

§ 49. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present.

§ 50. The sessions of each house and of the committee of the whole shall be open unless the business is such as ought to be kept secret.

§ 51. Neither house shall, without the consent of the other,

adjourn for more than three days nor to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

§ 52. The Senate and House of Representatives jointly shall be designated as the Legislative Assembly of the State of North Dakota.

§ 53. The Legislative Assembly shall meet at the seat of government at 12 o'clock noon on the first Tuesday after the first Monday in January, in the year next following the election of the members thereof.

§ 54. In all elections to be made by the Legislative Assembly or either house thereof, the members shall vote *viva voce*, and their votes shall be entered in the journal.

§ 55. The sessions of the Legislative Assembly shall be biennial, except as otherwise provided in this Constitution.

§ 56. No regular session of the Legislative Assembly shall exceed sixty days, except in case of impeachment, but the first session of the Legislative Assembly may continue for a period of one hundred and twenty days.

§ 57. Any bill may originate in either house of the Legislative Assembly, and a bill passed by one house may be amended by the other.

§ 58. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

§ 59. The enacting clause of every law shall be as follows: Be it enacted by the Legislative Assembly of the State of North Dakota.

§ 60. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

§ 61. 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.

§ 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the State, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

§ 63. Every bill shall be read three several times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

§ 64. 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.

§ 65. No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the journal.

§ 66. The presiding officer of each house shall in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly; immediately before such signing their title shall be publicly read and the fact of signing shall be at once entered on the journal.

§ 67. No act of the Legislative Assembly shall take effect until July 1st, after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act) the Legislative Assembly shall, by a vote of two-thirds, of all the members present in each house, otherwise direct.

§ 68. The Legislative Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

§ 69. The Legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.
8. Providing for changes of venue in civil or criminal cases.
9. Declaring any person of age.
10. For limitation of civil actions, or giving effect to informal or invalid deeds.
11. Summoning or impaneling grand or petit juries
12. Providing for the management of common schools.
13. Regulating the rate of interest on money.
14. The opening or conducting of any election or designating the place of voting.
15. The sale or mortgage of real estate belonging to minors or others under disability.
16. Chartering or licensing ferries, toll bridges or toll roads.
17. Remitting fines, penalties or forfeitures.
18. Creating, increasing or decreasing fees, percentages or allowances of public officers.
19. Changing the law of decent.
20. Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.

21. For the punishment of crimes.
 22. Changing the names of persons or places.
 23. For the assessment or collection of taxes.
 24. Affecting estates of deceased persons, minors or others under legal disabilities.
 25. Extending the time for the collection of taxes.
 26. Refunding money into the state treasury.
 27. Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this State, or to any municipal corporation therein.
 28. Legalizing, except as against the State, the unauthorized or invalid act of any officer.
 29. Exempting property from taxation.
 30. Restoring to citizenship persons convicted of infamous crimes.
 31. Authorizing the creation, extension or impairing of liens.
 32. Creating offices, or prescribing the powers or duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.
 33. Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.
 34. Providing for the election of members of the board of supervisors in townships, incorporated towns and cities.
 35. The protection of game or fish.
- § 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the Legislative Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

ARTICLE III.

EXECUTIVE DEPARTMENT.

§ 71. The executive power shall be vested in a Governor, who shall reside at the seat of government and shall hold his office for the term of two years and until his successor is elected and duly qualified.

§ 72. A Lieutenant Governor shall be elected at the same time and for the same term as the Governor. In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or the disability of the 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 Lieutenant Governor.

§ 73. No person shall be eligible to the office of Governor or Lieutenant Governor unless he be a citizen of the United States, and a qualified elector of the State, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the State or Territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 74. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and places of choosing members of the Legislative Assembly. The persons having the highest number of votes for Governor and Lieutenant Governor respectively shall be declared elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislative Assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

§ 75 The Governor shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the Legislative Assembly on extraordinary occasions. He shall at the commencement of each session communicate to the Legislative Assembly by message, information of the condition of the State, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislative Assembly and shall take care that the laws be faithfully executed.

§ 76. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; but the Legislative Assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislative Assembly at its next regular session, when the next Legislative Assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. He shall communicate to the Legislative Assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by him, stating the name of the convict, the crime for which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 77. The Lieutenant Governor shall be President of the Senate, but shall have no vote unless they be equally divided. If, during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

§ 78. When any office shall from any cause become vacant, and no mode is provided by the Constitution or law for filling

such vacancy, the Governor shall have power to fill such vacancy by appointment.

§ 79. Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign, but if not, he shall return it with his objections, to the house in which it originated, which shall enter the objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members-elect shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members-elect, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the Legislative Assembly, by its adjournment, prevent its return, in which case it shall be a law unless he shall file the same with his objections, in the office of the Secretary of State, within fifteen days after such adjournment.

§ 80. The Governor shall have power to disapprove of any item or items, or part or parts of any bill making appropriations of money or property embracing distinct items, and the parts or parts of the bill approved shall be the law, and the item or items, and part or parts disapproved shall be void, unless enacted in the following manner: If the Legislative Assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 81. Any 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 that any member of the Legislative Assembly shall give his official vote or influence on an particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislative Assembly, or who threatens any member that he, the said Governor, will remove any person or persons from office or position with intent in any manner to influence the action of said

member, shall be punished in the manner now, or that may hereafter, be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this State.

§ 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, three Commissioners of Railroads, an Attorney General and one Commissioner of Agriculture and Labor, who shall have attained the age of twenty-five years, shall be citizens 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.

§ 83. The power and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads, Attorney General, and Commissioner of Agriculture and Labor, shall be as prescribed by law.

§ 84. Until otherwise provided by law, the Governor shall receive an annual salary of \$3,000; the Lieutenant Governor shall receive an annual salary of \$1,000; the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads, and Attorney General shall each 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.

ARTICLE IV.

JUDICIAL DEPARTMENT.

§ 85. The judicial power of the State of North Dakota shall be vested in the Supreme Court, district courts, county courts, justices of the peace; and in such other courts as may be created by law for cities, incorporated towns and villages.

§ 86. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

§ 87. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; *Provided, however*, That no jury trial shall be allowed in said

Supreme Court, but in proper cases questions of fact may be sent by said court to a district court for trial.

§ 88. Until otherwise provided by law three terms of the Supreme Court shall be held each year, one at the seat of government, one at Fargo, in the county of Cass, and one at Grand Forks, in the county of Grand Forks.

§ 89. The Supreme Court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

§ 90. The judges of the Supreme Court shall be elected by the qualified electors of the State at large, and except as may be otherwise provided herein for the first election for judges under this Constitution, said judges shall be elected at general elections.

§ 91. The term of office of the judges of the Supreme Court, except in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

§ 92. The judges of the Supreme Court shall, immediately after the first election under this constitution, be classified by lot so that one shall hold his office for the term of three years, one for the term of five years, and one for the term of seven years from the first Monday in December, A. D. 1889. The lots shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of the Territory and filed in his office, unless the Secretary of State of North Dakota shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the Supreme Court, and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

§ 93. There shall be a clerk and also a reporter of the Supreme Court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law and by rules of the Supreme Court not inconsistent with law. The Legislative Assembly shall make provision for the publication and distribution of the decisions of the Supreme Court and for the sale of the published volumes thereof.

§ 94. No person shall be eligible to the office of judge of the Supreme Court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State or the Territory of Dakota three years next preceding his election.

§ 95. Whenever the population of the State of North Dakota shall equal 600,000 the Legislative Assembly shall have the power to increase the number of the judges of the Supreme Court to

five, in which event a majority of said court, as thus increased, shall constitute a quorum.

§ 96. No duties shall be imposed by law upon the Supreme Court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

§ 97. The style of all process shall be, "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the State of North Dakota."

§ 98. Any vacancy happening by death, resignation or otherwise in the office of judge of the Supreme Court shall be filled by appointment, by the governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

§ 99. The judges of the Supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

§ 100. In case a judge of the Supreme Court shall be in any way interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

§ 101. When a judgment or decree is reversed or confirmed by the Supreme Court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the Supreme Court and preserved with a record of the case. Any judge dissenting therefrom may give the reason of his dissent in writing over his signature.

§ 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

§ 103. The district court shall have original jurisdiction, except as otherwise provided in this Constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 104. The State shall be divided into six judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this Constitution.

§ 105. Until otherwise provided by law, said districts shall be constituted as follows:

District No. One shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. Two shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountrail, Garfield, Flannery and Budford.

District No. Three shall consist of the counties of Cass, Steele and Traill.

District No. Four shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. Five shall consist of the counties of Logan, LaMoure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. Six shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred and that portion of the Sioux Indian Reservation lying north of the seventh standard parallel.

§ 106. The Legislative Assembly may, whenever two-thirds of the members of each house shall concur therein, but not oftner than once in four years, increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

§ 107. No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided within the State or Territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the judicial district for which he is elected.

§ 108. There shall be a clerk of the district court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

§ 109. Writs of error and appeals may be allowed from the decisions of the district courts to the Supreme Court under such regulations as may be prescribed by law.

§ 110. There shall be established in each county a county court, which shall be a court of record, open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

§ 111. The county court shall have 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; *Provided*, That whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this Constitution, then said county court shall have concurrent jurisdiction with the district courts in all civil actions where the amount in controversy does not exceed \$1,000, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, the jurisdiction in cases of misdemeanors arising under state laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the county court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge, except that he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

§ 112. The Legislative Assembly shall provide by law for the election of justices of the peace in each organized county within the State. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed \$200, and in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come into question. The Legislative Assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts or elsewhere.

§ 113. The Legislative Assembly shall provide by law for the election of police magistrates in cities, incorporated towns and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the Legislative Assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

§ 114. Appeals shall lie from the county court, final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

§ 115. The time of holding courts in the several counties of a district shall be as prescribed by law, but at least two terms of the district court shall be held annually in each organized county, and the Legislative Assembly shall make provisions for attaching unorganized counties or territories to organized counties for judicial purposes.

§ 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

§ 117. No judge of the Supreme or district court shall act as attorney or counsellor at law.

§ 118. Until the Legislative Assembly shall provide by law for fixing the terms of courts, the judges of the Supreme and district courts shall fix the terms thereof.

§ 119. No judge of the Supreme or district courts shall be elected or appointed to any other than judicial offices or to be eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office except that of judge of the Supreme Court or district court, given by the Legislative Assembly or the people, shall be void.

§ 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law, or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

ARTICLE V.

ELECTIVE FRANCHISE.

§ 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the State one year, 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. Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

Third. Civilized persons of Indian descent who shall have severed their tribal relation two years next preceding such election.

§ 122. The Legislative Assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion to all citizens of mature age and sound mind, not convicted of crime without regard to sex; but no law extending or restricting the right of suffrage shall be in force until adopted by a majority of the electors of the State voting at a general election.

§ 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

§ 124. The general elections of the State shall be biennial, and shall be held on the first Tuesday after the first Monday in November; *Provided*, That the first general election under this Constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

§ 125. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

§ 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of his being stationed therein.

§ 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.

§ 128. Any women having the qualifications enumerated in Section 121 of this article as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote for all school officers, and upon all questions pertaining solely to school matters, and be eligible to any school office.

§ 129. All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

ARTICLE VI.

MUNICIPAL CORPORATIONS.

§ 130. The Legislative Assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts; and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

ARTICLE VII.

CORPORATIONS OTHER THAN MUNICIPAL.

§ 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the State; but the Legislative Assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

§ 132. All existing charters or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

§ 133. The Legislative Assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

§ 134. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the Legislative Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this State shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State.

§ 135. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

§ 136. No foreign corporation shall do business in this State without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

§ 137. No corporation shall engage in any business other than that expressly authorized in its charter.

§ 138. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

§ 139. No law shall be passed by the Legislative Assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having control of the street or highway proposed to be occupied for such purposes.

§ 140. 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 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 place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislative Assembly shall pass laws enforcing by suitable penalties the provisions of this section; *Provided*, The provisions of this section shall not be so construed as to apply to foreign corporations.

§ 141. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 142. Railways heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control; and the Legislative Assembly shall have power to enact laws regulating and controlling the rates of charges for transportation of passengers, intelligence and freight, as such common carriers, from one point to another in this State; *Provided*, That appeal may be had to the courts of this State from the rates so fixed; but the rates fixed by the Legislative Assembly or Board of Railroad Commissioners shall remain in full force pending the decision of the courts.

§ 143. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 144. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political subdivisions of the State unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 145. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the State, of

all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the State Treasurer for the redemption of such notes or bills.

§ 146. Any combination between individuals, corporations, associations, or either, having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy; and any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this State, whenever the owner or owners thereof violate this article shall be deemed annulled and become void.

ARTICLE VIII.

EDUCATION.

§ 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the Legislative Assembly shall make provision for the establishment and maintenance of a system of public schools which shall be opened to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

§ 148. The Legislative Assembly shall provide, at its first session after the adoption of this Constitution, for a uniform system for free public schools throughout the State; beginning with the primary and extending through all grades up to and including the normal and collegiate course.

§ 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

§ 150. A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

§ 151. The Legislative Assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific and agricultural improvements.

§ 152. All colleges, universities and other educational institutions, for the support of which lands have been granted to this State, or which are supported by a public tax, shall remain under the absolute and exclusive control of the State. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian school.

ARTICLE IX.

SCHOOL AND PUBLIC LANDS.

§ 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this State; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the State by escheat; the proceeds of all gifts and donations to the State for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the State. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof.

§ 154. The interest and income of this fund together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the State, and shall be for this purpose apportioned among and between all the several common school corporations of the State in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the State; *Provided, however,* That if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

§ 155. After one year from the assembling of the first Legislative Assembly the lands granted to the State from the United States for the support of the common schools, may be sold upon the following conditions and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The Legislative Assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the State shall never be sold, but the Legislative Assembly may by general laws provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

§ 156. 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 this article and any law that may be passed by the

Legislative Assembly, said board shall have control of the appraisement, 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, under the limitations of Section 160 of this article.

§ 157. The county superintendent of common schools, the chairman of the county board, and the county auditor shall constitute boards of appraisal and under the authority of the State Board of University and School Lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

§ 158. No lands shall be sold for less than the appraised value and in no case for less than \$10 per acre. The purchaser shall pay one-fifth of the price in cash 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 the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. 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 subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; *Provided*, That the lands contracted to be sold by the State shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

§ 159. All land, money or other property donated, granted or received from the United States or any other source for a University, School of Mines, Reform School, Agricultural College, Deaf and Dumb Asylum, Normal School or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the State, and the State shall make good all losses thereof.

§ 160. All lands mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; *Provided*, That the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

§ 161. The Legislative Assembly shall have authority to provide by law for the leasing of lands granted to the State for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale; *Provided*, That all of said school lands now under cultivation may be leased, at the discretion and under the control of the Board of University and School Lands, for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

§ 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the State, bonds of the United States, bonds of the State of North Dakota or in first mortgages on farm lands in the State, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

§ 163. No law shall ever be passed by the Legislative Assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish, either directly or indirectly, the purchase price of said lands. •

§ 164. The Legislative Assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the State for purposes other than set forth and named in Sections 153 and 159 of this article. And the Legislative Assembly, in providing for the appraisement, sale, rental and disposal of the same, shall not be subject to the provisions and limitations of this article.

§ 165. The Legislative Assembly shall pass suitable laws for the safe keeping, transfer and disbursement of the State school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his

own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the State of North Dakota, or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his own hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for, the State school funds or any part of the same entrusted to any such officers, as by law required or demanded, shall be held and be taken to be *prima facie* evidence of such embezzlement.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATION.

§ 166. The several counties in the Territory of Dakota lying north of the seventh standard parallel as they now exist, are hereby declared to be counties of the State of North Dakota.

§ 167. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines, but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships, the natural boundaries shall be observed as nearly as may be.

§ 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be effected thereby at a general election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

§ 169. The Legislative Assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

§ 170. The Legislative Assembly shall provide by general law for township organization under which any county may organize, whenever a majority of all the legal voters of such county, voting at a general election shall so determine, and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by

a majority vote of the people voting at any general election; and the affairs of said county may be transacted by the chairmen of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.

§ 171. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of such county at a general election in such a manner as may be provided by law, and if a majority of all the votes cast upon such question shall be against said system of government, then such system shall cease in said county and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the Territory of Dakota.

§ 172. Until the system of county government by the chairmen of the several township boards is adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business as shall be provided by law.

§ 173. At the first general election held after the adoption of this Constitution, and every two years thereafter, there shall be elected in each organized county in the State, a county judge, clerk of court, register of deeds, county auditor, treasurer, sheriff and states attorney, who shall be electors of the county in which they are elected, and who shall hold their office until their successors are elected and qualified. The Legislative Assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

ARTICLE XI.

REVENUE AND TAXATION.

§ 174. The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the State for each year, not to exceed in any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for State and county purposes, and also a sufficient sum to pay the interest on the State debt.

§ 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

§ 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the State, county and municipal corporations, both real and personal, shall be exempt from taxation, and the

Legislative Assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but 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, but no real estate of said corporations shall be exempted from taxation in the same manner, and on the same basis as other real estate is taxed, except roadbed, right-of-way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of Section 179 of this article relating to assessment of railroad property shall cease to be in force.

§ 177. All improvements in land shall be assessed in accordance with Section 179, but plowing shall not be considered as an improvement or add to the value of land for the purpose of assessment.

§ 178. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State or any county or other municipal corporation shall be a party.

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this State shall be assessed by the State Board of Equalization at their actual value and such assessed valuation shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, as a basis for taxation of such property in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts.

§ 180. The Legislative Assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents (\$1.50) on every male inhabitant of this State over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

§ 181. The Legislative Assembly shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XII.

PUBLIC DEBT AND PUBLIC WORKS.

§ 182. 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 \$200,000, 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 the 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 \$200,000.

§ 183. The debt of any county, township, city, town, school district or any other political subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein; *Provided*, That any incorporated city may, by a two-thirds vote, increase such indebtedness three (3) per centum on such assessed value beyond said (5) per cent. limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adoption of this Constitution shall be included; *Provided, further*, That any incorporated city may become indebted in any amount not exceeding four (4) per centum on such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, town, school district or any other political subdivision shall be void.

§ 184. Any city, county, township, town, school district, or any other political subdivision incurring indebtedness shall at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt is paid.

§ 185. Neither the State nor any county, city, township, town, school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the State engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

§ 186. No money shall be paid out of the State Treasury except

upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the State, or any county or other political subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer or officers, whose duty it may be to audit the same.

§ 187. No bond or evidence of indebtedness of the State shall be valid unless the same shall have endorsed thereon a certificate, signed by the Auditor and Secretary of State, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt, is issued pursuant to law and is within the debt limit.

ARTICLE XIII.

MILITIA.

§ 188. The militia of this State shall consist of all able-bodied male persons residing in the State, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this State. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

§ 189. The militia shall be enrolled, organized, uniformed, armed and disciplined in such a manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

§ 200. The Legislative Assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia; and no other organized body of armed men shall be permitted to perform military duty in this State except the army of the United States, without the proclamation of the Governor of the State.

§ 191. All militia officers shall be appointed or elected in such a manner as the Legislative Assembly shall provide.

§ 192. The commissioned officers of the militia shall be commissioned by the Governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

§ 193. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and election of officers, and in going to and returning from the same.

ARTICLE XIV.

IMPEACHMENT AND REMOVAL FROM OFFICE.

§ 194. The House of Representative shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 195. All impeachments shall be tried by the Senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial, the presiding Judge of the Supreme Court shall preside.

§ 196. The Governor and other State and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall no extend further than removal from office and disqualification to hold any office of trust or profit under the State. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 197. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law.

§ 198. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 199. On trial of impeachment against the Governor, the Lieutenant Governor shall not act a member of the Court.

§ 200. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.□

§ 201. No person shall be liable to impeachment twice for the same offense.

ARTICLE XV.

FUTURE AMENDMENTS.

§ 202. Any amendment or amendments to this Constitution may be proposed in either house of the Legislative Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the Legislative Assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the Legislative Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be

the duty of the Legislative Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislative Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislative Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this State. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

ARTICLE XVI.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this State.

§ 203. First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to the citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; that no taxes shall be imposed by this State on lands or property therein, belonging to, or which may hereafter be purchased by the United States, or reserved for its use. But nothing in this article shall preclude this State from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of Congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of Congress granting the same.

Third. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of Congress approved February 22, 1889, entitled "An act to provide for the division of

Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State Governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the States of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

This agreement shall take effect and be in force from and after the admission into the Union as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

The words "State of North Dakota," wherever used in this agreement shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

The State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred, on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the Territorial Library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the territory situated or located within the boundaries of the other state.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on

account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889 (that is, the part of such sums going to the Territory), shall be equally divided between the States of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each State shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State, as provided in this article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it. And the State of North Dakota hereby obligates itself to pay such part of the debts and

liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

§ 204. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the President of the United States; *Provided*, legal process, civil and criminal, of this State, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

§ 205. The State of North Dakota hereby accepts the several grants of land granted by the United States to the State of North Dakota by an act of Congress, entitled "An act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State Governments, and to be admitted into the Union on equal footing with the original states, and to make donations of public lands to such States," under the conditions and limitations therein mentioned; reserving the right, however, to apply to Congress for modification of said conditions and limitations in case of necessity.

ARTICLE XVII.

MISCELLANEOUS.

§ 206. The name of this State shall be "North Dakota." The State of North Dakota shall consist of all the territory included within the following boundaries, to-wit: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel produced due west to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

§ 207. The following described seal is hereby declared to be and hereby constituted the Great Seal of the State of North Dakota, to-wit: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo toward the setting sun; the foliage of the tree arched by a half circle of forty-two stars, surrounded by the motto "Liberty and Union now and forever, one and inseparable;" the words "Great Seal" at the top, the words "State of North Dakota" at the bottom; "October 1st" on the left

and "1889" on the right. The seal to be two and one-half inches in diameter.

§ 208. The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws, exempting from forced sale to all heads of families a homestead, the value of which shall be limited and defined by law, and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

§ 209. The labor of children under twelve years of age shall be prohibited in mines, factories and workshops in this State.

§ 210. All flowing streams and natural water courses shall forever remain the property of the State for mining, irrigating and manufacturing purposes.

§ 211. Members of the Legislative Assembly and Judicial Department, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of according to the best of my ability, so help me God" (if an oath), (under pains and penalties of perjury), if an affirmation, and no other oath, declaration, or test shall be required as a qualification for any office of public trust.

§ 212. The exchange of "black lists" between corporations shall be prohibited.

§ 213. The real and personal property of any woman in this State, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property and shall not be liable for the debts of her husband.

ARTICLE XVIII.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

§ 214. Until otherwise provided by law, the member of the House of Representatives of the United States apportioned to this State shall be elected at large.

Until otherwise provided by law, the Senatorial and Representative districts shall be formed, and the senators and the representative shall be apportioned as follows:

The First District shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The Second District shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beauleau, Thingvalla, Gardar,

Park, Crystal, Elora and Lodema, in the county of Pembina, and be entitled to one senator and two representatives.

The Third District shall consist of the townships of Perth, Latoria, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Centre, Fertile, Park River and Glenwood, in the county of Walsh, and be entitled to one senator and two representatives.

The Fourth District shall consist of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardoch, village of Ardoch, Harrison, city of Grafton, Oakwood, Martin, Walshville, Pulaski, Acton, Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The Fifth District shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Sixth District shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Seventh District shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentrui, Americus, Michigan, Union and Washington, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Eighth District shall consist of the county of Traill and be entitled to one senator and four representatives.

The Ninth District shall consist of the township of Fargo and the city of Fargo in the county of Cass and the fractional township number 139 in range 48, and be entitled to one senator and two representatives.

The Tenth District shall consist of the townships of Noble, Wisner, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the city of Casselton, in the county of Cass, and be entitled to one senator and three representatives.

The Eleventh District shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldrid, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the county of Cass, and be entitled to one senator and three representatives.

The Twelfth District shall consist of the county of Richland, and be entitled to one senator and three representatives.

The Thirteenth District shall consist of the county of Sargent, and be entitled to one senator and two representatives.

The Fourteenth District shall consist of the county of Ransom, and be entitled to one senator and two representatives.

The Fifteenth District shall consist of the county of Barnes, and be entitled to one senator and two representatives.

The Sixteenth District shall consist of the counties of Steele and Griggs, and be entitled to one senator and two representatives.

The Seventeenth District shall consist of the county of Nelson, and be entitled to one senator and one representative.

The Eighteenth District shall consist of the county of Cavalier, and be entitled to one senator and two representatives.

The Nineteenth District shall consist of the counties of Towner and Rolette, and be entitled to one senator and one representative.

The Twentieth District shall consist of the counties of Benson and Pierce, and be entitled to one senator and two representatives.

The Twenty-first District shall consist of the county of Ramsey, and be entitled to one senator and two representatives.

The Twenty-second District shall consist of the counties of Eddy, Foster and Wells, and be entitled to one senator and two representatives.

The Twenty-third District shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The Twenty-fourth District shall consist of the county of LaMoure, and be entitled to one senator and one representative.

The Twenty-fifth District shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The Twenty-sixth District shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The Twenty-seventh District shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The Twenty-eighth District shall consist of the counties of Bottineau and McHenry, and be entitled to one senator and one representative.

The Twenty-ninth District shall consist of the counties of Ward, McLean, and all the unorganized counties lying north of the Missouri River, and be entitled to one senator and one representative.

The Thirtieth District shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The Thirty-first District shall consist of the counties of Mercer, Stark and Billings and all the unorganized counties lying south

of the Missouri river, and be entitled to one senator and one representative.

ARTICLE XIX.

PUBLIC INSTITUTIONS.

§ 215. The following public institutions of the State are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the act of Congress, approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe, subject to the limitations provided in the article on school and public lands contained in this Constitution:

First. The seat of government at the city of Bismarck in the county of Burleigh.

Second. The State University and the School of Mines at the city of Grand Forks, in the county of Grand Forks.

Third. The Agricultural College at the City of Fargo in the county of Cass.

Fourth. A State Normal School at the city of Valley City, in the county of Barnes; and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for normal schools made in the act of Congress referred to shall grant to the said Normal School at Valley City as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The Deaf and Dumb Asylum at the city of Devils Lake, in the county of Ramsey.

Sixth. A State Reform School at the city of Mandan, in the county of Morton.

Seventh. A State Normal School at the city of Mayville, in the county of Traill. And the Legislative Assembly in apportioning the grant of lands made by Congress, in the act aforesaid for State Normal Schools, shall assign thirty thousand (30,000) acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth. A State Hospital for the Insane and an Institution for the Feeble Minded in connection therewith, at the city of Jamestown, in the county of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of lands made by the act of Congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution.

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "Other Educational and Charitable Institutions," as is allotted below, viz.:

First. A Soldiers' Home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

Second. A Blind Asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

Third. An Industrial School and School for Manual Training, or such other educational or charitable institution as the Legislative Assembly may provide, at the town of Ellendale in the county of Dickey, with a grant of forty thousand acres.

Fourth. A School of Forestry or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth. A Scientific School, or such other educational or charitable institution as the Legislative Assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres; *Provided*, That no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

ARTICLE XX.

PROHIBITION.

To be submitted to a separate vote of the people as provided by the Schedule and Ordinance.

§ 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. 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.

SCHEDULE.

§ 1. That no inconvenience may arise from a change of Territorial Government to State Government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this Constitution, be issued under the authority of the Territory of Dakota shall be as valid as if issued in the name of the State.

§ 2. All laws now in force in the Territory of Dakota, which

are not repugnant to this Constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

§ 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota shall accrue to the use of the States of North Dakota and South Dakota, and may be sued for and recovered by either of said states as necessity may require.

§ 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; all bonds, obligations or other undertakings executed to this Territory, or to any officer in his official capacity, shall pass over to the proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which have arisen or may arise before the organization of the judicial department, under this Constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

§ 5. All property, real and personal, and credits, claims and choses in action belonging to the Territory of Dakota at the time of the adoption of this Constitution, shall be vested in and become the property of the States of North Dakota and South Dakota.

§ 6. Whenever any two of the judges of the Supreme Court of the State, elected under the provisions of this Constitution shall have qualified in their offices, the causes then pending in the Supreme Court of the Territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this State, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the Supreme Court of the State, except as otherwise provided in the Enabling Act of Congress, and until so superseded the Supreme Court of the Territory and the judges thereof shall continue, with like powers and jurisdiction as if this Constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this Constitution shall have qualified in his office, the several causes then pending in the district court of the Territory within any county in such district, and the records, papers and proceeding of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, except as provided in the Enabling Act of Congress, and until the district courts of this Territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

§ 7. Until otherwise provided by law, the seals now in use in the Supreme and district courts of this Territory are hereby

declared to be the seals of the Supreme and district courts respectively of the State.

§ 8. Whenever this Constitution shall go into effect, the books, records and papers and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this Constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this Constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

§ 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of the Territory, shall, after this Constitution goes into effect, be held to apply to the county court or county judge.

§ 10. All territorial, county and precinct officers, who may be in office at the time this Constitution takes effect, whether holding their offices under the authority of the United States or of the Territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this Constitution, until their successors shall be elected and qualified in accordance with the provisions of this Constitution, and official bonds of all such officers shall continue in full force and effect as though this Constitution had not been adopted; and such officers for their term of service, under this Constitution, shall receive the same salaries and compensation as is by this Constitution, or by the laws of the Territory, provided for like officers; *Provided*, that the county and precinct officers shall hold their offices for the term for which they were elected. There shall be elected in each organized county in this State, at the election to be held for the ratification of this Constitution, a clerk of the district court, who shall hold his office under said election until his successor is duly elected and qualified. The judges of the district court shall have power to appoint states attorneys in any organized counties where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890, and until his successor is elected and qualified.

§ 11. This Constitution shall take effect and be in full force immediately upon the admission of the Territory as a State.

§ 12. Immediately upon the adjournment of this Convention the Governor of the Territory, or in case of his absence or failure to act, the Secretary of the Territory, or in case of his absence or failure to act, the President of the Constitutional Convention, shall issue a proclamation, which shall be published and a copy thereof

mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the State and district officers created and made elective by this Constitution. This Constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this Territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this Constitution and for or against the article separately submitted.

§ 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given for the period of twenty days in the manner provided by law. Every qualified elector of the Territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the Territory for general elections, and the returns for all State and district officers, and members of the Legislative Assembly, shall be made to the canvassing board hereinafter provided for.

§ 14. The Governor, Secretary and Chief Justice, or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for all State and district officers and members of the Legislative Assembly. The said board shall assemble at the seat of government of the Territory on the fifteenth day after the day of such election (or on the following day if such day falls on Sunday,) and proceed to canvass the votes on the adoption of this Constitution and for all State and district officers and members of the Legislative Assembly in the manner provided by the laws of the Territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the Secretary of the Territory an abstract certified by them, of the number of votes cast for or against the adoption of the Constitution, and for each person for each of said offices, and of the total number of votes cast in each county.

§ 15. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota into the Union, take the oath required by this Constitution, and give the same bond required by the law of the Territory to be given in case of like officers of the Territory and districts, and shall thereupon enter upon the duties of their respective offices; but the Legislative Assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

§ 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the Supreme Court, who shall be elected at the election herein

provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified. Until otherwise provided by law the judges of the Supreme Court shall receive for their services the salary of four thousand dollars (\$4,000) per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars (\$3,000) per annum, payable quarterly.

§ 17. The Governor-elect of the State immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the Legislative Assembly of the State at the seat of government on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said Legislative Assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the said senators and representatives shall be elected such United States Senators. And the presiding officers of the Senate and House of Representatives shall each certify the election to the Governor and Secretary of the State of North Dakota; and the Governor and Secretary of State shall certify the elections of such Senators as provided by law.

§ 18. At the election herein provided for there shall be elected a Representative to the Fifty-first Congress of the United States, by the electors of the State at large.

§ 19. It is hereby made the duty of the Legislative Assembly as its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the Constitutional Convention of North Dakota, which shall remain unpaid after the appropriation made by Congress for the same shall have been exhausted.

§ 20. There shall be submitted at the same election at which this Constitution is submitted for rejection or adoption, Article XX, entitled "Prohibition," and persons who desire to vote for said article shall have written or printed on their ballots "For Prohibition," and all persons desiring to vote against said article shall have written or printed on their ballots "Against Prohibition." If it shall appear according to the returns herein provided for that a majority of all the votes cast at said election for and against prohibition are for prohibition, then said Article XX shall be and form a part of this Constitution and be in full force and effect as such from the date of the admission of this State into the Union. But if a majority of said votes shall appear according to said returns to be against prohibition, then said Article XX shall be null and void and shall not be a part of this Constitution.

§ 21. The agreement made by the joint commission of the Constitutional Conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of

Dakota, is hereby ratified and confirmed; which agreement is in the words following: That is to say—

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit: All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the Constitutional Convention of 1889 for South Dakota, returns of elections held under the so-called local option law, in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are a part of the records and archives of said Secretary's office; excepting also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are a part of the records and archives of said Governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One warrant register in the office of the Treasurer of this Territory—being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and cancelled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay. Reports of gross earnings in the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the Public Examiner of the Second District of the Territory. Records and papers of the office of the District Board of Agriculture. Records and papers in the office of the Board of Pharmacy of the district of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota, and the cost of such copies shall be borne equally by said States of North Dakota and South Dakota. That is to say:

Appropriation Ledger for years ending November 1889-90—
one volume.

The Auditor's Current Warrant Register—one volume.

Insurance Record for 1889—one volume.
Treasurer's Cash Book—"D."
Assessment Ledger—"B."
Dakota Territory Bond Register—one volume.
Treasurer's current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives, which it is hereby agreed shall be the property of South Dakota, shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two States.

§ 22. Should the counties containing lands which form a part of the grant of lands made by Congress to the Northern Pacific Railroad company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of twenty-five thousand dollars (\$25,000) or so much thereof as may be necessary to reimburse said counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

§ 23. This Constitution shall after its enrollment be signed by the President of this Convention and the Chief Clerk thereof and such delegates as desire to sign the same, whereupon it shall be deposited in the office of the Secretary of the Territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reason at the time of the adjournment of this Convention.

§ 24. In case the Territorial officers of the Territory of Dakota, or any of them who are now required by law to report to the Governor of the Territory, annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the Union, the Legislative Assembly shall make sufficient appropriations to pay one-half of the cost of such publication.

§ 22. The Governor and Secretary of the Territory are hereby

authorized to make arrangements for the meeting of the first Legislative Assembly, and the inauguration of the State Government.

§ 26. The Legislative Assembly shall provide for the editing, and for the publication, in an independent volume, of this Constitution, as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence, the Constitution of the United States and the Enabling Act.

Done at Bismarck, Dakota, in open convention, this 17th day of August, A. D. 1889.

AMENDMENT TO CONSTITUTION.

The Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets.

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AUTHENTICATION.

STATE OR NORTH DAKOTA, }
Secretary's Office, Bismarck. }

I hereby certify that the acts and resolves contained in this volume are true and correct copies of the original enrolled bills passed by the Legislative Assembly of the State of North Dakota, at the fourth session thereof, beginning January 8th, 1895, and terminating March 8th, 1895, now on file in this office, with the exception of clerical errors appearing enclosed in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota,
[SEAL.] this 1st day of May, 1895.

C. M. DAHL,
Secretary of State.

THE LAWS.

ACKNOWLEDGMENTS.

CHAPTER 1.

[H. B. No. 74.]

ACKNOWLEDGMENTS.

AN ACT to Cure Defective Acknowledgments.

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

§ 1. ACKNOWLEDGMENTS.] That the acknowledgments of all deeds, mortgages or other instruments, in writing, taken and certified previous to January 1, 1895, and which have been duly recorded in the proper counties in this State, or in that part of the territory of Dakota now constituting the State of North Dakota, be and the same are hereby declared to be legal and valid in all courts of law and equity in this State or elsewhere, anything in the laws of the territory of Dakota, or State of North Dakota, in regard to acknowledgments to the contrary notwithstanding. *Provided*, That nothing herein contained shall in any manner affect the right or title of any bona fide purchaser, without notice of such instrument or record thereof, for a valuable consideration, of any such property or real estate prior to said January 1, 1895. *And provided, further*, That a purchaser at any execution or foreclosure sale of any lands affected by this act shall be considered a bona fide purchaser.

§ 2. EMERGENCY.] An emergency exists because of the unsettled condition of many titles throughout the State by reason of defective acknowledgments, therefore this act shall take effect and be in force from and after its passage and approval.

Approved, March 4, 1895.

APPROPRIATIONS.

CHAPTER 2.

[S. B. No. 21.]

AGRICULTURAL COLLEGE.

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.

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

§ 1. APPROPRIATIONS.] That for the erection of additional buildings for the North Dakota Agricultural College and Experimental Station at Fargo, and for other purposes connected therewith, there is hereby appropriated out of any money in the treasury, not otherwise appropriated, the following sum of money, to-wit: For miscellaneous expenses, \$11,250.

§ 2. EMERGENCY.] An emergency exists in this that the fiscal year for which this appropriation is made, will begin before July 1st, and the funds hereby appropriated in part will be needed before that time, *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 3.

[H. B. No. 127.]

BOARD OF HEALTH.

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.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of two hundred fifty (\$250.00) dollars to reimburse Dr. F. R. Smyth for stamping diphtheria out of Mercer county by order of the State Board of Health.

Approved, March 21, 1895.

CHAPTER 4.

[S. B. No. 7.]

CLERK HIRE.

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.

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

§ 1. That Section 1 of Chapter 9 of the laws of 1891 be amended so as to read as follows:

§ 1. MONTHLY PAYMENTS.] The following amounts are hereby fixed and allowed for clerk hire of the several State officers hereinafter mentioned, which sums shall be paid in monthly payments on the warrant of the State Auditor, commencing January 1st, 1895, to-wit:

Governor's office, for Private Secretary, Stenographer, Messenger, and such other employes as may be at any time necessary, twenty-nine hundred dollars per annum.

Secretary of State's Office, twenty-five hundred dollars per annum.

Treasurer's Office, fifteen hundred dollars per annum.

Auditor's Office, twenty-five hundred dollars per annum.

Attorney General's Office, one thousand five hundred dollars per annum.

Superintendent of Public Instruction's Office, three thousand dollars per annum.

Commissioner of Insurance Office, twenty-one hundred dollars per annum.

Commissioner of Agriculture and Labor's Office, fifteen hundred dollars per annum.

Secretary of the Board of Railroad Commissioner's, one thousand dollars per annum.

Provided, That all clerical appointments shall first be referred to the Governor for his approval.

§ 2. EMERGENCY.] An emergency existing in that there is no adequate provision of law for the payment and appointment of necessary clerk hire in the respective State offices, this act shall take effect and be in force from and after its passage and approval.

Approved, February 18, 1895.

CHAPTER 5.

[H. B. No. 151.]

COMMITTEE ROOMS.

AN ACT Making an Appropriation to Pay Certain Expenses Incurred by the Fourth Legislative Assembly of the State of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of five hundred (\$500) dollars, or so much thereof as may be necessary to pay the expenses of committee rooms, furniture for the same, fuel and lights and such other incidental expenses as either the House of Representatives or Senate authorized to be incurred.

§ 2. AUDITOR TO DRAW WARRANTS.] The State Auditor is hereby authorized to draw his warrant upon the State Treasury in payment of such accounts upon the presentation to him of itemized bills, properly certified by the officers directed and authorized to incur the expenses.

§ 3. EMERGENCY.] An emergency exists in that it was necessary to incur certain expenses for committee rooms to properly transact the business of the Fourth Legislative Assembly, and such expenses should be paid long prior to July 1st, therefore this act shall take effect and be in force immediately after its passage and approval.

Approved, March 19, 1895.

CHAPTER 6.

[H. B. No. 140.]

COMMISSIONERS OF RAILROADS.

AN ACT Making an Appropriation to Pay Nellie McDonald For Labor as Clerk For Commissioners of Railroads.

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of sixty dollars, to pay Nellie McDonald for labor as clerk for the Commissioners of Railroads during the year 1891. And the State Auditor is authorized to draw his warrant on the State Treasurer for said amount and in favor of said Nellie McDonald.

§ 2. EMERGENCY.] An emergency existing in that there is no money appropriated for this purpose; *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 19th, 1895.

CHAPTER 7.

[S. B. No. 150.]

EXECUTIVE MANSION.

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.

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

§ 1. APPROPRIATION EXECUTIVE MANSION, BILLS HOW AUDITED.] That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of one thousand (\$1,000.00) dollars or so much thereof as may be necessary, for the purpose of completing and furnishing the executive mansion, and defraying the incidental expenses thereof for the years 1895 and 1896; to be expended under the direction of the board of trustees in charge of the capitol, to be paid from time to time upon warrants issued by the State Auditor on the presentation of itemized accounts duly certified by said board of trustees.

§ 2: EMERGENCY.] *Whereas*, an emergency exists by reason of the fact that there is now no adequate provision made for the purpose above specified, *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 11th, 1895.

CHAPTER 8.

[H. B. No. 136.]

FIRE COMPANIES.

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.

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

§ 1. DUTY OF CITY, TOWN OR VILLAGE CLERK.] The Clerk of every city, town or village in the State of North Dakota having an organized fire department shall on or before the 31st day of October in each year make and file with the Auditor of this State

his certificate, stating the existence of such a department, the date of its organization, the number of steam, hand or other engines, hook and ladder trucks, and hose carts in actual use, the number of organized companies, the number of members of each company, the system of water supply in use in such department, together with such facts as the Auditor may require.

§ 2. DUTY OF COUNTY AUDITOR.] The county auditor of any county, wherein there is an unorganized town of 700 inhabitants or over, with an organized fire company, upon the affidavit of the chief of such company, shall on or before the 31st day of October in each year make and file with the Auditor of this State his certificate, stating the existence of such a department or company, the date of its organization, the number of steam, hand or other engines, hook and ladder trucks, and hose carts, in actual use, the number of organized companies, the number of members in each company and the system of water supply in use in such department, together with such facts as the auditor may require.

§ 3. STATE AUDITOR TO FURNISH BLANKS—INSURANCE COMPANIES TO MAKE STATEMENTS.] The blanks required by law to be furnished by the State Auditor to insurance companies shall contain the names of the cities, towns and villages, incorporated and unincorporated, entitled to the benefits under this act, and every insurance company doing business in this State, shall include in its annual statement the amount of all premiums received by such companies upon policies issued on property situated within the limits of such city, town or village during the year ending on the preceding 31st day of December.

§ 4. TAX, HOW PAID. DUTY OF STATE AUDITOR AND TREASURER IN RELATION THERETO.] The said auditor, on the first day of July thereafter, shall issue and deliver to the treasurer of each city, town or village containing an organized fire department, and to the county auditor of any county having an organized town of 700 inhabitants or over, containing an organized fire department entitled to the benefits under this act, his warrant upon the State Treasurer for an amount equal to two per cent. of the premiums received upon policies issued on property in any such city, town or village, which warrants shall be numbered consecutively, and shall each specify the date of its issuance and to whom payable, and such warrants shall be paid by the State Treasurer to the treasurer of any such city, town or village, and to the county auditor of any county wherein there is an unincorporated town of 700 inhabitants or over, containing an organized fire department, upon presentation thereof, and when so received by said treasurer or county auditor, the same shall be paid over to said company or companies, in equal proportion, having a membership of at least fifteen members for a period of three months, prior to the date of the certificate of the clerk or county auditor, as provided in Sections one (1) and two (2) of this act, having at least one

steam; hand or fire engine, hook and ladder truck, or hose cart, upon the written order of such company or companies, approved by the city council, trustees or other governing body of such city, town, village or unincorporated town. *Provided*, That in cities, towns and villages having a paid fire department, the amount so received by the city, town or village treasurer shall be placed in a fund to be disbursed by the city council, trustees or other governing body of such city, town or village in maintaining such fire department.

§ 5. QUALIFICATION OF FIRE DEPARTMENT.] No city, town or village, incorporated or unincorporated, shall be entitled to any of the benefits arising from this act unless the fire department shall have been in actual existence three months prior to the filing of the certificate required by Sections one (1) and two (2) of this act, and unless such fire department shall have had for such period as a part of its equipment at least one steam, hand or other fire engine, or hook and ladder truck, or hose cart, with a membership of at least fifteen persons for said period of three months.

§ 6. CERTIFICATE OF ORGANIZATION TO BE FILED.] If the certificate required by Sections one (1) and two (2) of this act is not filed with the State Auditor on or before the 31st day of October in each year, the city, town or village or county so failing to file such certificate shall be deemed to have waived and relinquished its rights for such year to the appropriation herein provided for.

§ 7. REPEAL.] 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, are each hereby repealed.

§ 8. EMERGENCY.] An emergency exists in that there is no adequate law regulating the subject herein, therefore this act shall take effect and be in force from and after its passage and approval.

Approved, March 4, 1895.

CHAPTER 9.

[S. B. No. 126.]

ERADICATION OF RUSSIAN THISTLE.

AN ACT to appropriate \$30,000 to Pay Expenses Necessarily Incident to the Eradication of Russian Thistles and French Weeds.

Whereas, These certain noxious plants, called Russian thistles and French weeds, now recognized practically and scientifically as the most formidable of any enemy to cereal growth, have invaded and possessed large areas on the southern borders of this State; have ruined farms, destroyed homes, driven citizens into exile, and have already diminished the annual production of agriculture estimated by millions, and

Whereas, The enormous fecundity of the said plants are annually expanding the area of its devastation with startling strides, while also from that area as a propagating agency the seeds of said pests are constantly being scattered and planting themselves in cultivated lands in remote parts of the State, menacing with disaster the agricultural and consequently all the industries of North Dakota, and,

Whereas, In the area distinctly in possession of such thistles it is beyond the financial ability of many land owners and of the local authorities to eradicate such thistles and French weeds,

NOW THEREFORE, As a measure of public safety and also for the relief of citizens of the State from hopeless loss of home and property,

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

§ I. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of thirty thousand dollars (\$30,000) or so much thereof as may be necessary to pay the expense necessarily incident to the eradication of Russian thistles and French weeds in the State of North Dakota, to be expended under the direction of a board of commissioners which shall be designated the Executive Relief Board, which board shall consist of the Governor and two competent persons whom he may appoint to hold their offices until the Governor shall appoint their successors.

Approved, March 23, 1895.

CHAPTER 10.

[S. B. No. 25.]

HOSPITAL FOR INSANE.

AN ACT for an Appropriation For the Current and Contingent Expenses of the Hospital For the Insane at Jamestown.

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

§ I. APPROPRIATION.] That there is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, the following sums of money for the purpose of paying the current and contingent expenses of the hospital for the insane at Jamestown, for the fiscal years of 1895 and 1896, beginning March 1st, 1895, to-wit:

Maintenance	\$ 59,000 00
Employee's wages.	35,000 00
Incidental expenses.	2,000 00
Return of patients and burial of dead.	1,800 00
Farm implements.	300 00
Deficiency for fuel and lights.	6,500 00
Fuel	22,000 00
Electric repairs and supplies.	550 00
Engine room supplies.	500 00
Blacksmith shop supplies.	250 00
Repairs to brickwork to boilers.	600 00

§ 2. EMERGENCY.] An emergency exists in this that the fiscal year for which this appropriation is made begins before July 1st, and the funds hereby appropriated in part will be needed before that time, *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 11.

[S. B. No. 107.]

NORTH DAKOTA REFORM SCHOOL.

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."

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

§ 1. SUSPENDED.] That Chapter 11, of the Laws of 1893, are hereby suspended and made inoperative until the first Tuesday of February, 1897.

§ 2. EMERGENCY.] *Whereas*, an emergency exists in this, that there is no way to prevent the amount appropriated in said Chapter 11 from being used under the provisions of said Chapter 11 prior to July 1, 1895; therefor, this act shall [take] effect and be in force from and after its passage and approval.

Approved, March 19, 1895.

CHAPTER 12.

[S. B. No. 54.]

NORMAL SCHOOL AT MAYVILLE.

AN ACT Providing for an Appropriation for the Maintenance and Improvements of the State Normal School at Mayville, N. D.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of seven thousand seven hundred (\$7,700), or so much thereof as may be necessary for the purpose of maintaining the State Normal School, at Mayville, N. D., for the ensuing two years, as follows:

Janitor labor	\$ 1,400 00
Incidentals	1,940 00
Deficiency on heating plant and fuel.....	4,360 00

§ 2. EMERGENCY.] An emergency exists in that the biennial period begins March 1st, 1895. Therefore, this act shall be in force and effect from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 13.

[S. B. No. 26.]

NORMAL SCHOOL AT VALLEY CITY.

AN ACT Providing for an Appropriation for the Maintenance of the State Normal School at Valley City, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of four thousand six hundred dollars (\$4,600.00), or so much as may be necessary for the purpose of maintaining the State Normal School at Valley City, N. D., for the ensuing two years, beginning March 1st, 1895, as follows:

Fuel and lights.....	\$ 2,400 00
Janitor.....	1,200 00
Incidentals.....	1,000 00

§ 2. EMERGENCY.] An emergency exists in that the biennial period begins March 1st, 1895, therefore this act shall be in force and effect from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 14.

[S. B. No. 29.]

PENITENTIARY.

AN ACT Providing for an Appropriation for the Current and Contingent Expenses of the Penitentiary at Bismarck, and for Making Needed Permanent Improvements Thereat.

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

§ 1. APPROPRIATION FOR PENITENTIARY.] That there is hereby appropriated the sum of forty-three thousand four hundred and forty (\$43,440) dollars, or as much thereof as may be necessary out of any moneys in the State treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the State penitentiary at Bismarck, and making needed permanent improvements thereat, for two years, beginning with March 1st, 1895, to be used as follows:

For warden's salary.....	\$	3,000
For deputy warden's salary.....		2,000
For guards and employes.....		8,640
For maintenance.....		20,000
For heating and lighting.....		4,000
For physicians and medicines.....		800
For transportation, clothing and temporary aid to discharged convicts		2,000
For clothing.....		1,500
For water supply.....		1,500

§ 2. EMERGENCY.] An emergency exists in this, that there is no provision made for the support of the penitentiary after February 28th, 1895, *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 15.

[H. B. No. 77.]

REVISION COMMISSION.

AN ACT to Appropriate Money to Pay Postage Required by the Joint Committee to Consider the Report of the Revision Commission.

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

§ 1. APPROPRIATION. There is hereby appropriated out of any money not otherwise appropriated the sum of three hundred dollars, or so much thereof as may be necessary to enable the Joint Committee to consider the report of the Revision Commission, to send the Journals containing the proposed changes to such persons as the members of the Legislative Assembly may designate.

EMERGENCY.] An emergency existing in that it is necessary to distribute the Journals referred to prior to July 1st, '95; *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, February 5, 1895.

CHAPTER 16.

[S. B. No. 32.]

SOLDIERS' HOME.

AN ACT Providing for an Appropriation for the Current and Contingent Expenses, Furnishing, Maintenance and for Making Needed Permanent Improvements and Repairs for the Soldiers' Home at Lisbon.

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

§ I. APPROPRIATION.] That there is hereby appropriated the following sums of money, or as much thereof as may be necessary, out of any money in the State Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses, furnishing, maintenance, and for making needed permanent improvements and repairs for the soldiers' home at Lisbon for the ensuing two years, to-wit:

	CURRENT EXPENSES.	
Commandant's salary.....		\$ 2,000 00
	SUBSISTANCE.	
Maintenance		5,000 00
Employes' wages.....		1,400 00
	CLOTHING.	
Clothing		1,000 00
	HOUSEHOLD.	
Fuel and lights.....		1,500 00
	HOSPITAL.	
Surgeon's salary.....		600 00
Burial of dead.....		200 00
	TRANSPORTATION.	
Transportation		200 00
		\$ 11,900 00
Total.....		\$ 11,900 00

§ 2. EMERGENCY.] *Whereas*, An emergency exists in this, that there will be no available funds before July 1st to meet the expenses of said institution; *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 17.

[H. B. No. 38.]

SOUTH DAKOTA REFORM SCHOOL.

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.

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

§ I. APPROPRIATIONS.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the

sum of \$2,458.32, being the amount due the State of South Dakota from the State of North Dakota for caring, providing for and schooling North Dakota's refractory children, at the South Dakota Reformatory to December 31, 1894.

§ 2. AUDITOR TO DRAW WARRANT.] The State Auditor is hereby authorized and directed to draw his warrant upon the State Treasurer for the amount hereby appropriated and due the State of South Dakota when presented with an itemized bill of the said indebtedness, properly signed and attested by the Superintendent of the South Dakota Reform School, and approved by the Governor of this State. There being an emergency in that no appropriation has been made to meet the indebtedness thus incurred by the State of North Dakota, therefore this Act shall take effect and be in force from and after its passage and approval.

Approved, March 18, 1895.

CHAPTER 18.

[S. B. No. 40.]

STATE UNIVERSITY.

AN ACT Making an Appropriation for Maintenance of the State University and for Needed Permanent Improvements of the State University.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated the sum of fifteen thousand nine hundred eighty (\$15,980) dollars or as much thereof as may be necessary, for the purpose of maintaining the State university for the ensuing two years, as follows:

Janitor.....	\$	3,200
Repairs of buildings and grounds.....		1,500
Deficiency in fuel and lights.....		5,000
Water supply.....		500
Incidentals.....		5,780

§ 2. EMERGENCY.] *Whereas*, an emergency exists in this that a portion of the money hereby appropriated is needed for immediate use, *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 22, 1895.

CHAPTER 19.

[S. B. No. 35.]

SCHOOL FOR THE DEAF AND DUMB.

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.

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

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or as much thereof as may be necessary, out of any moneys in the State treasury, not otherwise appropriated, for the maintenance and the current and contingent expenses of the School for the Deaf, of North Dakota, at Devils Lake, and for necessary permanent improvements, and for deficiency as hereinafter mentioned, for the fiscal two years beginning April 1st, 1895:

For maintenance.....	\$	23,000
For deficiency.....		250

§ 2. EMERGENCY.] An emergency exists in this that the fiscal year for which the appropriation is made will begin before July 1st, and the funds hereby appropriated in part will be needed before that time. *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 23, 1895.

CHAPTER 20.

[S. B. No. 84.]

FOR EXPENSES OF WEATHER AND CROP SERVICE.

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."

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

§ 1. AMENDMENT.] Section 7 of 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, is hereby amended to read:

§ 7. APPROPRIATION.] There is hereby appropriated out of any funds in the State treasury not otherwise appropriated, or as much thereof, as may be necessary, the sum of five hundred

dollars annually for expenses of the Weather and Crop Service herein provided for.

The said amount of five hundred dollars to be expended under the direction of the director provided for in Section 2 of this act.

Approved, March 23, 1895.

ASSESSMENT.

CHAPTER 21.

[S. B. No. 77.]

SPECIAL ASSESSMENTS IN CITIES.

An Act to Amend Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887.

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

§ 1. That Section 25 of Article 15 of Chapter 73 of the Session Laws of 1887 be amended to read as follows:

§ 25. DUTY OF CITY TREASURER.] The city treasurer shall transmit a certified copy of all unpaid special assessment real estate taxes to the county auditor, with a description of all lots or parcels of real estate so assessed on or before the 15th day of September of each year. The county auditor shall extend the same upon the tax roll of the county in the same manner as other taxes are extended. The county treasurer of such county shall collect and enforce the collection of the said special assessment tax in the same manner as other taxes and shall pay over to the city treasurer on the first of any month on demand all such taxes so collected during the preceding month, retaining two per cent. of such taxes as his commission for collecting the same, and shall forthwith notify the city auditor of the amount so paid over, giving a description of the real property upon which the same is paid and the amount of special assessment paid thereon.

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

Approved, March 19, 1895.

BOARDS OF CONCILIATION.

CHAPTER 22.

[S. B. No. 16.]

MODE OF PROCEDURE.

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.

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

§ 1. ELECTION OF COMMISSIONERS.] There shall be elected at the same time and in the same manner as the justices of the peace in each town, incorporated village and city from the qualified voters thereof, four commissioners of conciliation whose term of office shall be two years and until their successors are duly elected and qualified. The time of commencement of their term of office shall be the same as that prescribed for justices of the peace.

§ 2. PROCEEDINGS BEFORE COMMISSIONERS.] At the time of issuing the summons in any civil action begun before a justice of the peace, or at any time afterward before the return day of such summons and only on the request of either party and by the consent of both parties in said action, the justice shall issue a subpoena summoning two (2) of the commissioners of conciliation elected for the town, village or city where the action is brought and the defendant or the plaintiff, as the case may require, to appear before him at some time prior to the hour designated in the summons, which subpoena shall be served in the same manner as a summons is required to be served in actions in the district court, and may be served by the party obtaining it issued and at any time before its return day. If either party fails to appear at the time designated in the subpoena it shall be so certified to the justice of the peace by the commissioners before the return hour of the summons in said action. If both parties appear they shall then go before the two (2) commissioners summoned, as aforesaid, and state their differences, which statements, or so much thereof, as is necessary to show the issue between the parties, shall be reduced to writing and shall constitute the pleadings in the case. The parties may then introduce evidence in order and under the restrictions prescribed by the commissioners and it shall be discretionary with the commissioners whether or not the witness shall be sworn before testifying, and if so required, one of the commissioners may administer the oath. After hearing all

the evidence offered it shall be the duty of the commissioners to the best of their ability to persuade the parties to agree to an amicable settlement of their differences on such terms as to them appear just and equitable. If an agreement is reached it shall be reduced to writing signed by the parties, certified to the justice, by him entered on his docket of the case, and shall then be a judgment of the court of said justice therein; *Provided*, That no agreement shall be entered unless it can be put in the form of a judgment now authorized by law to be entered by justices of the peace. At the hearing before the commissioners each party must appear in person, except in the case of non-resident parties or for cause, when a party may appear by an agent, duly authorized in writing. No attorney, except as such agent, nor the justice of the peace before whom the action is pending shall be allowed to appear or in any way act in the hearing before the commissioners. If at such hearing the parties fail to agree, it shall be so certified to the justice before the return hour of the summons, who may then proceed to trial and judgment as though no such hearing had been had therein, and the parties may be allowed to file amended pleadings.

§ 3. COMPENSATION OF COMMISSIONERS.] The commissioners shall receive the same mileage and per diem as jurors in justice courts. All fees and costs shall be included in the settlement and paid by the party designated therein, but in cases where the parties thereto fail to agree the costs shall be paid jointly by both parties unless otherwise agreed to. If a commissioner disobeys the subpoena of the justice he shall be proceeded against in the same manner as a juror who fails to appear when summoned by him.

§ 4. PROCEEDINGS NOT EVIDENCE AT SUBSEQUENT TRIAL.] No part of the proceedings had before the commissioners shall be admitted as evidence or considered at the trial of the case before the justice, nor shall any of the commissioners who took part in such hearing before them be allowed to testify therein.

§ 5. REPEAL.] That an act entitled, "An Act Providing for the Establishment of Courts of Conciliation, and Prescribing the Mode of Procedure in Same," being Chapter 45, Session Laws of 1893, relating to Courts of Conciliation, be and the same is hereby repealed.

§ 6. EMERGENCY.] *Whereas*, An emergency exists in this, that the justices and commissioners herein mentioned will be effected and have to act before July 1st, therefore this act shall take effect and be in force from and after its passage and approval.

Approved, March 14, 1895.

BOARDS OF TRUSTEES.

CHAPTER 23.

[S. B. No. 69.]

LIABILITY OF BOARDS OF TRUSTEES.

AN ACT Making Boards of Trustees, Commissioners, Directors, Person or Persons Liable For Amounts Expended in Excess of Appropriation and Providing For Emergency Expenditures.

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

§ 1. PROHIBITING EXCESSIVE EXPENDITURES AND PROVIDING FOR EMERGENCY.] It shall be unlawful for any board of trustees, commissioners, directors, person or persons having the control or management of public institutions of the State, or having in any manner whatsoever the responsibility of disbursing or expending any money appropriated by the State, to either directly or indirectly, or in any manner whatsoever, expend or to agree or contract, to expend for the use or benefit of any institution or purpose any amount in excess of the sum appropriated for such institution or purpose, nor shall any amount appropriated for any specific purpose or fund be used for or transferred to any other purpose or fund. *Provided*, That when in the belief of any such board, person or persons, an emergency exists, and the interests of the State are jeopardized by reason of the exhaustion of the amount appropriated, or by cause for which there is no provision of law, the matter with all relative facts, shall be referred to a commission consisting of the Governor, Secretary of State and State Auditor, who may authorize the transfer of money from one fund to another fund, of the same institution or purpose, or who may in extreme cases authorize money to be drawn from the State treasury to meet the emergency.

§ 2. PENALTY FOR VIOLATION.] Any board of trustees, commissioners, directors, person or persons violating the provisions of this act shall be conjointly and individually liable for all amounts so used or transferred and shall forfeit his or their offices.

Approved, February 18, 1895.

BLIND ASYLUM.

CHAPTER 24.

[H. B. No. 155.]

LOCATION AND GOVERNMENT OF BLIND ASYLUM.

AN ACT Entitled an Act to Locate and Provide For the Government of a State Blind Asylum at Bathgate, Pembina County, North Dakota.

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

§ 1. LOCATION AND GOVERNMENT.] There is hereby established and located at the corporation of Bathgate, Pembina County, North Dakota, a blind asylum, which shall be known by the name of the North Dakota Blind Asylum. The government and management of said blind asylum is hereby vested in a board of trustees consisting of five members, who shall be styled the Board of Trustees of the North Dakota Blind Asylum.

§ 2. TRUSTEES—HOW APPOINTED—LENGTH OF TERM.] The members of said board shall be nominated by the Governor, and by and with the consent and advise of the Senate shall be appointed on or before the third Monday of February of each biennial session of the Legislative Assembly, for a period of four years from said date; *Provided, however,* That the first board of trustees shall be appointed by the Governor at once upon the taking effect of this act; and *Provided further,* That the terms of the first board shall be three members for the period of four years and two of the members for a period of two years, the length of the term of the respective trustees to be designated by the Governor in making the appointments. Such appointments to be by and with the consent and advise of the Senate, should the Legislative Assembly be then in session; otherwise the trustees appointed shall qualify and hold office until their successors are appointed and qualified. The Governor shall have power to fill all vacancies in said board which may occur, when the Legislative Assembly is not in session, and the members of said board shall hold their office until their successors are appointed and qualified as provided in this act.

§ 3. ORGANIZATION OF BOARD—QUORUM.] The Governor shall cause to be issued to each of said trustees a commission, which shall be under the seal of the State. At the first meeting of said board the members thereof shall take and subscribe the oath of office required of all civil officers of the State, and shall then proceed to elect a president, secretary and treasurer, but the treasurer need

not be a member of the board of trustees. A majority of said board shall be a quorum for the transaction of business. The board shall require a bond of its treasurer and fix the amount thereof.

§ 4. MEETINGS OF BOARD—COMPENSATION.] The board of trustees shall hold its meetings at the corporation of Bathgate and fix the time of holding the same; *Provided*, There shall not be to exceed twelve regular meetings in each year. The members of the board shall receive as compensation for their services three dollars per day for each day employed, not to exceed twenty-four days in any one year, and five cents per mile for each mile actually and necessarily traveled in attending the meetings of said board, which sum shall be paid out of the State treasury on the vouchers of said board.

§ 5. POWER OF TRUSTEES DEFINED.] Until such time as the Legislative Assembly of the State of North Dakota shall make an appropriation for the construction and maintenance of such asylum, or until there shall be derived from the interest of the proceeds of the sale or rent for the leasing of the 30,000 acres appropriated for this asylum, sufficient funds to construct and maintain such asylum, the sum of \$5,000, the trustees appointed under this act shall receive no compensation whatever, nor shall they issue their warrant upon the State treasury for any purpose whatever.

§ 6. PROCEEDS FROM LAND GRANT.] The thirty thousand acres of land donated by Congress for the purpose of such blind asylum and appropriated by the Constitution of this State therefor, and all moneys received from the interest and income derived from the sales of such lands or rents derived from the leasing of such lands, are hereby appropriated for the construction and maintenance of said asylum.

§ 7. BY-LAWS AND RULES OF REGULATION.] The said board of trustees shall direct the disposition of all moneys appropriated by the Legislative Assembly of the State of North Dakota or the interest of all moneys that may be derived from the sale, or the rent derived from the leasing of land donated by Congress to said State and by the constitution of said State appropriated for said asylum, and shall have supervision and charge of the construction of all buildings provided for or authorized by law for said asylum. Said board of trustees of said asylum shall have power to enact by-laws and rules for the regulation of all its concerns not inconsistent with the laws of this State, to see that its affairs are conducted in accordance with the requirements of law; to provide employment and instruction for the inmates, to appoint a superintendent, a steward, a matron, a teacher or teachers, and such other officers as in their judgment the wants of the institution may require, and prescribe their duties; to exercise a general supervision over the institution, its officers and inmates, and

determine the salaries to be paid to the officers and order their removal upon good cause.

§ 8. REPORTS—WHEN MADE.] The board of directors shall make a report to the Governor on or before the last Monday in December next preceding each biennial session of the Legislative Assembly, containing a financial statement, showing the condition of all funds appropriated for the asylum; also the money expended and the purpose for which the same was expended in detail; also showing the condition of the institution generally.

§ 9. EMERGENCY.] *Whereas* an emergency exists that there is no provision of law providing for the appointment of trustees of the North Dakota Blind Asylum or prescribing their duties and power, *Therefore* this act shall take effect and be in full force and effect after its passage and approval.

Approved, March 21, 1895.

BOUNDARIES OF COUNTIES.

CHAPTER 25.

[S. B. No. 24.]

CHANGING COUNTY BOUNDARIES.

AN ACT to Increase the Revenues of the State by Changing and Increasing the Boundaries of the Counties of Billings, Stark and Mercer.

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

§ 1. BILLINGS COUNTY.] Billings county shall be bounded as follows, viz.: Beginning at the southwest corner of the State, thence north and along the west boundary of the State to the center of the main channel of the Missouri river, thence easterly and along the center of the main channel of the Missouri river to the line between ranges 100 and 101 west, thence south and along the line between ranges 100 and 101 west, to the 12th standard parallel, thence east and along the 12th standard parallel to the northeast corner of township 148 north, of range 98 west, thence south and along the line between ranges 97 and 98 west, to the 10th standard parallel, thence west along the 10th standard parallel to the 15th guide meridian, thence south along the 15th guide meridian to the 9th standard parallel, thence east along the 9th standard parallel to the northeast corner of township 136 north, of range 98 west, thence south along the line between ranges 97 and 98 west, to the 8th standard parallel, thence west

along the 8th standard parallel to the northwest corner of township 132 north, of range 98 west, thence south along the line between ranges 98 and 99 west, to the south boundary line of the State, thence west along the south boundary line of the State to the southwest corner of the State, and the place of beginning.

§ 2. STARK COUNTY.] Stark county shall be bounded as follows, viz.: Beginning on the south boundary line of the State at the corner to ranges 98 and 99 west, thence north along the line between ranges 98 and 99 west, to the 8th standard parallel, thence east along the 8th standard parallel to the line between ranges 97 and 98 west, thence north along the line between ranges 97 and 98 west, to the 9th standard parallel, thence west along the 9th standard parallel to the 15th guide meridian, being the line between ranges 99 and 100 west, thence north along the 15th guide meridian to the 10th standard parallel, thence east along the 10th standard parallel to the line between ranges 97 and 98 west, thence north along the line between ranges 97 and 98 west, to the 12th standard parallel, thence west along the 12th standard parallel to the southwest corner of township 149 north, of range 100 west, thence north and along the line between ranges 100 and 101 west, to the center of the main channel of the Missouri river, thence easterly and southeasterly along the center of the main channel of the Missouri river to the line between ranges 93 and 94 west, thence south and along the line between ranges 93 and 94 west, to the line between townships 141 and 142 north, thence east along the line between townships 141 and 142 north, to the line between ranges 90 and 91 west, thence south along the line between ranges 90 and 91 west to the south boundary line of the State, thence west along the south boundary line of the State to the line between ranges 98 and 99 west of the 5th principal meridian, and the place of beginning.

§ 3. MERCER COUNTY.] Mercer county shall be bounded as follows, viz.: Beginning on the 10th standard parallel at the southwest corner of township 141 north, range 90 west, thence north along the line between ranges 90 and 91 to the line between townships 141 and 142 north, thence west along the line between townships 141 and 142 north; to the line between ranges 93 and 94 west, thence north and along the line between ranges 93 and 94 west, to the center of the main channel of the Missouri river, thence easterly and southeasterly along the center of the main channel of the Missouri river to the line between ranges 83 and 84 west, thence south along the line between ranges 83 and 84 west, to the line between townships 143 and 144 north, thence west and along the line between townships 143 and 144 north, to the 12th guide meridian being the line between ranges 87 and 88 west, thence south and along the 12th guide meridian to the 10th standard parallel, thence west along the 10th standard parallel to the southwest corner of township 141 north, of range 90 west, of the 5th principal meridian and to the place of beginning.

§ 4. WHEN TO TAKE EFFECT—ELECTION—DUTIES OF CANVASSING BOARD.] Before Sections 1, 2 and 3 of this act shall take effect, it shall be the duty of the boards of county commissioners of the counties of Billings, Stark and Mercer to submit to the qualified electors of their respective counties the question of change and increase of their respective county boundaries. Such question shall be submitted by them at the first general election after the taking effect of this act. Each elector, shall have written or printed on his ballot the words, "For Change and Increase of County Boundaries," or the words, "Against Change and Increase of County Boundaries," and the votes on this question shall be returned and canvassed in the same manner as votes for county officers are returned and canvassed. It shall be the duty of the canvassing board immediately on the completion of the canvass, to file with the register of deeds of their respective county, also with the Secretary of State, a certificate showing the result of said election, and if at said election a majority of the legal voters of any of the counties named in this section voting at said election, shall have voted for a change and increase of the boundaries of their county, then the boundaries of said county shall be from and after the filing of the certificate aforesaid, as in this act described. But if a majority of the legal voters of any of the counties named in this section, voting at said election, shall vote against the change and increase of the boundaries of their county then the boundaries of said county shall remain as now defined by law, the same as if this act had not been passed.

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

Approved, February 2, 1895.

CODES.

CHAPTER 26.

[S. B. No. 171.]

RELATING TO PRINTING OF CODES.

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 of the State of North Dakota Shall not be Printed as Session Laws of the Fourth Legislative Assembly.

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

§ 1. CODES SHALL NOT BE PRINTED AS SESSION LAWS.] The acts passed at the present session of the Legislative Assembly

and entitled respectively "An act to establish a Political Code for the State of North Dakota," "An act to establish a Civil Code for the State of North Dakota," "An act to establish a Code of Civil Procedure for the State of North Dakota," "An act to establish a Probate Code for the State of North Dakota," "An act to establish a Justices' Code for the State of North Dakota," "An act to establish a Penal Code for the State of North Dakota" and "An act to establish a Code of Criminal Procedure for the State of North Dakota" shall not be printed as Session Laws of the State of North Dakota.

§ 2. REPEAL.] All acts and parts of acts, so far as the same relate to the Codes mentioned in Section 1, of this act, in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] *Whereas* it will be necessary to prepare the laws passed at the Fourth Session of the Legislative Assembly of the State for publication before July 1st, 1895, and the Codes mentioned in Section 1, of this act, not being designed for publication as Session Laws, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved, March 19, 1895.

CITIES.

CHAPTER 27.

[S. B. No. 134.]

CITY IMPROVEMENTS.

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.

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

§ 1. AMENDMENT.] That Section 2, of Article 15, of Chapter 73, of the Laws of 1887, be and the same is hereby amended and re-enacted so as to read as follows:

§ 2. COMMISSIONERS OF LOCAL IMPROVEMENTS—HOW APPOINTED.] The council upon ordering any improvements, to be paid for by special assessments, other than sewers, shall appoint three commissioners, who shall be disinterested freeholders and qualified voters of the city to view the premises and assess the damages which may occur by the taking of private property, or any other damage arising from the making of such improvement. Such commissioners shall be notified as soon as practicable; by

the city auditor to attend at his office at a time to be fixed by him, for the purpose of qualifying and entering upon their duties, and in case any such commissioner, upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to the city, not exceeding \$50.00, and shall be liable to be prosecuted therefor before the police justice as in the case of fines imposed for the violation of any ordinance of said city, and in case one only of said commissioners shall so neglect or refuse to attend, the two remaining commissioners shall fill the vacancy, and in all other cases the vacancy shall be filled by the council.

§ 2. AMENDMENT.] Section 17, of Article 15, of Chapter 73, of the Laws of 1887, is hereby amended and re-enacted so as to read as follows:

§ 17. ASSESSMENTS—HOW PAID—PENALTY FOR NON-PAYMENT FOR LOCAL IMPROVEMENTS.] After said estimate provided in Section 16 shall have been so approved, the city auditor shall forthwith make or cause to be made an assessment roll describing the property so assessed with the name of the owner, if known, and the amount assessed to each lot, piece or parcel of ground as approved by the city council, and attach thereto a copy of the resolution of the city council approving of the same and certify that the same is correct, and forthwith publish said list three successive weeks, at least once in each week, in the official newspaper of the city, together with the notice that a penalty of ten per cent. will be added thereto if the same is not paid within thirty days after the date of the first publication, stating the time when such penalty will accrue, and all such taxes remaining unpaid together with accrued penalty shall by the city auditor be certified to the county auditor of the county in the same manner as other city taxes and shall be collected, enforced and paid over in the same manner as other city taxes.

§ 3. AMENDMENT.] Section 21, of Article 15 of Chapter 73 of the Laws of 1887 is hereby amended and re-enacted so as to read as follows:

§ 21. THE CITY COUNCIL TO CONTRACT FOR SIDEWALKS—WHEN.] If such work is not done and the sidewalk not built, repaired or rebuilt in the manner and within the time prescribed in said notice, the city council may order the same to be done by such person as they may contract with under the direction of the city engineer at the expense of the lot or lots or parcels of lands adjoining said sidewalk, and said expenses shall be assessed upon said lot or lots or parcels of land so chargeable by the city engineer and returned by him to the city council, and the city auditor shall cause to be published said estimate of the city engineer together with a notice of the time and place, when the city council will meet to approve of the same, by one publication in the official newspaper of the city, for at least ten days prior to the meeting of the city council to approve the same.

§ 4. AMENDMENT.] Section 22 of Article 15 of Chapter 73 of

the Laws of 1887, be and the same is hereby amended and re-enacted so as to read as follows:

§ 22. ASSESSMENT FOR SIDEWALK—HOW MADE—PENALTY FOR NON-PAYMENT.] Within ten days after said assessment shall have been so approved, the city auditor shall forthwith make, or cause to be made, an assessment roll describing the property so assessed, with the name of the owner, if known, and the amount assessed to each lot, piece or parcel of ground as approved by the city council, and attach thereto a copy of the resolution of the city council approving the same, and certify that the same is correct, and shall publish said list three successive weeks, at least once in each week, in the official newspaper in the city together with a notice that a penalty of ten per cent. will be added thereto if the same is not paid within thirty days after date of the first publication, stating the time when such penalty shall accrue, and shall thereafter certify all such taxes remaining unpaid together with accrued penalty, to the county auditor of the county, in the same manner as other city taxes, and same shall be collected, enforced and paid over in the same manner as other city taxes.

§ 5. AMENDMENT.] Section 23 of Article 15 of Chapter 73 of the Laws of 1887 is hereby amended and re-enacted so as to read as follows:

§ 23. SIDEWALK REPAIRS NOT EXCEEDING \$10.00—ASSESSMENTS FOR—HOW MADE—PENALTY.] Whenever it is necessary to repair sidewalks, when the amount of such repair does not exceed the amount of \$10.00 for fifty feet of such walk, such repairs may be made by the city under the direction and supervision of the street commissioner, who will first give notice in writing to the owner or occupant of any lot or lots or parcel of land adjoining such sidewalk to repair same at his or their own cost or expense within a time not less than twenty-four hours from the service of such notice, which notice shall declare what repairs are necessary, and contain a description of the lot or lots or parcel of land adjoining the sidewalk on which such repairs are necessary, and in the event of such owner or occupant failing to make such repairs within the time specified in such notice the street commissioner shall at once make all necessary repairs, keeping an accurate account of such repairs and certify the same to the city auditor, which certificate shall contain a description of the lot or lots or parcels of land adjoining such sidewalk and the amount of such repairs, and same shall by the city auditor be reported to the city council for its approval, and the city auditor shall cause to be published such assessment together with a notice of the time and place where the city council will approve of the same, by one publication in the official newspaper of the city for at least ten days prior to the meeting of the city council, to approve the same, and after same shall have been so approved the city auditor shall forthwith make or cause to be made an assessment roll describing the property so assessed with the name of the owner,

if known, and the amount assessed on each lot, piece or parcel of ground as approved by the city council, and attach thereto a copy of the resolution of the city council approving of the same, and certify that the same is correct, and forthwith publish said list three successive weeks, at least once in each [week,] in the official newspaper of the city, together with a notice that a penalty of ten per cent. will be added thereto if the same is not paid within thirty days after the date of the first publication, stating the time when such penalty shall accrue, and all such taxes remaining unpaid together with accrued penalty shall, by the city auditor, be certified to the county auditor of the county in the same manner as other city taxes, and shall be collected and enforced and paid over in the same manner as other city taxes.

§ 6. REPEAL.] All acts or parts of acts in conflict with this act, and especially that part of Article 15 of Chapter 73 of the Laws of 1887, requiring the city treasurers to collect taxes on special assessments are hereby repealed.

§ 7. EMERGENCY.] *Whereas*, an emergency exists in this that there is no means provided by law for a special assessment for repairs of sidewalks under the sum of \$10.00, *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 14, 1895.

CHAPTER 28.

[S. B. No. 131.]

LIMITING CITY INDEBTEDNESS.

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.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 100 of the Session Laws of 1890 amending subdivision 5 of Section 1 Article 4, of the General Laws of 1887 be amended so as to read as follows:

§ 5. LIMITING CITY INDEBTEDNESS.] "To borrow money on the credit of the corporation for corporate purposes and to issue bonds therefor, in such amounts and form, and on such conditions as it shall prescribe, but shall not become indebted in any manner, or for any purpose to an amount, including existing indebtedness, to exceed 5 per centum of the taxable property therein as determined by the last preceding city assessment; *Provided*, That

an incorporated city may, by a two-thirds vote, increase such indebtedness 3 per centum on such assessed value beyond said 5 per cent. limit; and such city shall provide for the collection of a direct annual tax sufficient to pay the interest on such debt when it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same; *Provided*, No bonds shall be issued under the provisions of this act, either for special or general purposes, except as hereinafter otherwise provided, unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of said city, by a majority vote shall determine in favor of issuing said bonds." *Provided*, That the foregoing shall not prevent the raising of funds to pay for the establishment, construction and maintenance of a system of sewerage and the constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city or municipal corporation, and the issuing of bonds therefor as provided by Section 6 of Article 16 as re-enacted and amended by this act.

§ 2. AMENDMENT.] That Section 6 of Article 16, as amended by Section 4 of Chapter 100, of the Session Laws of 1890, be amended and re-enacted so as to read as follows:

§ 6. BONDS FOR SEWERAGE OR WATER WORKS—HOW ISSUED.] The city council for the purpose of raising funds to pay for the establishment, construction and maintenance of such system of sewerage and for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, shall have power to issue the bonds of the city to an amount not exceeding four per centum upon the assessed valuation of the taxable property of such city as determined by the last preceding assessment without regard to the existing indebtedness of such city, such bonds to be payable in not to exceed twenty years from the date thereof, drawing interest semi-annually, at the rate of not to exceed seven per cent. per annum, payable either in New York city or in the city issuing the same and which shall be signed and executed as provided in the article on special assessments of the said act; *Provided*, That at no time shall there be such bonds outstanding or unpaid more than an amount equal to four per cent. of the assessed valuation of the taxable property of such city as determined by the last preceding assessment, and such bonds shall not be negotiated for less than one hundred cents on the dollar.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act, especially Section 1 of Chapter 97, of the Laws of 1890, in so far as the same relates to cities, are hereby repealed.

§ 4. EMERGENCY.] An emergency existing, in that cities within this State desire to proceed at once to adopt a system of

sewerage, this bill shall take effect immediately from and after its passage and approval.

Approved, March 14, 1895.

CHAPTER 29.

[H. B. No. 30.]

RELATING TO MEETINGS OF CITY COUNCIL.

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.

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

§ 1. AMENDMENT.] That Section 9, of Article 3, of Chapter 73, of the Laws of 1887, being Section 877, of the Compiled Laws of 1887, be amended to read as follows:

§ 877. MEETINGS OF CITY COUNCIL—WHEN HELD.] The city council shall hold its regular meeting on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meeting thereof may be called. The first meeting for organization shall be held on the third Tuesday in April of each and every year.

§ 2. EMERGENCY.] An emergency existing in that there is no law prescribing the time of the first meeting for organization, and it is necessary that this act take effect prior to July first next, *Therefore* this act shall take effect and be in force from and after its passage and approval.

Approved, March 4, 1895.

CIVIL TOWNSHIPS.

CHAPTER 30.

[H. B. No. 169.]

ORGANIZATION OF CIVIL TOWNSHIPS.

AN ACT to Provide for the Division of Civil Townships Containing Two or More Congressional Townships by the Creation of New Townships Therein.

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

§ 1. CIVIL TOWNSHIPS—HOW FORMED.] Any congressional township which has residing therein one hundred or more people and forms part of an organized civil township comprising two or more congressional townships, not a fractional, may be set apart

and organized as a separate civil township in the manner herein provided and when duly organized shall have the same powers and privileges and be subject to the same liabilities and restrictions as other civil townships except as herein otherwise provided; but no civil township shall be so formed, under the provisions of this act, as to leave residing in the former township less than one hundred inhabitants.

§ 2. PETITION COUNTY COMMISSIONERS—NOTICE PUBLISHED.] The legal voters residing in such congressional township may petition the board of county commissioners of the county in which it is situated, at any regular meeting of said board, to be set off as a separate civil township, upon at least thirty days previous notice thereof, and of the time and place of application, which notice shall be published at least three times in the newspaper in which the proceedings of said board are published or if there be none such notice shall be posted in at least three public places in the proposed new township, and as many more elsewhere in the township affected thereby, one of which shall be at the place where the last election was held.

§ 3. WHEN BOARD SHALL SET OFF TOWNSHIP—ELECTION.] Upon presentation of such petition signed by a majority of the legal voters residing within such proposed township not a fractional and due proof of notice as herein provided and of the further facts that the territory has the requisite number of inhabitants and the petition the requisite number of competent signers as aforesaid, the board shall proceed to set off said congressional township as a separate civil township, and constitute the same an election precinct, and designate the place of holding elections and the time and place of holding the first town meeting therein and notice thereof shall be given as in other cases.

§ 4. PROPORTIONAL SHARE OF MONEYS—LIABILITIES.] The new township shall succeed to a proportional share of the moneys and other property of the former township and to a like share of its debts and liabilities existing at the time of the division, such proportion to be determined by the relative value of the property of the respective parts as shown by the last preceding assessment and the account shall be settled between them by the board of county commissioners at their next regular meeting after the organization of the new township from the best evidence obtainable and for that purpose said board shall have the power to bring before it the necessary witnesses, books and papers upon subpoenas to be issued by the clerk of the district court upon request of the chairman and the statement of such account shall be conclusive as between the respective townships unless appealed from as provided by law, but the enforcement of their respective obligations thereon must be left to the courts; *Provided, however,* That no division of a civil township as herein provided shall operate to prevent the enforcement of obligations existing prior thereto to the same extent as if no division were made.

Approved, March 12, 1895.

CIGARETTES.

CHAPTER 31.

[S. B. No. 141.]

RELATING TO MANUFACTURE, SALE AND USE OF CIGARETTES.

AN ACT to Prohibit the Manufacture, Sale or Use of Adulterated Cigarettes, and the Sale of Cigarettes, Cigars and Tobacco to Minors:

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

§ 1. FINE AND IMPRISONMENT.] Any person within this state who manufactures, sells, gives to any one or uses any cigarette containing any substance foreign to tobacco and deleterious to health, shall be punished by a fine of not more than fifty dollars, or imprisonment in a county jail for not more than thirty days.

§ 2. PENALTY.] Any person within this state who sells or gives to, or in any way furnishes to any person under the age of seventeen years, any cigarettes, cigars or tobacco of any kind, shall be punished by a fine of not more than fifty dollars or imprisonment in a county jail for not more than thirty days.

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

Approved, March 21, 1895.

CHAPTER 32.

[H. B. No. 39.]

PENALTY FOR SELLING CIGARETTES.

AN ACT Entitled "An Act Prohibiting the Selling of Cigarettes."

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

§ 1. UNLAWFUL TO SELL.] That it shall be unlawful for any person or persons in this State to sell or expose for sale any cigarettes of any kind or form.

§ 2. FINE AND IMPRISONMENT.] The violations of any provision under this act shall constitute a misdemeanor, and any person found guilty thereof shall be fined in any sum not less than ten dollars, nor exceeding fifty dollars for each and every such offense, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 3. REPEAL.] All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, Feb. 9, 1895.

CONTRACTS.

CHAPTER 33.

[S. B. No. 23.]

TRUSTEES AND CONTRACTS.

AN ACT to Prohibit Managers, Officers and Employes of State Institutions From Being Interested in Contracts, Purchases or Sales For or an Account of Said Institutions.

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

§ 1. TRUSTEES OR MANAGERS SHALL NOT BE INTERESTED IN CONTRACTS.] No member of any board of trustees or managers, or any officer or employe of any State, educational, charitable or correctional institution now existing in this State, or which may hereafter be established by law; shall be interested, directly or indirectly, in any contract, purchase or sale for, or an account of, the institution with which he may be connected.

§ 2. PENALTY.] Any violation of the preceding section shall be sufficient cause for removal from office.

§ 3. EMERGENCY.] *Whereas*, There is no sufficient law covering this subject, *Therefore*, an emergency exists, and this act shall be in force from and after its passage and approval.

Approved, February 5, 1895.

COMMISSIONER DISTRICTS.

CHAPTER 34.

[S. B. No. 13.]

REGULATING REDISTRICTING.

AN ACT Providing for and Regulating the Redistricting of Counties into Commissioner Districts.

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

§ 1. COMMISSIONER DISTRICTS REDISTRICTED—WHEN.] Whenever a majority of the legal voters of any county commissioner district shall petition the board of county commissioners, to change

the boundaries of the commissioner districts it shall be the duty of the county commissioners, at their next regular meeting to consider such petition, and if it shall appear that the commissioner districts of such county are not reasonably equal in population, they shall proceed at once to redistrict such county into commissioner districts.

§ 2. DUTY OF COMMISSIONERS.] In redistricting any county it shall be the duty of the county commissioners to make the districts as regular and as compact in form as practicable, and as equal in population as possible, as shall be determined by the votes cast at the next preceding general election; *Provided*, that no new district shall be so formed that any two of the then acting commissioners shall reside in the same district; and, *Provided, further*, that no county shall be redistricted oftener than once in three (3) years.

§ 3. REPEAL.] That all acts and parts of acts inconsistent or in conflict herewith be and the same are hereby repealed.

Approved, February 8, 1895.

CONTAGIOUS DISEASES.

CHAPTER 35.

[S. B. No. 87.]

DUTIES OF VETERINARIANS.

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 Expense Thereof.

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

§ 1. STATE VETERINARIAN TO TAKE OATH.] The professor of veterinary science of the State Agricultural college is hereby made Chief State Veterinarian, who shall serve as such without salary, and who shall upon entering upon his duties take an oath to well and truly perform all the duties required of him by law, which said oath shall be taken before any judge of a district court or notary public within the State, and shall be filed with the Secretary of State.

§ 2. DIVISION OF STATE INTO DISTRICTS.] The State shall be divided into seven "veterinarian districts," in each of which there shall be appointed by the governor, by and with the consent of the Senate, one competent veterinarian, who shall be known as

the "district veterinarian," who shall hold their office for a term of two years from the date of their appointments respectively, unless sooner removed for cause, and who upon entering their duties shall each take an oath to well and truly perform their duties as provided by law, which said oath shall be taken before any judge of the district court or notary public within the district of the State, for which they may be appointed, and shall be filed with the Secretary of State.

§ 3. DISTRICTS DEFINED.] District No. 1 shall consist of the first judicial district.

District No. 2 shall consist of the second judicial district.

District No. 3 shall consist of the third judicial district.

District No. 4 shall consist of the fourth judicial district.

District No. 5 shall consist of the fifth judicial district.

District No. 6 shall consist of the sixth judicial district.

District No. 7 shall consist of the seventh judicial district.

§ 4. DUTIES OF CHIEF VETERINARIAN.] The duties of said Chief State Veterinarian shall be to ascertain by personal examination, or through report from the district veterinarian, in such manner as he shall prescribe, all information that he can obtain regarding the existence of any or all contagious, infectious and epidemic diseases in the State. He shall also make a complete and permanent record of all reports of the district veterinarian; shall make an examination of all diseased animals or portions of any such that may be forwarded to him by the district veterinarians, and upon completion of such examination shall instruct the district veterinarians in such way as he may deem proper in regard to the treatment of similar cases. It shall also be his duty to furnish material as far as lies in his power for the diagnosis of contagious diseases, and instruction as to its uses. In case that remedies are discovered for the prevention or cure of contagious diseases such as glanders, tuberculosis, anthrax, hog cholera, foot and mouth disease, and foot rot, it shall be his duty to furnish the district veterinarian, or any person or persons he may see fit to appoint, the remedies so discovered with full directions for application. He shall also be empowered to make quarantine regulations and enforce the same after the approval and authority by the Governor. He shall further prescribe, with the consent of the Governor, the rules and regulations necessary to carry out the purposes of this act.

§ 5. DUTIES OF DISTRICT VETERINARIANS.] The duties of said "district veterinarians" shall be as follows:

First. To investigate in person any and all cases of contagious, infectious and epidemic diseases among cattle, horses, mules, sheep, asses and other domestic animals within his district of which he may have knowledge, and which may be brought to his notice by any resident, or any other person, in any locality within his said district where such disease may exist, and it shall also be his duty in the absence of specific information to make visits of

inspection to any locality within his district where he may have reason to believe that there are contagious or infectious diseases existing among such domestic animals.

Second. To seize and inspect in person at the state line bordering on his district, any horses, mules, cattle, asses, sheep or other domestic animals, which may be unloaded temporarily or consigned to any point within his district of the state when the owner, agent or person in charge thereof shall not upon demand produce certificates of health of such animals satisfactory to him, from a duly authorized state or district veterinarian or examiner of the state from which said animals have been shipped.

Third. To examine in person, so often as he may deem reasonable, all pens, enclosures and cars within the district within which domestic animals may be confined or transported, and to require the owner, agent or person in charge of all such pens, enclosures and cars to keep the same in proper sanitary condition.

Fourth. To require in person the owner, agent or person in charge of all pens, enclosures or cars, within which domestic animals may be confined or transported, to cleanse, fumigate and disinfect all pens, enclosures or cars within which such domestic animals may be confined or transported, within two days after written notice, when, in his opinion, such cleansing, fumigating and disinfection shall be necessary for the prevention of the spread or outbreak of any contagious or infectious disease among such animals.

Fifth. It shall also be the duty of the district veterinarian in person to seize and inspect all domestic animals coming into and to remain within his district of the state without a certificate of the health of such animals, from a duly authorized State or district veterinarian or examiner from the state from which said animals have been shipped, and before such animals shall be allowed by the district veterinarian to be transported into and to remain within the State. In addition to such inspection, he shall, in person, require from the owner, agent or person in charge of such animals an affidavit to the effect that such animals have not been exposed to any infectious or contagious disease for a period of at least ninety days prior to the making of such affidavit, and, in case that the district veterinarian shall have reason to believe that any domestic animals have been exposed to, or have contracted any contagious or infectious disease, it shall be his duty to seize and inspect such animals, notwithstanding any certificate of their health by any veterinarian or examiner of any other state, and report the same to the Chief State Veterinarian.

§ 6. SEIZURE OF ANIMALS—FEES.] Whenever any domestic animals are seized and inspected under the provisions of this act by the district veterinarian while such animals are being transported in cars, on shipboard or brought into the state in any other manner, the district veterinarian making such seizure and inspection shall require the owner, agent or person in charge of such

animals to pay one-half cent each for the inspection of sheep and twenty-five cents each for all other animals named therein. All money so collected shall be immediately transmitted to the Chief State Veterinarian, together with a detailed report of the seizure and inspection, and it shall be the duty of the Chief State Veterinarian to transmit monthly all money collected as inspection fees under the provisions of this act to the State Treasurer, who shall receipt to the Chief State Veterinarian. All such fees shall be paid by the State Treasurer into the State treasury general fund; *Provided*, that no inspection shall be made by any district veterinarian of any domestic animals in transit through the state without special instructions from the Chief State Veterinarian, where the owner, agent or person in charge thereof shall produce certificates of the health of such animals from a duly authorized veterinarian or examiner from the state from which said animals have been shipped.

§ 7. QUARANTINE.] In all cases of contagious or infectious diseases among domestic animals in this State the district veterinarian shall have authority to order the quarantine of the infected premises and animals within his district, and upon such order to immediately report the same to the Chief State Veterinarian, and in case such disease shall become epidemic in any locality within the State it shall be the duty of the district veterinarian of the district where such epidemic may exist or become known, to immediately notify the Chief State Veterinarian, who shall thereupon have authority to enforce a permanent quarantine, and prevent the removal therefrom of any animals of the kind among which said epidemic exists, until the district veterinarian of such district locality shall report such animals to be in healthy condition, and upon such a report a certificate shall be issued by the Chief State Veterinarian permitting the removal of the animals that are reported to be healthy. The expense of holding and taking care of all animals quarantined under the provisions of this act shall be paid by the owner, agent or person in charge of the same.

§ 8. EPIDEMIC DISEASES—NOTICE OF.] In case of any epidemic diseases where premises and animals have been previously quarantined by order of the Chief State Veterinarian or by the district veterinarian as hereinbefore provided, the district veterinarian is further authorized and empowered, when in his judgment it is necessary, to order that any and all diseased animals shall be quarantined at such places and in such manner as he may direct and shall be held in such quarantine until released by certificate of the Chief State Veterinarian as provided in Section 7 of this act, and in case the district veterinarian shall find that any one or more of the animals so quarantined, and so diseased that it becomes necessary to destroy the same to prevent the spread of such disease to other animals, he shall at once serve, in person, a written notice of his intention to destroy upon the owner, agent

or person in charge of the animals so quarantined and condemned, and if such owner, agent or person in charge of such animals feels aggrieved by the decision of the district veterinarian, and shall desire a consultation of veterinarians, notice in writing to that effect must within 24 hours thereafter be served upon the district veterinarian issuing the notice, and it is hereby made the duty of the resident district veterinarian to summon two district veterinarians from adjoining districts to appear and assist in diagnosing and pronouncing upon the character of the disease with which said animal or animals are supposed to be infected, and in case all three district veterinarians, or any two of them, declare said disease to be contagious or epidemic in its character, and that such animal or animals should be destroyed to prevent the spread of such disease to other animals, the district veterinarian of the district wherein the animal or animals are located shall immediately slaughter such animal or animals and not otherwise, and shall then make in duplicate a written statement, setting forth distinctly the nature of the disease for which such animals were condemned and destroyed, to be served on each owner thereof, the original of each order to be filed by the district veterinarian with the Chief Veterinarian and the duplicate thereof given to the said owner, agent or person in charge of said condemned animals. It shall be the duty of the owner, agent or person in charge of any and all animals slaughtered under the provisions of this act to immediately bury the carcass of such slaughtered animals in a trench at least six feet in depth and at least four feet beneath the surface of the ground, or burn and consume such carcasses under the direction of the district veterinarian; and it is hereby made the duty of the district veterinarian, in person, to require the owner, agent or person in charge of such slaughtered animals within his district to immediately bury or burn under his personal supervision the carcasses of such slaughtered animals as herein provided, except in all cases where the cause of death is due to anthrax, when they shall immediately be burned.

§ 9. REPORT OF DISTRICT VETERINARIANS.] Each district veterinarian shall make a report at the end of every three months, and at such other times as may be required, to the Chief State Veterinarian of all matters connected with his work, the forms of such reports to be furnished by the Chief State Veterinarian and the Chief State Veterinarian shall transmit to the several boards of county commissioners, as often as he deems necessary, such parts of said reports as may be of general interest to the breeders of live stock, and he shall also give information in writing as soon as he obtains it to the various boards of county commissioners, of each case of suspicion or fresh outbreak of disease in any locality, its causes and the measures adopted to check it.

§ 10. CERTIFICATE OF HEALTH—FINE AND IMPRISONMENT.] It shall be the duty of any owner, agent or person in charge of any

cattle, horses, mules, asses, sheep or other domestic animals, where such owner, agent or person in charge thereof intends to bring any such animals into the State for distribution, sale, transportation, or permanent location therein, without the certificate of their health from a duly authorized veterinarian or examiner of the State from which such animals are shipped, to give notice in writing to the district veterinarian of the district of the State bordering on the State line from which said animals (are) brought at least three days before such animals are brought into this State beyond the quarantine station at the State line of such district, and it shall be the duty of any person or persons who shall have knowledge or suspect that there is upon his or their premises or upon the public domain, any case of contagious, infectious and epidemic disease among domestic animals, to immediately report the same to the district veterinarian of the district wherein such animals or cattle may be, and a failure so to do, or any attempt to conceal the existence of such diseases or a failure to give notice, before passing the quarantine station at the State line of said district, as in this section required, or to willfully or maliciously obstruct or resist or disobey any order issued by the Chief State Veterinarian or the district veterinarian, or in any way interfere in the discharge of their duties, as set forth in this act, shall be deemed a misdemeanor, and any person or persons who shall be convicted of any one of the above acts or omissions shall be fined not less than fifty dollars nor more than two thousand dollars for each and every such offense; and upon conviction of such offense a second time, shall, in addition to the above named fine, be imprisoned in the county jail of the county wherein convicted, or as otherwise provided by law, for a term of not less than ninety days nor more than one year.

§ II. DUTY OF OWNERS OF STOCK—ANIMALS IN TRANSIT.]
The following resolutions shall be observed in all cases of disease covered by this act:

First. It shall be unlawful to sell, give away or in any manner part with any animal affected with, or suspected of being effected with, any contagious or infectious disease, and in case of any animal that may be known to have been affected with or exposed to any such disease within one year prior to such disposal, due notice of the fact shall be given in writing to the party receiving the animal.

Second. It shall be unlawful to kill for butcher purposes any such animal; to sell, give or use as any part of it, or its milk, or to remove any part of the skin. A failure to observe these provisions shall be deemed a misdemeanor, and, on conviction, shall be punished by a fine not less than one hundred dollars, nor exceeding two thousand dollars; and, in addition to the above named fine, be imprisoned in the county jail for a term of not less than ninety days nor more than one year. It shall be the duty of the owner, agent or person having in charge any animal infected

with, or suspected with being infected with, any contagious or infectious disease, to immediately confine the same in a safe place, isolated from all other animals, and with all necessary restrictions to prevent the dissemination of the disease until the arrival of the district veterinarian within and for the district wherein the same may be at the time. The above regulations shall apply as well to animals in transit through the state as to those resident therein, and the district veterinarian shall have full authority, within his district, to examine whether in yard, pasture or stables, or upon the public domain, all animals passing through the State, within his district or any part of it, and on detection or suspicion of disease, take possession of and treat and dispose of such animals in the same manner as is prescribed for animals resident within this State.

§ 12. COMPENSATION—BONDS.] Each of said district veterinarians shall receive for their services the sum of six hundred dollars per annum. The payment of such salary shall be made from any funds in the state treasury not otherwise appropriated, monthly, upon itemized vouchers signed and sworn to by each for his separate district and submitted to the state auditor, who shall draw warrants upon the state treasurer for the amount thereof, if found correct, separately. No person shall be competent under this act, to receive the appointment of district veterinarian who is not, at the date of his appointment, a graduate in good standing of a recognized college of veterinary surgeons, or who has not practiced veterinary surgery within this state for at least five years. Before entering upon the discharge of his duties he shall give a bond to the State of North Dakota, with a good and sufficient surety, in the sum of two thousand dollars, conditioned on the proper discharge of the same. No constructive mileage shall be paid under this act, nor shall the district veterinarian receive any mileage, except when called in cases of consultation as hereinbefore provided, when he shall receive actual expenses paid by him.

§ 13. PLACES OF QUARANTINE.] The district veterinarians shall select the place or places within their respective districts at which all animals referred to herein shall be quarantined.

§ 14. FINES.] All fines collected under the provisions of this act shall be paid into the general funds of the state.

§ 15. DUTY OF ATTORNEY GENERAL.] It is hereby made the duty of the Attorney General or State's attorney of the respective counties of the veterinarian district to prosecute any case complained of by the district veterinarian of such district for prosecution in any justice or district court within the jurisdiction of which any violation of this act may have been had, and on conviction of violation of any of the provisions of this act, the court, in addition to the penalties prescribed by law, shall add thereto reasonable attorney's fee, as it may be determined just in the premises.

§ 16. DUTY OF SHEEP INSPECTORS.] It shall, in addition to their duties already defined by law, be the duty of all sheep inspectors, and the district veterinarian (who is hereby authorized to appoint such inspectors) shall require all sheep inspectors within their respective districts to report to them in writing, at the end of each calendar month, any knowledge or information such sheep inspectors may possess relative to any diseased sheep which may be within his own or adjacent counties within the veterinarian district wherein said county or adjacent counties may form a part, and the district veterinarian shall report to the Chief State Veterinarian all the information that he obtains from the reports received from the sheep inspectors; and whenever, in the opinion of the district veterinarian, any sheep inspector within his district is incompetent to, or neglects or refuses to attend in a proper manner to his duties, the district veterinarian of such district shall take charge of any diseased sheep in such county, and dip and treat them in the manner provided for in the law relating to sheep inspectors—Chapter 135, General Laws of 1885—and when such action shall become necessary, he shall report the same to the Chief State Veterinarian, who shall give such assistance as is in his power, and, in addition thereto, the district veterinarian shall, when by reason of incompetency or neglect to perform his duties as such sheep inspector, the district veterinarian is hereby required to remove said inspector and to appoint some competent person in his place. The owner, agent or person in charge of such sheep shall be required by the district veterinarian, upon his performance of duty as set forth in this section, to pay a fee of five dollars per day, together with the necessary expenses, and said fees shall be a lien upon the sheep inspected, subject to foreclosure the same as chattel mortgages. All fees or moneys collected by the district veterinarian under the provisions of this act shall be remitted, turned over and receipted for the same as other funds that may pass through their hands, as prescribed by Section 6 of this act.

§ 17. JURISDICTION OF INSPECTOR.] In all the counties of this State where a sheep inspector has been or may be appointed as provided for by law, the resident sheep therein shall be under the supervision and inspection of such sheep inspector; *Provided, however,* upon a written application signed by not less than three sheep owners, the district veterinarian shall visit such county and take such authority or give such directions as in his judgment is necessary.

§ 18. INSPECTOR'S COMPENSATION.] The inspector shall receive for his services five (5) dollars per day while necessarily employed in inspecting, which shall be paid out of the county general fund and in the same manner and form as claims against the county are paid; *Provided, however,* the board of county commissioners shall require such sheep inspector to present an itemized statement of the number of sheep inspected and the number

of days actually employed in the performance of his official duties, such statement to be approved by the district veterinarian of the district in which such inspector is engaged.

§ 19. STATE VETERINARIAN—ADDITIONAL DUTIES.] In addition to the duties of the Chief State Veterinarian hereinbefore described, he shall make an annual report to the Governor on or before the first day of December of all matters connected with his work, and in addition thereto may, from time to time, as in his judgment seems best, publish bulletins for general distribution, giving information as to the existence of animal diseases in the State, and such suggestions thereto as to care and treatment as he thinks proper.

§ 20. APPROPRIATION.] For the purpose of carrying out the provisions of this act as herein set forth, there shall be appropriated out of any money in the State treasury not otherwise appropriated, an annual sum of thirty-six hundred dollars with which to pay the salaries of the district veterinarians, and the further annual amount of five hundred dollars for stationary, clerk hire and all traveling and other necessary expenses of the Chief State Veterinarian.

§ 21. SERIOUS OUTBREAKS OF DISEASES.] In case of any serious outbreak of any contagious, infectious or epidemic diseases among domestic animals, which cannot be supervised by the district veterinarian, the Chief State Veterinarian shall at once notify the Governor, who shall thereupon appoint a sufficient number of deputies to perform the required duties at such compensation as he may deem proper, not to exceed five dollars per day for the actual time employed, the same to be paid out of the general fund of the State upon vouchers duly approved by the Governor and the Chief State Veterinarian.

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

§ 23. EMERGENCY.] An emergency exists in that the existing law is inadequate to prevent the spread of contagious and infectious diseases among domestic animals within the State, this act should take effect prior to July 1st 1895. *Therefore* this act shall take effect and be force from and after its passage and approval.

Approved, March 23, 1895.

CORPORATIONS.

CHAPTER 36.

[S. B. No. 152.]

DIRECTORS' MEETINGS.

AN ACT Authorizing the Boards of Directors of Corporations to Hold Their Meetings at Any Place Within or Without the State of North Dakota.

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

§ 1. DIRECTORS' MEETINGS.] The meetings of the boards of directors of any private corporation created and existing or which may hereafter be created under and by virtue of the laws of the Territory of Dakota, now State of North Dakota, having one or more directors, resident in this State, or having duly appointed an agent resident in this State upon whom service may be made, may be held at any place mentioned and provided in its by-laws either within or without the State.

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

Approved, March 23, 1895.

CORONERS' RECORDS.

CHAPTER 37.

[H. B. No. 125.]

PRESERVATION OF CORONERS' RECORDS.

AN ACT to Amend Section 675, of Article 13, of Chapter 9, of the Compiled Laws of Dakota, Relating to Counties and County Officers and Providing for the Preservation of Coroners' Records.

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

§ 1. AMENDMENT.] That Section 675, of Article 13, of Chapter 9, of the Compiled Laws of 1887 be, and the same is hereby amended so as to read as follows:

§ 675. The testimony of all witnesses examined before the coroner's jury must be reduced to writing by the coroner or under

his direction, and be subscribed by the witnesses respectively, and the coroner shall forthwith file such testimony together with a record of all proceedings had before him, in the office of the clerk of the district court of the county wherein such inquest is held. And in all cases brought to the attention of the coroner wherein he does not deem it necessary to hold an inquest he shall file with such clerk a certificate setting forth the facts in relation thereto. And the clerk of said court shall forthwith duly file, index and enter such case or proceeding in a book or books to be kept for that purpose, in the same manner as proceedings in civil actions are now entered, and shall receive from the treasury of said county the same fees, as are now allowed by law for like services, and for the purpose of more fully complying with the spirit and intent of this law, it is hereby made obligatory on the clerk of the district court to index and enter in the manner above described any and all above described proceedings of the coroner that have heretofore at any time been filed in the office of the clerk of the district court.

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

Approved, March 12, 1895.

COUNTIES.

CHAPTER 38.

[H. B. No. 147.]

NEW COUNTIES—HOW ORGANIZED.

AN ACT To Amend Section 10 of Chapter 38, Laws of 1887, Being Section 545 of the Compiled Laws.

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

§ 1. AMENDMENT.] Section 10 of Chapter 38, of the Laws of 1887, being Section 545 of the Compiled Laws, is hereby amended to read as follows:

“§ 10. DUTY OF COMMISSIONERS.] When a new county is organized in whole or in part, from an organized county or from territory attached to such organized county for judicial purposes, it shall be the duty of the commissioners of such new county to cause to be transcribed in the proper books all the records of deeds or other instruments relating to real estate in such new county, and all contracts heretofore made by any board of county commissioners for the transcribing of any such records are hereby made

valid and all records transcribed thereunder, or under the provisions of this act shall have the same effect in all respects as original records, and any person authorized by such boards of county commissioners to transcribe such records shall have free access at all reasonable times to such original records for the purpose of transcribing the same."

Approved, March 12, 1895.

COURT.

CHAPTER 39.

[S. B. No. 118.]

DEPOSITS OF MONEY IN COURT.

AN ACT Providing for the Deposit in Court, of Money, Property or Effects for Which there are Adverse Claimants.

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

§ 1. DEPOSITS OF MONEY IN COURT—DEPOSITORY NAMED.] Whenever two or more persons make claim for the whole or any part of the same money, personal property or effects in the possession or control of any other person, as bailee or otherwise, and the right of any such claimant is adverse to the right of any other claimant, or is disputed or doubtful, and the bailee, custodian or person in control of any part of such property, money or effects, is unable to determine to whom the same rightfully belongs, or who is rightfully entitled to the possession thereof; or whenever such bailee, custodian or person in control has notice or knowledge of any right or claim of right of any person in or to any part of such property, money or effects, adverse to the right of any other claimant therefor; or whenever any debt, money, property or effects owing by, or in the possession of or under the control of, any person may be attached by garnishment or other process, and there is any dispute as to who is entitled to the same, or any part thereof; in any such case the person in the possession or control of any such property, money or effects, when an action in any form has been commenced, for on account of, or growing out of, the same, or in which the same has been attached as aforesaid, may pay such money or deliver such property or effects to the clerk of the court in which any such action having reference to said money, property or effects, or the value thereof, may be pending, or out of which any garnishment or other process may issue

with reference thereto; or, if no such suit be commenced, he may apply to the district court of the district where such property, money or effects may be situated, and upon showing to the satisfaction of the court the existence of facts bringing him within the operation of this act, said court shall make an order designating a depository with whom said property, money or effects may be deposited by the applicant for such order. In either case, such person in the possession or control of such property, money or effects shall at once notify, personally or by registered mail, all persons, of whose claims he may have notice or knowledge, having or claiming any interest, property, lien or right in, to or upon such property, money or effects, of such deposit; and, upon giving such notice, the person so depositing the same shall thereupon be relieved from further liability to any person on account of such property, money or effects; *Provided*, That such depositor may be required, upon the application of any party interested therein, to appear and make disclosure before the court in which any such action may be pending, or by which any order designating a depository may be made, concerning the said property, money, debts or effects, held, controlled or owed by him. If the address of any persons having or making any claim as aforesaid cannot be ascertained, an affidavit to that effect shall be filed with the depository, and the giving of such notice shall not be required in such case.

§ 2. TAKE EFFECT.] This act shall take effect and be in force from and after its passage.

Approved, March 14, 1895.

CHAPTER 40.

[S. B. No. 103.]

DISTRICT COURT IN WELLS COUNTY.

AN ACT to Amend Section 8, Chapter 79, of the Laws of 1891, Changing the Place of Holding District Court in Wells County.

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

§ 8. CHAPTER 79—SEVENTH SUBDIVISION.] That the seventh judicial subdivision of said district shall consist of the county of Wells, and two terms of the district court shall be held therein each year, at the town of Fessenden, in said county, commencing on the Fourth Tuesday of March and September of each year.

§ 1. EMERGENCY.] *Whereas*, An emergency exists in that this act should be in force on or before the twentieth day of March next, *Therefore* this act shall take effect and be in force from and after its passage and approval.

Approved, March 2, 1895.

COUNTY AUDITORS.

CHAPTER 41.

[H. B. No. 76.]

REAL AND PERSONAL TAX LIST—DUTY OF AUDITOR.

AN ACT Requiring County Auditors to Furnish Township Clerks With Lists of Real and Personal Taxes Assessed in Their Township and the Amount Thereof.

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

§ 1. DUTY OF AUDITOR—LISTS FURNISHED.] It shall be the duty of the county auditor in every county within the State having any organized townships to furnish to the town clerk of every township on or before the first day of December in each year, a complete list of all the land assessed in the township of which he is clerk, together with the name of the owners of each piece of land and the amount of taxes against each piece of land. Also a list of the names of each person or company owning any personal property in said township and the amount of personal taxes against each person or company.

§ 2. LISTS FURNISHED TOWN CLERKS.] Inasmuch as the 1894 taxes are already due it shall be the duty of the several county auditors on or before the first day of May, 1895, to furnish the town clerks as prescribed in Section 1 of this act, with a list of the unpaid real and personal taxes in their respective townships remaining unpaid at that time.

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

§ 4. EMERGENCY.] *Whereas*, An emergency exists in that this act should be in force on or before the first day of May next; *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, March 6, 1895.

COUNTY BRIDGES.

CHAPTER 42.

[H. B. No. 85.]

REPAIRING BRIDGES.

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.

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

§ 1. AMENDMENT.] That Section 3 of Chapter 38 of the Session Laws of 1890, be and the same is hereby amended so as to read as follows:

§ 3. SUPERVISION.] After any bridge built by the county according to the provisions of this act, said bridge shall be under the supervision of the township board, and all repairs not exceeding the sum of fifty (50) dollars shall be borne by the township or townships in which said bridge is located. All repairs exceeding the sum of fifty (50) dollars shall be borne by the county; *Provided*, That in all cases where the cost of repairing any such bridge exceeds the sum of fifty (50) dollars, the same shall be under the supervision of the board of county commissioners and *Provided, further*, That the cost of repairing any and all such bridges shall be estimated by the board of county commissioners.

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

Approved, March 12, 1895.

COUNTY COURT.

CHAPTER 43.

[S. B. No. 79.]

PRACTICE DEFINED—COMPENSATION.

AN ACT Defining the Practice in County Courts Having Increased Jurisdiction; Fixing the Terms of Court, Compensation of Judges and Clerks and Their Duties.

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

§ 1. GENERAL PROVISION TO APPLY.] The general provisions of law which may at any time be enforced relating to the district courts, and to civil and criminal proceedings therein shall relate also to the county courts having increased jurisdiction and the rules of practice of district courts shall be in force in said county courts, unless inapplicable and except as herein otherwise provided.

§ 2. TERMS OF COURT.] 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.

§ 3. CALENDAR.] The county judge shall, on the first day of each term, or as soon thereafter as may be, prepare a calendar of the causes standing for trial at such term, placing the causes upon such calendar in the order in which the same are numbered on the docket, and setting the causes for trial upon convenient days during such term; *Provided* That no cause shall be set for trial upon the first day of said term without the consent of all parties thereto.

§ 4. APPEALS FROM COUNTY COURT.] In all actions brought under the provisions of this act an appeal may be taken to district court of said county or to the State Supreme Court, and if said appeal is to the district court it shall be taken in the same manner as appeals from justice court and if said appeal is to the Supreme Court it shall be taken in the same manner and pursuant to the same rules as appeals from the district court; *Provided* that in civil actions where the amount in controversy, exclusive of costs, is less than \$250.00 an appeal to the district court only shall lie; and *Provided further*, That an appeal to the district court shall not be effectual for any purpose unless an undertaking be filed, with two or more sureties, in a sum equal to the amount in controversy or the value of the specific property in controversy plus one hundred dollars.

§ 5. CONCURRENT JURISDICTION ON APPEAL.] Said county courts shall have concurrent jurisdiction with district courts in appeals from all final judgments of justices of the peace, police, city or township justices, and the proceedings on such appeals shall be the same as now or may hereafter be provided for appeals from judgments of justices of the peace to district courts.

§ 6. CAUSE CERTIFIED TO DISTRICT COURT—WHEN.] In any civil or criminal cause of which this court has jurisdiction, whenever at any time before said cause is called for trial it shall appear to the court by affidavit, or if the court shall so order upon other testimony, that a fair and impartial trial cannot be had in such court by reason of the bias or prejudice of the judge or otherwise, the court shall thereupon direct said cause and all papers and documents connected therewith to be certified to the district court of the county wherein said county court is held; and said papers shall be delivered to the clerk of the district court, at least one day before the first day of the next term thereof and shall be placed upon the trial calendar and stand for trial the same as cases originally commenced in said district court.

§ 7. MANNER OF SELECTING JURY.] Juries in the county court shall be selected by the county judge and summoned in the same manner as is now provided by law for selecting juries before justices of the peace; *Provided*, That each party shall be entitled to the same number of challenges as now or may hereafter be allowed in district court in like actions.

§ 8. NEW TRIALS.] 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.

§ 9. MAY ISSUE PROCESS.] The several county courts shall have power to issue all summonses, citations, subpoenas, executions, warrants and processes authorized by law which may be necessary to carry into effect any order, judgment or decree thereof, to compel the attendance of witnesses or to carry into execution the powers with which they are vested.

§ 10. SERVICE IN OTHER COUNTY.] 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.

§ 11. CONTINUED CAUSES.] When for any cause the county judge fails to attend at the commencement of any regular term, or at the time when any cause is assigned for trial or at the time to which any cause is assigned for trial or at the time to which any cause may be continued, the parties shall not be obliged to wait more than one hour, and if he does not attend within the hour, and no other disposition of the case is made by said judge the parties in attendance shall be required to attend at 9 o'clock A. M.

of the following day, and if such judge shall not attend at that time, the cause shall stand continued until the first day of the next regular term.

§ 12. ADJOURNMENT.] 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.

§ 13. BAILIFF.] The judge of the county court may appoint a competent person as bailiff of said court, who shall hold his office at the pleasure of the judge. Said bailiff shall have the same powers as a constable and shall receive for his services the same fees as are prescribed for constables and bailiffs.

§ 14. CRIMINAL JURISDICTION.] Concurrent jurisdiction, power and authority with the district court is hereby conferred and imposed upon county courts having increased jurisdiction of all criminal offenses of which the district court of said county has jurisdiction, below the grade of felony, and if any person accused thereof, and to hear, try, determine, pronounce judgment and sentence and take and have all necessary proceedings concerning or relating thereto as provided by law. The necessary jurisdiction, power and authority in the premises is hereby conferred and imposed upon the county court.

§ 15. DEFENDANT BOUND OVER TO.] 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 proceedings 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.

§ 16. JURY TRIAL.] In civil actions, when the value in controversy, or sum demanded exceeds fifty dollars, either party may demand a jury trial, but such demand shall be made on or before the first day of the term upon the calendar of which said cause appears. In criminal actions, where defendant is arraigned he shall be informed by the court of his right to trial by jury and if he waives his right to a jury trial an entry to that effect shall be made upon the court minutes.

§ 17. WARRANT OF ARREST.] The county court in term time or the judge in vacation may issue warrants of arrest for persons against whom an information has been filed, shall fix the amount of bail to be required of the accused, and the clerk shall endorse the same upon the warrant, except where the warrant is issued in term time, when the same may be returnable forthwith and it shall thus not be necessary to fix the amount of bail until the accused is brought into court.

§ 18. RECEIVE PLEA AND PASS JUDGMENT.] The court may receive the plea of guilty and pass judgment in term time or vacation, or if the accused waives a jury he may be tried by the court without a jury in term time; upon notice being first given to the state's attorney.

§ 19. PRELIMINARY EXAMINATION.] No preliminary examination shall be necessary before trial in criminal actions in county court.

§ 20. ASSIGNMENT OF COUNCIL.] In all criminal cases triable in the county court where it is satisfactorily shown to the court that the defendant has no means, and is unable to employ counsel, the court shall in such cases assign counsel for the defense and allow and direct, to be paid by the county in which said court is held a reasonable and just compensation to the attorney or attorneys so assigned for such services as they may render; *Provided, however,* that such compensation shall not exceed twenty-five dollars in any one case.

§ 21. SUMMONS.] The summons shall require the defendant to file a copy of his pleading with the clerk of the county court within ten days after the service of the summons exclusive of the day of service.

§ 22. COMPLAINT FILED—WHEN.] 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 or 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.

§ 23. ANSWER OR DEMURRER.] The defendant must file his answer or demurrer with the clerk of the county court within ten days after the service of the summons.

§ 24. TIME OF TRIAL.] When the time to answer does not expire at least ten days before the first day of the next term of court the cause shall stand for trial at the next succeeding term thereafter without further notice to defendant.

§ 25. JUDGMENT LIEN.] 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 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 endorsed 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.

§ 26. CLERK OF DISTRICT COURT—EX-OFFICIO CLERK OF COUNTY COURT.] 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.

§ 27. POPULATION—HOW DETERMINED.] The county auditor or county clerk shall determine the population of his respective county by multiplying by five the total vote cast in the last general election of county officers and the result shall be taken as the population of such county.

§ 28. 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.

§ 29. PROCESS—BY WHOM SERVED AND COMPENSATION.] 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.

§ 30. COURT STENOGRAPHER.] 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 stenographer 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.

§ 31. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 32. EMERGENCY.] *Whereas* an emergency exists that there is no provision of law for an appeal from county court to the Supreme Court; *Therefore* this act shall take effect and be in force from and after its passage and approval.

Approved, March 4, 1895.

COUNTY COMMISSIONERS' BOND.

CHAPTER 44.

[H. B. No. 126.]

OFFICIAL BOND.

AN ACT Requiring County Commissioners to Furnish an Official Bond to His County.

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

§ 1. OFFICIAL BOND.] It shall be the duty of each county commissioner in every county commissioner district within the State of North Dakota, that at the time prescribed for such county commissioner to qualify according to law, it shall be the duty of such county commissioner, to furnish a good and sufficient bond to his county, for the faithful performance of his duty as such county commissioner, in the manner and form hereinafter provided.

§ 2. AMOUNT OF BOND.] That the amount of the bond so required under the provision of this act shall be as follows:

First. That in all counties with a population of one thousand and no more than five thousand, the bond of such county commissioner shall be (400) four hundred dollars.

Second. That in all counties containing a population of more than five thousand and no more than fifteen thousand, the bond of such county commissioner shall be (800) eight hundred dollars.

Third. That in all counties containing a population of more than fifteen thousand, the bond of such county commissioner shall be (1,200) twelve hundred dollars.

§ 3. APPROVED BY JUDGE OF COUNTY COURT.] That the bond so required by the provision of this act, from such county commissioners shall be subject to the approval of the judge of the county court, said bond to be signed by such county commissioner as principal, and by not less than two sureties, who shall each be residents and freeholders of the county in which said county commissioner resides, and shall each justify in double the amount of the bond over and above his debts and liabilities properly exempt from levy and sale on execution.

§ 4. BOND—WHERE FILED.] Said bond of county commissioner shall be filed in the office of the clerk of court in the county in which the said county commissioner resides.

§ 5. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 12, 1895.

COUNTY DEPOSITORIES.

CHAPTER 45.

[S. B. No. 65.]

REGULATING DEPOSIT OF COUNTY FUNDS.

AN ACT to Secure the Safe Keeping of all Funds Coming Into the Hands of County Treasurers, by Prescribing and Regulating the Deposit Thereof.

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

§ 1. COUNTY FUNDS—HOW DEPOSITED.] All funds of each and every county of this State shall be deposited by the county treasurer thereof, as soon as received by him, in the name of the county of which he is an officer, in such bank or banks as shall have been designated as county depositories, in accordance with this act, as hereinafter provided.

§ 2. DUTY OF BOARD OF COMMISSIONERS.] It shall be the duty of the board of county commissioners of each and every county in the State, at its first regular meeting in July, 1895, and at its first regular meeting in January of each second year thereafter, to designate one or more National or State banks in their respective counties as county depositories, in which all the funds of said county shall be deposited.

§ 3. AUDITOR SHALL ADVERTISE.] 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 said above mentioned meetings, for sealed proposals for the deposit of the funds of said county, in accordance with this act. Said advertisement shall state the date until which proposals will be received, which date shall be at the first day of the meeting at which the proposals are to be opened. Said proposals shall state in writing what rate of interest will be paid on the average daily balance on deposit during the month, interest to be paid monthly on condition that said funds, with accrued interest, shall be held subject to draft at all times on demand. Said proposals shall be inclosed 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.

§ 4. PROPOSALS—WHEN OPENED—DEPOSITORY.] At the above mentioned meeting of said board of county commissioners said proposals shall be presented by the county auditor, and then, and not until then, opened by him in the presence of said board,

which shall proceed to consider them, accepting the proposal of the bank or banks offering the highest rate of interest not inconsistent with this act, subject to the filing of a satisfactory bond, as hereinafter provided, the amount of which bond shall then and there be fixed by said board. Before any bank shall be designated as such depository it shall submit to the board of county commissioners for their approval a bond payable to such county, conditional on the safe keeping and re-payment of any county funds deposited in said bank, which bond shall be signed by not less than five freeholders of the county in which said funds are deposited as sureties and shall be in such sums as the board shall have directed, but in no case to be 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 said depositories shall exceed one-half the amount named in said bond, it shall be the duty of said board, at its next regular meeting thereafter to require from said depository an additional bond in a sum not less than twice the amount of said excess. Said bond or bonds shall be approved by said board and said approval be endorsed thereon in writing by the chairman of said board and by him deposited with the auditor of said county, and any bank whose bond shall have been approved shall be thereupon designated by said board as a county depository, and shall continue as such depository until such time as said board shall re-advertise and re-designate in pursuance with this act; *Provided*, That if the board of county commissioners fail or refuse to approve any such bond, the same proceedings may be had as provided in Section 8, Chapter 5, Political Code; *Provided, further*, That said sureties shall justify in the manner required by the Statute on arrest and bail in a sum in the aggregate twice the amount of such bond.

§ 5. BANKS MUST GIVE BONDS.] 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 of county commissioners to select impartially as many of said banks as depositories as offer ample security for such deposits, requiring from each of said banks bonds of equal amounts. In estimating the value of the security offered by any proposed depository, the capital, surplus and general credit of the bank offering the same shall be taken into consideration, as well as the bond proposed to be given.

§ 6. IN CASES OF TWO OR MORE BANKS.] In cases where 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 designated depositories; the amount deposited in any bank shall not exceed the assessed capital of said bank.

§ 7. RESPONSIBILITY OF BANKS.] To further secure the safety of the county funds deposited under the provisions of this act, it

is hereby made the duty of county commissioners of any depositing county to satisfy themselves of the responsibility of the several banks proposing to act as depositories, and no bank offering more than 3 per cent. per annum, subject to check, shall be designated a depository under the provisions of this act.

§ 8. ITEMIZED STATEMENT.] Each depository designated under the provision of this act shall furnish to the county auditor an itemized statement of the county's account with such depository on the first day of each month, duly verified by said bank, which statement shall be filed and carefully preserved in the office of said auditor. All sums of interest accruing on the funds deposited in any depository under the provisions of this act, shall be credited to such deposit account on the first day of each month for the month previous thereto, 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.

§ 9. PENALTY.] No county treasurer shall deposit any of the funds of the county excepting in accordance with the provisions of this act, under a penalty of \$500 for each deposit not in accordance herewith.

§ 10. CHECKS—HOW DRAWN.] All checks drawn upon the county depositories shall be signed by the county treasurer in the name of the county by himself as treasurer.

§ 11. DEPOSITING OUTSIDE OF COUNTY.] It is hereby made the duty of the officers mention in this act and also of the board of county commissioners of the several counties of the State, to comply with all the provisions of this act; *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 3 per cent. per annum and fulfills all the requirements of Sections 4, 7 and 8, of this act. In counties where there is no bank located, or where no bank offers to comply with the requirements of this act, the board of county commissioners may, if in their judgment it is to the best interest to the county, designate some bank or banks outside of such counties as depositories, but such bank or banks must furnish bonds according to the provisions of this act.

§ 12. TREASURER—WHEN EXEMPT FROM LIABILITY.] Whenever any portion of the funds of any county shall be deposited by any county treasurer in the manner as provided in this act such treasurer and his sureties shall be exempt from all liability thereon by reason of loss of any such deposited funds from the failure, bankruptcy or any other acts of any such bank or banks to the extent and amount only of such funds in the hands of such bank or banks at the time of such failure or bankruptcy.

§ 13. MALFEASANCE.] Any officer violating any of the provisions of this act shall be deemed guilty of malfeasance in office.

§ 14. CONFLICTING ACTS REPEALED.] All acts and parts of acts in conflict with the provisions of this act, and especially Chapter 49, of the laws of the State of North Dakota for the year 1893, are hereby repealed. But in those counties in which depositories of the county funds have been designated as prescribed in said act, and in substantial conformity to the provisions of this act, such designation shall be and remain valid and have effect, subject to all the provisions of this act, except that no further designation shall be necessary in such county until January 1897.

§ 15. EMERGENCY.] *Whereas*, an emergency exists in this, that there is now no adequate provisions made by law for the safe keeping of county funds, *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 2, 1895.

COUNTY SUPERINTENDENT.

CHAPTER 46.

[S. B. No. 71.]

DUTIES OF SUPERINTENDENT.

AN ACT Relating to the Duties of County Superintendent of Schools.

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

§ 1. SHALL NOT ENGAGE IN TEACHING.] No county superintendent of schools, except as hereinafter provided, shall engage in teaching during the term for which he was elected, nor shall any person under contract to teach be qualified to hold the office of county superintendent of schools.

§ 2. SHALL NOT ABSENT HIMSELF FROM COUNTY.] No county superintendent of schools shall engage in any profession or occupation, nor shall he absent himself from the county or district for which he is elected, to engage in any occupation, profession or pursuit during the term for which he is elected, for such time and in such manner as to interfere with the proper discharge of his duties as county superintendent of schools.

§ 3. SUBJECT TO REMOVAL.] Any county superintendent of schools who neglects or violates any of the provisions of sections one and two of this act shall be subject to removal from office.

§ 4. NOT APPLICABLE IN EVERY COUNTY.] None of the provisions of sections one and two of this act shall be applicable to counties in which the salary of county superintendents of schools is less than twelve hundred dollars per annum.

§ 5 TAKE EFFECT.] This act shall take effect and be in operation from and after October 1, 1896.

Approved March 14, 1895.

COUNTY TREASURERS.

CHAPTER 47.

[H. B. No. 108.]

COUNTY TREASURERS TO REPORT TO TOWNSHIP CLERKS.

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.

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

§ 1. REPORT TO TOWNSHIP CLERKS—WHEN.] The county treasurer of each county shall, between the fifth and twentieth days of February of each year, notify by mail the township clerk of every organized township in his county the amount of money on hand in the county treasury belonging to the said township on the fifth of February, the amount belonging to each fund being stated separately. Likewise, the said county treasurer shall, between the fifteenth day of November and the first day of December of each year, mail a like notice to each township clerk stating the amount of money in the county treasury belonging to the said township on the fifteenth day of November, the amount in each fund being stated separately.

§ 2. STATEMENT OF AMOUNT PAID.] Whenever the county treasurer pays or remits any township funds to a township treasurer he shall on the same day mail to the township clerk of the same township a statement of the amount so paid or remitted, stating the amount belonging to each fund separately.

§ 3. DUTY OF TOWNSHIP CLERK.] The township clerk shall make a record of the statements thus received from the county treasurer, and shall keep an account of the township funds in the same manner as is required of the township treasurer; and at the annual town meeting in March of each year the books of each officer shall be examined, compared and balanced.

Approved, March 12, 1895.

CRUELTY TO ANIMALS.

CHAPTER 48.

[S. B. No. 127.]

CRUELTY TO ANIMALS.

AN ACT to Amend Section 1 of Chapter 55 of Session Laws of 1891, Relating to Cruelty to Animals.

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

That Section 1 of Chapter 55 of the Laws of 1891, relating to cruelty to animals be and the same is hereby amended to read as follows:

§ 1. AMENDMENT.] That Section 695 of the Penal Code, the same being Section 6886 of the Compiled Laws be amended to read as follows:

§ 6886. ABUSING DOMESTIC ANIMALS.] Every person who shall willfully overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary food and water, or cruelly beat any animal, and any person who causes or procures an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, or deprived of necessary food and water or cruelly beaten, and any person who shall work any animal, or cause the same to be worked when unfit for work, and any person who shall unnecessarily expose any animal to heat or cold, or leave the same hitched and uncovered in cold weather or storm, or in the night time, is guilty of a misdemeanor. Any officer finding any animal maltreated, abused or unsheltered in any of the manners hereinbefore specified, 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. And it shall be the duty of all incorporated municipalities that are supplied with water in whole or in part by a system of water works to provide suitable and a sufficient number of watering troughs wherein water for stock shall be kept at all times between May 1st and November 1st in each year. But nothing in this act contained shall be construed to mean herds of stock which do not properly belong in any such municipality; and if any person or persons shall knowingly water at any such watering trough any animal infected with any infectious disease, he shall be guilty of a misdemeanor and upon conviction thereof before any justice of the peace, shall be fined

not exceeding the sum of \$25, or by imprisonment in the county jail not to exceed the term of fifteen days or by both such fine and imprisonment.

Approved, March 19, 1895.

DAIRY PRODUCTS.

CHAPTER 49.

[H. B. No. 122.]

DAIRY PRODUCTS.

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."

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

§ 1. MISDEMEANOR, FINE AND IMPRISONMENT.] Any person who shall knowingly sell or offer for sale or procure the sale of, or make or manufacture any article or substance in semblance of butter, not the legitimate product of the dairy, made exclusively of milk or cream, but into the composition of which the oil or fat of animals, or melted butter, or any oil thereof, enters as a substitute for cream, in tubs, firkins, or other original packages, not distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the word "oleomargarine" or "butterine" or "patent butter" as the case may be, in letters not less than one-fourth of an inch in width and one-half of an inch in length, or in retail packages not plainly and conspicuously labeled with said words "oleomargarine," or "butterine," or "patent butter," as the case may be, shall be guilty of a misdemeanor, and punished by a fine not less than twenty-five dollars, nor more than one hundred dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

§ 2. IMITATION BUTTER.] Any person or firm who shall sell or offer for sale, or make or manufacture imitation butter, or butter made of part cream and part caseine or other ingredients under what is known as "Quinness patent" or process, or any other similar process, whereby the caseine of milk and other ingredients are made to imitate and resemble genuine butter made from cream, shall stamp each package of the same on the top and side with lamp black and oil the words "patent butter" in letters at least one-fourth of an inch wide and one-half of an inch long.

Whoever violates the provisions of this section is guilty of a misdemeanor, and shall [be] punished for each offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment in the discretion of the court.

§ 3. CHARACTER OF PRODUCT MUST BE DESIGNATED.] Any person or firm who shall sell or offer for sale or make or manufacture out of any oleaginous substance or substances or any compound of the same, or any other compound other than that produced from unadulterated milk, any article designed to take the place of cheese or any imitation of cheese, produced from pure milk, or any article termed "filled cheese," shall stamp each package of the same on the top and side with lampblack and oil the words, "filled cheese," or words that shall designate the exact character and quality of the product, in letters at least one-fourth of an inch wide and one-half of an inch long. Whoever violates the provisions of this section is guilty of a misdemeanor and shall be punished for each offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment in the discretion of the court.

§ 4. PATENT BUTTER AND CHEESE.] Whoever sells or offers for sale any imitation or patent butter or cheese, as described in the foregoing sections of this act, shall give to each purchaser of said goods a printed card stating correctly the different ingredients contained in the said compound. Whoever violates the provisions of this section is guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or such fine and imprisonment in the discretion of the court.

§ 5. POSSESSION PRIMA FACIE EVIDENCE OF GUILT.] The having in possession by any person or firm of any article or substance prohibited by this act shall be considered *prima facie* evidence that the same is kept by such person or firm in violation of the provisions of this act, and the State Dairy Commissioners shall be authorized to seize upon and take possession of any such article or substance, and upon the order of any court which has jurisdiction under this act, he shall sell the same for any purpose other than to be used for food; the proceeds derived from fines and the sale of imitation butter shall be paid one-half to the informer and one-half into the State treasury, to be placed to the credit of State Dairy Commissioner's fund.

§ 6. SPECIMENS ANALYZED.] Samples or specimens of any articles in imitation butter suspected of being of a spurious character, shall be analyzed or otherwise satisfactorily tested as to compounds by the chemist of the Agricultural College at Fargo, free of expense, and a certificate of the analysis, sworn to by the

analyzer, shall be admissible as evidence in all prosecutions under this act.

§ 7. PACKED, BRANDED AND STAMPED.] The sale or offer for sale of the substance mentioned in the foregoing section in packages not branded, stamped, marked or labeled as therein required, shall be *prima facie* evidence of knowledge of the character of such substance on the part of the person so selling or offering for sale, and his employer.

§ 8. PURPOSE OF ACT DEFINED.] For the purpose of this act the term "butter and cheese" shall be understood to mean the products usually known by those names, and which is manufactured exclusively from milk or cream or both.

§ 9. STENCIL OR SUITABLE DEVICE.] Every cheese factory, creamery, or combined cheese factory and creamery, engaged in the manufacturing of butter and cheese, shall procure a stencil or brand bearing a suitable device and words which shall clearly designate the quality of the product manufactured, and the number and location of the factory, and may contain a special or private brand or name of said factory, every brand shall be used upon the outside of the cheese and also upon the package containing the same, but in the case of butter on the package only, and shall report annually to the State Commissioner of Agriculture and Labor, who by virtue of his office is ex-officio State Dairy Commissioner, the name, location and number of each factory using the said brand, and the name or names of the persons at each manufactory authorized to use the same, together with a copy of each stencil or brand, and State Dairy Commissioner shall keep a book in which shall be registered the same. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars or more than fifty dollars, for each and every offense.

§ 10. ACT CONSTRUED.] Nothing in this act shall be so construed as to prohibit the shipment of butter and cheese without unloading through the State of North Dakota.

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

§ 12. EMERGENCY.] *Whereas*, An emergency exists in that it is necessary to sell butter and cheese before the first day of July, therefore this act shall take effect and be in force on its passage and approval.

Approved, March 16, 1895.

DOMESTIC ANIMALS.

CHAPTER 50.

[H. B. No. 157.]

BRANDING STOCK.

AN ACT With Reference to Driving Stock Into or Through the State of North Dakota.

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

§ 1. STOCK MUST BE BRANDED.] All droves of horses, mules, cattle or sheep which may hereafter be driven from any other state or territory of the United States, or any foreign country, into or through any county or counties of this State, shall be plainly branded or marked with one uniform brand or mark.

§ 2. HORSES, MULES AND CATTLE.] All such horses, mules and cattle shall be so branded with one distinct ranch or road brand of the owner or owners, so as to show distinctly in such place or places as the owner may adopt.

§ 3. SHEEP.] All such sheep shall be marked distinctly with such mark or devise as may be sufficient to distinguish the same readily should they become intermixed or mingled with other flocks of sheep in this State.

§ 4. FINE.] Any such owner or owners, person or persons in charge of such drove of stock which may be driven into or through this State, who shall fail to comply with the provisions of this act, shall be fined in a sum not less than fifty, nor more than three hundred dollars, together with cost of suit.

§ 5. DUTIES OF COUNTY AUDITOR AND SHERIFF.] It shall be the special duty of the county auditor, sheriff and any constable of each and every county of this State, to enforce the provisions of this act.

§ 6. FINES TO GO TO GENERAL SCHOOL FUND.] All fines collected under the provisions of this act, shall be paid into the general school fund of the county in which judgment therefor is recorded [recovered.]

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

Approved, March 14, 1895.

DRAINS.

CHAPTER 51.

[H. B. No. 65.]

RELATING TO PUBLIC DRAINS.

AN ACT to Provide for the Establishment, Construction and Maintenance of Drains in This State.

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

§ 1. WHEN DRAINS MAY BE CONSTRUCTED.] Water courses, ditches and drains for the drainage of sloughs and other low lands may be established, constructed and maintained in the several counties of this State whenever the same shall be conducive to the public health, convenience or welfare under the provisions of this act. The word "drain" when used in this act shall be deemed to include any natural water course opened, or proposed to be opened, and improved for the purpose of drainage and any artificial drains constructed for such purpose.

§ 2. POWER OF COUNTY COMMISSIONERS—PETITIONS.] The board of county commissioners of any organized county in this State shall have power and are hereby authorized at any meeting of the board, by a majority vote of all the members to appoint on the petition of any person interested, three freeholders of the county, as a board of drain commissioners of such county, who shall hold office for two years, and until their successors are appointed and qualified. The board of county commissioners may remove for cause any or all of such drain commissioners, and in case of a vacancy may fill the same by appointment.

§ 3. OATH OF OFFICE—BOND.] Any person appointed as a member of the board of drain commissioners shall within ten days after his appointment take, subscribe and file in the office of the county auditor an oath faithfully to perform the duties of a drain commissioner under the law, and within the same time make, execute and file in such auditor's office a bond to the county with sureties to be approved by the auditor in such sum as shall be ordered by the board of county commissioners, conditioned for the faithful discharge of his duties as drain commissioner.

§ 4. PETITIONS IN WRITING—PLANS AND SPECIFICATIONS.] 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. The board of drain commissioners shall personally, as soon as practicable proceed to examine the line of the proposed drain and if in their opinion it is necessary and for the public good, they shall cause a survey of the line thereof to be made by a competent surveyor, who shall establish the commencement and terminus and determine the route, width, length and depth thereof. For the purpose of making examinations or surveys, the drain commissioners, surveyor and their employes may enter upon land traversed by any such proposed drain, or upon other lands when necessary, such surveyor shall prepare profiles, plans and specifications of the proposed drain, an estimate of the cost thereof and a map or plat of the lands to be drained, showing the regular subdivisions thereof, all of which shall be filed in the office of the county auditor of the county in which such drain is proposed to be constructed subject to inspection. In locating a drain the board of drain commissioners may under the advice of the surveyor vary from the line described in the petition as they deem best. When the line proposed is along highways already established the drain shall be located at a sufficient distance from the center of such highway to permit a good road along the central line thereof, when the length of the line described in the petition does not give sufficient fall to drain the lands sought to be drained, the board of drain commissioners may extend the drain below the outlet named in the petition far enough to obtain a sufficient fall and outlet. Drains shall as far as practicable be located on dividing lines between sections or regular subdivisions thereof, but the general utility of the drain must not be sacrificed to avoid crossing any tract of land in such direction as the drain commissioners find advisable. All persons whose land may be affected by any such drain may appear before the drain commissioners and fully express their opinions upon the matters pertaining thereto.

§ 5. COMMISSIONERS MAY DENY PETITION—WHEN.] If upon such examination and survey or upon the trial in the district court it shall appear that there was not sufficient cause for making such petition 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 the petitioners shall be jointly and severally liable to the board of drain commissioners for all costs

and expense incurred in the proceedings to be recovered by such board by action.

§ 6. RIGHT-OF-WAY.] The title to the right-of-way for the construction of any proposed drain, if not conveyed to the county by the owner, may be acquired in such manner as may now or hereafter be prescribed by law. Such right-of-way when acquired shall be the property of the county.

§ 7. ASSESSMENT OF DAMAGES—HOW MADE.] 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 collected and paid into the court for the benefit of the owners of the right-of-way.

§ 8. ASSESSMENT OF BENEFITS SUBJECT TO REVIEW.] 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 commissioner 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.

§ 9. ACCRUING BENEFITS.] Upon acquiring the right-of-way either by conveyance or proceedings in court, the board of drain commissioners shall make an order establishing the drain, give the same a name by which it shall be recorded and indexed, and assess the per cent. of the cost of constructing and maintaining such drain, which any county, township, city, village or town shall be liable to pay by reason of the benefits of such drain to the public health, convenience or welfare, and which any railroad company shall be liable to pay by reason of benefits to accrue to its property, and which any piece or parcel of land shall be liable to pay, by reason of benefits to accrue thereto, either directly or

indirectly, by reason of the construction of such drain, whether such lands are immediately drained thereby, or can be drained only by the construction of other and connecting drains, but such assessment shall be subject to review by the commissioners as hereinafter provided.

§ 10. COMMISSIONERS SHALL MAKE RETURN TO AUDITOR.] After the order establishing a drain, and the assessment of benefits have been made as provided in the last section, the board of drain commissioners shall make return thereof to the county auditor, who shall record the same in a book to be provided for that purpose. Such return shall contain the petition for the drain, or a copy thereof the minutes of the survey signed by the surveyor, conveyance of the right-of-way, if any, a copy of the judgment in the action to acquire the right-of-way, if any, together with the minutes of the doings of the board of drain commissioners in the premises, the order establishing the drain, and the assessment of benefits.

§ 11. MANNER OF LETTING CONTRACTS—NOTICE PUBLISHED.] Upon the establishing of the drain, as hereinbefore provided, the board of drain commissioners shall without delay divide the line thereof into convenient divisions for construction, make diagrams of the same with specifications of the width of excavation at the bottom, the slope of the sides, and such other matters as may be necessary for the proper construction of the drain, and set suitable stakes in such places as may be necessary to show the beginning and end of divisions and the number of the division and grade stakes to show the depth of cut at such intervals as may be necessary. Such board shall give at least ten days notice of the time when and the place where they will meet parties for the purpose of letting contracts for such construction. Such notice shall be published in some newspaper of general circulation in the county and printed notices not less than five in number shall be posted at such points in each township or municipality interested in such drain as will be likely to secure the greatest publicity for such notice. Such notice shall also state that at the time and place of such letting of contracts the assessment of benefits will be subject to review, unless such assessment has already been reviewed under the provisions of Section 8 of this act.

§ 12. COMMISSIONERS MAY DEFER LETTING OF CONTRACT.] At the time and place appointed the drain commissioners shall proceed to hear all complaints relative to such assessments, unless a hearing has already been had under the provisions of Section 8, of this act, and correct and confirm the same. Such commissioners shall then proceed to let contracts for the construction of the drain by divisions as they shall have divided the same, to the person who will do the work, according to the specifications, for the lowest price and give adequate security for the performance of the same within such time as the contract shall specify. The commissioners may adjourn such letting in whole or in part and from

time to time to such other time and place, to be by them at the time of such adjournment publicly announced, as shall to them seem proper and they may reserve the right to reject any and all bids. The parties who are to be assessed for the construction of such drain and who may be bidders for contracts thereon shall, if equal bidders with other parties, be preferred in the awarding of such contracts; *Provided*, That contracts for the building of the bridges and culverts mentioned in Section 20 of this act may be deferred, until the construction of the drain has reached such a stage of completion that the character of the bridges and culverts which will be needed can be determined. As soon as the character of such bridges and culverts can be determined such board shall cause plans and specifications of the bridges and culverts to be constructed in connection with such drain to be prepared and shall give at least ten days' notice of the time and place when and where they will meet parties for the purpose of letting contracts for such construction. Such notice shall be published in some newspaper of general circulation in the county. Such contracts shall be let to the lowest bidder as hereinbefore, in this section provided.

§ 13. GENERAL DUTIES OF COMMISSIONERS.] After the letting of such contracts or a major portion thereof the commissioners shall make a computation of the cost of such drain which shall include all the expenses of locating and establishing the same, including the costs of right-of-way, the drain commissioners' fees, costs of survey, costs of building bridges and culverts, interest on all warrants issued or to be issued by the board of drain commissioners on account of the drain, accumulated or to accumulate prior to the time when the tax levied or to be levied to pay for the right-of-way or construction of the drain is collectible by law and all other expenses and the amount of the contracts and in case contracts shall not have been let for the construction of the whole of the drain or of the bridges and culverts, the board of drain commissioners shall estimate the cost of such unlet portion and of the bridges and culverts predicating their estimate so far as may be upon the cost of those portions that have been let or upon similar work. The sum of all the costs and expenses incurred or to be incurred shall be the cost of the construction of the drain.

§ 14. LANDS BENEFITTED—SPECIAL TAX.] The board of drain commissioners shall make a list showing the amount which each municipality and tract of land benefitted by the drain for which the tax is levied is liable to pay on account of procuring the right-of-way or the construction of any drain, or both according to the per cent which by Section 9, of this act they are required to fix and determine, a copy of which shall be served on the clerk or auditor of each municipality against which taxes are to be assessed. Such list shall thereupon be filed in the office of the county auditor of the county in which the municipalities and

lands benefitted by the drain are situated, and the auditor shall thereupon extend upon the tax lists as a special tax as provided by law the several amounts shown by the drain commissioners' list, specifying in such tax lists the particular drain for the construction or procurement of the right-of-way of which such special tax is assessed, which special tax shall be collected and enforced in the same manner as other taxes. When such special tax is for right-of-way the same shall when collected be paid by the county treasurer into court for the benefit of the owners of the right-of-way.

§ 15. COUNTY TREASURER SHALL COLLECT DRAIN TAX.] The drain taxes shall be collected by the county treasurer and all moneys so collected shall be credited to the drain fund to which they belong and the county treasurer shall be the treasurer of such drain funds. Payment of all expenses and costs of locating and constructing any drain shall be made by the drain commissioners issuing warrants in such amounts and to such persons as by said drain commissioners may be found due. All warrants drawn by the drain commissioners in payment for the right-of-way or construction of any drain shall be payable from the proper drain fund and shall be receivable for the taxes levied for the right-of-way or construction of such drain by the treasurer. All such warrants after presentation to the county treasurer for payment and non-payment for want of funds shall be registered by the county treasurer and thereafter shall bear interest at the rate of seven per cent. per annum.

§ 16. ADDITIONAL ASSESSMENT—WHEN NECESSARY.] In case the amount realized from the assessment made for right-of-way or for the construction of any drain shall not be sufficient to pay for such right-of-way or to complete such drain, and to pay fees and all incidental expenses, or in case an enlargement or deepening of such drain or an extension of the line thereof becomes necessary, a further assessment shall be made to meet the deficit or additional expense, and the amount thereof shall be levied and collected in the manner hereinbefore provided.

§ 17. EXTENSION OF TIME TO CONTRACTORS.] The board of drain commissioners shall have power to grant a reasonable extension of time for the completion of any contract. When any contract shall not be finished within the time specified, or to which it may be extended, the board of drain commissioners may in their discretion or at any time thereafter, relet such unfinished portion or any part thereof, after not less than five days notice thereof to the lowest responsible bidder and shall take security as before. The cost of completing such parts over and above the contract price, and the expense of notices and reletting shall be collected by the board of drain commissioners of the parties at first contracting; *Provided*, That in no case shall the board of drain commissioners forfeit and annul a contract without five days notice to the contractor, if found, and if not found, then by

written notice left at his last place of residence, if known to be within the county.

§ 18. EXTENSION OF POWERS—WHEN NECESSARY.] The powers conferred by this act for establishing and constructing drains shall also extend to and include the deepening and widening of any drains which have heretofore been or may hereafter be constructed; also to straightening, clearing out and deepening the channels of creeks and streams and the construction, maintaining, remodeling and repairing of levees, dykes and barriers for the purpose of drainage and the board of drain commissioners may relocate or extend the line of any drain if the same is necessary to provide a suitable outlet and shall cause a survey thereof to be made but no proceedings affecting the right of persons or property shall be had, under this section except upon notice, hearing and award prescribed in this act for the construction of drains in the first instance.

§ 19. DUTY OF RAILROAD COMPANIES.] Drains may be laid along, within the limits of, or across any public road, and when so laid out and constructed or when any road shall hereafter be constructed along or across any drain it shall be the duty of the board of county commissioners, or township supervisors, as the case may be, to keep the same open and free from all obstructions. A drain may be laid along any railroad when necessary, but not to the injury of such road, and when it shall be necessary to run a drain across a railroad it shall be the duty of such railroad company, when notified by the drain commissioners to do so, to make the necessary opening through said road and to build and keep in repair suitable culverts or bridges.

§ 20. CONSTRUCTION OF BRIDGES AND CULVERTS.] When any drain crosses a highway the cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of constructing such drain, after which such bridge or culvert shall be maintained as part of the highway. The board of drain commissioners shall construct such bridges or culverts over or in connection with each drain as may in their judgment be necessary to furnish a passage from one part to another of any farm or tract of land intersected by such drain and the cost of the construction thereof shall be charged as part of the cost of constructing such drain and such bridge or passage-way shall be maintained under the authority of the board of county commissioners or township supervisors, as the case may be, and the necessary expense thereof shall be deemed a part of the cost of keeping such drain open and in repair.

§ 21. BLIND DRAINS—HOW CONSTRUCTED.] Blind drains may be constructed by the use of drain tile or sewer pipe, when the nature of the ground will admit of so doing. When blind drains are constructed the entrance shall be protected from drift wood and other debris.

§ 22. LEGAL DRAINS SHALL BE RECORDED.] All drains regularly established, opened, or constructed under existing provisions of law shall be deemed legal drains and it shall be the duty of all boards of county commissioners, in cases where the records of any drain may not have been preserved, to see that such record is made in the best manner practicable in the office of the county auditor.

§ 23. TAX OR ASSESSMENT VOID—WHEN.] The collection of no tax or assessment levied or ordered to be levied to pay for the location and construction of any drain laid out and constructed under this act shall be perpetually enjoined or declared absolutely void in consequence of any error of any officer or board in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any drain shall have been located and established, nor for want of proper conveyance or condemnation of the right-of-way, but the court in which any proceeding may hereafter be brought to reverse or to declare void the proceedings by which any drain has been located or established or to enjoin the tax levied to pay the labor and costs and expenses shall on application of either party appoint such person or persons to examine the premises, or to survey the same, or both, as may be deemed necessary; and the court shall on a final hearing make such order in the premises as shall be just and equitable, and may order such tax to remain on the tax lists for collection, or order the same to be relieved, or may perpetually enjoin the same, or any part thereof, or if the same shall have been paid under protest, shall order the whole or such part thereof as may be just and equitable to be refunded, the costs of said proceedings to be apportioned among the parties as justice may require.

§ 24. DRAIN KEPT OPEN AND IN REPAIR—COST OF.] All drains that may have been constructed under any law of this State, or that may be constructed under the provisions of this act and situated in this State, shall, except as otherwise provided be under the charge of the board of county commissioners and their successors in office and be by them kept open and in repair. In all cases when any completed drain is or may be situated in more than one county the care of the portion thereof lying within any county is hereby assigned to the board of county commissioners of such county to be by them kept open and in repair. The cost of such keeping open and in repair shall in all cases be assessed, levied and collected in the same manner as is provided in this act for the construction of drains in the first instance, and in cases when no assessments of benefits shall have been made the commissioners having charge of or to whose care such drain may be assigned shall make such assessment.

§ 25. RULES AND REGULATIONS.] The board of county commissioners of any county may make rules and regulations on the subject of drainage within such county as they may deem proper,

not inconsistent with the provisions of this act and especially with regard to clearing out and keeping clear the channels of streams and the construction and maintenance of dams thereupon, with reference to their capacity for drainage and may require of the owners of such dams reasonable service in cleaning and keeping such streams clear as a consideration for the right to erect dams thereupon.

§ 26. LIABILITY OF DRAIN COMMISSIONER.] Each board of drain commissioners shall make report to the board of county commissioners of all drains begun, in process of construction or finished and shall also render a full account of all moneys which shall come into their hands; and every drain commissioner shall be liable on his bond for any misapplication of money coming into his hands as such commissioner. The report required by this section shall include an itemized statement of all expenses and warrants drawn on account of each and every drain.

§ 27. COMPENSATION FOR COMMISSIONERS AND PUBLISHERS.] Drain commissioners shall receive for their services such amount, not less than two nor exceeding three dollars per day, for the time actually spent by them in performing the duties of their offices as may be fixed by the board of county commissioners. Publishers of newspapers shall receive for publishing legal notices and furnishing evidence of such publication the fees prescribed by law for legal advertisements.

§ 28. PENALTY.] If any person shall willfully and maliciously remove any surveyor's stake set along the line of any drain laid out under the provisions of this act, or obstruct or injure any such drain, he shall for each and every such offense be subject to a penalty not exceeding ten dollars together with such sum as will be required to repair such damage and costs of suit, which penalty may be recovered in an action by the board of drain commissioners or county commissioners, as the case may be; whenever the amount of any recovery shall be collected it shall be deposited with the county treasurer to the credit of the proper drain fund.

§ 29. STATE AND COUNTY OFFICERS—NOT ELIGIBLE.] No person holding any State or county office, shall be eligible to the office of drain commissioner, and drain commissioners accepting any such office shall thereupon be considered as having vacated the office of drain commissioner.

§ 30. POWER TO ADMINISTER OATH.] Drain commissioners shall have power to administer any oath required in any proceeding had before them or in which they may be called to act officially.

§ 31. BONDS—WHEN AND HOW ISSUED.] The board of county commissioners of any county in which any such drain is proposed to be located and constructed are hereby authorized to issue bonds in such sums as may be necessary for the purpose of defraying the expenses incurred or to be incurred in obtaining the right-of-way or in locating and constructing any such drain.

Said word expenses to be construed to mean and to cover every item of cost of such drain from its inception to its completion as hereinbefore provided, which bonds shall be paid out of the revenues to be derived from taxes levied or to be levied and collected from that portion of the county found by the drain commissioners to be benefited thereby. Such bonds shall bear interest at a rate not exceeding seven per cent. and shall be payable not exceeding twenty years from the date thereof and the said commissioners shall provide sinking funds for the payment of each series of bonds issued at maturity and for the payment of the annual interest on the same. The bonds issued under the provisions of this act shall be signed by the chairman of the board of county commissioners of such county and countersigned by the county auditor who shall keep a record of the bonds issued under the provisions of this act. Such board shall have the power to negotiate such bonds at not less than the par value thereof as they may deem best for the interest of all persons interested in such drain. Such bonds shall contain a recital that the same are issued in accordance with the provisions and pursuant to the authority of this act and that they are to be paid out of sinking funds to be created as in this act provided. Whenever such bonds shall be issued the tax hereinbefore provided for shall not be collected all in one year, but shall be divided into as many parts as such bonds have years to run and one of such parts shall be extended upon the tax lists by the county auditor against the proper parcels of land and property liable to taxation for that purpose in each and every year and collected in such year and such fund shall constitute the sinking fund provided by this section. The board of county commissioners shall in each year at the time of levying the taxes, levy upon the property liable to taxation on account of the location and construction of any drain a tax sufficient to pay the annual interest on any bonds which may have been issued for the purpose of locating and constructing the drain. Separate sinking funds shall be provided for each separate drain for the construction of which bonds shall be issued and no funds in any such sinking fund shall be applied to any other purpose than the payment of the bonds for the payment of which such fund was created. No county shall be liable for the payment of any bonds issued under the provisions of this act, but such bonds shall be paid only out of the sinking funds created as in this act provided.

§ 32. REPEAL.] Chapter 75 of the Session Laws of 1883 and all acts amendatory thereof and all other acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 8, 1895.

EDUCATION.

CHAPTER 52.

[Sub. S. B. No. 3.]

RELATING TO CERTIFICATES OF SCHOLARSHIP.

AN ACT to Amend Section 23 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 the Violation of the Provisions Thereof.'"

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

§ 23. AMENDMENT.] That Section 121 be amended to read as follows:

§ 121. CERTIFICATES OF SCHOLARSHIP.] Such certificates shall be of three regular grades; the first grade for a term of three years; the second grade for the term of two years; and the third grade for one year, according to the ratio of correct answers of each applicant and other evidence of qualifications appearing from the examination. No certificate shall be granted unless the applicant shall be found proficient in, and qualified to teach the following branches of a common English education; reading, writing, orthography, language lessons, and English grammar, geography, United States history, arithmetic, civil government and physiology and hygiene, and for a first and second grade can pass a satisfactory examination in theory and practice of teaching. In addition to the above applicants for first grade certificates shall pass a satisfactory examination in physical geography, elements of natural philosophy, elementary geometry and algebra and psychology. The percentage required to pass any branch shall be prescribed by the State Superintendent. In addition to these regular grades of certificate the county superintendent may grant a permission to teach until the next regular examination to any person applying at any other time than at a regular examination, who can show satisfactory reasons for failing to attend such examination, subject to rules and regulations to be prescribed by the State Superintendent. Such permit shall not be granted more than once to any person. The written answers of all candidates for county certificates after being duly examined by the county superintendent, shall be kept by him for the space of six months after such examination, and any candidate thinking an injustice

has been done him or her, by paying a fee of two (2) dollars into the institute fund of the county, and notifying both county and State Superintendent of the same, shall have his or her papers re-examined by the State Superintendent; the county superintendent shall, upon receipt of such notice from such complaining candidate, transfer said papers to the State Superintendent, who shall re-examine such answers, and if such answers warrant it, shall instruct the county superintendent to issue to such complaining candidate a county certificate of the proper grade and the county superintendent shall carry out such instructions.*

Approved, March 14, 1895.

CHAPTER 53.

[Sub. S. B. No. 03.]

HIGH SCHOOL BOARD.

AN ACT for the Encouragement of Secondary Education.

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

§ 1. HIGH SCHOOL BOARD.] The Governor, the Superintendent of Public Instruction, and the President of the State University, *ex-officio*, are hereby constituted a board of commissioners on preparatory schools for the encouragement of higher education in the State. This board shall be called the "High School Board" and shall perform the duties, and have and exercise the power hereinafter mentioned.

§ 2. STUDENTS CLASSIFIED.] Any public graded school in any city, or incorporated village or township, organized into a district, under the so-called township or district system, which school shall give instruction according to the terms and provisions of this act, and shall admit students of either sex from any part of the State, shall be entitled to be classified as a State high school; *Provided, however*, That no such school shall be required to admit non-resident pupils unless they shall pass an examination in orthography, reading in English, penmanship, arithmetic, grammar, modern geography and the history of the United States.

§ 3. CONDITIONS OF CLASSIFICATION.] The said board shall require of the schools desiring to be classified as State high schools, compliance with the following conditions, to-wit:

First. That there be regular and orderly courses of study, embracing all the branches prescribed by said board for the first two years of the high school course.

Second. That the said schools classified as State high schools under this act shall at all times permit the said board of commissioners, or any of them, to visit and examine the classes pursuing the said preparatory courses.

§ 4. SCHOOL TO BE VISITED ONCE IN EACH YEAR.] The said board of commissioners shall cause each school classified as a State high school under this act to be visited, at least once in each school year, by a committee of one or more members, who shall carefully inspect the instruction and discipline of the said high schools and make a written report on the same immediately; *Provided*, That the said board may, in their discretion, appoint, in any case, competent persons to visit and inspect any schools, and to make report thereon; and no school shall be classified as a State high school in any case until after such report shall have been received and examined by the board and the work of the school approved by vote of the board.

§ 5. NO COMPENSATION.] The members of said board shall serve without compensation.

§ 6. DISCRETIONARY POWERS.] The high school board shall have full discretionary power to consider an act upon applications of schools for classification and to prescribe the conditions upon which said classification shall be made; and it shall be its duty to accept such school only as will, in its opinion, if accepted, efficiently perform the service contemplated by law. Any school once accepted and continuing to comply with law and regulations of the board made in pursuance thereof, shall be so classified not less than three years. The board shall have power to establish any necessary and suitable rules and regulations relating to examinations, reports, acceptance of schools, courses of studies, and other proceedings under this act.

§ 7. SHALL KEEP RECORD.] The said board shall keep a careful record of all their proceedings, and shall make on or before the first day of December in each year, a report, covering the previous school year, to the Superintendent of Public Instruction, showing the names and number of schools classified as State high schools, and the number of pupils attending the classes in each, to which report they may add such recommendations as they may deem useful and proper.

§ 8. TAKE EFFECT.] This act shall take effect and be in force from and after its passage.

Approved, March 12th, 1895.

CHAPTER 54.

[S. B. No. 27.]

QUALIFICATIONS OF TEACHERS.

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, 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.' "

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

§ 1. AMENDMENT.] That Section 24 of Chapter 56 of the Session Laws of 1891, be amended to read as follows:

§ 2. QUALIFICATIONS OF TEACHERS—APPLICATION OF ARTICLE—CONTRACT VOID.] No certificate or permit to teach shall be issued to any person under eighteen years of age and no first grade certificate shall be issued to any person under twenty years of age and who has not taught successfully twelve school months; and a third grade certificate shall not be issued more than twice to the same person. The certificate so issued by a county superintendent shall be valid only in the county where issued; *Provided*, That a first grade certificate may be renewed once without examination at the discretion of the county superintendent, upon payment of the proper fee for the institute fund as provided in the case of examination; *Provided, further*, That a first grade certificate shall be valid in any county of the State when endorsed by the county superintendent of such county. No person shall be employed or permitted to teach in any of the public schools of the State except those in cities organized for school purposes under special laws, who is not the holder of a lawful certificate of qualification, or permit to teach. *Provided, further*, That no certificate or permit to teach in the schools of the State shall be granted to any person not a citizen of the United States unless such person has resided in the United States for one year, past prior to the time of such application for certificate or permit. Any contract made in violation of this section shall be void.

Approved, March 12, 1895.

CHAPTER 55.

[S. B. No. 153.]

HEALTH AND DECENCY IN PUBLIC SCHOOLS.

AN ACT in Relation to Health and Decency in the School Districts of This State.

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

§ 1. DUTY OF BOARDS OF EDUCATION.] It shall be the duty of all boards of education and district school boards having supervision over any school district of this State, to provide suitable and convenient water closets or privies for each of the schools under their charge, at least two in number, which shall be entirely separate each from the other, and having separate means of access, it shall be the duty of the school officers aforesaid to keep the same in a clean, chaste and wholesome condition, and a failure to comply with the provisions of this act on the part of boards of education and district school boards, shall be sufficient grounds for removal from office, and for withholding from any district any part of the public moneys of the State and the expense incurred by the officers aforesaid, growing out of the requirements of this act, shall be a charge upon the district, when such expense shall have been approved by the school superintendent of the county within which the school district is located, and a tax may be levied therefor without a vote of the district.

§ 2. EMERGENCY.] *Whereas*, It is necessary, in the interest of health that this act be put in force prior to July 1st next; *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 7, 1895.

CHAPTER 56.

[S. B. No. 4.]

COMMON SCHOOL BRANCHES.

AN ACT To Amend Section One Hundred Thirty, Chapter Sixty-two, 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."

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

§ 1. AMENDMENT.] That Section 130, Chapter 62, of the Session Laws of 1890 be amended to read as follows:

§ 130. COURSE OF STUDY IN COMMON SCHOOLS.] Every teacher

in the common schools shall teach pupils as they are sufficiently advanced to pursue the same, the following branches, to-wit: Orthography, reading, spelling, writing, arithmetic, language lessons, English grammar, geography, United States history, civil government, physiology and hygiene, giving special instruction concerning the nature of alcoholic drinks, stimulants and narcotics, and their effects upon the human system. Physiology and hygiene, and the nature of alcoholic drinks, stimulants and narcotics, and their effect upon the human system, shall be taught as thoroughly as any branch is taught, by the use of a text-book to all pupils able to use a text-book who have not thoroughly studied that branch, and orally to all other pupils. When such oral instruction is given as herein required, a sufficient time, not less than fifteen minutes, shall be given to such oral instruction, for at least four days in each school week. Every teacher in the school in special districts, and in cities organized for school purposes, under special law, shall conform to, and be governed by the provisions of this section.

Approved, March 14, 1891.

CHAPTER 57.

[H. B. No. 152.]

SPECIAL SCHOOL DISTRICTS.

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 Hereof."

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

§ 33. AMENDMENT.] That Section 169 be amended to read as follows:

§ 169. SPECIAL SCHOOL DISTRICTS—HOW CONSTITUTED.] All cities and incorporated towns and villages which have heretofore been organized under the general school laws, and which are provided with a board of education, shall be governed by the provisions of this article. Any city or incorporated town or village having a population of more than 200 inhabitants may be constituted a special school district in manner hereinafter prescribed, and shall then be governed by the provisions of this article; *Provided*, That any city heretofore organized for school purposes under a special act may adopt the provisions of this article by a majority vote of the voters therein, in the same manner as is provided for the organization of a new corporation under the provisions of this article.

Approved, March 19, 1895.

ELECTION.

CHAPTER 58.

[S. B. No. 140.]

VOTERS OF INDIAN DESCENT.

AN ACT Defining the Qualifications of Electors of Indian Descent.

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

§ 1. QUALIFICATIONS OF INDIAN VOTERS.] No Indian or person of Indian descent who has not received a final patent conveying the title in fee of lands allotted to him within the boundaries of this State, pursuant to an act of the Congress of the United States, approved February 8, 1887, and entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the territories over the Indians, and for other purposes," shall be deemed a qualified elector of the State of North Dakota, or be entitled to the rights and privileges of an elector therein unless he was born within the limits of the United States, and has voluntarily taken up his residence within this State separate and apart from any tribe of Indians therein, and adopted the habits of civilized life, and is in no manner subject to the authority of any Indian chief or council or Indian agent of the United States.

Approved, March 21, 1895.

EQUALIZATION.

CHAPTER 59.

[H. B. No. 35.]

TOWN AND DISTRICT BOARD OF REVIEW.

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.

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

§ 1. AMENDMENT.] Section 39 of Chapter 132, of the Session Laws of 1890, be amended to read as follows:

§ 39. TOWN BOARD OF REVIEW—DUTIES, COMPLAINTS AND GRIEVANCES.] The board of supervisors of each town, the recorder and president of incorporated villages, and the assessor, auditor, mayor, president and vice-president of each city (except cities whose charters provide for a board of equalization) shall meet on the fourth Monday of June at the office of the town clerk, recorder or auditor, for the purpose of reviewing the assessment of property in each town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor, and in case any property, real or personal, shall have been omitted by inadvertance or otherwise, it shall be the duty of the said board to place the same upon the list with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property, and each article, parcel or class of personal property shall be entered upon the assessment list at the true value thereof, but the assessment of the property of any person shall not be raised, until each person shall have been duly notified of the intent of the board so to do, and on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to him just; any two of said officers in towns and villages, and any three in cities are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day; *Provided*, That they shall complete the equalization within six days. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board, *Provided*, That the complaints of non-residents in reference to the assessment of any property, real

or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

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

§ 3. EMERGENCY.] An emergency exists in this that boards of review meet before July first, and in order to secure the benefit of this act for 1895. *Therefore*, this act shall take effect from and after its passage and approval.

Approved, March 4, 1895.

EXECUTION.

CHAPTER 60.

[S. B. No. 47.]

RELATING TO PROPERTY NOT EXEMPT.

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.

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

§ 1. AMENDMENT.] That Section 332 of Chapter 13 of the Code of Civil Procedure, being Chapter 5136 of the Compiled Laws, be amended so as to read as follows:

§ 332. HOW CONSTRUED.] Nothing in this chapter shall be so construed as to exempt any real or personal property from execution issued on any judgment rendered in any bastardy proceedings under Chapter 37 of the Code of Civil Procedure, neither shall it be so construed as to exempt any personal property from execution for laborers' or mechanics' wages, or physicians bills except that absolutely exempt; *Provided, however*, That a physician in order to be entitled to the benefits of this act, must be a physician who has graduated at some reputable school of medicine, either of the United States or some foreign country, or who can produce a certificate of qualification from some state or territorial medical society, or who has been continuously engaged in the practice of medicine for a period of ten years or more; *Provided*, That in case of physicians' bills there shall also be exempt household and kitchen furniture, including stoves of the debtor, to an amount not exceeding four hundred dollars, and also two cows; *Provided, however*, That this shall not apply to physicians' bills contracted before the passage of this act; *And further provided*, That the collection of physicians' bills shall not be enforced

by execution in less than six months from the accruing thereof, except when the debtor is about to remove from the State. No exemption shall be allowed any person against an execution issued for the purchase money of property claimed to be exempt, and on which such execution is levied.

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

Approved, March 16, 1895.

EXEMPTIONS.

CHAPTER 61.

[Sub. S. B. No. 88.]

PROPERTY EXEMPT FROM TAXATION.

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."

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

§ 1. AMENDMENT.] That Section 1, Chapter 100 of the Laws of 1891, be amended to read as follows:

§ 2. PROPERTY EXEMPT.] All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

First. All public school houses, academies, colleges, institutions and seminaries of learning with the books and furniture therein and the grounds attached to such buildings necessary to their proper occupancy, use and enjoyment, and not leased or otherwise used with a view to profit; houses used exclusively for public worship, and the lots or parts of lots upon which such houses are erected.

Second. All lands used exclusively for burying grounds or cemeteries.

Third. All property, whether real or personal, belonging exclusively to the State or to the United States.

Fourth. All buildings belonging to the counties used for holding courts, for jails, for county offices, with the ground, not exceeding in any county ten acres, on which buildings are erected.

Fifth. All lands, houses and other buildings belonging to any county, township or town used exclusively for the accommodation or support of the poor.

Sixth. All buildings belonging to institutions of purely public charity, including public hospitals, Young Men's Christian Association buildings, Grand Army halls owned by a Grand Army post, all property and armory buildings owned by companies of the State militia together with the land actually occupied by such institutions not leased or otherwise used with a view to profit; and all moneys and credits appropriated solely to sustaining, and belonging exclusively to such institutions and all land owned and occupied by agricultural societies, not leased or used with a view to profit, not exceeding eighty acres.

Seventh. The shares of stock in all building associations organized under the laws of this State where the loans of such associations are, by the by-laws thereof, confined strictly to members of the county in which such association is located.

Eighth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof, and for the meeting of fire companies, whether belonging to any town or fire company organized therein.

Ninth. All public market houses, public squares or other public grounds, town or township houses, or halls used exclusively for public purposes and all works, machinery or fixtures belonging to any town and used exclusively for conveying water to such town.

Tenth. All public libraries and real personal property belonging to or connected with the same.

Eleventh. The personal property of each individual liable to assessment and taxation under the provisions of this act, of which such individual is the actual and *bona fide* owner, to an amount not exceeding twenty-five dollars in value; *Provided*, That each person shall list all of his personal property for taxation, and the county auditor shall deduct the amount of exemption authorized by this section from the total amount of his assessment and levy taxes upon the remainder.

§ 2. EMERGENCY.] *Whereas*, In order to secure the benefits of this law for the year 1895 it is necessary that it should become a law prior to July next, an emergency exists, *Therefore*, this act shall be in force from and after its passage and approval.

Approved, March 19, 1895.

FARM BUILDINGS.

CHAPTER 62.

[H. B. No. 128.]

DESTRUCTION OF FARM BUILDINGS.

AN ACT to Prevent the Destruction of Farm Buildings in State of North Dakota.

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

§ 1. DESTRUCTION OF FARM BUILDINGS—FELONY.] Any person or persons who shall enter upon any farm lands situate in the State of North Dakota and not situate within the limits of any incorporated city, town or village, the land being the property of another, and shall tear down and remove from any unoccupied buildings standing on such premises any door, window, siding, shingles, ceiling, floor, sheeting, finish, rafters or scantling, or tear down any chimney and shall burn such material on the premises, or shall remove and take away any such materials from such premises, whether he uses or destroys the same, shall be deemed guilty of malicious trespass; and should the materials that have been taken away reduce the value of the buildings standing on said premises in the sum of more than twenty (\$20) dollars, without regard to the value of the materials taken away, such person or persons shall be deemed guilty of a felony.

§ 2. FINE AND IMPRISONMENT.] Every person or persons found guilty of the offense or offenses in Section 1 by this act provided; shall be punished on conviction thereof for the misdemeanor by a fine not exceeding one hundred (\$100) dollars; and if found guilty of the felony as provided in Section 1 of this act, shall be punished by imprisonment in the penitentiary of the State of North Dakota for a term not exceeding three years.

§ 3. WHEN CONJOINTLY COMMITTED.] Whenever two or more persons conjointly commit any such malicious trespass, the value of the materials taken away and removed by each one shall be considered in the aggregate in determining the value to which any such property may have been damaged, and each person shall be considered of having committed such malicious trespass to the extent of the aggregate damage done by all.

§ 4. DETERMINING VALUE.] Whenever one or more persons have committed any act of malicious trespass, as provided in Section 1 of this act, and shall have entered upon the real estate several times and carried away such materials a little at a time,

in determining the value that such improvements have been damaged, all the material carried away by any such person being tried under this act, shall be taken into consideration, providing it shall have been taken, carried away and destroyed within one year from the date of his arrest under this act.

§ 5. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 6. EMERGENCY.] *Whereas*, An emergency exists in that there is no adequate law governing the provisions of this act now on our statutes, *Therefore* this act shall be in force and effect from and after its passage and approval.

Approved, March 6, 1895.

FARM LABORER'S LIEN.

CHAPTER 63.

[H. B. No. 110.]

FARM LABORER'S LIEN.

AN ACT to Protect Farm Laborers and Giving Them Liens on Crops as Security for Their Wages.

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

§ 1. LIEN FOR WAGES.] Any person who performs services for another in the capacity of farm laborer between the first day of April and the first day of December in any year, shall have a lien on all crops of every kind, grown, raised or harvested by the person for whom the services were performed during said time as security for the payment of any wages due or owing to such person for services so performed, and said lien shall have priority over all other liens, chattel mortgages or incumbrances, excepting, however, seed grain and threshers liens; *Provided, however*, that the wages for which a lien may be obtained must be reasonable, and not in excess of that which is usually charged for the same kind of work in the locality where the labor is performed; *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.

§ 2. LIEN, HOW ACQUIRED.] In order to acquire a lien as specified in section one of this act, the person performing such services shall within ten days after the services are fully performed, file in the office of the register of deeds of the county in which any of the real estate is situated on which any crop is

grown on which a lien is claimed, an affidavit and notice setting forth the terms of the employment, the name of the employers, the time when the services were commenced and when ended, the wages agreed upon if any, and if not agreed upon, then the reasonable value of the same, the terms of payment if any, and a description of the real estate on which any crop is growing or has been grown or harvested on which a lien is claimed, the amount paid him if any, and the amount remaining unpaid, and that said laborer claims a lien for same.

§ 3. FEES FOR FILING.] It shall be the duty of the register of deeds to file and enter said affidavit and notice in the manner required by law for filing and entering chattel mortgages, entering employer as a mortgagor and laborer as mortgagee, and shall be entitled to a fee of ten cents for filing same.

§ 4. HOW FORECLOSED. If the person for whom such services were performed fails to pay for same when due, or if he shall sell, conceal or dispose of the property covered by said lien or any part thereof, then the owner of such lien shall have the right to take full and absolute possession of all the property covered by such lien and sell the same in the manner and upon the notice provided by law for the foreclosure of chattel mortgages, and the costs and fees for foreclosing shall be the same.

Approved, March 11, 1895.

FISH HATCHERY.

CHAPTER 64.

[S. B. No. 169.]

STATE FISH HATCHERY.

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."

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

§ 1. STATE FISH COMMISSIONER.] The State Superintendent of Irrigation and Forestry is hereby constituted the State Fish Commissioner of North Dakota.

§ 2. DUTY OF THE COMMISSIONER.] It shall be the duty of the State Fish Commissioner of North Dakota to act in conjunction with the United States Commissioner of Fish and Fisheries, and otherwise as his judgment may dictate, by stocking the

waters of this State with fish by distributing in suitable parts thereof such fish as he may deem best adapted to furnish cheap and nutritious food for the people; to establish and maintain a State fish hatchery or hatcheries and such fish breeding ponds as he may deem necessary, and to equip and stock the same with fish; to employ suitable agents to take [charge] of and propagate such young fish and fish eggs as he may require or obtain; to have the entire charge of the fish culture and a general supervision of all the fish of the waters throughout this State and to take such legal steps as shall secure proper protection of the same. *Provided*, Nothing in this act shall be so construed as to make the State of North Dakota liable for the lands, springs or waters secured for a State fish hatchery or hatcheries or fish breeding ponds or for any service rendered by any fish agents or any other person engaged in such work as named in this section.

§ 3. UNLAWFUL TO KILL OR DESTROY—WHEN—FINE AND IMPRISONMENT.] It shall be unlawful for any person to take, catch, kill or destroy with a hook and line or in any other manner whatever, any fish at any time at any of the mill dams, mill races or any of the fishways, sluices, or aprons in any of the waters of the State, or within five hundred feet measured from the same up stream, or within five hundred feet measured from the same down stream, or to cut open the ice and remove any fish from the waters through the openings thus made, or remove fish from any of the waters of this State at any time by means of spearing, seines, nets or any other device, or by any other manner, except with a hook and line, and in no event shall the number of fish taken, caught or killed by any one person exceed twenty-five fish in any one day. Whoever shall offend against any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of no less than ten dollars and no more than twenty-five dollars, and cost of prosecution, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or both fine and imprisonment in the discretion of the court, for each and every fish thus taken, caught, killed or destroyed contrary to the provisions of this section.

§ 4. DUTY OF PEACE OFFICER.] Every seine, net or other unlawful device used or intended to be used to catch, take, kill or destroy any fish in this State contrary to the laws thereof is forfeited to the State, and it is the duty of every peace officer of this State to seize and destroy any such device whenever the same is being used in the violation of this act.

§ 5. REPORT OF COMMISSIONER—WHEN.] Two months previous to the meeting of the Legislative Assembly, the State Fish Commissioner of North Dakota shall make a report to the Governor of this State giving an account of the doings of his office, together with such recommendations as in his judgment may best promote fish culture in this State.

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

§ 7. EMERGENCY.] *Whereas* the present laws of the State of North Dakota do not make proper provision for the stocking of the waters of this State with fish, nor for their protection, and it being important that the same should be at once furnished, *Therefore*, this act shall take effect and be force from and after its approval.

Approved, March 20, 1895.

GARNISHMENT.

CHAPTER 65.

[H. B. No. 145.]

ESTABLISHING A GARNISHMENT LAW.

AN ACT Entitled an Act to Establish a Garnishment Law For the State of North Dakota.

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

§ 1. CREDITORS MAY PROCEED.] Any creditor shall be entitled to proceed by garnishment, in any court having jurisdiction of the subject of the action, against any person (except a public corporation) who shall be indebted to, or have any property whatever, real or personal, in his possession or under his control belonging to such creditor's debtor, in the cases, upon the conditions and in the manner prescribed in this chapter. The term plaintiff is used in this chapter to embrace every judgment creditor, and the term defendant a judgment debtor.

§ 2. METHOD OF PROCEDURE.] Either at the time of the issuing of a summons, or at any time thereafter before final judgment, in any action to recover damages founded upon contract, express or implied, or upon judgment or decree, or at any time after the issuing, in any case, of an execution against property, and before the time when it is returnable, the plaintiff, or some person in his behalf, may make an affidavit stating that he verily believes that some person, naming him, is indebted to, or has property, real or personal, in his possession, or under his control, belonging to the defendant, or either or any of the defendants, in the action or execution, naming him, and that such defendant has not property in this State liable to execution, sufficient to satisfy the plaintiff's demand, and that the indebtedness or property mentioned in such affidavit is to the best of the knowledge and belief of the person making such affidavit, not by law exempt

from seizure or sale upon execution. Any number of garnishees may be embraced in the same affidavit, but if a joint liability be claimed against any, it shall be so stated, and the garnishees named as jointly liable shall be deemed jointly proceeded against; otherwise the several garnishees shall be deemed severally proceeded against.

§ 3. SUMMONS.] The plaintiff shall annex or subjoin to such affidavit a garnishee summons, which shall be substantially in the following form:

.....Court,.....County.

A. B., Plaintiff,

vs.

C. D., Defendant,

E. F., Garnishee.

The State of North Dakota to the said garnishee:

You are hereby summoned, pursuant to the annexed affidavit, as a garnishee of the defendant, C. D., and required within thirty days after the service of this summons upon you, exclusive of the day of service, to answer, according to law, whether you are indebted to, or have in your possession or under your control, any property, real or personal, belonging to such defendant, and to serve a copy of your answer on the undersigned at..... in the county of.....; and in case of your failure so to do, you will be liable to further proceedings, according to law; of which the said defendant will also take notice.

L. M., Plaintiff's Attorney.

P. O. Address.....County, N. D..

§ 4. SERVED BY SHERIFF.] Such garnishee summons and affidavit may be served by the sheriff of the county, where any garnishee or defendant may be found, or by any other person not a party to the action. The service shall be made and the same returned, with proof of the service, to the person whose name is subscribed thereto, with reasonable diligence. The person subscribing such garnishee summons, may, at his option, by an endorsement thereon, fix a time for the service thereof, and the service shall then be made accordingly.

§ 5. GARNISHEE SERVICE—WHEN VOID.] The garnishee summons and annexed affidavit shall be served on each of the several garnishees named, in the manner provided for service of a summons in an action; and, except where service of the summons in the action is made without the State, or by publication, also on the defendant to the action, in like manner, either before, or within ten days after service on a garnishee. When the defendant shall have appeared in the action by an attorney, such service may be made upon such attorney or upon the defendant. Unless the garnishee summons be so served on the defendant or his attorney, in accordance with the provisions of this section, the service on the garnishee shall become void and of no effect from the beginning.

§ 6. SUBSEQUENT PROCEEDINGS. The plaintiff may in like manner subsequently proceed within the period limited, against other garnishees, or against the same garnishee after they shall have once been discharged, upon a new affidavit, if he shall have reason to believe they have subsequently become liable; and he may summon garnishees resident in other counties than that in which the action is pending; but if an issue for trial shall be joined between the plaintiff and such garnishee, the court may, on motion, change the place of trial of such issue to the county of the garnishee's residence.

§ 7. GARNISHEE DISMISSED—WHEN.] If the plaintiff shall not within ten days after demand for a copy of the complaint serve upon the garnishee or his attorney, except in case of garnishment upon execution, a copy of the complaint showing the amount of the indebtedness of the defendant in the action to the plaintiff, the proceeding against the garnishee shall be dismissed, on motion of the garnishee, with costs, unless the court, or judge, shall in discretion, and upon terms, permit the same to stand.

§ 8. GARNISHEE'S AFFIDAVIT.] Within thirty days from the service of such garnishee summons, the garnishee may, if the truth warrants, file with the clerk of the court in which the action is pending, and serve a copy thereof upon the plaintiff, his affidavit in the following form substantially:

.....Court.....County.

A. B., Plaintiff,

vs.

C. D., Defendant,

and E. F. Garnishee.

.....County, ss.

E. F., being first duly sworn, says that on the.....day of
.....A. D. 18.., he was served with a garnishee summons
in the above entitled action; that he was then and is now in no
manner, and upon no account whatever, indebted or under
liability to the defendant (naming him) and that he then had and
now has in his possession, or under his control, no real estate and
no personal property, effects or credits, of any description what-
ever, belonging to said defendant, or in which he has any interest;
and is in no manner liable as garnishee in this action.

Subscribed and sworn to before me

this....day of....., A. D. 18..

Thereby the proceeding against such garnishee shall be deemed discontinued, and the plaintiff shall pay the garnishee one dollar for his costs, unless within thirty days thereafter the plaintiff serve notice on such garnishee, that he elects to take issue on his answer to the garnishee summons and will maintain him to be liable as garnishee. In which case the issue shall stand for trial as a civil action, in which the affidavit on the part of the plaintiff

shall be deemed the complaint, and the garnishee's affidavit the answer thereto.

§ 9. SUBSTANCE OF AFFIDAVIT.] Unless the garnishee shall make the affidavit provided for in the preceding section, he shall, within thirty days from the service of the garnishee summons, file and serve in like manner, an affidavit, in which he shall state:

1. Whether he was at the time of service of the garnishee summons, or has since become indebted, or under any liability to the defendant named in the garnishee summons, in any manner upon any account specifying, if indebted or liable, the amount, the interest thereon, the manner in which evidenced, when payable, whether an absolute or contingent liability, and all the facts and circumstances necessary to a complete understanding of such indebtedness or liability. When the garnishee shall be in doubt respecting any such liability or indebtedness, he may set forth all the facts and circumstances concerning the same, and submit the question to the court.

2. Whether he held at the time aforesaid, or now holds, the title or possession of any real estate, or any interest in land of any description, or of any personal property, effects or credits, or any instruments or papers relating to such, belonging to the defendant, or in which he is in any wise interested. And if he shall admit any such, or be in any doubt respecting the same, he shall set forth the description of such property, and all the facts and circumstances concerning the same, and the title, interest or claim, of the defendant, in or to the same.

3. If he shall claim any setoff, or defense, to any indebtedness or liability, or any lien or claim to said property, he shall set forth the facts and circumstances thereof fully.

4. He may state any claim of exemption from execution, on the part of the defendant, or other objections, known to him, against the right of the plaintiff to apply upon his demands, the indebtedness or property disclosed.

5. If he shall disclose any indebtedness, or the possession of any property to which the defendant, and any other person as well, make claim, he may set forth the names and residences of such other claimants, and so far as known, the nature of their claims.

§ 10. JUDGMENT RENDERED—WHEN.] If any garnishee, having been duly summoned, shall fail to serve his affidavit, as required in the preceding section, the court may render judgment against him for the amount of the judgment which the plaintiff shall recover against the defendant in the action for damages and costs, together with the cost of such garnishee action. Such garnishee may also be proceeded against, as for a contempt, according to the provisions of Chapter 33 of the Code of Civil Procedure.

§ 11. WHEN LEVY CAN BE MADE.] In case the answer of the garnishee shall show indebtedness to the defendant, he may pay the amount thereof, less three dollars for his costs, to the officer

having a warrant of attachment in the action, if any, or otherwise to the clerk of the court; or, if the garnishment is in aid of an execution, to the sheriff having the execution; and the officer to whom such payment is made shall give him a receipt, specifying the facts, and such receipt shall be a complete discharge of all liability to any party for the amount so paid. If the answer disclose any money, credits or other property, real or personal, in the possession, or under the control of the garnishee, the officer having a writ of attachment, or an execution, if any, may levy upon the interest of the defendant in the same; otherwise the garnishee shall hold the same until the order of the court thereon.

§ 12. IN CASE ISSUE IS TAKEN.] The answer of the garnishee shall, in all cases, be conclusive of the truth of the facts therein stated, unless the plaintiff shall, within thirty days, serve upon the garnishee a notice, in writing, that he elects to take issue on his answer; in which case the issue shall stand for trial as a civil action, in which the affidavit on the part of the plaintiff shall be deemed a complaint and the garnishee's affidavit the answer thereto. The plaintiff may in all cases move the court, upon the answer of the garnishee, and of the defendant, if he shall also answer, for such judgment as he shall be entitled to thereon, but any such judgment shall be no bar beyond the facts stated in such answers.

§ 13. AGENT OR ATTORNEY.] The answer of a corporation summoned as a garnishee, may be made by any officer thereof; and of any other garnishee, by any agent or attorney, in his behalf, who shall be acquainted with the facts.

§ 14. WHEN PROPERTY IS EXEMPT FROM EXECUTION.] The defendant may, in all cases, by answer, duly verified, to be served within thirty days from the service of the garnishee summons on him defend the proceeding against the garnishee, upon the ground that the indebtedness of the garnishee, or any property held by him, is exempt from execution against such defendant, or for any other reason is not liable to garnishment; or, upon any ground upon which a garnishee might defend the same; and may participate in the trial of any issue between the plaintiff and garnishee for the protection of his interests. And the garnishee may, at his option, defend the principal action for the defendant, if the latter does not, but shall be under no obligations so to do.

§ 15. JUDGMENTS.] The proceedings against a garnishee shall be deemed an action by the plaintiff against the garnishee and defendant as parties defendant, and all provisions of law relating to proceedings in civil actions at issue, including examinations of the parties, amendments and relief from default or proceedings taken and appeals and all provisions for enforcing judgments, shall be applicable thereto; but when the garnishment is not in aid of an execution no trial shall be had of the garnishee action, until the plaintiff shall have judgment in the principal action,

but the garnishment action may be noticed for trial at the same term if issue therein is joined in time; and if the defendant have judgment, the garnishee action shall be dismissed with costs. The court shall render such judgments in all cases as shall be just to all the parties, and properly protect their respective interests, and may adjudge the recovery of an indebtedness, the conveyance, transfer, or delivery to the sheriff, or any officer appointed by the judgment, of any real estate or personal property disclosed or found to be liable to be applied to the plaintiff's demand; or by the judgment pass the title thereto; and may therein, or by its order, when proper, direct the manner of making sale, and of disposing of the proceeds thereof, or of any money or other thing paid over or delivered to the clerk or officer. The judgment against a garnishee shall acquit and discharge him from all demands, by the defendant, or his representative, for all money, goods, effects or credits, paid, delivered or accounted for, by the garnishee, by force of such judgment.

§ 16. WHEN CLAIMANT MAY BE INTERPLEADED.] When the answer of the garnishee shall disclose that any other person than the defendant claims the indebtedness or property in his hands, and the name and residence of such claimant, the court may, on motion, order that such claimant be interpleaded as a defendant to the garnishee action; and that notice thereof, setting forth the facts, with a copy of such order, in such form as the court shall direct, be served upon him, and that after such service shall have been made, the garnishee may pay or deliver to the officer or clerk such indebtedness, or property, and have a receipt therefor, which shall be a complete discharge from all liability to any party for the amount so paid, or property delivered. Such notice shall be served in the manner required for service of a summons in a civil action, and may be made without the State or by publication thereof, if the order shall so direct. Upon such service being made, such claimant shall be deemed a defendant to the garnishee action, and within thirty days, shall answer, setting forth his claim, or any defense which the garnishee might have made. In case of default, judgment may be rendered, which shall conclude any claim upon the part of such defendant.

§ 17. GARNISHEE'S LIABILITY.] From the time of the service of the summons upon the garnishee, he shall stand liable to the plaintiff to the amount of the property, moneys, credits, and effects in his possession, or under his control, belonging to the defendant, or in which he shall be interested, to the extent of his right or interest therein, and of all debts due or to become due, to the defendant, except such as may be, by law, exempt from execution. Any property, moneys, credits and effects held by a conveyance, or title, void as to the creditors of the defendant, shall be embraced in such liability.

§ 18. WHEN JUDGMENTS SHALL NOT BE RENDERED.] No judg-

ment shall be rendered upon a liability of the garnishee arising either.

1. By reason of his having drawn, accepted, made, indorsed or guaranteed any negotiable bill, draft, note or other security.

2. By reason of any money, or other thing, received or collected by him as sheriff, or other officer, by force of an execution, or other legal process, in favor of the defendant.

3. By reason of any money in his hands, as a public officer, and for which he is accountable to the defendant merely as such officer.

4. By reason of any money, or other thing, owing from him to the defendant, unless before judgment against the defendant, it shall have become due absolutely and without depending on any future contingency; but judgment may be given for any money or other thing owing after it shall have become due absolutely and without depending on any contingency.

§ 19. JUDGE MAY PERMIT ACTION—WHEN.] No action shall be commenced by the defendant, or his assignee, against a garnishee upon any claim or demand liable to garnishment, or to recover any property garnished, or execution be issued upon a judgment in favor of the defendant against such garnishee, subsequent to the service of the garnishee summons upon him, until the termination of the garnishee action; and, if an action shall have been commenced or an execution issued, it shall be stayed by the court or a judge thereof upon the garnishee's application; except that upon cause shown, the court or judge may by order permit the commencement of such an action, or the issue of an execution, or the further prosecution of one stayed.

§ 20. UNDERTAKING FILED.] The defendant may, at any time after the complaint is filed, and before judgment, file with the clerk of the court an undertaking, executed by at least two sureties resident freeholders of the State, to the effect that they will, on demand, pay to the plaintiff the amount of the judgment, with all costs that may be recovered against such defendant in the action, not exceeding a sum specified, which sum shall not be less than double the amount demanded by the complaint, or in such less sum as the court shall, upon application, direct. The sureties shall justify their responsibility by affidavit annexed, stating a sum which each is worth in property within this State, over and above all debts and liabilities and property exempt from execution, the aggregate of which sums shall be double the amount specified in the undertaking. The defendant shall serve a copy of such undertaking, with a notice where and when the same was filed, on the plaintiff. Within three days after the receipt thereof, the plaintiff shall give notice to the defendant that he excepts to the sufficiency of the sureties, or he shall be deemed to have waived all objections to them. When the plaintiff excepts, the sureties shall justify in a like manner as bail upon an arrest. Thereafter all the garnishees shall be discharged,

and the garnishment proceedings shall be deemed discontinued, and any money or property paid or delivered to any officer, shall be surrendered to the person entitled thereto, and the costs shall be taxable as disbursements of the plaintiff in the action, if he recovers.

§ 21. COSTS—DISCRETION OF COURT.] In case of the trial of an issue between the plaintiff and any garnishee, costs shall be awarded to the plaintiff, and against the garnishee, in addition to his liability, if the plaintiff recovers more than the garnishee admitted by his answer; and if he does not, the garnishee shall recover costs of the plaintiff. In all other cases, under this chapter, not expressly provided for, the court may award costs in favor of or against any party, in its discretion. When there is no issue for trial, and any liability on the part of the garnishee is disclosed, the costs of the garnishment proceedings shall be taxed for the plaintiff, if he recovers, as disbursements in the principal action.

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

Approved, March 11, 1895.

GEOLOGICAL SURVEY.

CHAPTER 66.

[S. B. No. 44.]

GEOLOGICAL SURVEY OF NORTH DAKOTA.

AN ACT To Provide for a Geological and Natural History Survey of the State of North Dakota.

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

§ 1. DUTY OF TRUSTEES OF UNIVERSITY.] It shall be the duty of the board of trustees of the university of North Dakota to cause to be begun as soon as may be practicable, and to carry on a thorough geological and natural history survey of the State.

§ 2. EXTENT OF THE SURVEY.] The geological survey shall be carried on with a view to a complete account of the mineral kingdom; as represented in the State, including the number, order, dip and magnitude of the several geological strata, their richness in ores, coals, clays, peats, salines and mineral waters, marls, cements, building stones and other useful materials, the value of said substance for economical purposes, and their accessibility; also an accurate chemical analysis of the various rocks, soils, ores, clays, peats, marls and other mineral substances; of which complete and exact record shall be made.

§ 3. METROLOGICAL STATISTICS TABULATED.] The said board of trustees shall also cause to be collected and tabulated such metrological statistics as may be needed to account for the varieties of climate in the various part of the State; also to cause to be ascertained by barometrical observations or other appropriate means, the relative elevations and depressions of the different parts of the State; and also, on or before the completion of the said surveys, to cause to be compiled from such actual surveys and measurements as may be necessary an accurate map of the State; which map when approved by the governor, shall be the official map of the State.

§ 4. SPECIMENS COLLECTED.] It shall be the duty of said board of trustees, to cause proper specimens, skillfully prepared, secured and labeled, of all rocks, soils, ores, coals, fossils, cements, building stones, plants, woods, skins and skeletons of animals, birds, insects and fishes, and other mineral, vegetable and animal substances and organisms discovered or examined in the course of said surveys, to be preserved for public inspection free of cost, in the university of North Dakota, in rooms convenient of access and properly warmed, lighted, ventilated and furnished, and in charge of a proper scientific curator; and they shall also whenever the same may be practicable, cause duplicates in reasonable numbers and quantities of the above named specimen, to be collected and preserved for the purpose of exchanges with other state universities and scientific institutions, of which latter the Smithsonian institution at Washington shall have the preference.

§ 5. MAP OF THE STATE.] The said board of trustees shall cause a geological map of the State to be made as soon as may be practicable, upon which by colors, and other appropriate means and devices, the various geological formations shall be represented.

§ 6. ANNUAL REPORT OF TRUSTEES.] It shall be the duty of the said board of trustees, through their president, to make on or before the second Tuesday in December of each and every year, a report showing the progress of the said surveys, accompanied by such maps, drawings and specifications as may be necessary and proper to exemplify the same to the Governor, who shall lay the same before the Legislature; and the said board of trustees upon the completion of any separate portion of any of the said surveys, shall cause to be prepared a memoir or final report which shall embody in a convenient manner all useful and important information accumulated in the course of the investigation of the particular department or portion; which report or memoir shall likewise be communicated through the Governor to the Legislature.

§ 7. STATE GEOLOGIST.] The professor of geology in the university of North Dakota shall be *ex-officio* State Geologist.

Approved, February 26, 1895.

GOPHER.

CHAPTER 67.

[S. B. No. 98.]

DESTRUCTION OF GOPHERS.

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.

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

§ 1. COMMISSIONERS MAY LEVY TAX.] The county commissioners of any county in this State may, at the time fixed by law for the levy and assessment of taxes, levy a tax not to exceed one-half mill on the dollar of assessed valuation, upon all property in said county, the proceeds of which shall be used solely for the purpose of purchasing a suitable supply of strychnine or other poison which in the opinion of the county commissioners is best adapted for the destruction of gophers; and the county commissioners are hereby authorized to purchase, and cause the same to be distributed; *Provided*, That each person receiving any of said poison from the board of commissioners shall first make oath that the same is to be used only for the extermination of gophers in the county in which he resides.

§ 2. REPEAL.] Section 2, Chapter 144 of the Session Laws of 1890 is hereby repealed.

Approved, March 19, 1895.

HABITUAL DRUNKARDS.

CHAPTER 68.

[S. B. No. 99.]

TREATMENT OF DRUNKARDS.

AN ACT to Provide for the Treatment and Cure of Habitual Drunkards.

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

§ 1. METHOD OF PROCEDURE.] Any inhabitant of this State who is of kin to, or a friend of an habitual drunkard as hereinafter defined, may petition the board of county commissioners of the residence of such drunkard, for leave to send such drunkard, at the expense of the county, to any reputable institute for the treatment of drunkenness, designated by a committee of three persons to be appointed by the Governor; which petition shall set forth the name, age and condition of such habitual drunkard; that such drunkard or those of his kin petitioning are not financially able to incur the expense of such cure, and shall set forth that such habitual drunkard is willing and has agreed to attend such institute for the cure of drunkenness, which petition shall be verified by the person making such request, and shall contain, in addition thereto, the written agreement of such habitual drunkard, his desire to take such treatment, and the names of three reputable taxpayers in the county where such habitual drunkard resides, stating that they are familiar with the facts set forth in the petition, and that they are familiar with the financial circumstances of the drunkard and of the petitioning kin or friend and think it a proper case of assistance from the county commissioners.

§ 2. DUTIES OF COUNTY COMMISSIONERS.] When such petition is filed, the board of county commissioners shall, if satisfied from their examination that the facts set forth in the petition are true, that he has been a resident of the county for six months, and that such drunkard, of his own free will, desires to take such treatment, send such habitual drunkard to some reputable institute for the treatment of such disease, that will treat the same at the lowest figure; but such board of county commissioners shall not be compelled to send such person to the institute making the lowest bid, unless, in their judgment, the best interest of such drunkard shall be promoted thereby, and the said board of county commissioners shall make an order that the expense for the treatment be paid out of the county treasury in the manner that other claims and bills of said county are paid; *Provided, however, that*

the cure and treatment of such drunkard shall at all times be under the supervision of the board of county commissioners, who may at any time they see proper, stop the treatment of any such drunkard, or change him from one institute to another, as to them shall seem meet and proper; *Provided*, that no county shall be required to send the same person to any such institute a second time at its expense.

§ 3. DRUNKARD DEFINED.] A drunkard, as defined by this act, shall include all persons who use or abuse alcoholic, spirituous, malt, fermented or intoxicating liquors, morphia, laudanum, cocaine, opium or other narcotics to such a degree as to deprive him or her of a reasonable degree of self-control.

§ 4. MAY REIMBURSE THE COUNTY.] Any person who shall be treated for such addictions of the provisions of this act, and who may desire to reimburse the county, at whose expense he has been treated, may tender the county treasurer of said county the amount expended for his treatment, and said treasurer shall give a receipt for the amount so paid, which receipt shall state that such payment is for reimbursement as aforesaid, and the amount so paid shall be covered into the treasury of the county.

Approved, March 6, 1895.

HERD LAW.

CHAPTER 69.

[S. B. No. 86.]

ABOLISHING HERD LAW.

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.

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

§ 1. COUNTY COMMISSIONERS SHALL ORDER AN ELECTION—HOW CONDUCTED.] The board of county commissioners of any county shall, whenever they shall be presented with a petition signed by one-third of the qualified electors of said county, asking that the provisions of Chapter 38 of the Code of Civil Procedure be abolished therein, order an election to be held, at which election the qualified electors of such county shall vote upon the question of abolishing the provisions of Chapter 38 of the Code of Civil Procedure in such county. Such election shall be in all respects

conducted as general elections are conducted, and the order of the board of county commissioners calling for such election shall be made at least sixty days before such election is held, and notice of such election shall be given in the same manner and for the same length of time as notices of general elections.

§ 2. **BALLOTS.]** 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.

§ 3. **WHEN ABOLISHED.]** Should a majority of the ballots cast at such election be "against the herd law," the provision of said Chapter 38 of the Code of Civil Procedure, entitled "Herd Law," shall be thereby abolished in such county.

§ 4. **WHEN THE PROPOSITION MAY BE SUBMITTED AGAIN.]** At any subsequent general election, but no other time, after an election has been once held under the provisions of this chapter, the question of re-establishing the provisions of said Chapter 38 of the Code of Civil Procedure within any county having abolished the same, or of abolishing the provisions of said Chapter 38 of the Code of Civil Procedure in any county which has once refused to abolish the same under the provisions of this chapter, may be again submitted by the board of county commissioners of any such county to a vote of the qualified electors thereof, to be voted upon in the same manner as provided for the first election, as set forth in Section 1, 2 and 3 of this act. The result of any election held under the provisions of this act shall remain in force until changed at some subsequent election held hereunder.

§ 5. **WHEN FENCES SHALL BE SUFFICIENT AND LAWFUL.]** If any county in which an election has been held under the provisions of this act, and where the result of such election shall have been declared to be in favor of abolishing the provisions of Chapter 38 of the Code of Civil Procedure, a fence constructed as hereinafter described shall be sufficient and lawful.

§ 6. **HOW FENCES SHALL BE CONSTRUCTED.]** Posts or other uprights of reasonable strength and firmness in position, not more than thirty-two feet distant from each other, with two suitable stays between posts, nearly equally dividing such space in three parts, with three strands of ordinary barbed fence wire well stretched and firmly fastened to such posts, upright and stays, with the upper strand not more than forty-eight nor less than forty-two inches above the general surface of the ground thereunder, and the lower strand shall not be more than eighteen nor less than twelve inches above the general surface of the ground thereunder, and the middle strand shall nearly equally divide the space between the upper and lower strands; *Provided*, That all corral fence, exclusively for purposes of enclosing stacks, if outside of any lawful enclosure, shall not be less than sixteen feet distant from such stacks so enclosed, shall be substantially built with posts not more than eight feet distant from each other, and

with not less than five strands of barbed fence wire, and shall be not less than five feet high.

§ 7. FENCES EFFECTIVE FOR BARRIER LAWFUL.] Any other kind of a fence or barrier, as effective for the purpose of a fence as that provided in Section 6 of this chapter, is hereby declared sufficient and lawful.

§ 8. LIABILITY OF OWNERS OF BREACHY CATTLE.] Any person owning or having in charge any horses, mules, cattle, sheep or goats, or any such animals, which shall breach or break through, over or under any lawful fence, not the property of the owner of such offending animals, shall be liable to the party having sustained injury by reason of such breaching or breaking, to be recovered in a civil action, before any court of competent jurisdiction, and it shall be sufficient in any such action, that it was a lawful fence where the breach was made, and the proceedings shall be the same as in other civil actions, except as herein modified.

§ 9. OWNERS OF SWINE LIABLE—WHEN.] Any person owning or having in charge in any county adopting the provisions of this chapter, as herein provided, any swine which shall trespass upon the lands or premises of another, including premises in towns, villages and cities, whether such lands or premises are fenced or not fenced, such person owning or having in charge such trespassing swine shall be liable to any party sustaining such injury for all damage he may sustain by reason of such trespassing, to be recovered in a civil action before any court having jurisdiction thereof, and the proceedings shall be the same in all respects as in other civil actions, except as herein modified.

§ 10. DAMAGES BY TRESPASSING ANIMALS.] The parties sustaining damages done by such trespassing animals, as mentioned in Sections 8 and 9, before commencing action thereon, shall notify the owner or person having in charge such offending animals of such damages, and the probable amount thereof, provided he be known, to whom such offending animals belong, and that the owner or person in charge resides in and is within the county, and he may retain and keep in custody such offending animals until the damages so sustained and costs are paid, or until sufficient security be given for the same; *Provided*, that the person so restraining such offending animals shall, without unnecessary delay, notify the owner or person in whose custody the same was at the time the trespass was committed, of the seizure of such animals, providing such owner or person who had the same in charge is known to the person making such seizure to be within or to reside within the county.

§ 11. FEES FOR SERVING NOTICE.] For serving notice as provided in Section 10 of this act, the person making such service shall be entitled to the same fees and mileage allowed a sheriff in serving a summons.

§ 12. DAMAGES A LIEN UPON THE ANIMALS.] Upon the trial of

an action under the provisions of this act, the plaintiff shall prove the amount of damages sustained, and the amount of expense incurred for restraining and keeping the offending animals, if such have by him been restrained, and any judgment rendered for damages against the defendant shall be a lien upon the animals having committed the damages, and they may be sold and the proceeds applied to the satisfaction of the judgment.

§ 13. SERVICE IN CASE OF UNKNOWN DEFENDANT.] If upon the trial it shall appear that the defendant is not the owner or person in charge of such offending animals, he shall be discharged, and the suit may proceed against the defendant, whose name is unknown, and, 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 a suit 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 be one published in the county, and, if not, by posting copies of the summons and notice in three public places in the county, in either case at least ten days previous to the day of trial.

§ 14. JUDGMENT AND COSTS COLLECTED—HOW.] After judgment shall have been rendered against the defendant, unknown as aforesaid, the offending animals, or so many of them as may be necessary, shall be sold as in other civil actions, and after said judgment and costs have been satisfied, if there is any surplus of money, it shall be placed in the hands of the county treasurer, and if the defendant does not appear and call for the same within six months from the day of sale, it shall be placed into the school fund, for the use of the public schools of the county.

§ 15. MISDEMEANOR—WHEN.] Taking or attempting to take, or advising or assisting in the taking from the possession of the person having them in charge, without the consent of such person, except by due course of law, any animals restrained and held by virtue of the provisions of this act, is hereby declared to be a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed fifty (50) dollars, or by imprisonment in the county jail not to exceed thirty days, or by both fine and imprisonment, at the discretion of the court.

§ 16. JUDGMENT OF COURT FINAL—WHEN—JURY TRIAL.] In all actions under and by virtue of the provisions of this act, wherein the amount of damages claimed does not exceed twenty-five (25) dollars, the judgment of the court having original jurisdiction thereof shall be final; *Provided*, that either party to such suit shall be entitled, upon demand thereof, to a jury trial.

§ 17. ACTIONS COMMENCED—WHEN BARRED.] No property shall [be] exempt from seizure and sale under execution upon judgment obtained under and by virtue of the provisions of this act, unless commenced within six months from the date of alleged damages, are hereby declared barred by statute of limitation.

§ 18. CONFLICTING ACTS REPEALED.] All acts, so far as they conflict with the provisions of this act, are hereby repealed.
Approved, March 11, 1895.

HISTORICAL COMMISSION.

CHAPTER 70.

[S. B. No. 147.]

DUTIES PRESCRIBED.

AN ACT Creating an Historical Commission for the State, Prescribing Its Duties and the Place for Preserving Its Records.

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

§ 1. HOW CONSTITUTED.] The Governor, Auditor, Secretary of State, Commissioner of Agriculture, William H. Moorhead and President of the North Dakota Historical Society, shall constitute an historical commission for the State of North Dakota.

§ 2. DUTIES.] It shall be the duty of this commission to collect and preserve the records and relics pertaining to the early history, early settlement and development of North Dakota. It shall collect, arrange and preserve a library of books, pamphlets, papers, manuscripts, photographs, paintings, sketches, cabinets of minerals, Indian archeological and other curiosities and material illustrative of the civil, political, religious, literary and natural history of the State. It may receive bequests for the purposes of this act, and shall expend the same for the purchase of historical, geneological and other books and collections suitable for this purpose, and may receive contributions from societies, corporations and individuals of books, pamphlets, papers and other matter herein contemplated, and shall faithfully preserve or apply the same for the purposes herein stated. They shall provide a room in the capitol for the safe keeping and arrangements of the records and collections of this commission and the North Dakota Historical Society when co-operating with it.

§ 3. EMERGENCY.] *Whereas*, There is an emergency in this that contributions and collections have already been offered the State and there is no authority to accept the same or to provide a room for their safe keeping, this act shall take effect and be in force on and after its passage.

Approved, March 8, 1895.

HOTEL KEEPERS.

CHAPTER 71.

[H. B. No. 70.]

PENALTY FOR DEFRAUDING HOTEL KEEPERS.

AN ACT Declaring it a Misdemeanor to Practice Fraud on Hotel Keepers.

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

§ 1. FINE—IMPRISONMENT.] A person who obtains any food or accommodation at any inn, hotel or boarding house without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at any inn, hotel or boarding house by use of any false pretence, or who, after obtaining food or accommodations at an inn, hotel or boarding house, absconds and surreptitiously removes his baggage therefrom without paying for his food and accommodation, is guilty of a misdemeanor, and on conviction thereof shall be fined not more than one hundred dollars, nor less than five dollars, or imprisoned in the county jail for not more than thirty days, nor less than ten days, or both such fine and imprisonment at the discretion of the judge or justice of the peace before whom the trial is held.

Approved, March 11, 1895.

INTOXICATING LIQUORS.

CHAPTER 72.

[S B. No. 10.]

RELATING TO SALE OF INTOXICATING LIQUORS.

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."

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

§ 1. That Section 2, Chapter 110, of Session Laws of 1890, be amended to read as follows:

§ 2. AMENDMENT.] It shall be unlawful for any person or persons to sell or barter, for medicinal, scientific or mechanical purposes, any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having procured a druggist's permit therefor from the county judge of the county wherein such druggist may be doing business at the time; and such county judge is hereby authorized in his discretion to grant a druggist permit for the period of one year, to any person of good moral character who is a registered pharmacist under the laws of this State, and lawfully and in good faith engaged in the business of a druggist in his county, and who in his judgment can be entrusted with the responsibility of selling such liquors for the purposes aforesaid in the manner hereinafter provided. In order to obtain a druggist permit under this act, the applicant shall file in the office of the county judge of the county wherein he is doing business, not less than thirty days prior to the hearing thereof, a petition signed by the applicant and twenty-five reputable freeholders, having the qualifications of electors of the town, village, township or ward of any city, and twenty-five reputable women over twenty-one years of age, who are residents of the town, village, township or city wherein such business is located; *Provided, however,* That when the number of freeholders having the qualifications of electors residing within the town, village, township or ward shall not exceed forty, and when the number of reputable women over twenty-one years of age, who are residents of the town, village, township or city, shall not exceed forty, then the petition of applicant signed by seventy per cent. of such number of qualified men and women as reside within the town, village, township or ward, shall entitle the applicant to the permit. All petitions shall set forth:

First. The town, village, city or township, and particular place therein wherein such business is located, and that the applicant is a person of good moral character, and does not use intoxicating liquors as a beverage, and can be entrusted with the responsibility of selling the same.

Second. That said applicant is a pharmacist as aforesaid, and is lawfully and in good faith engaged personally in the business of a druggist, as the proprietor thereof, at the place designated in the petition, and well versed in the profession.

Third. That said applicant has, in his said business, exclusive of intoxicating liquors and fixtures, a stock of drugs, if in any city, of the value of at least \$1,000, and if elsewhere, of the value of at least five hundred (500) dollars.

Before any such petition shall be heard, or any permit issued to such applicant, he shall publish, for at least thirty days next prior thereto, a notice in some newspaper in the town, village, township or city where such business is located, or if none be published therein, then in some paper of general circulation in the county, stating the time and place set by said judge for the

hearing of such petition. The applicant shall be required to prove the truthfulness of each and every statement contained in such petition, and the state's attorney of such county shall, and any other citizen of the county may appear and cross-examine the witnesses of the applicant, and may introduce evidence in rebuttal of the evidence offered by the applicant. If satisfied that the signatures of such petition were signed by such persons, and that such petitioners are freeholders or citizens of such town, village, township, city or ward as above expressed, and that the statements in such petition are true, the county judge may in his discretion grant a permit to the applicant to sell intoxicating liquors for medicinal, mechanical and scientific purposes only; and such permit shall be recorded upon the journal of the county court, and a certified copy thereof shall be posted in a conspicuous place in the store wherein said business is carried on before it shall be of any validity. Before such permit shall be of any validity, such druggist shall file with the county judge, to be approved by him, a good and sufficient bond to the State of North Dakota, in the sum of \$1,000, conditioned that such applicant and any one in his employ will neither use, sell, barter or give away any intoxicating liquors in violation of law, and on violation of the provisions of said bond the same shall thereby become forfeited; and the conviction of said pharmacist or anyone in his employ shall be deemed *prima facie* evidence of such violation. Any applicant or any citizen feeling himself aggrieved by the decisions of the county judge may, within ten days thereafter, upon filing a bond, made payable to the State of North Dakota, in the sum of fifty (50) dollars, to be approved by the county judge, conditioned that he will prosecute the same to a speedy determination, and pay the costs occasioned by such appeal if the order of the county judge shall be sustained, prosecute the cause upon appeal to the district court. The procedure in any case taken on appeal to the district court from the order of the county judge shall be as prescribed by Article 2, of Chapter 12, of the Probate Code of the Compiled Laws of Dakota of 1887, so far as applicable, and a case or bill of exceptions may be made, signed and certified by the county judge. If the district court shall find that the county judge has abused his discretion, it shall have power to cause the county judge to comply with its judgment, otherwise the order of the county judge shall be by the district court affirmed. No appeal shall be allowed from the order of the district court. If the order of the county judge shall be reversed, the costs shall be paid by the county. If at any time there shall be filed with the county judge a petition stating that any druggist, naming him, who has a permit to sell intoxicating liquors, is not in good faith conforming to the provisions of this act, verified by the affidavit of at least one of the petitioners hereinafter named, and signed by twenty-five reputable men and twenty-five reputable women,

all of whom reside in the town, village, township, city, or ward in which the business of said druggist is carried on, requesting that the permit of such druggist be cancelled, the county judge shall immediately issue an order citing such druggist to appear before him on a day named, not more than ten days from the issuing of such order, at which time the question of cancellation of such permit shall be considered. Such examination shall be conducted in the same manner in all respects as is herein provided for the hearing of the original petition for granting such permit, and such county judge shall, if there are reasonable grounds for believing such druggist is not in good faith carrying out all the provisions of this act, cancel such permit. An appeal may be had from the decision of such county judge to the district court as herein provided for appeals from the application for a permit; *Provided*, The permit of such druggist shall be inoperative till such appeal is finally decided. If any county judge shall issue a permit to any person not registered as a pharmacist, or shall knowingly grant the same to a person in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist as a proprietor thereof, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred (500) dollars nor more than \$1,000; and if any person shall sign a petition, as provided herein, of any applicant known by such person to be in the habit of becoming intoxicated, or not in good faith engage in the business of a druggist, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars. Before the petition of a druggist for a permit to sell intoxicating liquors shall be heard by the county judge the applicant shall pay a fee of five (5) dollars to the county judge, who shall pay the same into county treasury on or before the first day of the following month for the benefit of the general revenue fund.

§ 3. EMERGENCY.] *Whereas*, Under the present law many applicants are unable to procure permits, *Therefore*, An emergency exists, and this act shall take effect and be in force from and after the passage and approval of this act.

Approved, February 28, 1895.

CHAPTER 73.

[Sub. for H. B. No. 46.]

AMENDING SESSION LAWS OF 1890.

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:

§ 1. AMENDMENT.] 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:

§ 7. LIFE OF A LIQUOR PERMIT.] A permit to sell intoxicating liquor 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 freeholders and reputable women who signed the petition of the applicant shall fall below the number required by law 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, Chapter 110, of Session Laws of 1890, 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 application upon which said permit was issued continues to possess the requisite attributes of an original application.

§ 2. EMERGENCY.] *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, 1895, *Therefore,* This act shall be in force and effect, from and after its passage and approval.

Approved, March 6, 1895.

CHAPTER 74.

[H. B. No. 123.]

INTOXICATING LIQUOR DEFINED.

AN ACT to Amend Section 6, of Chapter 110, of the Laws of 1890, and Defining What is Intoxicating Liquor.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 110, of the Laws of 1890, be and the same is hereby amended to read as follows:

§ 6. INTOXICATING LIQUORS DEFINED.] All spirituous, malt, vinous, fermented, or other intoxicating liquors or mixtures thereof, by whatever name called, that will produce intoxication, or any liquors or liquids which is made, sold, or offered for sale as a beverage and which shall contain coculus indicus, copperas, opium, cayenne pepper, picric acid, Indian hemp, strychnine, tobacco, darnal seed, extract of logwood, salts of zinc, copper or lead, alum, or any of its compound, methyl alcohol, and its derivations, amyl alcohol, or any extract or compound of any of the above ingredients, shall be considered and held to be intoxicating liquors within the meaning of this act; *Provided*, That fermented and alcoholic liquors and mixtures thereof shall not be deemed intoxicating if they contain less than two per cent. of alcohol by volume.

§ 2. EMERGENCY.] An emergency existing in that the law does not sufficiently define what is intoxicating liquors, *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 12, 1895.

CHAPTER 75.

[H. B. No. 62.]

COMPILED LAWS AMENDED.

AN ACT to Amend Section 6916 of the Compiled Laws of Dakota, 1887, Being Section 3 of Chapter 57 of the Penal Code Entitled Offences Pertaining to Sale of Intoxicating Liquors.

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

§ 1. AMENDMENT.] That Section 6916 of the Compiled Laws of Dakota, 1887, being Section 3 of Chapter 57, Penal Code, be amended to read as follows:

§ 6916. PENALTY.] Every person being found intoxicated in any public place is punishable upon conviction before a justice of the peace by a fine of not more than twenty-five dollars nor less than five dollars and be committed to the county jail until such fine is paid, but such imprisonment shall not exceed one day for every one dollar of the fine.

Approved, March 14, 1895.

LEGISLATIVE EMPLOYES.

CHAPTER 76.

[S. B. No. 162.]

COMPENSATION OF LEGISLATIVE EMPLOYES.

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.

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

§ 1. OFFICERS AND EMPLOYES OF THE SENATE—COMPENSATION.] The following shall be the officers and employes of the Senate and their compensation: A president *pro tempore*, whose compensation shall be two (2) dollars per day; one secretary, whose compensation shall be six (6) dollars per day; one assistant secretary, whose compensation shall be five (5) dollars per day; one enrolling and engrossing clerk, whose compensation shall be five (5) dollars per day; one bill clerk, whose compensation shall be five (5) dollars per day; one stenographer, whose compensation shall be five (5) dollars per day; one sargeant-at-arms, whose compensation shall be four (4) dollars per day; one assistant sargeant-at-arms, who shall discharge the duties of doorkeeper and assist the sargeant-at-arms, and whose compensation shall be three (3) dollars per day; one messenger, whose compensation shall be three (3) dollars per day; one postmaster, whose compensation shall be four (4) dollars per day; one chaplain, whose compensation shall be two (2) dollars per day; two pages, whose compensation shall be two (2) dollars per day each; one janitor, whose compensation shall be three (3) dollars per day; one watchman, whose compensation shall be three (3) dollars per day; one clerk of the judiciary committee, whose compensation shall be five (5) dollars per day; one journal clerk, whose compensation shall be five (5) dollars per day, and who shall be under the supervision of the secretary of the Senate; *Provided*, That the Journal of the

Senate be completed and indexed by the secretary of the Senate within ten days after adjournment thereof, and for such completion and indexing he shall be allowed the sum of fifty (50) dollars. In addition to the above there shall be appointed by the president when deemed necessary by the Senate, such assistant enrolling and engrossing clerks as may be actually necessary, who shall receive a compensation of four (4) dollars per day, *Provided*, That during the first twenty-five days the number of such clerks shall not exceed six; that during the second twenty-five days the total number shall not exceed ten, and during the last ten days the total number shall not exceed fifteen.

§ 2. OFFICERS AND EMPLOYES OF THE HOUSE OF REPRESENTATIVES—COMPENSATION.] The following shall be the officers and employes of the House of Representatives and their compensation: A speaker, whose compensation shall be two dollars per day; one chief clerk, whose compensation shall be six dollars per day; one assistant [clerk] whose compensation shall be five dollars per day; one enrolling and engrossing clerk, whose compensation shall be five dollars per day; one bill clerk, whose compensation shall be five dollars per day; one stenographer, whose compensation shall be five dollars per day; one sargeant-at-arms, whose compensation shall be four dollars per day; one assistant sargeant-at-arms, who shall discharge the duties of door keeper and assist the sargeant-at-arms, and whose compensation shall be three dollars per day; one messenger, whose compensation shall be three dollars per day; one postmaster, whose compensation shall be four dollars per day; one chaplain, whose compensation shall be two dollars per day; the janitors, whose compensation shall be three dollars per day; one clerk of the judiciary committee, whose compensation shall be five dollars per day; one journal clerk, whose compensation shall be four dollars per day, and who shall be under the supervision of the chief clerk [of the House,] *Provided*, the Journal of the House be completed and indexed by the chief clerk of the House within ten days after adjournment thereof, and for such compensation and such completion he shall be allowed the sum of fifty dollars (\$50). In addition to the above there shall be appointed by the speaker, when deemed necessary by the House, such assistant enrolling and engrossing clerks as be actually necessary, and who shall receive compensation of four dollars per day; *Provided*, That during the first twenty-five days of the session the number of such clerks shall not exceed six; that during the second twenty-five days the total number shall not exceed ten, and that during the last ten days the total number shall not exceed fifteen.

§ 3. OTHER EMPLOYES—HOW APPOINTED—COMPENSATION.] The president of the Senate and the speaker of the House are hereby authorized to appoint from time to time such committee clerks or other employes for their respective bodies, in addition to those herein provided for, as may be deemed necessary by a majority

elect of their respective bodies, *Provided*, That the compensation for such subordinate employes shall in no case exceed four dollars per day.

§ 4. SALARIES—HOW AUDITED AND PAID.] The names of all officers, employes or clerks elected or appointed, shall be entered upon the Journal of their respective bodies at the time of their election or appointment, and it shall be the duty of the secretary of the Senate and the chief clerk of the House to keep an accurate account of the amounts due each and every officer and employe of their respective bodies, and the amount so due shall be audited and paid out upon a voucher certified by the presiding officer of their respective bodies, attested by the secretary or chief clerk thereof; and when so audited and attested the State Auditor is hereby authorized and directed to draw a State warrant for the amount upon the State Treasurer, who is hereby authorized and empowered to pay the same.

§ 5. DISCHARGE OF OFFICERS, CLERKS AND EMPLOYES.] Whenever any officer, clerk or employe through neglect or incompetency shall fail to properly discharge the duties of his office or position, it shall be the duty of the respective body to declare the office or position vacant and to fill the vacancy so created.

§ 6. REPEAL.] Chapter 86, Laws of 1890, and Chapter 97, Laws of 1893; and all acts and parts of acts in conflict herewith are hereby repealed.

Approved, March 12, 1895.

MANUFACTURES.

CHAPTER 77.

[H. B. No. 137.]

BOUNTIES—WHO ENTITLED TO.

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.

Be it Enacted by the Legislature of the State of North Dakota:

§ 1. BENEFITS.] Any person, company or corporation who shall hereafter make in this State from flax or hemp, grown in this State, long line and spinning fibres, either flax or hemp and spinning tows, shall be entitled to the benefits of Section two (2) of this act.

§ 2. BOUNTY.] There shall be paid from the treasury of the State of North Dakota as bounty to any person, company or corporation aforesaid, the sum of one dollar (\$1.00) for each and every one hundred (100) pounds of long line and spinning fibres, either flax or hemp, and spinning tows, made or manufactured by said individual, company or corporation in this State from flax or hemp exclusively grown in this State, and said bounty shall be paid annually for the term of five (5) years from the first day of May, 1895, to each individual, company or corporation, entitled to the same under the provisions of this act.

§ 3. SAMPLES INSPECTED—CERTIFICATES.] Said fibres and tows, when manufactured, shall be inspected from samples produced or by inspection of said fibres and tows in bulk by a commission, which commission shall consist of one practical flax man, a citizen of this State, and of one of the regents in the University of North Dakota, each to be named annually by the Governor of this State, and of the President of the North Dakota Agricultural College, *ex-officio*, and in event said commission or a majority of the members thereof shall be of the opinion that said fibres or tows are of a marketable quality for spinning purposes, they shall give said manufacturer a certificate to that effect, and said certificate shall specify the place where and date when said fibres or tows were manufactured and the number of pounds of fibres or tows of the quality aforesaid, made or produced by said person, company or corporation, and the State auditor of this State, upon the production and surrender of such certificate, shall issue to the person, company or corporation named therein, or to his or its order, a warrant on the treasury of this State for the amount named in said certificate, and said warrant shall be paid out of any moneys in the State treasury not otherwise appropriated, and said warrant shall also be received in payment of State taxes.

§ 4. RULES AND REGULATIONS.] Said commission shall not issue any certificates herein provided for until it is satisfied said fibres or tows are of the standard herein named and made exclusively from material grown in this State, and said commission is empowered to make such rules and regulations for said inspection, and call for such evidence and samples to aid them in making said inspections and for carrying out the provisions of this act, as it may deem necessary.

Approved, March 20, 1895.

CHAPTER 78.

[H. B. No. 167.]

RELATING TO MANUFACTURE OF BINDING TWINE.

AN ACT to Encourage the Manufacture of Binding Twine in the State of North Dakota.

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

§ 1. BOUNTY.] All persons, companies or corporations formed or that may be formed in the State of North Dakota for the purpose of manufacturing binding twine from material grown within the State, suitable for binding grain, or any and all individuals engaged, or that may be engaged in such manufacture in this State, shall be entitled to receive the bounty offered in Section 2 of this act.

§ 2. APPROPRIATION.] There shall be paid from the State treasury as bounty, to any individual, company or corporation, the sum of one (1) dollar for each and every 100 pounds of binding twine manufactured by said individual, company or corporation in this State suitable for binding grain, and said bounty shall be paid upon each year's results, for the term of five years from the first day of July 1895, to all individuals, companies or corporations entitled to the same under the provisions of this act; *Provided*, That the individual, company or corporation, receiving such bounty shall make a report to the Commissioner of Agriculture and Labor stating the number of pounds of binding twine manufactured under the provisions of this act, which report shall be duly verified and sworn to.

Approved, March 20, 1895.

CHAPTER 79.

[H. B. No. 13.]

POTATO STARCH.

AN ACT Entitled "An Act to Encourage the Manufacture of Potato Starch in the State of North Dakota."

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

§ 1. WHO ENTITLED.] All persons, companies or corporations formed or that may be formed in the State of North Dakota for the purpose of manufacturing starch from potatoes grown in the State of North Dakota or any and all individuals engaged or that

be engaged in such manufacture in this State shall be entitled to receive the bounty offered in Section 2 of this act.

§ 2. BOUNTY.] There shall be paid into the State treasury as bounty to any individual, company or corporation the sum of one (1) dollar for each and every one hundred (100) pounds of starch manufactured by said individual, company or corporation in this State from potatoes grown therein, and said bounty shall be paid upon each year's results for the term of five years from the first day of September, 1895, to all individuals, companies or corporations entitled to the same under the provisions of this act, *Provided*, That the individual, company or corporation receiving such bounty shall make a report to the Commissioner of Agriculture and Labor, stating the number of pounds of starch manufactured under the provisions of this act, which report shall be duly verified and sworn to.

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

Approved, February 20, 1895.

MILITARY CODE.

CHAPTER 80.

[H. B. No. 121.]

AMENDING MILITARY CODE.

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."

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

§ 1. AMENDMENT.] That Section 20, of Chapter 86, of the Laws of the year 1891, entitled "An Act to Provide a Military Code for the State of North Dakota," be amended to read as follows: The Adjutant General shall in addition to his other duties, organize and conduct a bureau of pensions for the purpose of assisting ex-soldiers and sailors, residents of the State, who may apply for pensions, for wounds or disability incurred in the service of the United States, in establishing their claims without fee or commissions. The salary of the Adjutant General shall be (\$500) five hundred dollars annually, which, with the necessary expenses incurred in conducting the bureau of pensions, office and clerk hire, furniture, fuel, lights, postage and stationery, not to exceed

two hundred and fifty dollars (\$250) per annum, shall be paid from the militia fund by warrants drawn by the Auditor on the Treasurer of the State, on the order of the Governor.

§ 2. AMENDMENT.] That Section 22, of said Chapter 26, be amended to read as follows: The supply department shall consist of one chief of supply with the rank of colonel, and two assistants with the rank of major. The assistants shall be assigned to suitable duties connected with the said chief of supply. *Provided, however,* That the officers now commissioned and acting in charge of said supply department, shall continue to act in the capacity of and under the title of chief of supply and assistant chief of supply during the term prescribed by law and until their successors are appointed and qualified according to law.

§ 3. AMENDMENT.] That Section 23 of said chapter be amended to read as follows: The chief of supply shall give a bond to the State in the sum of ten thousand (\$10,000) dollars in the usual form with two sureties, which in the amount of 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 guards all military stores and supplies aforesaid by law. Shall pay all incidental expenses of the service, including transportation, freight, express, postage and telegrams of public business. Shall pay the officers and members of the national guards. Shall furnish clothing, rations, tools, camp and garrison equipage. Make contracts for and pay rent for armories, store houses, camp grounds, and such other duties aforesaid by law, as he may be directed to perform by the orders of the commander-in-chief. The salary of the chief of supply shall be one hundred (\$100) dollars annually, which shall be in lieu of all compensation and emoluments which shall be paid from the militia fund by warrants drawn by the Auditor on the Treasurer of the State on the order of the Governor.

§ 4. STATE MILITARY BOARD.] 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.

§ 5. COMPENSATION OF THE 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 militia fund.

§ 6. REPEAL.] All acts and parts of acts in conflict with this act, are hereby repealed.

§ 7. EMERGENCY.] *Whereas*, An emergency exists in that there is no provision of law for the care and control of the said encampment grounds at Devils Lake, this act shall be in effect from and its passage and approval.

Approved, March 19, 1895.

MILITARY POSTS.

CHAPTER 81.

[S. B. No. 168.]

LANDS ACQUIRED BY MILITARY POSTS.

AN ACT Entitled "An Act to Cede to the United States Jurisdiction of the State of North Dakota, Over Lands Acquired by Military Posts."

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

§ 1. JURISDICTION CEDED.] Jurisdiction is hereby ceded to the United States over any tract of land that may hereafter be acquired by the United States, on which to establish a military post; *Provided*, legal process, civil and criminal, of this State shall extend over such reservation or lands acquired by the United States to establish a military post in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservation.

§ 2. EMERGENCY.] *Whereas*, An emergency exists in that there is now no law ceding jurisdiction of the State to the United States over lands acquired for military posts; *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 19, 1895.

MORTALITY.

CHAPTER 82.

[S. B. No. 135.]

CARLISLE TABLES OF MORTALITY.

AN ACT Declaring the Carlisle Tables of Mortality to be Competent Evidence in Certain Cases.

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

§ 1. COMPETENT EVIDENCE.] That in all cases in which the probable duration of the natural life of any person from and after a particular age, is material, the statistical tables known as the Carlisle Tables of Mortality, are competent evidence of such probable duration or expectation of life.

Approved, March 14, 1895.

NOXIOUS WEEDS.

CHAPTER 83.

[S. B. No. 20.]

AMENDING LAWS OF 1891.

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 Entitled, An Act to Amend Section 1, General Laws 1885, Supplement Relating to Noxious Weeds, Chapter 102, Session Laws of 1890."

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

§ 1. AMENDMENT.] That Section 3, of Chapter 91, of the Session Laws of 1891, be so amended as to read as follows: Whenever any individual, firm, or corporation owning or occupying any lands within this State, shall neglect or refuse to comply with the provisions of this act for more than ten days after the time prescribed by said board of county commissioners, then it

shall be the duty of the overseer or road supervisors, as the case may be, to proceed forthwith to destroy the same in the manner provided for said destruction by the board of county commissioners; it shall also be the duty of such overseers or road supervisors to destroy all such noxious weeds that may grow on the highways and railroad right-of-ways and school sections and timber culture claims of his road district, and for so doing such overseers or road supervisors shall have such compensation, payable out of the township treasury or county treasury, as the township board of supervisors or board of county commissioners, upon presentation of his account thereof, verified by oath and specifying by separate items the charges on each piece of land shall deem reasonable, and the respective accounts, so far as right shall be allowed, and paid by the said township board or or board of county commissioners, and upon this being so allowed the said board of supervisors or board of county commissioners shall take proper proceedings in the district court of the county in which said land is. To obtain a judgment against each of said tracts of land and the owner or owners thereof for the amount expended on said lands under this act for the destruction of noxious weeds thereon, to pay the expenses of said destruction and all costs that have since accrued under this act and in obtaining judgment therefore, which judgment shall be declared a first lien on said land to be enforced either by judgment sale or as accrued taxes on the lands are collected, at the option of the court.

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

§ 3. TAKE EFFECT.] Inasmuch as this law needs to go into effect before July 1, 1895, *Therefore*, this act shall take effect and be in force on and after its passage and approval.

Approved, March 12, 1895.

OBSCENE LITERATURE.

CHAPTER 84.

[H. B. No. 112.]

OBSCENE LITERATURE.

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.

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

§ 1. FINE AND IMPRISONMENT.] Every person or persons who shall bring or cause to be brought into the State, or shall buy, sell or cause to be sold, or shall advertise, lend, give away, offer, show, exhibit, or shall have in his possession with intent to sell, lend, give away, offer, show exhibit, distribute or cause to be distributed, or shall design, copy, draw, photograph, print, etch, or engrave, cut, carve, make, publish, or otherwise prepare or assist in preparing, or shall receive subscriptions for any indecent or obscene book, pamphlet, paper, picture, print, drawing, figure, image, or other engraved, printed or written matter, or any article or instrument of immoral use, or any book, pamphlet, magazine or paper devoted principally or wholly to the publication of criminal news, or pictures, or stories of deeds of bloodshed or crime, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars and not more than one hundred dollars, or be imprisoned in a county jail not to exceed thirty days, or by both such fine and imprisonment.

Approved, March 6, 1895.

PEDDLING.

CHAPTER 85.

[S. B. No. 151.]

TO REGULATE PEDDLING.

AN ACT Entitled "An Act to Regulate Peddling in this State and to Provide a License Fee for Persons Engaged in Peddling."

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

§ 1. UNLAWFUL TO PEDDLE WITHOUT LICENSE.] It shall not be lawful for any person to travel from place to place in any county in this State for the purpose of carrying to sell, exposing or offering for sale or barter, at retail or to consumers, any goods, wares, merchandise, or other articles of trade whatsoever, whether by sample or otherwise, or whether delivered at the time of sale or to be delivered at some future time, except as hereinafter provided, unless such person shall have first obtained a license as a peddler or traveling merchant as hereinafter provided; but nothing herein shall be so construed as to prevent any inventor, manufacturer, mechanic, nurseryman or farmer from selling his invention, work or production, in person or by agent, or any person from selling or offering to sell at wholesale to retail dealers only any goods, wares or merchandise whatsoever, or train boys from selling their wares to persons traveling on railroad trains.

§ 2. APPLICATION IN WRITING.] To obtain a license an application in writing must be made to the auditor of the county in which the applicant desires to pursue the business of a peddler or traveling merchant. Such application shall be signed by the applicant and shall state whether the license sought is for traveling and trading on foot or with one or more horses or other beasts of burden.

§ 3. FEES FOR LICENSE—TERM ONE YEAR.] No license shall be issued until the fee therefor has been paid into the treasury of the county. The fees for licenses, good for the term of one year, shall be as follows:

1. To travel on foot, including railroads or other public conveyances, \$20.
2. To carry goods with a single horse or other beast of burden, \$35.
3. To carry goods with two or more horses or other beasts of burden, \$50.

§ 4. LICENSES EXPIRE APRIL 30 EACH YEAR.] Upon the filing of an application for a license and the treasurer's receipt for the fee in the office of the county auditor, he shall issue a license, under seal, signed by himself or his deputy. Such license shall authorize the licensee to pursue the business of a peddler or traveling merchant in the manner stated therein in the county where it is issued for the term therein stated. All licenses shall expire on the thirtieth day of April of each year. If such license is not taken out during the month of May, the fee therefor shall be reckoned proportionately for that part of the year from the first day of the month in which it is issued to the first day of May following, but no license shall be issued for a fee of less than \$5.

§ 5. PENALTY FOR VIOLATION.] Any person who shall pursue the business of trading as a peddler or traveling merchant without license, or who refuses to produce his license for examination upon the request of any resident or officer of the county in which he is carrying on such business is guilty of a misdemeanor, and upon conviction thereof is punishable, in the discretion of the court, by a fine of not exceeding fifty dollars or by imprisonment in the jail of the county in which the offense is committed not exceeding thirty days.

§ 6. LAW CONSTRUED.] Nothing contained in this act shall be so construed as to impair, interfere with, or take away the right of incorporated towns, villages or cities to license and regulate peddling within their corporate limits.

§ 7. EMERGENCY.] There being no existing law adequately regulating the matter of peddling and licenses, *Therefore*, An emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

Approved, March 19, 1895.

PENITENTIARY.

CHAPTER 86.

[H. B. No. 149.]

IMPROVEMENTS OF PENITENTIARY.

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.

Whereas, It is necessary to furnish some employment to those confined in our State penitentiary to maintain proper discipline.

And Whereas, As there is a constant and growing demand for improvements for our State institutions, *Therefore*,

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

§ 1. EMPLOYMENT OF CONVICT LABOR.] That the board of trustees of the penitentiary of this State is hereby authorized and empowered to employ the convict labor of the State, or so much thereof as cannot be preferably otherwise employed, in the manufacture of brick, with which they are to make needed repairs, additions or improvements on the public buildings of the State.

§ 2. TRUSTEES MAY PURCHASE TOOLS AND MACHINERY.] For the purpose of enabling the carrying out of the provisions of this act, the trustees of the State penitentiary are hereby authorized to purchase such tools and machinery as they may deem necessary.

§ 3. IMPROVING ROADS AND STREETS.] The trustees of the State penitentiary are authorized and empowered to employ so much of the convict labor as they may deem necessary in macadamizing or otherwise improving the roads and streets used as approaches to the State penitentiary, State capitol or other public institutions within the State, and in making such improvements the said board of trustees are authorized to contract indebtedness not to exceed one thousand (1,000) dollars in any one year, which shall be paid out of whatever money or moneys that may be received from any contract or contracts now existing or that may hereafter be made for the employment of convict labor.

§ 4. RECEIPTS OF SALES.] The board of trustees shall dispose of said brick manufactured as in this act provided, as they may be directed by the Governor, State Auditor, and Secretary of State, who are hereby created a board with authority to dispose of any brick manufactured by convict labor, according to their best judgment, and for the interests of the State, at such prices as said board may provide. The receipts of such sales shall be turned over to the trustees aforesaid and used in payment of expenses incurred in connection with the manufacturing of brick or building, or improving roads and streets as hereinbefore provided.

§ 5. EMERGENCY.] *Whereas*, An emergency exists in that there is now no law authorizing the employment of convict labor as in this act provided; *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, March 6, 1895.

PERSONAL PROPERTY TAXES.

CHAPTER 87.

[S. B. No. 39.]

PERSONAL PROPERTY TAXES.

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."

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

§ 1. WHEN PERSONAL PROPERTY TAXES DELINQUENT—INTEREST AND PENALTY.] That Section fifty-five (55) of Chapter one hundred thirty-two (132) of the Session Laws of 1890, be amended to read as follows: All unpaid personal property taxes shall be deemed delinquent on the first day of June next after they become due, and thereafter said delinquent taxes shall draw interest at the rate of one per cent. a month, accruing on the first day of each month, and if any of said taxes shall remain unpaid, on the first day of October, an additional five per cent. shall accrue and thereafter be charged upon all such delinquent taxes. After the first day of October in each and every year the county treasurer shall immediately proceed to collect all delinquent personal property taxes and if such taxes are not paid on demand, he shall distraint sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with the said penalty of five per cent., and all accruing costs, and shall immediately proceed to advertise the same in three public places in the town or district where such property is taken; *Provided*, That if the tax to be so collected amounts to the sum of fifteen (15) dollars, or over, then such property so distrained shall also be advertised in one official newspaper, if there is one published in the county. Said notices and advertisement shall give a general description of the property to be sold, and state the time, when and place where such property will be sold, and if the taxes for which such property is distrained and the costs which accrue thereon are not paid before the time appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes and costs of such distress and sale; *Provided*, That at any time after taxes become due, and whenever the county

treasurer of any county in this State has reason to believe and is of the opinion that any person against whom personal property taxes have been assessed and have become due, is about to remove from the county, or is about to remove his or her goods, chattels or other personal property from the county in which the same are situated and have been assessed, and if in the opinion of the said county treasurer, his county is in danger or is liable to lose the amount of said personal property tax due and unpaid aforesaid, then the said county treasurer is authorized and it is hereby made his duty to seize, distrain and sell sufficient personal property belonging to said person forthwith, to satisfy and pay the amount of personal property tax so due and unpaid against such person, together with the costs and expenses of said seizure, distress and sale as provided by law.

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

§ 3. EMERGENCY.] *Whereas*, An emergency exists in that by present law the five per cent. penalty on delinquent personal property taxes is added on the first day of March of each year, and all personal property taxes can then be collected by distress and sale; *Therefore*, It becomes necessary that this act shall take effect and be in force from and after its passage and approval.

Approved, February 28, 1895.

POOR.

CHAPTER 88.

[H. B. No. 82.]

RELATING TO SUPPORT OF POOR.

AN ACT Entitled "An Act to Amend Subdivisions Four (4) and Five (5) of Section Two Thousand One Hundred and Forty-four (Section 2144) of Chapter Twenty-two (Chapter 22) of the Political Code, Compiled Laws of 1887, Relating to Settlement and Support of the Poor."

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

§ 1. AMENDMENT.] That subdivision four (4) of Section 2144, Chapter 22 of the Political Code, Compiled Laws of 1887; be amended so as to read as follows:

SUBDIVISION 4. Every male person and every unmarried female over the age of twenty-one years, who shall have resided in any county in this State one year, shall gain a settlement in such county.

§ 2. AMENDMENT.] That subdivision five (5) of Section 2144, Chapter 22 of the Political Code, Compiled Laws of 1887, be amended so as to read as follows:

SUBDIVISION 5. Every minor whose parents, and every married women whose husband has no settlement in this State, who shall have resided one year in any county in this State, shall thereby gain a settlement in such county.

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

Approved, March 14, 1895.

POLL TAX.

CHAPTER 89.

[S. B. No. 107.]

RELATING TO ROAD POLL TAX.

AN ACT Entitled "An Act to Provide for the Levy and Collection of a Road Poll Tax."

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

§ 1. HIGHWAY POLL TAX.] Every male inhabitant of this State over twenty-one and under fifty years of age, excepting paupers, idiots, insane persons and Indians not taxed, and such others as are exempt by law, shall be assessed a highway poll tax of one dollar and fifty cents annually.

§ 2. ASSESSORS SHALL MAKE SEPARATE LISTS.] The assessors of this State shall at the time of making their assessments of real and personal property under the revenue laws of this State, make and return with their several assessment rolls full and complete lists of all persons liable to the payment of a poll tax in their several districts, and if any of said assessment districts shall contain more than one road district said assessor shall make separate lists for each of said road districts.

§ 3. LISTS SHALL BE RETURNED IN TEN DAYS.] Within ten days after the receipt of such lists it shall be the duty of the officer to whom they are returned, to make and transmit to the proper officer authorized by law to collect the highway taxes in such road districts, true and correct copies of the lists so returned.

§ 4. NOTICE TO TAX PAYERS—COMMUTATION.] The officers receiving such lists shall give three days' notice to all persons living within their respective districts who are liable, requiring them

to pay said poll tax in cash, or in lieu thereof to perform one day's work of eight hours, on the highways or streets under the direction of such officer, and at such time and place as he shall designate, which said labor shall be full payment and commutation of and for such poll tax, *Provided*, That such officer may place the names of any persons liable to pay such tax in his district and collect the same as herein provided.

§ 5. PENALTY.] Any person assessed and liable to pay such poll tax, who shall neglect or refuse so to do for three days after such notice shall have been served upon him, shall be guilty of a misdemeanor, and upon conviction thereof before any justice of peace shall be punished by a fine of not less than five dollars.

§ 6. REPEAL.] All acts or parts of acts inconsistent with this act or in conflict therewith are hereby repealed.

§ 7. EMERGENCY.] *Whereas*, An emergency exists in that there is no law at present providing for the levy and collection of a road poll tax, *Therefore*, This act to take effect from and after its passage and approval.

Approved, March 19, 1895.

PRAIRIE FIRES.

CHAPTER 90.

[S. B. No. 123.]

RELATING TO PRAIRIE FIRES.

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."

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

That Chapter 93, of the Laws of 1891, be amended to read as follows:

§ 1. TOOLS AND APPLIANCES.] It shall be lawful for the county commissioners of any county in this State to provide such tools and appliances as in their judgment should be provided to aid and assist in making fire breaks to prevent the spread of prairie fires and damage caused thereby.

§ 2. COUNTY DIVIDED INTO DISTRICTS.] The board of county commissioners shall have power to divide the county into as many districts as may in their judgment be necessary, and each district so formed shall be known and designated as fire district

No.....; *Provided*, That whenever practicable, a road overseer residing in said fire district shall be fire warden, who shall act under his oath of office as said road overseer, and who shall, in addition, be required to give bond with two good and sufficient sureties, in the penal sum of five hundred (500) dollars, for faithful discharge of the duties of said warden.

§ 3. FIRE BREAKS.] The road supervisors shall have the right and it is hereby made their duty, that whenever in the judgment of the board of county commissioners at any regular meeting, fire breaks shall be made, to call on any and all persons liable for the payment of road poll tax in their respective districts to come forth with such tools or teams as the road supervisor may direct and work upon such fire breaks at least one day in each year as provided by law.

§ 4. NOTICE TO PERSONS TO WORK ON FIRE BREAKS.] The road supervisors shall give at least three days notice to all persons liable for road poll tax and living within their respective districts, of the time and place, when and where they are to appear for work on fire breaks, and with what implements. Every person notified to work may appear in person or by a substitute; and the person or substitute shall actually work eight hours in each day. Every person notified who refuses or neglects to appear as above provided shall be fined not less than ten (10) dollars, to be collected as other fines are collected, or be imprisoned in the county jail not less than ten days.

§ 5. DISTRICTS—HOW MAPPED OUT.] The fire warden may use his discretion and take advantage of any creek, river or other natural or artificial barrier to prairie fires, and of broken or plowed fields, and may in his judgment map out his district in any form, so that when the fire guards are made, a prairie fire may be confined to the smallest possible area consistent with the amount of funds and labor available in his fire district.

§ 6. LEGAL FIRE BREAKS.] A strip of plowing, or of burning where it cannot be plowed, not less than four feet wide on either side and burned or plowed within such strips and not less than sixty-six feet wide, is hereby designated a legal fire break.

§ 7. WHEN PRAIRIE MAY BE SET ON FIRE.] For the purpose of making a fire guard it shall be lawful to set the prairie on fire, *Provided*, That the prairie so set on fire shall not exceed one hundred feet in width, and shall be protected on each side by a strip of plowing or of burning not less than four feet wide, and that at any such burning there shall be not less than three men present, and prepared with suitable appliances to keep such fire under control.

§ 8. FIRE WARDEN MAY SUMMON PERSONS TO WORK.] The fire warden shall have the power to summon all persons liable for highway tax to work the same in aiding to make fire guards, and they shall have the same credits therefor as if the work had been

upon the highways, the same law as to notice and failure to work as applies to highway work shall apply to this law.

§ 9. PENALTY FOR FAILURE TO COMPLY.] The fire warden shall have power and is hereby authorized to call out a sufficient number of men in case a prairie fire threatens any portion of his fire district, to extinguish or control said fire as far as possible and to protect property and any one warned out by the fire warden or under his direction and who refuses or neglects to respond, unless he render a reasonable excuse, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than ten (10) dollars, nor more than fifty (50) dollars; *Provided, however,* That any one so called out shall be given credit the same as if he performed labor on highway.

§ 10. RAILROADS TO BURN RIGHT-OF-WAY.] It is hereby made the duty of every railroad company within this state using steam power, not later than the 30th day of June in each year, to plow or cause to be plowed a strip not less than four feet wide, along and within the border line of their right-of-way and on each side of the track except in sloughs, draws, and marshes, where the ground is too wet to plow before said date, and in all such cases said ground shall be plowed as soon thereafter as the condition thereof will permit, and to burn or otherwise destroy all grass, weeds, or other combustible matter being or lying within such plowed strip along their right-of-way, not later than the last day of August in each year. It is furthermore the duty of all railroad companies operating within this State to carry netting or spark arresters on all their smoke stacks from the first day of August to the 15th day of November in each year when running through the prairie portion of this State. Any railroad company failing or neglecting to comply with the requirements of this section shall be guilty of misdemeanor and, upon conviction, shall be fined not less than five hundred (500) dollars for each offense, and shall be liable to any person or persons damaged by such failure or neglect to the full amount of such damage.

§ 11. DUTY OF RAILROAD EMPLOYEES.] It is hereby made the duty of all conductors, brakemen, engineers, firemen, road masters and section men in the employ of the railroad companies within this State knowing or having knowledge that fire started from any material within the right-of-way or from sparks from engines, to inform the fire warden of the fire district where such fire started, of the same without delay, through the nearest local station agent, and if any of the railway employes or officers herein designated shall fail, neglect, or refuse to give information as required by this act, he shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than twenty (20) dollars.

§ 12. DUTIES OF STATE'S ATTORNEYS.] It is hereby made the duty of all state's attorneys within this State to investigate all matters pertaining to prairie fires within their respective counties,

and if a cause of action exist it shall be and it is hereby made the duty of such state's attorneys to prosecute the same as in cases of misdemeanor.

§ 13. SPARK ARRESTERS ON SMOKE STACKS.] It is hereby made the duty of any person or corporation operating any threshing engine or engines, to carry netting or spark arresters on the smoke stacks of all such threshing engines from the first day of August until the 15th day of November of each year.

§ 14. APPROPRIATION FOR FIRE GUARDS.] The board of county commissioners are hereby authorized to expend not to exceed the sum of eight hundred (800) dollars annually from the road and bridge fund, for the purpose of constructing fire guards.

§ 15. REPEAL.] All acts or parts of acts in any manner in conflict with the provisions of this act are hereby repealed, but nothing in this act contained shall be construed to be in conflict with Senate Bill No. 125, being a bill for an act to provide for the extermination of the Russian thistle and French weed.

§ 16. EMERGENCY.] There being no adequate remedy against prairie fires and the necessity for taking legal action long before July 1st, creates an emergency; *Therefore*, This bill shall become a law after its passage and approval.

Approved, March 19, 1895.

PUBLIC HIGHWAYS.

CHAPTER 91.

[H. B. No. 9.]

IMPROVEMENT OF PUBLIC HIGHWAYS.

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.

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

§ 1. TOWN BOARDS HAVE SUPERVISION.] From and after the passage of this act and its approval in accordance with law the several town boards of organized townships in counties throughout the State shall have general supervision over the roads, highways and bridges throughout their several townships.

§ 2. PLANS AND SPECIFICATIONS FOR ALL WORK.] The several town boards shall 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 "For Contract System" has prevailed, then the township board shall at the next meeting succeeding the annual meeting advertise in any one of the county papers for bids for two successive weeks for the improvement and repairing of highways and bridges in their said several townships in the following manner:

1. The said board shall furnish plans and specifications for all work and improvements to be done and performed in their several townships, which shall be filed in the office of the town clerk.

2. And they shall at the time of advertising for bids give at least ten days notice, to be posted in three conspicuous places in said township that bids will be received at a time and place mentioned in said notices, and said contracts shall be let to the lowest bidder in accordance with such plans and specifications as are furnished by said board, and the said board shall require upon the letting of such contract, or contracts, a good and sufficient bond for the faithful performance of the work to be done and performed in said contract, and said board shall have authority to reject any and all bids.

§ 3. ANNUAL TOWN MEETING—TAX FIXED.] At the regular annual town meeting in each year the amount of tax for road purposes shall be voted upon and fixed by said town meeting, which shall not exceed the sum of eighty cents on one hundred dollars of assessed valuation of property, both real and personal.

§ 4. SPECIAL FUND.] All moneys raised in pursuance of the provisions of this act shall constitute a special fund for the improvement of highways and shall be collected, paid out and expended in the same manner as now provided for upon warrants drawn on the treasurer of each township for general expenses thereof, and such fund shall be kept separate and shall not be used for any other purpose whatsoever.

§ 5. FAILURE TO PAY ASSESSMENT—HOW COLLECTED.] Upon failure to pay any tax assessed for the purposes herein named the same shall become delinquent and shall be collected in the same manner as provided by law for general taxation.

§ 6. ROAD MACHINERY.] Wherever towns may own road machinery the said township boards shall have authority to make such disposition of the same as in their discretion is best for the interests of the town, or to purchase or lease such machinery as may be necessary for the purpose of carrying out the provisions of this act and the performance of all contracts in reference thereto.

§ 7. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 14, 1895.

CHAPTER 92.

[H. B. No. 51.]

RELATING TO OBSTRUCTION OF ROADS.

AN ACT to Amend Section 687, Penal Code of Revised Codes of 1877, Being Section 6876 of the Compiled Laws of 1887.

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

§ 1. RELATING TO OBSTRUCTION—ROADS.] That Section 687, Penal Code of Revised Codes of 1877, being Section 6877 of the Compiled Laws of 1887 be amended so as to read as follows:

§ 687. Every person who shall knowingly and willfully obstruct or plow up, or cause to be obstructed or plowed up, any public highway or public street of any town, except by order of the road supervisors for the purpose of working the same, or injure any bridge on the public highway, or shall build or place a barb wire fence across any well traveled trail, which has been the usual and common route of travel for not less than one year prior to the commission of the offense; without placing on the outside of the top tier of barb wire on said fence, a board, pole or other suitable protection, to be at least 16 feet in length shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding one hundred dollars, and shall be liable for all damages to person or property by reason of the same.

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

Approved, March 14, 1895.

RAILROADS.

CHAPTER 93.

[S. B. No. 48.]

COAL RATES.

AN ACT Fixing the Maximum Rates That Railroad Companies May Charge for the Transportation of Coal Within the State of North Dakota.

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

§ 1. MAXIMUM COAL RATES.] All railroad companies doing business as common carriers within the State of North Dakota

shall not charge for the transportation of coal within the State a greater rate per ton than the following: For the first five miles or fractional part thereof, thirty (30) cents per ton; for any distance over five miles and not to exceed fifteen miles, forty (40) cents per ton; for any distance over fifteen miles and not to exceed twenty-five miles, fifty (50) cents per ton; for any distance over twenty-five miles and not to exceed thirty-five miles, fifty-nine (59) cents per ton; for any distance over thirty-five miles and not to exceed forty-five miles, sixty-eight (68) cents per ton; for any distance over forty-five miles and not to exceed fifty-five miles, seventy-five (75) cents per ton; for any distance over fifty-five miles and not to exceed sixty-five miles, eighty-one (81) cents per ton; for any distance over sixty-five miles and not to exceed seventy-five miles, eighty-six (86) cents per ton; for any distance over seventy-five miles and not to exceed eighty-five miles, ninety (90) cents per ton; for any distance over eighty-five miles and not to exceed ninety-five miles, ninety-four (94) cents per ton; for any distance over ninety-five miles and not to exceed one hundred and five miles, ninety-eight (98) cents per ton; for any distance over one hundred and five miles and not to exceed one hundred and fifteen miles, one dollar and two cents (\$1.02) per ton; for any distance over one hundred and fifteen miles and not to exceed one hundred and twenty-five miles, one dollar and six cents (\$1.06) per ton; for any distance over one hundred and twenty-five miles and not to exceed one hundred and thirty-five miles, one dollar and ten cents (\$1.10) per ton; for any distance over one hundred and thirty-five miles and not to exceed one hundred and forty-five miles, one dollar and fourteen cents (\$1.14) per ton; for any distance over one hundred and forty-five miles and not to exceed one hundred and fifty-five miles, one dollar and eighteen cents (\$1.18) per ton; for any distance over one hundred and fifty-five miles and not to exceed one hundred and sixty-five miles, one dollar and twenty-two cents (\$1.22) per ton; for any distance over one hundred and sixty-five miles and not to exceed one hundred and seventy-five miles, one dollar and twenty-six cents (\$1.26) per ton; for any distance over one hundred and seventy-five miles and not to exceed one hundred and eighty-five miles, one dollar and thirty cents (\$1.30) per ton; for any distance over one hundred and eighty-five miles and not to exceed one hundred and ninety-five miles, one dollar and thirty-four cent (\$1.34) per ton; for any distance over one hundred and ninety-five miles and not to exceed two hundred and five miles, one dollar and thirty-eight cents (\$1.38) per ton; for any distance over two hundred and five miles and not to exceed two hundred and fifteen miles, one dollar and forty-two cents (\$1.42) per ton; for any distance over two hundred and fifteen miles and not to exceed two hundred and twenty-five miles, one dollar and forty-six cents (\$1.46) per ton; for any distance over two hundred and twenty-five and not to exceed two hundred and thirty-five miles, one

dollar and fifty-cents (\$1.50) per ton; for any distance over two hundred and thirty-five and not to exceed two hundred and forty-five, one dollar and fifty-four cents (\$1.54) per ton; for any distance over two hundred and forty-five and not to exceed two hundred fifty five miles, one dollar and fifty-eight cents (\$1.58) per ton; for any distance over two hundred and fifty-five miles and not to exceed two hundred sixty-five miles, one dollar and sixty-four cents (\$1.64) per ton; for any distance over two hundred and sixty-five miles and not to exceed two hundred and seventy-five miles, one dollar and sixty-seven cents (\$1.67) per ton; for any distance over two hundred and seventy-five, and not to exceed two hundred and eighty-five, one dollar and sixty-nine cents (\$1.69) per ton; for any distance over two hundred and eighty-five miles and not to exceed two hundred and ninety-five miles, one dollar and seventy-one cents (\$1.71) per ton; for any distance over two hundred and ninety-five miles and not to exceed three hundred and five miles, one dollar and seventy-four cents (\$1.74) per ton; for any distance over three hundred and five miles and not to exceed three hundred and fifteen miles, one dollar and seventy-five (\$1.75) per ton; for any distance over three hundred and fifteen and not to exceed three hundred and twenty-five miles, one dollar and seventy-eight cents (\$1.78) per ton; for any distance over three hundred and twenty-five miles and not to exceed three hundred and thirty-five miles, one dollar and eighty cents (\$1.80) per ton; for any distance over three hundred and thirty-five miles and not to exceed three hundred and forty-five miles, one dollar and eighty-three cents (\$1.83) per ton; for any distance over three hundred and forty-five miles and not to exceed three hundred and fifty-five miles, one dollar and eighty-five cents (\$1.85) per ton; for any distance over three hundred and fifty-five miles and not to exceed three hundred sixty-five miles, one dollar and eighty-seven cents (\$1.87) per ton; for any distance over three hundred and sixty-five miles and not to exceed three hundred and seventy-five miles, one dollar and ninety cents (\$1.90) per ton; for any distance over three hundred and seventy-five miles and not to exceed three hundred and eighty-five miles, one dollar and ninety-two cents (\$1.92) per ton; for any distance over three hundred and eighty-five miles and not to exceed three hundred and ninety-five miles, one dollar and ninety-four cents (\$1.94) per ton; for any distance over three hundred and ninety-five miles and not to exceed four hundred and five miles, one dollar and ninety-six cents (\$1.96) per ton; for any distance over four hundred and five miles and not to exceed four hundred and fifteen miles, one dollar and ninety-eight cents (\$1.98) per ton; for any distance over four hundred and fifteen miles and not to exceed four hundred and twenty-five miles, two dollars and one cent (\$2.01) per ton; for any distance over four hundred and twenty-five miles and not to exceed four hundred and thirty-five miles, two dollars and three cents (\$2.03) per ton;

for any distance over four hundred and thirty-five miles and not to exceed four hundred and forty-five miles, two dollars and six cents (\$2.06) per ton; for any distance over four hundred and forty-five miles and not to exceed four hundred and fifty-five miles, two dollars and eight cents (\$2.08) per ton; for any distance over four hundred and fifty-five miles and not to exceed four hundred and sixty-five miles, two dollars and ten cents (\$2.10) per ton; for any distance over four hundred and sixty-five miles and not to exceed four hundred and seventy-five miles, two dollars and thirteen cents (\$2.13) per ton; for any distance over four hundred and seventy-five miles and not to exceed four hundred and eighty-five miles, two dollars and fifteen cents (\$2.15) per ton; for any distance over four hundred and eighty-five miles and not to exceed four hundred and ninety-five miles, two dollars and seventeen cents (\$2.17) per ton.

§ 2. PENALTY FOR FAILURE TO COMPLY WITH ACT.] Any railroad company violating any of the provisions of this act 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 or suffering loss or damage by such violation.

§ 3. DUTY OF ATTORNEY GENERAL.] It shall be the duty of the Attorney General or of the State's attorney of any county in which an action arises against any railroad company for a violation of any of the provisions of this act, upon demand of the Board of Railroad Commissioners, to commence and prosecute all actions necessary for the enforcement of the provisions of this act.

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

§ 5. EMERGENCY.] An emergency exists in that there are no laws now in force for the regulating of railroad freight rates for the transportation of coal in the State of North Dakota, this act shall take effect and be in force from and after its passage and approval.

Approved, March 21, 1895.

CHAPTER 94.

[H. B. No. 64.]

REGULATING THE NUMBER OF TRAINMEN.

AN ACT Compelling Railroad Companies to Provide a Certain Number of Men to Man Trains and Prescribing Penalties for Neglect Thereof.

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

§ 1. REGULATING THE NUMBER OF TRAINMEN.] That it shall be the duty of every corporation operating a railway within the limits of this State which has not complete air equipments in good order on all rolling stock in use on said road, to furnish at least two brakemen to each freight train consisting of forty-five cars, and it shall be the duty of said company to furnish an extra brakeman on said freight train for every ten cars or fraction thereof in excess of said forty-five cars, *Provided*, That 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 unnecessary in the ordinary stoppage of trains.

§ 2. PENALTY.] That for each and every violation of the above section the railroad corporation so offending shall be subject to a penalty of fifty dollars, to be recovered in a civil action and paid to the State of North Dakota, and it is hereby made the duty of the Attorney General upon complaint of any citizen to commence and prosecute this action in his own name as Attorney General on behalf of said State.

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

Approved, March 8, 1895.

CHAPTER 95.

[S. B. No. 166.]

RELATING TO STOP-OVER RATES.

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.

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

§ 1. MAXIMUM STOP-OVER RATES.] Whenever any railroad company doing business in this State as a common carrier shall ship any car or cars of freight over any of its railway lines or

branches, three of which, car or cars contains freight to any intermediate point or points, it shall be the duty of such railroad company to stop such car or cars at such point or points and the consignee of such freight shall be permitted to unload the same upon payment to such railroad company of the full freight rates from the shipping point to the terminal point of such car or cars and in addition thereto the sum of \$5.00 per car for each and every day such car or cars is or are delayed during such stop-over; *Provided*, The car or cars contain no perishable goods and are billed to one consignee, and in no case over one stop or stop-over shall be made, nor shall said car or cars be opened but once for distributing goods at intermediate stations.

§ 2. PENALTY.] Every railroad company neglecting or refusing to comply with the provisions of this act shall be liable to damages in the sum of \$20.00 for each and every day such railroad company neglects or refuses to comply with the provisions thereof, to be recovered by any person damaged by reason of such neglect or refusal in any court of competent jurisdiction.

Approved, March 12, 1895.

CHAPTER 96.

[H. B. No. 8.]

REPEAL OF LAW OF 1889.

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.

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

§ 1. REPEAL.] That 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, be and the same are hereby repealed, *Provided, however*, That this act shall in no wise effect the levy and collection of taxes upon the property of railroad companies in this state for the year 1894 (eighteen hundred and ninety-four.)

§ 2. EMERGENCY.] 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 and approval.

Approved, March 8, 1895.

CHAPTER 97.

[H. B. No. 23.]

RELATING TO RAILWAY STATION HOUSES.

AN ACT Defining the Duties of Railways in Regard to Station Houses.

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

§ 1. TO MAINTAIN STATIONS—WHEN.] Every railway corporation in the State shall build a station house and keep a station agent 12 months each year at all their sidings where there is grain and merchandise of any description shipped where the freight on which amounts to \$40,000, forty thousand dollars, or more in any one year.

§ 2. PENALTY.] Any railway company or corporation failing to comply with the provisions of this act shall be punished by a fine of not less than (\$2,000,) two thousand dollars, 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.

§ 3. REPEAL.] All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 4. EMERGENCY. *Whereas*, An emergency exists in this that the erection of such station houses will be necessary before July 1, 1895; *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, March 4, 1895.

REPEAL.

CHAPTER 98.

[S. B. No. 74.]

SUPREME COURT REPORTS OF DAKOTA TERRITORY.

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."

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

§ 1. REPEAL.] That Chapter 172, of the Session Laws of 1890, of the State of North Dakota, being an act entitled "An

Act Providing for the Purchase and Distribution of the Remaining Reports of the Supreme Court of Dakota Territory," be and the same is hereby repealed.

§ 2. EMERGENCY.] *Whereas*, An emergency exists by reason of there being no necessity for the purchase of the reports mentioned in said chapter, and for the further reason that the purchase of the same would cause an unnecessary expenditure of the funds of the State, this act shall take effect and be in force immediately upon its passage and approval.

Approved, March 2, 1895.

CHAPTER 99.

[S. B. No. 108.]

RELATING TO TREASURER AND REGISTER OF GRAND FORKS COUNTY.

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, D. T.'"

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

§ 1. REPEAL.] Chapter twenty (20) of the Special Laws of Dakota Territory for the year 1885, is hereby repealed.

Approved, March 12, 1895.

CHAPTER 100.

[S. B. No. 136.]

REPEAL OF SECTION 982, COMPILED LAWS.

AN ACT to Repeal Section 24, of Article 15, of Chapter 73, of the Laws of 1887, Being Section 982, of the Compiled Laws.

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

§ 1. REPEAL.] Section 24, of Article 15, of Chapter 73, of the Laws of 1887, is hereby repealed.

§ 2. EMERGENCY.] *Whereas*, An emergency exists in that said Section 24 imposes a great hardship upon the owners of real estate in cities, this act shall take effect and be in force from and after its passage and approval.

Approved, March 20, 1895.

REFORM SCHOOL.

CHAPTER 101.

[H. B. No. 178.]

ACT OF FEBRUARY 28, 1893, REPEALED.

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."

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

§ 1. REPEAL. That Chapter eleven of the laws enacted by the Third Legislative Assembly of the State of North Dakota, being an act 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," approved February 28, 1893, be and the same is hereby repealed.

§ 2. EMERGENCY.] *Whereas*, An emergency exists in this that it is necessary to stop the further expenditure of money under said act immediately, *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, March 14, 1895.

RUSSIAN CACTUS.

CHAPTER 102.

[S. B. No. 125.]

RUSSIAN CACTUS.

AN ACT to Provide for the Extermination of Russian Thistle and French Weed.

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

§ 1. RUSSIAN THISTLE AND FRENCH WEED DECLARED NUISANCES.] The noxious weed known as Russian thistle and French weed wherever found in the State of North Dakota, is hereby declared to be a public nuisance, and it is made the duty of every person or corporation owning, occupying, leasing or

having any lien or interest in any land, without regard to the use to which such land is put, to destroy the same before it shall go to seed, or if it shall have gone to seed, to completely destroy the same by burning it, before any plant shall have broken off or scattered its seed.

§ 2. DUTY OF OFFICERS TO DESTROY—PENALTY FOR FAILURE.] Any overseer or supervisor of roads, any sheriff or constable or officer of any organized township, or any mayor or police officer of any incorporated city, town or village, who shall know of the existence of any such Russian thistles or French weeds within their respective jurisdictions, who shall fail or neglect to destroy the same, or cause them to be destroyed, or else to make complaint in writing to the commissioner whose duty it becomes under the provisions of this act, to cause the destruction of such thistles and French weed, shall be guilty of malfeasance in office, and upon conviction of such failure or neglect, shall be subject to a fine of not less than \$25 nor more than \$50.

§ 3. COUNTY COMMISSIONERS' DUTY TO ENFORCE PROVISION.] Every county commissioner shall be charged with the duty of personally superintending and enforcing the provisions of this act within his commissioner district.

§ 4. EXECUTIVE RELIEF BOARD—WHO AND HOW APPOINTED.] There is hereby constituted a board of commissioners which shall be designated the executive relief board, which board shall consist of the Governor and two competent persons whom he shall appoint to hold their offices until the Governor shall appoint their successors. Said commissioners shall acquire all necessary and practicable information for the purpose, and shall determine the general methods and seasons for the destruction of Russian thistles and French weed, prior to June 1, 1895. They shall cause their general determinations, with such rules and regulations as they may deem wise to be printed, and at least twenty (20) copies of the same to be sent to the auditor of each county in the State. They shall also cause a copy of such determinations, rules and regulations to be sent to each newspaper in the State. They may determine upon special methods and seasons for such destruction when in their judgment it shall seem best, and such special determinations and the rules and regulations which they may prescribe for their execution shall be printed or not as they may deem wise, and notice of them shall be given only as shall be necessary in each case. They may at any time change or modify such determinations and rules and regulations, and in such case they shall send to the county auditors printed copies of such changed and modified determinations, rules and regulations; and all the determinations, rules and regulations so established by such commissioners, shall have the full force of law. The board of commissioners hereby established shall control and direct any and all operations contemplated in any appropriation which may be made, and of the expenditure of

any money which may come into possession of the State from any such appropriation, from taxes as provided in Section 17 of this act, or from any other source, to be used for the destruction of Russian thistles and French weed. They shall file itemized vouchers for such expenditures with the State Auditor, who shall issue his warrants upon the State Treasurer for the amount of such vouchers. No claim shall be allowed and no money paid out of the State treasury, or out of any county treasury for any expense of destruction of Russian thistles and French weed not done in accordance with the determinations, rules and regulations which such board of commissioners shall prescribe. If the executive relief board shall ascertain that, for twenty days after the times prescribed by the rules and regulations of said board of the destruction of the Russian thistles and French weed the work of such destruction has, in any place not been in good faith begun and vigorously prosecuted, then said board shall direct the county commissioner within whose commissioner district such failure to so begin and so prosecute such work exists, to begin such work at once and to vigorously prosecute and complete the same. Such direction shall specify the particular facts constituting such failure and if for five days after such direction such county commissioner shall still fail or refuse to begin in good faith and to prosecute vigorously such work, then said board may file in the office of the auditor of such county a copy of such direction with proof of service thereof, and may thereupon proceed themselves to cause such work to be done, and shall audit the expense of such work and issue vouchers for such expense to the persons employed to perform such work, which vouchers may be presented to such county auditor, and he shall thereupon issue warrants to the treasurer of such county for the amounts of such vouchers payable to the holders thereof out of the road fund of such county. Such direction of said board shall be in writing, and may be served personally or by registered mail; proof of service in the former case shall be by affidavit attached to a copy of such direction, and in the latter by affidavit of mailing attached to a copy of such direction and accompanied by the postoffice registry receipt. *Provided*, the expense of any such destruction which the executive relief board may cause to be so done on any lands or fire breaks as specified in Section 11 of this act, shall be a charge upon the state, and for the payment of such expenses by him, the treasurer of such county may retain a sufficient amount of money in his next settlement with the state treasurer in the manner as provided in Section 11 of this act.

§ 5. OWNERS OR OCCUPANTS OF LAND TO DESTROY.] Any owner, or occupant of any land in any commissioner district in any county or any citizen of such district may make complaint to the county commissioner in charge of that district, by written notice of the existence of Russian thistles and French weed on any land or lands, describing the same, in the

district of such commissioner, such thistles or French weeds not being on any highway, roadway or trail in use by the public. Thereupon such county commissioner shall at once notify the occupant of such land in writing, if such land be occupied, and in any case such county commissioner shall require the county auditor of such county at once to notify in writing the owner of such land, if his address be filed with such county auditor, or if it can be found, of the existence of such thistles or French weeds upon such land; and such notice served on such owner shall be sent by registered mail, and all postoffice receipts therefor shall be filed and preserved by such county auditor. If no such service of notice on the owner can be had, then notice shall be published one week in some newspaper published in such county; or if none be published then a copy of such notice shall be conspicuously posted ten days on the front door of the court house of such county. It shall then become the duty of such occupant or owner, completely to destroy such thistles and French weed on such land, (but not on any highway, roadway or trail in public use) in the manner and season which shall be determined as provided in Section 4 of this act. If within ten days after completion of service, publication or posting of notices aforesaid, (but not earlier than ten days after the date so fixed as provided in Section 4 of this act, as the beginning of the season for destroying Russian thistle and French weed), the destruction of such Russian thistles and French weed on such land has not been completed, or begun and vigorously prosecuted, such county commissioner shall at once cause such thistles and French weed to be destroyed on such land in a manner so fixed in accordance with Section 4 of this act; and he shall verify the expense thereof by an itemized statement to the county auditor and the county auditor shall, at the meeting of the board of county commissioners, as provided in Section 16 of this act, lay the same before such board, and the amount which in any such case shall be allowed by such board of county commissioners shall be entered upon the tax list as provided in Section 16 of this act, and such county auditor shall then issue his warrant for such amount to be paid out of the road fund of such county.

§ 6. DUTY OF RAILROADS TO DESTROY THISTLES ON RIGHT-OF-WAY.] Any owner or occupant of any land in any commissioner district, or any citizen of such district, may make complaint to the county commissioner in charge of that district, by written notice, of the existence of Russian thistles or French weed on any part of any railroad right-of-way lying in such district, designating as near as may be the locality complained of. Thereupon the county commissioner shall require the county auditor of such county at once to notify the division superintendent having in charge such right-of-way in such district for the railroad company operating the line of railway to which line such

right-of-way appertains, of the existence of such thistles or French weeds on such right-of-way, and such notice served on such superintendent shall be sent to him by registered mail, addressed to the postoffice situated in the city, village or town in which his office may be located, and all postoffice receipts therefor shall be filed and preserved by such auditor. It shall then become the duty of such railroad company completely to destroy such thistles and French weed on such right-of-way in the manner and season which shall be determined as provided in Section 4 of this act. If within ten days after such service of notice the destruction of such thistle or French weeds, complained of the existence of which has been made, has not been completed, or begun and vigorously prosecuted, then it shall be the duty of such county commissioner to cause such thistles or French weed to be destroyed on such right-of-way in the time and manner so fixed in accordance with Section 4 of this act, and such county commissioner shall certify the expenses thereof by an itemized statement to the county auditor in writing, and the county auditor shall, at the meeting of the board of county commissioners as provided in Section 16 of this act, lay the same before such board, and the amount which, in any case, shall be allowed by such board of county commissioners for destruction of Russian thistle or French weed on such right-of-way within such county shall be entered upon the tax list as provided in Section 16 of this act, and such county auditor shall then issue his warrant for such amount to be paid out of the road fund of such county.

§ 7. ROAD WORK USED IN DESTRUCTION—HOW.] Any owners or occupant of any land in any commissioner district in any county, or any citizen of such district may make complaint to the county commissioner in charge of that district, by written notice, of the existence of Russian thistle and French weeds in any highway, road, way or trail in public use, whether such be a public highway or not, designating as near as may be the locality complained of, and it shall then be the duty of such county commissioner to cause such thistles and French weeds to be destroyed in the manner so fixed in accordance with Section 4 of this act; such county commissioner shall first require the overseer or supervisor of highways, or roads within whose highway or road district lies such highway, road, way or trail in public use, to cause so much as may be necessary of the work which, thereafter, in that year may be done in payment of road taxes, in such highway, or road district to be expended in the destruction of such thistle and French weeds; and if such work in such highway or road district, so done by all persons then subject to road poll tax shall not suffice for the complete destruction of such thistle and French weeds then such county commissioner shall employ such further means as may be necessary to cause such thistles and French weeds to be completely destroyed. And such county

commissioner shall certify the expenses thereof by an itemized statement to the county auditor, and the county auditor shall, at the meeting of the board of county commissioners as provided in Section 16 of this act, lay the same before such board, and such county auditor shall issue his warrants for such amount when approved by such board of county commissioners, to be paid out of the road fund of such county.

§ 8. COMPLAINT MADE TO SHERIFF ON FAILURE OF COMMISSIONERS TO ACT.] If after complaint of the existence of Russian thistles and French weeds made according to the provisions of Sections 5 and 6 of this act, any county commissioner shall fail to serve notice for the destruction of such Russian thistles and French weeds as by this act required of him, within five days after such complaint is made, then the party making such complaint may complain of the existence of the Russian thistles and French weeds to the sheriff of such county by written notice, and such notice upon the sheriff shall recite the fact that such notice has been served upon such commissioner but that no action has been taken by him, and it then shall become the duty of such sheriff to proceed in all particulars as required of the county commissioner by this act.

§ 9. PUBLICATION OF NOTICE.] If after the complaint of the existence of Russian thistles and French weeds made according to the provisions of Sections 5 and 6 of this act, the commissioner shall have duly served notice for the destruction of such thistles and French weeds as by this act required of him, and if within fifteen days after completion of notice or publication or posting of notice, as provided by Sections 5 and 6 of this act, (but not earlier than ten days after the date so fixed as provided in Section 4 of this act, as the beginning of the season for destroying said thistles and French weeds) the destruction of the thistles and French weeds on such right-of-way or such land has not been completed, or begun and vigorously prosecuted by the county commissioner as provided in this act, then the party making such complaint may serve written notice on the sheriff of such county, reciting the fact of such failure to destroy or cause to be destroyed such thistles and French weeds, and it shall then become the duty of such sheriff to proceed in all particulars for the destruction of such thistles and French weeds as required of the county commissioner by this act.

§ 10. DUTY OF SHERIFF IN CASES OF NON-COMPLIANCE WITH LAW.] If after the complaint of the existence of Russian thistles and French weeds according to the provisions of Section 7 of this act, any county commissioner shall fail to begin and vigorously prosecute the destruction of such Russian thistle and French weeds as by this act required of him within five days after such complaint has been made, on any highway, road, way or trail in public use, concerning which such said complaint has been made, then the party making such complaint may complain

to the sheriff of such county by written notice, such notice reciting the fact that due notice has been served upon such county commissioner, but that no action has been taken by him, and it then shall become the duty of such sheriff to proceed in all particulars for the destruction of such thistles and French weeds as required of the county commissioner by this act.

§ 11. STATE LANDS—DUTY OF COMMISSIONERS TO EXAMINE.] It shall be the duty of every county commissioner in his commissioner district to examine or cause to be examined all leased lands owned by the State and all school lands and all broken lands the title to which yet remains in the United States, and all fire breaks which have been made without warrant or license on the part of the owner of the land on which such fire breaks exist, and, if Russian thistles and French weeds are found on any such lands or fire breaks, they shall be destroyed under the direction of such county commissioner, and he shall certify the expense thereof by an itemized statement to the county auditor of such county, and such county auditor shall at the meeting of the board of county commissioners as provided in Section 16 of this act, lay the same before such board, and such county auditor shall issue his warrants for such amount when approved by such board of county commissioners, to be paid out of the road fund of such county, and such expense so certified shall be a charge upon the state, and the amount of them shall be withheld by the county treasurer in his next payment to the State, by remitting to the state treasurer the itemized vouchers for such expense in lieu of the money withheld; such itemized vouchers shall be duly certified by the county auditor as approved by the board of county commissioners; *Provided*, That the county commissioner who shall discover or be informed that Russian thistles and French weeds exist on any land in his commissioner's district, the title to which land is in the United States, but which land is occupied, held or cultivated by any person, shall cause notice to be served on such person to destroy such thistles and French weeds in the manner provided for an owner of land in Section 5 of this act. And thereafter such persons shall be subject to the same obligation as provided in Section 5 of this act, the same as if he owned such land, and if he shall refuse or neglect to destroy such thistles and French weeds, and if such thistles and French weeds are destroyed by and under the direction of such county commissioner, then he shall be assessed with a personal tax for the expenses of so destroying such thistles and French weeds as provided in Section 16 of this act. Such person shall also be subject to all the provisions and penalties of Section 13 of this act.

§ 12. U. S. LANDS—WHOSE DUTY TO KEEP CLEAR OF WEEDS.] Every county commissioner shall ascertain by inquiry and investigation of Russian thistles and French weeds exist on any highway, road, way or trail in public use, or on any part of such in his

commissioner district. If he shall ascertain that such thistles and French weeds so exist he shall notify any overseer or supervisor of highways or roads, whose highway or road district lies in whole or in part in any such commissioner district, and within which highway or road district any such thistles and French weeds exist on any such highway, road, way or trail in public use, to notify all persons who are legally required or permitted to work out any road taxes in that year, that such work shall be done, so far as such county commissioner shall determine to be necessary, under the direction of such overseer or supervisor, in the destruction of such Russian thistles and French weeds in time and manner so fixed as provided in Section 4 of this act, and if such persons or any of them shall fail to so work out their poll taxes, then the money which they or any of them shall pay in lieu of such work, shall be paid by the officer into whose possession or keeping such money shall come, to the county treasurer, who shall credit the same to the road fund of such county to be expended for the purposes of this act; and when such county commissioner shall have so notified any such overseer or supervisor of highways or roads as herein provided, no work on any highway or road shall be done in payment of road taxes on any such highway or road district, and no money collected in payment of road poll taxes, in any such highway or road district, so expended until the requirements of such county commissioner are fulfilled. No person shall be relieved hereby from any part of the road poll tax to which he shall be subject by law.

§ 13. FAILURE OR REFUSAL TO DESTROY—PENALTY FOR.] Any owner or occupant of any land who shall receive written notice from the county commissioner or county auditor as provided in this act, to destroy any Russian thistles and French weeds existing on the land owned or occupied by him, who shall fail or refuse to destroy the same within the time required by the notice served on him, in accordance with the provisions of this act, shall be deemed guilty of a violation of the provisions of this act, and when convicted thereof, shall be subject to a fine of not less than five dollars (\$5) nor more than ten (\$10) dollars and costs of prosecution. Upon complaint of any owner or occupant of any land or of any citizen of the commissioner district in which the land owned or occupied by the party so notified lies, it shall be the duty of the state's attorney of such county, if such complaint seems to be reasonable, to prosecute the party complained of, for such failure or refusal, and the penalty imposed, if any, shall be paid to the party making such complaint.

§ 14. LANDS ON WHICH NO THISTLES GROW—OWNERS MAY NOTIFY.] To the end that the propagation and spread of Russian thistles and French weeds may to that extent be prevented and for the purpose of this act, it is hereby enacted that any owner or occupant of any cultivated land which is free from Russian thistles and French weeds, who shall know or be informed of the

existence of any Russian thistles or French weeds on cultivated land within two miles of, and being the nearest cultivated lands on which Russian thistles or French weeds exist to the lands which he owns or occupies, and who shall believe from the existence of such thistles or French weeds that there is danger that the cultivated lands so occupied and owned by him will be seeded from such thistles and French weeds if they should go to seed, may serve a written notice on the owner or occupant of the cultivated land on which such thistles and French weeds exist, or if no such service can be had, then by posting such notice conspicuously on such cultivated land, warning such owner or occupant to destroy such thistles and French weeds before they or any of them shall go to seed, and that otherwise he shall hold him responsible for any damages which in the ensuing season may result to the land which he owns or occupies therefrom. And if in such ensuing season Russian thistles and French weeds be found on the lands owned or occupied by the party who has given such notice, then failure or neglect on the part of the owner or occupant on whom such notice is served, to destroy such thistles and French weeds and all of them, before they or any of them shall have gone to seed, shall be *prima facie* evidence that such thistles and French weeds found on such lands in such ensuing season, have come from seeds produced on the lands owned and occupied by the parties so notified, and he shall be liable for damages accordingly. And inasmuch as damages of this nature must be exceedingly difficult to determine, the minimum of such damages is hereby declared to be twenty-five (25) cents for each square acre of the land occupied by the party who has served such notice, on which any Russian thistles and French weeds may be found in such ensuing season.

§ 15. PENALTY FOR COMMISSIONERS, OR SHERIFFS, FAILURE.] Whenever any county commissioner or any sheriff shall neglect or refuse to comply with the provisions of this act within five (5) days after having received notice as provided in Sections 5, 6, 7, 8, 9 and 10 of this act, he shall be subject to a fine of fifty dollars (\$50); and it is hereby made the duty of the state's attorney of the several counties to enforce the provisions of this act.

§ 16. ASSESSMENTS—WHEN AND HOW MADE.] On the first Wednesday of November in each year the board of county commissioners of every county in which Russian thistles and French weeds have been destroyed, under the provisions of this act, shall hold a session at their usual place of meeting for the purpose of levying an assessment against the lands upon which such thistles and French weeds have been destroyed, and upon any railroad company operating any line of railroad in the State, upon the right-of-way of which line within such county such Russian thistles and French weeds have been destroyed, and a personal tax upon every person who in that year has occupied, held or cultivated any land the title to which is in the United States, upon

which land any such thistles and French weeds have been destroyed in accordance with this act; and it shall be the duty of every person and corporation chargeable with the duty of destroying Russian thistles and French weeds upon any land or right-of-way within such county, to appear before such board at such time and place and show cause if any there be, why any such land or such railroad company should not be assessed. It shall be the duty of the county auditor to present at such time and place a report showing the expenses incurred or made necessary in the destruction of Russian thistles and French weeds upon each tract of land, upon each right-of-way, and upon all highways, roads, ways and trails in public use in such county. And after the board of county commissioners shall have heard and duly considered all objections to the levy of all and any such assessments it shall be their duty to levy an assessment against every tract of land and upon every railroad company and upon every person for the amount which may be justly due on account of such expenses; and such assessments shall thereupon be extended upon the tax roll for such year as a special assessment against such land or railroad company, and the amount of such assessments shall become due at the same time, and be subject to the same penalties and interest and shall be collected in the same manner as other real and personal taxes. And the proceeds of such assessments so levied shall be paid into the credit of the road fund of such county when collected.

§ 17. ONE MILL TAX—HOW LEVIED.] The county auditor of each county shall, at the time of making the annual assessment and the levy of taxes, for the purposes of this act, levy a tax of one mill on the dollar on all taxable property in such county, which tax shall be collected at the same time and in the same manner as other taxes are collected, and the proceeds of such tax shall be paid by the county treasurer of each such county to the State Treasurer, and shall constitute a State fund, which shall be designated as the State Russian thistle and French weed fund. At the same time the county commissioners of each such county shall, in addition to such tax of one mill so levied as aforesaid, levy a tax on all taxable property in each such county, not to exceed three mills on the dollar, on all taxable property in such county, and a road poll tax of \$1.50 on each inhabitant subject to poll tax, the proceeds of such tax shall be credited to the road fund of such county; *Provided*, That if any organized township in such county shall have already levied a road tax on the taxable property in such township, not less than the tax which the county commissioners of such county shall deem and determine proper to levy in accordance with the provisions of this section, no levy by such county commissioners shall be made on any property in such township; but in such case the county treasurer shall retain for the county road fund from the proceeds of such levy made by each such township an amount equal to that which would have

accrued to the county road fund if such a levy had been made on the taxable property of any such township as such county commissioners should have deemed and determined proper as aforesaid, proper allowance being made for any road taxes which shall have been paid by work as provided in Section 12 of this act; and such county treasurer shall pay over any balance of such proceeds to such township, as now provided by law; and, if any such township shall already have levied a road tax less than the tax so deemed and determined proper by the county commissioners, then such county commissioners shall levy on the taxable property in any such township an additional tax sufficient to make the total road tax on such property equal to the tax they may deem and determine to be proper as aforesaid. And in such case the county treasurer shall not pay over any of the proceeds of such road taxes to such township, whether imposed by the township or by the county commissioners. Out of the sums which shall accrue to the county road fund of any county, or which may at any time be to the credit of any such road fund, shall first be paid all sums made necessary by the provisions of this act, and thereafter if there be any of said fund remaining, it may be expended as provided by law for the expenditure of county road funds. The county treasurer of each county shall pay over out of any proceeds of any road tax, which by Section 1167 of the Compiled Laws is provided to be paid to any incorporated city or town in such county, only such amount as shall be in excess of an amount equal to a levy of a tax on all the taxable property of such city or town which the county commissioners shall deem and determine proper to levy on the taxable property of the county for the purposes of this act.

§ 18. STATE THISTLE FUND—WHAT COMPOSED OF.] All moneys which may be appropriated by the State Legislative Assembly or which may come into the possession of the State Treasurer from any appropriation or from any source for the destruction of Russian thistles and French weeds shall form a portion of the State Russian thistle and French weed fund.

§ 19. TRANSFER OF STATE FUNDS BY STATE TREASURER—HOW.] After the 31st day of December, 1895, after reserving a sufficient fund to pay all outstanding warrants drawn on the State Russian thistle and French weed fund under authority of this act, then, out of any money in such fund, may be paid into any other fund as the State Auditor may determine,

First. The amount of all expenses which may have accrued to the State under the provisions of Section 11 of this act.

Second. Any amount which may have been appropriated by the State for the destruction of Russian thistles and French weed and which has been credited to the State thistle fund. And from such Russian thistle and French weed fund shall be paid any further payments or expenditures authorized by this law.

§ 20. STATE TREASURER THE CUSTODIAN OF FUNDS.] All

funds which may accrue to the State Russian thistle and French weed fund shall be kept in the possession or under the control of the State Treasurer until paid out as provided for in Section 4 of this act.

§ 21. WARRANTS DRAW INTEREST—WHEN.] All warrants legally drawn on the road fund of any county in accordance with the provisions of this act, shall be paid, or, in case of non-payment for want of funds, shall be registered and bear interest, and shall be payable in the order of registration the same as other warrants drawn on the road fund of such county, and shall be available in such county for the payment of any road taxes, or of any taxes levied on any lands, or on any railroad company, or of any personal tax, levied under the provisions of Section 16 of this act. All warrants legally drawn on the State Russian thistle and French weed fund, if not paid for want of funds, shall be registered and bear interest at the rate of seven per cent. per annum and shall be available in payment of any taxes due or that may become due to the state, under the provisions of this act.

§ 22. PAYMENTS SECURED FROM UNITED STATES—HOW.] It shall be the duty of the State Auditor to tabulate and report to the Governor on or before the 31st day of December in each year, the several amounts expended by the State under the provisions of this act for the destruction of Russian thistles and French weeds upon lands belonging to the United States; thereafter it shall be the duty of the Governor and of the Attorney General to take such steps as they may deem proper to secure the payment of the same from the United States.

§ 23. JURISDICTION OF JUSTICES OF THE PEACE.] Justices of the peace shall have concurrent jurisdiction with the district court to try and determine all prosecutions for the violation of any of the provisions of this act. Any owner or occupant of any land, or any citizen of any commissioner district in any county may make complaint of any violation of the provisions of this act occurring within such commissioner district, and thereupon it shall be the duty of the state's attorney for such county, if such complaint shall be reasonable, to prosecute the party complained of for such violation and, upon conviction being had, one-half of the amount of any fines imposed shall be paid to the party bringing such complaint, except as provided in Sections 13 and 14 of this act; and the remaining one-half of such fines shall be paid into the road fund of such county.

§ 24. PREFERENCE GIVEN IN EMPLOYMENT—TO WHOM.] Every county commissioner, in discharging the duties required of him by this act, shall, as fully as he is able, protect every person and all property against unnecessary expense and unjust burdens. Whenever it shall be necessary to employ any person for the destruction of Russian thistles and French weeds, preference shall be given, all things being equal and probable expense no greater, to occupants of lands contiguous to the lands on which such

destruction is to be prosecuted. There shall be allowed for men and teams employed in such destruction no greater *per diem* than is now established by law for working out road taxes; persons so employed who fail to carry out their operations to the thorough destruction of the thistles and French weeds where employed, or in exercise of industry as in other employments, shall forfeit all pay, proof of such failure being made before the county commissioners sitting as an auditing board as provided in Section 16 of this act. No pay shall be allowed or credit given any owner or occupant of land for destroying Russian thistles and French weeds on land owned or occupied by him unless by direction of the executive relief board. Any public officer who shall discriminate in favor of or against any person or persons, or who shall willfully incur or permit others acting under him to incur grossly unnecessary expense in the destruction of Russian thistles and French weeds under the provisions of this act, shall be deemed guilty of a public offense and, upon conviction of any such offense, shall be subject to a fine of not less than one hundred dollars nor more than two hundred dollars, and become disqualified for his office; and such office shall be and remain vacant until his successor is elected or appointed thereto as provided by law; and pending an appeal the office shall remain vacant unless filled by appointment.

§ 25. PENALTY FOR PLANTING OR CULTIVATING.] It is hereby made unlawful to plant, cultivate, or purposely grow any Russian thistle and French weeds in the State, whether for any supposed or experimental utility, for ornament, as a curiosity, or for any purpose whatever; and every person so fostering or permitting the growth of any such thistle and French weeds shall be subject to a fine of not less than five dollars nor more than fifty dollars as a violation of the police provisions of this act; *Provided*, That the provisions of this section shall not apply to any act or operation done under the authority of the State, of the board of commissioners provided for in this act, or of the faculty of the agricultural college of North Dakota for purposes of scientific investigation.

§ 26. UNLAWFUL TO PLOW FIRE BREAKS—WHEN.] To the end that the propagation and spread of Russian thistles and French weeds may to that extent be prevented, and for the purposes of this act, it is hereby made unlawful to plow fire breaks in any county that is infested with Russian thistles and French weeds, on any land except with the consent, previously obtained of the owner of such land. And such owner shall then be liable to all the provisions of this act for the destruction of Russian thistle and French weeds on such fire break. Any person plowing any such fire break in any county aforesaid on land other than his own without the consent, previously obtained, of the owner of such land, shall be subject to a fine of not less than ten dollars nor more than fifty dollars, for each half mile or part of half mile in length of such fire break. He shall also be liable to all the

provisions of this act for the destruction of thistles and French weeds on such fire break. He shall also be liable to the owner of such land for trespass and for damages, and may be sued in any court of competent jurisdiction.

§ 27. EXPENSE INCURRED—AMOUNT AND HOW.] The board of commissioners created under Section 4 of this act are authorized to incur such expenses as in their best judgment shall seem necessary to an intelligent and efficient discharge of their duties. They shall file itemized vouchers for such expenses with the State Auditor, who shall issue his warrants for the respective vouchers, which warrants shall be paid by the State Treasurer out of any money to the credit of the State Russian thistle and French weed fund.

§ 28. PAY OF STATE COMMISSIONERS—HOW DRAWN.] Each member of the board of commissioners created by Section 4 of this act, shall be entitled to his actual traveling expenses while in the discharge of his duties in accordance with the provisions of this act, and to three dollars (§3) for each day he may be absent from home for hotel expenses, and to all other legitimate expenses incurred in the discharge of his duties according to the determination of the board, and the provisions of this act. He shall from time to time file itemized vouchers for such expenses with the State Auditor, who shall issue his warrants therefor, which warrants shall be paid by the State Treasurer out of any money to the credit of the State Russian thistle and French weed fund.

§ 29. PAY OF COUNTY COMMISSIONERS AND SHERIFF—AMOUNT OF.] Every county commissioner shall receive for every day actually spent in the performance of his duties under this act, the same compensation to be paid in the same manner, as he is entitled to for the discharge of other duties of his office. And any sheriff, if the duties of this act shall fall upon him, shall receive the same compensation, to be paid in the same manner as provided for the county commissioner.

§ 30. COUNTY AUDITOR FURNISH BLANKS—PENALTY FOR FAILURE.] It shall be the duty of the county auditor in each county to prepare blank forms of notice for use in accordance with the provisions of this act, and such forms shall, without charge, be furnished to parties desiring or whose duty it shall become, to make use of them. And it shall be the duty of the auditor of each county to serve all notices as may be required of him by any county commissioner in such county, in accordance with the provisions of this act, in every case making diligent search to ascertain the correct postoffice address of the parties on whom such service shall so be required to be made; and any county auditor who shall fail or neglect to discharge any duty made incumbent on him by this act, shall be subject to a fine of not less than ten dollars (§10) or more than twenty dollars (§20) to be enforced as provided for other penalties in this act.

§ 31. REPEAL.] All acts or parts of acts not consistent with the provisions of this act are hereby repealed.

§ 32. EMERGENCY.] Inasmuch as it is needful for its purposes that this act shall become operative at once, and consequently that an emergency exists, *Therefore*, This act shall take effect on and after the date of its passage and approval.

Approved, March 21, 1895.

SEVENTH JUDICIAL DISTRICT.

CHAPTER 103.

[H. B. No. 103.]

RELATING TO SEVENTH JUDICIAL DISTRICT.

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.

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

§ 1. SUBDIVISIONS OF DISTRICT.] The State of North Dakota shall be divided into seven judicial districts.

District No. I shall consist of the counties of Grand Forks and Nelson.

Districts Nos. II, III, IV, V and VI shall be and remain as they are at present constituted.

District No. VII shall consist of the counties of Walsh, Pembina and Cavalier.

§ 2. GOVERNOR SHALL APPOINT JUDGE.] There shall be appointed by the Governor a judge of the district court, for the seventh judicial district, who shall hold office until the next general election, and until his successor is duly qualified. At the next general election, there shall be elected in the seventh judicial district, a judge of the district court, whose term of office shall be four years from the first Monday in January succeeding his election, and until his successor is duly qualified.

§ 3. TERMS OF COURT.] Any terms of court heretofore called in the counties of Walsh, Cavalier and Pembina, by the present presiding judge of the first district, shall be duly held at the time they are so called for by the judge of the first district.

§ 4. ACTIONS AND JUDGMENTS IN FULL FORCE.] All actions brought, and now pending in the counties of Pembina, Walsh and

Cavalier, and entitled in the first judicial district, shall be continued in, and tried in the seventh judicial district, and any judgments rendered thereon, shall be in full force and effect in the said seventh judicial district, and the court upon its own motion, shall direct and authorize said actions to be entitled in the seventh judicial district.

§ 5. TERMS OF COURT—WHEN HELD.] The terms of court, of the district court, shall be held in each of the counties comprising the seventh judicial district, in each year, as follows: In the county of Pembina, at Pembina, in said county, commencing respectfully on the first Tuesday in January; the first Tuesday in June; the first Tuesday in April and the first Tuesday in October; *Provided*, That at the said terms, appointed to be held in the months of April and October, no jury shall be called, unless called by the court for the trial of criminal cases.

In the county of Cavalier, at Langdon, in said county, on the third Tuesday in May, and the first Tuesday in November, in each year.

In the county of Walsh, at Grafton, in said county, on the fourth Tuesday in January, and the third Tuesday in June, and the third Tuesday in November, and the third Tuesday in March; *Provided*, That at said terms appointed to be held in the months of March and November, no jury shall be called except in the discretion of the court for the trial of criminal cases.

The court shall, on the first Monday in each month, except in the months in which the terms of court are called to be held in Pembina county, have its chambers, at Pembina in said county for the purpose of hearing and transacting such business as may come before it; and at all other times shall hold its chambers at Grafton, in Walsh county, except on the third Monday in December, and the fourth Monday in September, when it shall hold its chambers at Langdon, in the county of Cavalier.

§ 6. EMERGENCY.] An emergency exists, in that the first judicial district as at present constituted, is too populous for one judge to transact the business thereof; *Therefore*, This act shall take effect from and after its passage and approval.

Approved, March 23, 1895.

SOLDIER'S HOME.

CHAPTER 104.

[S. B. No. 45.]

THE SOLDIER'S HOME.

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."

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

§ 1. GOVERNOR AUTHORIZED TO ACCEPT CONDITIONS.] The Governor of the State of North Dakota is hereby empowered and directed to accept, for the State, the conditions imposed by an act passed by Congress, "An act to provide aid to State or Territorial homes for the support of disabled soldiers and sailors in the United States, approved Aug. 27th, 1888." He is further directed to send to the president of the board of managers of the national home for disabled volunteer soldiers, a copy of all laws bearing upon the establishment, regulation and maintenance of the State soldiers' home at Lisbon, with all printed regulations, relating to the management of the home as are now in force, together with a copy of this act.

§ 2. AUDITOR AUTHORIZED TO RECEIPT FOR MONEY.] The State Auditor is hereby empowered to receive and receipt for any and all money which may become due to the State by reason of said act and to turn the same into the State treasury for the use and benefit of the State soldiers' home to be disbursed and accounted for in the same manner as other money appropriated out of the treasury for the soldier's home.

§ 3. EMERGENCY.] *Whereas*, An emergency exists in that there is no person authorized by the State to accept the conditions imposed by the Congressional act or to receive and receipt for money which may become due under the act; *Therefore*, this act shall be in force and effect from and after its approval.

Approved, January 29, 1895.

STATE DEPOSITORIES.

CHAPTER 105.

[H. B. No. 1.]

PROVIDING FOR STATE DEPOSITORIES.

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."

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

§ 1. BOARD OF DEPOSITS.] Any national or state banking corporation which shall be approved by a board to be known as the "Board of Deposits" consisting of the Governor, the State Auditor and the Attorney General may, upon filing bond as hereinafter provided, and upon compliance with all other requirements of law, become a state depository. The members of the board of deposits shall receive no additional compensation by reason of the performance of their duties upon such board. The records of the proceedings of said board shall be kept by the Secretary of State, and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceeding in the courts of this State.

§ 2. BOND OF STATE DEPOSITORY.] Every such state depository, before it shall be entitled to receive any public moneys, shall file with the State Treasurer a good and sufficient bond, conditioned for the payment upon demand, to the State Treasurer or to his order, free of exchange, at any place in this State designated by him, of all moneys deposited with it, and of interest thereon, at a rate approved by said board of deposits, with not less than five sureties, residents and freeholders of this State, who shall together be worth, in property within this State not exempt from execution, over and above their debts and liabilities, double the amount of the penalty of said bond, and each of whom shall be worth not less than five thousand dollars, and who shall justify such responsibility by their several affidavits; which said bond and sureties shall, before filing, have been approved by the board of deposits.

§ 3. BOARD SHALL ACCEPT HIGHEST BID.] The board of deposits shall not at any time accept the bid of any banking corporation at a rate less than two (2) per cent. nor exceeding three (3) per cent. and securities being equal, the board shall accept the highest bids.

§ 4. APPROVAL OF BOND.] The board of deposits shall not approve the bond of any such corporation until the members of said board shall be fully satisfied, both that said bond is good and sufficient, and that such corporation is prosperous and financially sound, and has, unimpaired, the paid up capital claimed by it. And the board of deposits may at any time require any state depository to furnish new or additional bond, and may at any time revoke their designation and approval of any state depository; and immediately upon such revocation such corporation shall cease to be a state depository, and the State Treasurer shall immediately withdraw all public moneys therefrom.

§ 5. DUTY OF STATE TREASURER.] The State Treasurer shall deposit with such depositories all public moneys in his hands or under his official control, on or before the first day of each month, in the name of the State, but such sum or sums shall not exceed the amount designated by the board of deposits; and any sums so on deposit shall be deemed to be in the State treasury, and the State Treasurer shall not be liable for any loss thereof, resulting from failure or default of any such depository without fault or neglect on the part of said Treasurer, his assistants or employes.

§ 6. AMOUNT OF DEPOSIT.] The amount at any time on deposit with any State depository shall not exceed one-half of the assessed capital stock of such depository, nor one-half of the penalty of the bond filed by it in accordance with Section 2 of this act; nor shall exceed the amount prescribed by the board of deposits.

§ 7. ANNUAL MEETING OF BOARD—ADVERTISE FOR PROPOSALS.] The annual meeting of said board of deposits shall be held at Bismarck on the first Tuesday after the first Monday of June in each year. The Secretary of State shall advertise in daily newspapers of general circulation, published at three different points in the State newspapers published in the State for at least fifteen days immediately prior to said above mentioned meetings, (providing that there be \$20,000 in all funds in the treasury) for sealed proposals for the deposit of the funds of the State, in accordance with this act. Such advertisement shall state the date until which proposals will be received, which date shall be the first day of the meeting at which the proposals are to be opened. Such proposals shall state in writing what rate of interest will be paid on the average daily balance of deposit during the month, interest to be paid quarterly, on condition that said 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 Secretary of State, and marked "Proposals for Deposits of State Funds" and shall be by the Secretary of State filed in his office.

§ 8. SHALL FILE SWORN STATEMENT.] Each State depository shall, on the first day of each month, and oftener when required,

file with the Secretary of the State a sworn statement of the amount of public moneys deposited with it. Each State depository shall also quarterly, within ten days after the first day of January, April, July and October, of each year, with the exception of the month of July in the year 1895, make full statement of all deposits and payments of public moneys during the preceding quarter, together with computation and statement of the interest earned thereon, computed upon the daily balance on deposit, which interest, shall thereupon be added to and become a part of the deposit balance, such statement shall be accompanied by an affidavit of the cashier of such depository that such statement is in all respects true and correct.

§ 9. PENALTY.] No State Treasurer shall deposit any of the funds of the State excepting in accordance with the provisions of this act under a penalty of \$500 for each deposit not in accordance herewith.

§ 10. CHECKS SIGNED BY STATE TREASURER.] All checks drawn upon the State depositories shall be signed by the State Treasurer in the name of the State by himself as treasurer.

§ 11. MALFEASANCE—WHEN GUILTY.] It is hereby made the duty of the officers mentioned in this act to comply with all the provisions of this act, and any officer violating any of the provisions of this act shall be deemed guilty of malfeasance in office.

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

§ 13. EMERGENCY.] *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.

Approved, March 4, 1895.

STATE BANKS.

CHAPTER 106.

[H. B. No. 104.]

ORGANIZATION OF BANKS.

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."

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

§ 1. AMENDMENT.] That Section 6, of Chapter 27, of the General Laws of 1893, be and the same is hereby amended so as to read as follows:

§ 6. CAPITAL PROPORTIONATE TO INHABITANTS.] Hereafter no association shall be organized under this act in towns containing 500 inhabitants or less, with a capital less than \$5,000; in towns of over 500 and not exceeding 1,000 inhabitants, with a capital less than \$10,000; in towns of over 1,000 and not exceeding 1,500 inhabitants, with a capital less than \$15,000; in towns of over 1,500 and not exceeding 2,000 inhabitants, with a capital less than \$20,000; in towns of over 2,000 and not exceeding 2,500 inhabitants, with a capital less than \$30,000; in towns of over 2,500 and not exceeding 3,000 inhabitants, with a capital less than \$40,000; and in towns of over 3,000 inhabitants, with a capital less than \$50,000. At least 50 per cent. of the capital stock of every association shall be paid in before it shall be authorized to commence business; the balance of which shall be paid in by installments of not less than ten per cent. at the end of each succeeding month from the time it is authorized to commence business. The payment of each installment shall be certified to the Secretary of State, under the oath of the president or the cashier of the association. For the purpose of this act, the population of a town, village or city, shall be determined by multiplying by four the total vote cast for Member of Congress at the last general election held in such town, village or city, and the result shall be taken as the population of such town, village or city.

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

§ 3. EMERGENCY.] *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.

Approved, March 5, 1895.

SUPREME COURT.

CHAPTER 107.

[H. B. No. 99.]

PROMPT HEARING OF CASES APPEALED.

AN ACT to Promote Speedy Justice, and a Prompt Hearing, of Cases Appealed to the Supreme Court.

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

§ 1. CASES HEARD AT NEXT SUCCEEDING TERM.] Unless continued for cause all civil cases appealed to the Supreme Court shall be heard at the next succeeding term of court in either of the cases following:

1. When the appeal is taken sixty days before the first day of the term.
2. When by either party a printed abstract and a printed brief are served twenty-five days before the first day of the term.

Approved, March 14, 1895.

CHAPTER 108.

[S. B. No. 121.]

FIXING TERMS OF SUPREME COURT.

AN ACT Fixing the Times and Place of Holding General and Special Terms of the Supreme Court of the State of North Dakota.

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

§ 1. TWO GENERAL TERMS.] There shall be two general terms of the supreme court held each year at the seat of government, as follows: One on the first Tuesday in April and one the first Tuesday of October of each year.

§ 2. SPECIAL TERMS.] Whenever, from any cause, it appears to a majority of the judges of said court that the public interests demand that a special term of said court be held, the majority of the said judges have authority to appoint a special term of the supreme court, to be held at the seat of government, giving twenty days' previous notice thereof by advertisement published in a newspaper at the seat of government of the State.

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

Approved, March 19, 1895.

TEXT BOOKS.

CHAPTER 109.

[S. B. No. 132.]

PROVIDING FOR FREE TEXT BOOKS.

AN ACT to Provide for Free Text Books and School Supplies for the Use of the Pupils in the Public Schools of North Dakota.

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

§ 1. POWER OF SCHOOL BOARDS.] The school board of any city, town or district in the State of North Dakota is hereby authorized and empowered to select, adopt or contract for the text books and other supplies needful for the use of the school or schools under its charge; and the said board shall have power to purchase the text books selected or contracted for, and provide for the loan, free of charge, or sale at cost, of such text books to the pupils in attendance at such schools or school, as provided for in Section 2 of this act.

§ 2. PROPOSITION SUBMITTED TO ELECTORS.] Upon the petition of a majority of the qualified electors the school board of any city, town or district, shall submit at the next annual school election to the legal voters thereof the question of providing free text books and other school supplies for the use of the pupils attending the schools under its charge. In case a majority of the legal voters present and voting shall vote in favor of free text books and other school supplies, the school boards of such city, town or district so voting shall purchase, at the expense of such city, town or district, text books and other school supplies used in the public or common schools, and said text books and supplies shall be loaned to the pupils of said public schools, free of charge, subject to such rules and regulations as to care and custody as the said school board may prescribe.

§ 3. EMERGENCY.] *Whereas*, An emergency exists in that the next annual school election occurs prior to July 1st, 1895; *Therefore*, This act shall be in force from and after its passage and approval.

Approved, March 18, 1895.

TOWNS AND VILLAGES.

CHAPTER 110.

[H. B. No. 98.]

QUALIFICATION OF TOWN AND VILLAGE OFFICERS.

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.

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

§ 1. AMENDMENT.] Section 28 of Chapter 24 of the Political Code, being Section 1049 of the Compiled Laws of 1887 is hereby amended to read as follows:

§ 1049. The clerk, treasurer, marshal and justice of the peace of any incorporated town or village in the State of North Dakota, shall within ten days after receiving notice of their election or appointment and before entering upon the duties of their respective offices, execute a bond with security, to be approved by the board of trustees of the town or village, payable to the town or village in such penal sum as may by resolution or ordinance be directed conditioned for the faithful performance of the duties of the office, and the payment of all moneys received by such officers, according to law and the ordinance of said town or village; *Provided*, That in no case shall the bond of the treasurer be fixed at a less sum than double the amount of the estimated tax and special assessment for the current year, which bond shall be filed with the clerk of the town or village (except the bond of the clerk which shall be filed with the treasurer of the town or village.)

§ 2. REPEAL.] All acts or part of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] *Whereas*, An emergency exists in that the election of officers of incorporated towns or villages takes place prior to July 1st, *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, March 14, 1895.

TRANSPORTING INSANE PERSONS.

CHAPTER 111.

[S B. No. 105.]

FEEES FOR TRANSPORTING INSANE PERSONS.

AN ACT Fixing the Fees of Sheriffs and Other Officers for Transporting Insane Persons to the Asylums of the State.

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

§ 1. FEES—HOW PAID.] The necessary expenses and legal fees of sheriffs and other officers incurred in conveying insane persons to the hospitals in this State shall be approved by the State Auditor and paid out of the State treasury. Said auditor shall allow for said expenses and fees the following fees: Three dollars per day for time of sheriff necessarily spent in going to and from the asylum by the nearest route. One dollar 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 insane person. All bills shall be in writing, and fully itemized and verified by oath and accompanied by the receipt of the superintendent of the insane hospital for the delivery of such insane person.

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

Approved, March 12, 1895.

UNIVERSITY AND SCHOOL LANDS.

CHAPTER 112.

[H. B No. 148.]

MANAGEMENT OF SCHOOL LANDS.

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.

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

That Section 71, of Chapter 118, of the Laws of 1893, be amended to read as follows:

§ 71. APPROPRIATION.] Appropriation for expenses of board of university and school lands. There is hereby appropriated annually out of any funds in the treasury not otherwise appropriated the sum of five thousand (\$5,000) dollars, or so much thereof as may be found necessary for the salaries and expenses of the commissioner of university and school lands, clerk hire, record books, clerks' [blanks] and all such other expenses as shall be necessarily incurred by the board of university and school lands in carrying out the purposes of this act, and all such necessary expenses of the board of university and school lands shall be paid out of the treasury, and upon satisfactory vouchers therefor, the auditor shall issue his warrant for the same.

§ 1. REPEAL.] All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Approved, March 22, 1895.

VETERINARY SCIENCE.

CHAPTER 113.

[H. B. No. 14.]

VETERINARY SCIENCE.

AN ACT Entitled An Act to Regulate the Practice of Veterinary Science in the State of North Dakota.

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

§ 1. QUALIFICATIONS OF VETERINARIANS.] That every person practicing veterinary medicine, surgery or dentistry in any of its departments in this State, shall possess the qualifications required by this act.

§ 2. SHALL RECEIVE CERTIFICATE—WHEN.] Any person who has practiced veterinary medicine, surgery or dentistry as a profession in this State for three years immediately preceding the passage and approval of this act, and who shall farther be a citizen of the United States, or, shall have declared his intention to become such, shall be deemed eligible to registration, and shall receive a certificate upon presentation of a sworn affidavit and letters of recommendation from five reputable freeholders in his locality, or upon presentation of a diploma from a legally authorized veterinary school, college or university, if made before July 1st after the passage and approval of this act.

§ 3. BOARD OF EXAMINERS—HOW APPOINTED—TERM.] The Governor of the State shall appoint a board of examiners within thirty days of the passage of this act, said board to be known as the State board of veterinary medical examiners. This board shall consist of three practicing veterinarians, who each shall be the holders of a diploma granted by a legally authorized veterinary school, college or university, who shall hold office, one for one year, one for two years, and one for three years, after such appointment, or until their successors are appointed. Thereafter, each year, the Governor shall appoint one member of said board to fill vacancy occurring by the expiration of the term of office of those previously appointed, and is further authorized to fill such vacancies as may occur.

§ 4. ORGANIZATION OF BOARD.] Said board of veterinary medical examiners shall elect a president, secretary and treasurer. They shall have a common seal, and the president and secretary shall have power to administer oaths. Said board shall hold meetings for the examination of candidates, on the second Wednesday

of April, and on the second Wednesday of October of each year, and such other meetings as may be deemed necessary, at such place and time as said board may appoint, each session not to exceed two days. Said board shall issue a certificate of qualification to all applicants who shall pass required examinations, and who shall be citizens of the United States, or have legally declared their intention to become so, and to all applicants who are eligible to registration under Section two (2) of this act, signed by the president and secretary of the board. Such certificate or diploma shall be conclusive as to the right of the lawful holder of the same to practice veterinary medicine, surgery or dentistry in this State.

§ 5. PERMIT TO PRACTICE.] Any person wishing to practice veterinary medicine, surgery or dentistry, who is qualified under Section ten (10) of this act, may apply to the president of the board of examiners for a permit to practice. The president shall upon payment of five dollars if satisfied that the applicant is qualified, and a suitable person, issue to him a permit to practice until the next meeting of the board, and such permit shall have the same force as a certificate from the board, but shall expire upon the adjournment of the next meeting of the board of examiners.

§ 6. RECORD OF PROCEEDINGS.] Said board shall keep a record of all the proceedings thereof, and also a record or register of all applicants for a license, together with his age, name and time spent in the study and practice of veterinary medicine, surgery or dentistry; and if a graduate, the name and location of the school, college or university, granting such diploma. Said books and records shall be *prima facie* evidence of all the matter therein recorded.

§ 7. DIPLOMAS AND CERTIFICATES.] Persons presenting diplomas or certificates for registration, shall pay to the treasurer of said board a fee of ten dollars in advance; and the fees received by said board shall be paid over to the State Treasurer within thirty days after receipt of same. Said fees shall constitute a special fund for the payment of the expenses of said board of examiners. Each member of said board shall receive from the State treasury all necessary traveling expenses actually incurred attending such meetings. The secretary of the board shall certify to the State Auditor after each meeting of such board the amount due each member for necessary expenses in attending such meeting, and other necessary expenses of the board. The State Auditor shall thereupon issue his warrant on the State Treasurer for such sum provided there has been a sufficient amount paid into the treasury in fees to redeem said warrants; but if there is not amount equal to said certified expenses to the credit of such fund, he shall issue his warrant for the amount in the said special fund and deficiencies in the payment of said expenses may be made up from subsequent receipts.

§ 8. MISDEMEANOR—WHEN.] Any person practicing veterinary

medicine, surgery, or dentistry in this State without compliance of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than fifty dollars nor more than one hundred dollars, and in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months. All fines received under this act shall be paid into the common school fund of the county in which such conviction takes place.

§ 9. PENALTY FOR DECEPTION.] Any person who shall wilfully and falsely claim or pretend to have or hold a certificate of registration of this board or who shall wilfully and falsely with intent to deceive the public, claim or pretend to be a graduate of, or hold a diploma granted by a legally authorized veterinary school, college, or university shall be subject to the penalties provided for in Section eight (8) of this act to be sued for and recovered and paid out as in said section provided.

§ 10. EXAMINATION.] All persons commencing the practice of veterinary medicine, surgery, or dentistry in this State after the passage and approval of this act, shall be graduates of legally authorized veterinary school, college or university, and they shall subject themselves to such examination as the board may require.

§ 11. CERTIFICATES RECORDED.] Every person holding a certificate from the board of examiners shall have it recorded in the office of the register of deeds in the county in which he resides, within thirty days after the date of said certificate, and the record shall be endorsed thereon. Any person removing to another county to practice, shall record within thirty days the certificate in a like manner in the county to which he removes, and the holder of the certificate shall pay to the register of deeds a fee of one dollar for making the record.

§ 12. GRATUITOUS SERVICES.] Gratuitous service in cases of emergency dehorning of cattle, and castration of animals, shall not be construed as coming within the meaning of this act.

§ 13. FEES IN WITNESS CASES.] Any person complying with the provisions of this act shall be entitled to expert fees as a witness in all cases relating to the veterinary profession in any case of law or equity.

§ 14. EMERGENCY.] There being no adequate law now in force regulating the practice of veterinary medicine, surgery, or dentistry, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved, March 5, 1895.

WAREHOUSES AND ELEVATORS.

CHAPTER 114.

[Sub. S. B. No. 72.]

WAREHOUSES ON RAILROAD RIGHT-OF-WAY.

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.

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

§ 1. APPLICATION IN WRITING.] Whenever any person, firm or corporation shall have applied in writing to any railroad company, through its division superintendent in this State, for the privilege of constructing a public warehouse upon the right-of-way, depot grounds, or warehouse lots of any such railway in the State of North Dakota in charge of said division superintendent, and if after thirty days' application in writing for said privilege it shall have been refused, or when the railway shall have neglected to give its affirmative consent to the said applicant of its acceptance of said application, the said person, firm or corporation shall then place their complaint in the hands of the Board of Railroad Commissioners of said State, setting forth in it of having made his, its or their said application and that the public welfare will be advanced by said privilege being granted. It shall then be the duty of said Board of Railway Commissioners to ascertain if the public welfare would be advanced by said application being complied with. If after an investigation they conclude it would be a public benefit, they shall notify such railroad company to appear before them at a certain time and place to show cause, if any there be, why such warehouse privilege should not be granted; and said Board of Railroad Commissioners are hereby empowered and required to make such orders and awards as they deem to be right and just to all parties concerned.

§ 2. METHOD OF PROCEDURE IN CASES OF NON-COMPLIANCE.] In case either party fail or refuse to comply with the decision or award of the Board of Railway Commissioners, it is hereby made the duty of the said Board of Railroad Commissioners, in the name of the State, to enter the case for final decision and award in any court of competent jurisdiction; and it is hereby made the duty of the Attorney General of this State to give all necessary advice, and to manage all suits of this nature in any portion of

the State when applied to for that purpose by the Railroad Commissioners of this State; and at any stage of the proceeding, when the Attorney General is otherwise engaged, he may request and require the state's attorney of any county to manage and try the said suit or aid therein; and for the services of the Attorney General and state's attorney of the county, only the usual attorney's fees shall be charged, which, if required by the courts to be paid by the defendant, shall be turned into the general fund of the State; *Provided*, This shall not deter a person, firm or corporation desiring such elevator right to employ his own counsel to manage and try the suit alone, or to aid the Attorney General and state's attorney, and the proceedings shall be prosecuted in the name of the applicant for the site, found not in the name of the State, and no costs or judgment shall be awarded against the State or county, but shall be awarded either against the railway company or the citizens or corporation causing the suit to be instituted.

§ 3. JUDGMENT AND DECREE.] The notice and complaint shall specify, as near practical, the location that is desired for the warehouse, or if necessary if the switch room needs to be extended, that fact also, as well as other necessary facts, and each of these, at any stage of the proceeding, and all other papers in the case shall be subject to amendment. In case the trial shall result in granting elevator rights, the Railroad Commissioners shall designate the site and shall fix monuments for the structure, with all necessary room for approaches and the convenient use and operation of the warehouse and shall report to the court their doings, and such report shall be subject to the action of the court. In case any sum shall be awarded the railroad company, judgment shall be entered therefor, and the same shall be paid by the applicant before the applicant for the site shall be entitled to take possession thereof, or commence construction thereon. A decree in such case and the payment of the judgment, if it shall require payment by the applicant, shall vest the applicant or applicants, his, its or their assigns and representatives, with all the rights of perpetual warehouse facilities that could be conveyed by a deed from the railroad until reversed or set aside.

§ 4. CONDEMNATION OF RIGHT-OF-WAY.] Such condemnation of such right-of-way and such right of occupancy shall extend to and include so much of said grounds as is necessary for the accommodation of such public warehouse and for the convenient operation thereof, together with necessary grounds 'to afford access thereto from the nearest public thoroughfare.

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

§ 6. EMERGENCY.] Inasmuch as there is no adequate law on the subject covered by this act, there is an emergency for it to take effect now, and this act shall be in force and operation from and after its passage and approval.

Approved, March 12, 1895.

CHAPTER 115.

[H. B. No. 101.]

PUBLIC WAREHOUSE LICENSES.

AN ACT to Provide for the Licensing of Public Warehouses.

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

§ 1. LICENSE, HOW OBTAINED—LICENSE FEE, HOW DETERMINED.] That annual State license must be obtained through the Commissioners of Railroads for each and every public grain warehouse in operation in this State. That no license issued under this act shall describe more than one public grain warehouse, or grant permission to operate any other public grain warehouse than the one therein described. The license fee is hereby fixed at two dollars (\$2.00) for warehouses of a capacity of less than 10,000 bushels; and three dollars (\$3.00) for warehouses of a capacity of 10,000 bushels and over for each public grain warehouse; *Provided*, That before any license is issued the person applying therefor shall file with the Commissioners of Railroads the receipt of the State Treasurer, showing that the applicant has paid into the State treasury the amount of said license fee.

§ 2. LICENSE TO BE CONSPICUOUSLY POSTED—PENALTY.] That the license thus obtained shall be posted in a conspicuous place in the public warehouse so licensed. Every such license shall expire on the first day of August next following the issuance thereof, and no license shall run for a longer period than one year. That any person, association, who shall transact the business of public warehousemen without first procuring a license as herein provided, shall on conviction be fined a sum not less than twenty-five dollars (\$25.00) for each and every day such business is carried on.

Approved, March 19, 1895.

CONCURRENT RESOLUTIONS.

CHAPTER 116.

EXTENSION OF TIME FOR PAYMENT OF REFUNDING WARRANTS.

A 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 the Time for Payment of Certain Refunding Warrants of the Territory of Dakota.

Be it Resolved by the Senate of the State of North Dakota, 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 five per cent. refunding warrants dated April 1, 1889, and remaining unpaid to the amount of sixty-three thousand five hundred seven dollars and forty-six cents (\$63,507.46-100.)

CHAPTER 117.

FUNDING OF FLOATING INDEBTEDNESS OF THE STATE.

A 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.

Be it Resolved by the Senate of the Fourth Legislative Assembly of the State of North Dakota, the House 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 first, 1896.

CHAPTER 118.

PROPOSING CONSTITUTIONAL CONVENTION.

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.

CHAPTER 119.

ENCAMPMENT GROUNDS FOR NATIONAL GUARDS.

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, Ramsey 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.

CHAPTER 120.

RELATING TO CLAIMS AGAINST THE UNITED STATES.

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 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 collected 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 purposes aforesaid and to receipt therefor.

Proposed Amendments to the Constitution.

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 the 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: Every male person of the age of 21 years or upwards 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 decent who shall have severed their tribal relations (2) years next preceding such election.

That Section 127 be amended to read as follows:

§ 127. No person who is under guardianship, *non-compas mentis*, or insane shall be qualified to vote at any election, nor shall any person convicted of treason or felony unless restored to social rights, and the Legislature shall by law, establish an educational test as a qualification, and may prescribe penalties for failing, neglecting, or refusing to vote at any general election.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate, the House Concurring:

§ I. 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.

CONCURRENT RESOLUTION to Amend Subdivision Eight, of Section 215, of Article 19, of the Constitution of the State of North Dakota.

Be it Resolved by the Senate, the House of Representatives Concurring:

§ 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.

§ 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 a 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, }
DEPARTMENT OF STATE.

This is to certify that the above concurrent resolution was published, as required by law; that the same duly passed the Fourth Legislative Assembly and will be submitted to a vote of the people at the next general election, as provided by law.

C. M. DAHL,
Secretary of State.

I N D E X .

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