

§ 4521. AMENDMENT.] Reinstatement of corporations. Any domestic corporation which is engaged in active business under its charter, or any foreign corporation engaged in active business under its certificate of authority to transact business in this state, failing to make said report as required by Section 4518, may be reinstated upon the records of the office of the Secretary of State upon the filing of such annual corporation report accompanied by an affidavit stating that such corporation was at the time of default and is still engaged in active business in the State of North Dakota, and the payment of the required report fee of \$2.50 with an additional reinstatement fee of \$1.00. Such reinstatement may be made at any time between August first and September thirtieth inclusive upon payment of said fees—and at any time after October first upon filing the required report with the \$2.50 fee and an additional reinstatement fee of \$5.00; provided that when default extends over several years annual reports must be filed for each year with a fee of \$2.50 for every report and payment of the \$5.00 reinstatement fee for each and every year the corporation has failed to file its report.

Approved March 4, 1933.

COUNTIES

CHAPTER 92

S. B. No. 221—(Cain, Brunsdale and Wog.)

CONSOLIDATION COUNTIES AND PARTS OF COUNTIES

An Act providing for the consolidation of counties and parts of counties; the petition and election therefor; the vote thereon; result thereof; and proclamation by the Governor; the officers; expiration of their terms and transfer of all books, records and property; nominations, when void; the transfer and trial of all actions; the debts, taxes and issuance of bonds or certificates of indebtedness, and repealing all Acts in conflict herewith.

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

§ 1. Whenever twenty per cent (20%) of the legal voters as determined by the vote cast for the office of Governor at the last preceding general election, who are freeholders residing in any county of this state, shall petition the board of county commissioners of their county for permission to have their county consolidated with and annexed to any adjoining or partly adjoining county, and shall also petition the board of county commissioners of the county to which they desire their county to be annexed or united, ninety (90) days before any election as hereinafter defined, and if such petitions are found to conform to the provisions of this Act, it shall be the duty of the board of county commissioners of the counties so petitioned to submit to the voters of each of said counties the

question of the consolidation of the county or parts of counties designated in the petition at the next state-wide primary election for the nomination of county and state officers. Provided, however, that a part or portion of a county may file a like petition with the boards of county commissioners as herein provided to have a part of a county consolidated with and annexed to an adjoining county, but such petition for the consolidation or annexation of a part of a county shall not be considered by the board of county commissioners unless a petition is also filed by the voters of the remaining portion of the county for consolidation with or annexation to some other adjoining county. Notice of said election shall be given as is provided by law, and in addition thereto shall contain the name of each of the two counties or parts thereof, and shall state that the proposition to be voted upon will be: "Shall the county or part thereof as designated in the petition of (naming the county or part thereof whose legal voters petition for consolidation) be consolidated with and annexed to the county of (naming the adjoining county to which the legal voters have petitioned to be united and annexed)" providing that the proposition of consolidation shall not be voted upon more than once in five years.

§ 2. The county or part thereof whose legal voters shall petition the several county boards as aforesaid shall be called the "petitioning county" and the county to which said legal voters shall petition to be consolidated with or annexed to shall be called the "adjoining county."

§ 3. The ballots at such election shall be substantially in the following form, to-wit:

For consolidating and annexing the county of (naming the petitioning county) to the county of (naming the adjoining county)

Against consolidating and annexing the county of (naming the petitioning county) to the county of (naming the adjoining county)

§ 4. If a majority of all the legal votes cast in the petitioning county at such election shall be in favor of said proposition and if sixty per cent (60%) of the votes polled in the adjoining county at such election shall be in favor of said proposition, all of that territory included within the established boundaries of the petitioning county shall be consolidated with and annexed to the adjoining county and such petitioning county shall cease to have any separate existence as a county, but shall be merged into and form an integral part of such adjoining county in fact and in name at the time and in the manner hereinafter provided.

§ 5. The votes polled at such election shall be canvassed and returned in the manner provided by law for canvassing votes polled for county and state officers.

§ 6. Within ten (10) days after the filing of the findings and certificates of the canvassing board on the question of consolidation in each of the said counties, the county auditor of each of said counties shall send a correct and duly certified abstract of the votes polled at such election to the Secretary of State, and if a majority of all the legal votes cast at such election in the petitioning county and sixty per cent (60%) of all the legal votes cast in the adjoining county, is found to be in favor of consolidating and annexing the petitioning county to the adjoining county, the Secretary of State shall forthwith notify the Governor of the State, and the Governor shall thereupon forthwith and without delay issue his proclamation announcing and declaring the result of such election, and on and after January first after the date of such proclamation, the petitioning county shall cease to exist as a county and all that territory embraced in the limits of such petitioning county shall be consolidated with and annexed to, and shall form an integral part of such adjoining county.

§ 7. All the county officers, except as hereinafter provided, of the petitioning county shall continue to hold their offices until their respective terms of office shall expire, and shall perform the duties of their respective office arising in the territory which, before the election and Governor's proclamation, had constituted the petitioning county, and within five (5) days prior to the first day of January following the date of the Governor's proclamation, as aforesaid, they shall remove all files and records, books, papers, equipment, fixtures and furniture of their respective offices to the court house of the adjoining county, which shall thereafter be held and taken to be the files, records, books, papers, equipment, fixtures, furniture and property of the adjoining county as it shall be constituted after January first following the date of the proclamation as aforesaid, and all moneys and property of whatsoever nature in the custody or possession of any of said officers shall be delivered to the proper officers of the adjoining county within the period of time herein mentioned. Provided, however, that any and all moneys transferred to the proper officers of the adjoining county by the officers of the petitioning county shall be kept in a separate fund for the purpose of paying the indebtedness of petitioning county, and any and all moneys of petitioning county for interest and sinking funds shall be kept in a separate fund for the payment of interest and principal when due on bonds or certificates of indebtedness, if any, issued by petitioning county.

§ 8. Nominations received by any candidate or candidates for county office in a petitioning county at an election when the question of consolidating said county is voted upon, shall be null and void if the consolidation of such county is approved as provided for in this Act, and no county officers shall be elected in such county at the general fall election.

§ 9. The members of the board of county commissioners of the petitioning county whose term of office does not expire by expiration of time on January first following the Governor's proclamation as aforesaid, shall, during the remainder of their term of office, act at all regular and special meetings with the board of county commissioners of adjoining county as it will be constituted after the consolidation. Provided, however, that any member or members of the board of county commissioners of petitioning county so acting shall have no voice or vote on any question pertaining to matters arising within the territory of the adjoining county, but as to questions pertaining to the territory formerly included in the petitioning county, they shall be permitted to act and vote with the commissioners of the adjoining county, and such commissioners of petitioning county, during their unexpired term of office, shall receive the same fees and compensation as that paid to them by petitioning county prior to the consolidation, which compensation and fees shall be paid by the adjoining county out of taxes collected upon property in the territory that had constituted the petitioning county. Provided, however, that if a vacancy should occur in the term of office of any member of the board of county commissioners of petitioning county, no successor to such commissioner shall be appointed, and upon the expiration of the term of office of any such commissioner, no successor shall be elected. At the first meeting of the board of county commissioners following the date of consolidation, the board of the adjoining county shall re-district the territory of the county as consolidated into commissioners districts and the commissioners acting from the petitioning county shall be considered as commissioners at large.

§ 10. If the petitions filed by the legal voters of a county or part of a county for consolidation with and annexation to one or more counties is to be voted upon at any election as provided for herein and such petitions require an election in two or more counties, the question of consolidation to be of any force or effect, must receive the affirmative vote herein provided for in all of said counties, otherwise said election shall be null and void and no consolidation shall take effect.

§ 11. On and after January first, following the Governor's proclamation as aforesaid, the officers of the adjoining county shall do and perform any and every act or thing necessary to be done or performed within the territory that had constituted the petitioning county, and such acts so performed shall have the same validity as though said officers had been elected from such territory.

§ 12. All actions or suits of every nature that have been filed or are pending in any of the courts of petitioning county on January first following the Governor's proclamation, aforesaid, shall be transferred by the clerks of the respective courts to the clerk of court of the adjoining county, and all matters of probate or other actions

pending in the county court shall be transferred to the county court of the adjoining county and shall be by that court heard, tried and determined as though said action had originally been filed therein, and all criminal cases so transferred shall be tried by a jury drawn in the manner provided by law from the qualified jurors residing within the limits of the territory which had constituted the petitioning county, unless the defendant in any such criminal case shall consent in open court to be tried by a jury of the adjoining county; and any and all actions pending in the justice court in the territory formerly comprising the petitioning county shall be transferred to the justice of the peace in the adjoining county whose office is located in or nearest to the court house of said county, and said justices of the peace of petitioning county shall within ten (10) days after January first following the Governor's proclamation, aforesaid, deliver to the clerk of the court of the adjoining county his docket and all other books and records of his office.

§ 13. The adjoining county shall not be or in any manner become liable for the debts of the petitioning county. The board of county commissioners of the adjoining county shall have all the powers which the county board of petitioning county had as of the date of January first, as aforesaid, to levy taxes upon all the property in the territory which had prior to the consolidation constituted the petitioning county to pay the debts and obligations of the petitioning county. The board of county commissioners of the adjoining county shall have full power to compromise the debts of the petitioning county and shall have full power to issue bonds or certificates of indebtedness in settlement or compromise of the debts and obligations of the petitioning county, which debts or obligations may be funded by the adjoining county by the issuance of bonds or certificates of indebtedness, setting forth upon their face that the principal and interest of such bonds or certificates of indebtedness shall be paid from taxes levied upon the property within the territory which had constituted the petitioning county.

§ 14. All suits that might have been brought against the petitioning county may be brought after the consolidation, aforesaid, against the adjoining county, and any judgment that may be rendered in said suits shall be paid by taxation upon the property in the territory that had constituted the petitioning county.

§ 15. The boards of county commissioners of the petitioning and adjoining counties shall meet at the court house in the petitioning county on the third Tuesday of December following the Governor's proclamation to effect an equalization of the property, funds on hand and debts, and at said meeting they shall provide for the cost of having such records of petitioning county, as may be necessary, transcribed and made a part of the records of the adjoining county, and do and perform such other acts as may be necessary to effectually

carry out the consolidation of said counties on the date provided for herein.

§ 16. The territory which constituted the petitioning county shall continue and remain in the same legislative district until the next apportionment of the state for legislative districts, and at any election where the territory that had constituted the respective counties before the consolidation is in different legislative districts, the county auditor of the adjoining county shall keep separately the vote polled in the territory constituting the respective counties before the consolidation and shall report and return the same separately to the Secretary of State.

§ 17. SAVING CLAUSE.] The provisions of this Act are severable and if any of its provisions shall be held unconstitutional the decision of the court shall not affect or impair other provisions of the Act. It is hereby declared as of legislative intent that this Act would have been adopted had such unconstitutional provisions not been included therein.

§ 18. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 6, 1933.

CHAPTER 93

S. B. No. 283—(Hamilton.)

RETIREMENT OUTSTANDING DRAIN WARRANTS, ETC.

An Act authorizing and requiring the Board of County Commissioners where drain bonds are issued, to retire outstanding drain warrants to pay a just amount of the drain assessments against tracts of land acquired by the county by tax title in cases, and where the value of the land so acquired exceeds the amount which would have been required to redeem the land at the time tax deed was issued and the amount of taxes which probably would have been levied against the land if title had not passed to the county.

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

§ 1. When the Board of County Commissioners of any county exercise their authority, and issue drainage bonds to retire outstanding warrants against the drain fund and it appears that the county has acquired tax title to any tract of land in the drain district, which tract would be subject to assessment for the payment of such bonds if the taxes on which the tax title is based had been paid, and the land had remained the property of the person who was the owner thereof at the time the drain was constructed, the County Commissioners shall make an appraisal of such tract of land to which it holds such tax title, and if it appears that any such tract is reasonably worth more than the amount which would have been required

to redeem at the time the tax deed was issued and the taxes which probably would have been levied against such tract while it has been the property of the county, if the same had remained the property of the private owner the County Commissioners shall, and they are authorized to, pay such amount of the drain assessments against such tract of land as in their judgment is just and fair, having in mind on one hand the interests of the general taxpayers of the county, and, on the other hand, the rights and interests of the owners of land subject to drain assessments and taxes.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this Act shall become effective immediately upon its passage and approval.

Approved March 6, 1933.

CHAPTER 94

S. B. No. 165—(Trout, by request.)

ERECTION AND LEVY FOR MEMORIALS

An Act amending and re-enacting Chapter 175, Session Laws of North Dakota for the year 1929.

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

§ 1. AMENDMENT.] That Chapter 175, Session Laws of 1929, is hereby amended and re-enacted to read as follows:

§ 2071C1. COUNTY COMMISSIONERS AUTHORIZED TO ERECT A MEMORIAL OR MEMORIALS OR OTHER SUITABLE RECOGNITION. TO LEVY TAXES.] The board of county commissioners of any county in the State of North Dakota is hereby authorized to erect a memorial or memorials, or other suitable recognition in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during the Great World War and may for such purpose use funds out of the general fund of the county if there is sufficient money in said fund, or use funds heretofore raised by tax levy for such memorial or memorials, and may after the taking effect of this Act and prior to September 1, A. D. 1937, levy a tax not in excess of one mill on the dollar in any one year upon the assessed valuation of all property in the county, or may use funds for that purpose donated to the county for that purpose, or may use for such purpose funds out of the general fund of such county if there is sufficient money in said fund in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of the general fund, shall be used solely for the purpose of erecting such memorial, or memorials, or other suitable recognition; provided, however, that in no case shall the board expend tax moneys in excess of the maximum levy permitted under this

Act together with such amount as has been heretofore levied under the provisions of Chapter 181 of the Session Laws for the year 1919 Chapter 117 of the Session Laws for the year 1927 and Chapter 175 of Session Laws for the year 1929. The total levy authorized to be made under the provisions of this Act and under the provisions of Section 2071c1 of the Supplement to the Compiled Laws of 1913 and Chapter 117 of the Session Laws of North Dakota of the year 1927, and Chapter 175 of the Session Laws for the year 1929, shall in no event exceed four mills upon the taxable property of the county. Provided, further, that where a suitable memorial, or memorials, or other suitable recognition has been made, no further levy is authorized. Provided, however, that nothing therein contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial, or memorials, or other suitable recognition shall be erected within the county at a place determined upon by such board and such memorial, or memorials, or recognition when erected, shall be properly and permanently maintained by such board by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both of such funds. Provided, further, that where funds have been heretofore raised by tax levy for such memorial or memorials, and the funds so raised are unexpended, the board of county commissioners may at any time after September 1, 1935, by resolution transfer any such unexpended funds to the general fund of the county.

§ 2. The board of county commissioners in any county of this state in which a fund has been or may be created for the erection of a war memorial or memorials, may combine such war memorial fund with other funds of the county for the purpose of erecting a memorial court house.

Approved March 9, 1933.

CHAPTER 95

H. B. No. 99—(Carlson.)

DEPOSIT, ETC., FUNDS ENTRUSTED SHERIFFS, CLERKS OF DISTRICT COURTS AND PUBLIC ADMINISTRATORS

An Act providing for the deposit by Sheriffs, Clerks of District Courts, and Public Administrators, of funds entrusted to or received by them by virtue of their offices, absolving such public officials from liability for funds so deposited, providing for the care and disbursement of such funds, and declaring that failure to deposit such funds shall be cause for removal from office.

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

§ 1. That any and all funds hereinafter received by any sheriff, clerk of district court, or public administrator, in this state, by virtue of his office, shall be by said officer forthwith paid over and delivered

to the treasurer of the county, of which said sheriff, clerk of district court, or public administrator, is an officer, and that upon such deposit the said officer making the same shall be absolved from all liability for the safe-keeping thereof. Provided that the provisions of this Act shall not apply to fees or taxes received by county officers, which are now required to be paid over and delivered to the County Treasurer.

§ 2. That the County Treasurer receiving such deposit shall thereupon deliver to the officer making the same, a receipt therefor, and at the same time make and deliver to the county auditor of his county, a duplicate receipt therefor, and shall place the sum deposited in such fund as is now provided for that purpose, or if no special fund is now provided by law, such deposit shall be placed in a separate special fund, for each county officer making such deposit to be maintained for that purpose, and shall thereupon be vested with the same rights, duties and liabilities with respect to such deposit as with respect to public funds in his hands as such county treasurer. Such funds shall be deposited by the county treasurer, as are other public funds, and any interest collected on or accruing on time deposits shall be credited to the fund belonging to the person, firm or corporation entitled to receive the same. Provided, further, that such funds shall, upon making of such deposit, become public funds of such county, subject to be disbursed in the manner hereinafter set forth.

§ 3. That such deposit shall be disbursed only upon the order of the County Auditor of said county, based upon the order of the officer making such deposit or his successor in office, or if the funds deposited are such as are now required to be disbursed by warrant or draft drawn by the State Auditor, then such fund shall be disbursed upon proper warrant or draft drawn by the State Auditor. Provided, however, if such deposit is made in the form of a check or draft, the County Treasurer shall not disburse such funds unless or until such check or draft is paid.

§ 4. That if any Sheriff, Clerk of District Court, or Public Administrator shall fail, neglect or refuse to make the deposit herein set forth as herein required, or shall make or deliver or cause to be made or delivered, any order for the withdrawal of said deposit except to the person, firm or corporation entitled to receive the same, such action shall constitute a complete cause for his removal from office and he shall be liable upon his bond to any person suffering loss thereby.

§ 5. It is further provided that this Act shall not apply to funds which at the date this Act takes effect have been impounded by the failure of a bank in which the same have been deposited, and this Act shall not affect such impounded funds unless and until the same have been recovered by the officer, or the successor in office

of the officer by whom such funds were deposited. Provided, further, that any and all such funds now in the hands of any Sheriff, Clerk of District Court, or Public Administrator, not impounded by the failure of a bank in which the same have been deposited, shall be paid over and delivered to the County Treasurer within 30 days after the taking effect of this Act.

§ 6. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 6, 1933.

CHAPTER 96

S. B. No. 142—(Whelan, by request.)

EXAMINATION COUNTY OFFICERS RECORDS AT END OF TERM

An Act to amend and re-enact Section 3543 of the Compiled Laws of the State of North Dakota for the year 1913.

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

§ 1. AMENDMENT.] That Section 3543 of the Compiled Laws of the State of North Dakota for the year 1913, be amended and re-enacted to read as follows:

§ 3543. EXAMINATION OF RECORDS. STATE'S ATTORNEY TO PROSECUTE.] At the end of the term of office of each county officer, or at any time it may seem advisable, the Board of County Commissioners may secure an examination of the records of his office by the State Examiner or other competent accountants. Any failure or irregularity discovered must be remedied, or it shall become the duty of the State's Attorney to prosecute an officer guilty thereof for neglect as provided in the last Section. It shall also be the duty of the city council, board of aldermen, village trustees, civil township supervisors, school township or school district board, as the case may be, to examine the records of their several officers in like manner, or to employ a competent accountant to make such examination. Upon complaint of irregularity by the proper board the State's Attorney shall prosecute as provided in the last Section.

Approved March 4th, 1933.

CHAPTER 97

H. B. No. 289—(Twichell, Swett, Homnes and Aljets.)

ADMINISTRATION COUNTY POOR RELIEF

An Act providing relief for the poor, prescribing the procedure therefor, defining the duties of County Commissioners, Township Supervisors, City and Village Trustees in respect thereto, granting the District Courts power to determine issues involving removal of poor persons and the legal residence thereof, and repealing Sections 2496, 2497, 2498, 2499, 2500, 2501, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, and 2527 of the Compiled Laws of North Dakota for 1913, and Section 2514 of the Supplement to the Compiled Laws of North Dakota for 1913, and Section 1 of Chapter 107 of the Session Laws of North Dakota for 1929, and all Acts and parts of Acts in conflict herewith.

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

§ 1. DUTY OF COUNTY COMMISSIONERS.] The county commissioners of the several counties of this state shall be ex-officio the overseers of the poor within their respective districts, and shall perform all duties with reference to the poor of their respective districts, that may be prescribed by law. Every county commissioner shall, while discharging the duties prescribed by this Act, be designated an overseer of the poor. Provided that when the board of county commissioners of any county shall determine the same to be necessary it may designate one of the members thereof as county overseer of the poor. Such designation shall be made by resolution duly adopted and spread upon the minutes of the board. When a board of county commissioners has designated one of its members as county overseer of the poor he shall exercise the powers and perform the duties as overseer of the poor throughout the entire county and the other members of the board of county commissioners shall no longer continue to act as overseers of the poor.

§ 2. ACTIONS AND PROCEEDINGS—DUTIES OF STATE'S ATTORNEYS.] All suits and other proceedings arising out of the administration of the laws pertaining to the support of the poor shall be brought by or against the county in its corporate name. Except as otherwise provided in this Act such suits and proceedings, including the service of process, shall be governed by the provisions of the Code of Civil Procedure. It shall be the duty of the State's Attorneys of the several counties in the State to institute and conduct or defend any and all actions or proceedings that may be instituted under the provisions of this Chapter.

§ 3. APPLICATION FOR RELIEF. JURISDICTION.] The county commissioners of each county shall have exclusive jurisdiction and control of the administration of poor relief within each county, except as otherwise provided in this Act. Every application for

poor relief must be made to the board of county commissioners and may be filed either with the county auditor or with the overseer of the poor of the district in which the applicant resides.

§ 4. RESIDENCE ACQUIRED. MARRIED WOMEN AND CHILDREN.] Residence may be acquired in any county so as to oblige such county to relieve and support the persons acquiring such residence in case they are in need of relief, as follows:

1. The residence of a married woman follows that of her husband if he has any within the state, otherwise her own at the time of her marriage, and if she then had any residence it shall not be lost or suspended by the marriage; and in case the wife shall be removed to the place of her residence, and the husband shall need relief, he shall receive it in the place where his wife shall have her residence.

2. Legitimate children shall follow and have the residence of their father if he has any within the state, until they gain a residence of their own, but if the father has no residence they shall in like manner follow and have the residence of their mother if she has any.

3. Illegitimate children shall follow and have the residence of their mother of the time of their birth, if she then has any within the state; but neither legitimate nor illegitimate children shall gain a residence by birth in the place where they were born, unless their parent or parents had a residence therein at the time.

4. Each male person and each unmarried female over the age of twenty-one years, who shall have resided one year continuously in any county in this state, shall thereby gain a residence in such county. Each minor whose parents, and each married woman whose husband has no residence in this state, who shall have resided one year continuously in the state, but not in any one county, shall have a settlement in the county in which he has longest resided within such year. Every minor not emancipated and settled in his own right shall have the same settlement as the parent with whom he has last resided. The time during which a person has been an inmate of a hospital, poorhouse, jail, prison or other public institution and each month during which he has received relief from the poor fund of any county, shall be excluded in determining the time of residence hereunder.

5. Each minor who shall be bound as an apprentice to any person shall immediately upon such binding, if done in good faith, thereby gain a residence where his master has a residence.

6. Each residence when once legally acquired shall continue until it is lost or defeated by acquiring a new one in this state, or by voluntary absence from the county in which such residence had obtained for one year or more; and upon acquiring a new residence, or upon the happening of such voluntary absence, all former residence shall be defeated and lost, and the provisions of this section

shall apply to cases of residence begun to be acquired or lost or defeated, as well heretofore as hereafter. Provided, that if within a year of such removal the county of former residence shall contribute to the poor relief of such person in the county to which he or she shall have moved, such absence from the county of former residence shall not be construed to be voluntary as that term is used in this Act.

§ 5. CARE OF POOR. TEMPORARY AID.] The overseer of the poor in each county commissioner's district shall have the oversight and care of all persons in his district so long as they remain a public charge and shall see that they are properly relieved and taken care of in the manner provided by law. He shall, in cases of necessity, promptly provide medical and surgical attention for all the poor in his district, who are not provided for in public institutions and shall see that such medicines as prescribed by the physician or surgeon in attendance upon the poor, are furnished, provided that in counties where a county physician or physicians have been appointed on an annual salary, the overseer of the poor shall call upon the nearest county physician to attend such poor person in need of certain medical or surgical attention. Whenever an overseer shall ascertain by investigation that any poor person or family requires assistance, he shall furnish them such temporary aid as may be necessary for immediate relief, but before final or permanent relief shall be given any case, the overseer shall consider whether the distress can be relieved by other means than by the expenditure of county funds.

§ 6. OVERSEER TO MAKE INVESTIGATION.] Whenever an application for poor relief is made as herein provided, such application shall be referred to the chairman of the board of supervisors of the township in which such applicant resides, and it shall thereupon be the duty of such chairman of the board of supervisors to immediately make a careful investigation of such application and make a report thereon to the overseer of the poor. Such investigation shall include careful inquiry into the circumstances of such poor persons, the facts relating to their legal residence, their physical ability and capacity for labor, their ages and nationality, and the names, ages, ability and capacity of labor of all members of their family, the names and addresses and occupation of their parents, brothers, sisters, sons or daughters and all other facts bearing upon their condition and distress, if any, provided that in case of emergency, the overseer of the poor may make such investigation personally. And in cases where the applicant resides in territory not organized as a civil township, such investigation and report shall be made by the overseer of the poor for such district.

§ 7. COMPLAINT IN BEHALF OF THE POOR. DUTY OF OVERSEERS.] It shall be the duty of the overseers of the poor, on any complaint made to them in behalf of the poor, to examine into the ground of such complaint, and if in their judgment the poor have

not been sufficiently provided with the common necessities of life, or have in any respect been ill treated by the person under whose charge they have been placed, to withhold any part of the compensation allowed to the person keeping them, as such overseers may deem reasonable and proper, and remove such poor and place them in the care of some other person.

§ 8. POOR PERSONS REQUIRED TO WORK.] If the poor persons applying are in good health, or if any members of their family are so, the overseers shall insist that those able to labor shall seek employment and he shall refuse to furnish any aid until he is satisfied that the persons claiming help are endeavoring to find work for themselves. The overseers in such cases shall make all possible effort to secure employment for the able bodied in the county where they reside and may call upon residents of the county to aid him in finding work for such persons as are able to labor.

§ 9. ASSISTANCE BY RELATIVES.] If the poor persons applying for county aid have relatives to assist them who are living in the county, it shall be the duty of the overseer before giving aid a second time, to call on such relatives of the poor persons and ask them to help their poor relatives either with material relief or by furnishing them with employment. If any poor person applying for relief is able to labor and refuses to work when given the opportunity then the overseer shall refuse any further aid to such person, except admission to the county poor asylum or farm, if there be one, where he shall be compelled to labor, and if there be no poor farm in the county, such person shall be considered a vagrant and on complaint made by an overseer of the poor or by any other person, the person so refusing to work shall be prosecuted and punished in the manner prescribed in cases of vagrancy.

§ 10. DUTY OF RELATIVE TO AID. RIGHT OF RECOVERY BY COUNTY.] It is the duty of the father, the mother and the children of any poor person who is unable to maintain himself by work, to maintain such person to the extent of their ability. The county may recover for necessaries furnished to an indigent person from his father, mother or adult children.

§ 11. COUNTY TO PAY POOR RELIEF CHARGES. POWER OF COUNTY COMMISSIONERS.] Whenever an overseer of the poor shall give aid to any poor person or family to the amount of the value of \$25.00, it shall be unlawful for him to furnish any further aid to such poor person or family until he shall have presented a statement of the case to the board of county commissioners, with a report of said case containing the facts and information required by this Act. The board of county commissioners shall have the power and authority to refuse to appropriate county funds for the aid and maintenance of any poor person who has received aid from the overseer of the poor if it appears to the board after having examined the report of

said overseer that aid is unnecessary. The board of county commissioners shall have the authority to reduce or increase any allowance for aid and maintenance of the poor made by the overseer of the poor where justice seems to require it; and the board, by a majority vote of all the members, shall have the power to grant relief to poor persons who have been refused aid by the overseer of the poor if justice and humanity require such relief. The county commissioners may accept property or security from a person receiving, or in need of relief in cases where it seems desirable. Provided, however, that in all cases where hospitalization is necessary, in the opinion of the overseer of the poor, upon approval, or subsequent ratification by the county physician and the overseer of the poor, or by the overseer of the poor in counties having no county physician, hospitalization shall be furnished by the county.

§ 12. AID FOR THE ABLE BODIED NONRESIDENTS.] It shall be unlawful for any overseer of the poor or for the board of county commissioners to aid any person who is not a resident of the county where he is found otherwise than by some form of labor, unless such person shall be sick, aged, injured or crippled and unable to travel; and all overseers of the poor shall endeavor to provide some form of manual labor to which they shall set any able bodied nonresident who may apply for relief. It shall be unlawful for any overseer of the poor to furnish any able bodied nonresident with transportation at the cost of the county. The overseers of the poor shall not furnish any nonresident who may be sick, aged, injured or crippled, with transportation at the cost of the county until after the overseer shall, by correspondence or otherwise, have determined the legal residence of the person applying, and any transportation furnished such person or persons shall be in the direction of their legal residence, unless it appears that the person in distress has some valid claim for support or other means of support in some other place towards which such person or persons shall ask to be sent.

§ 13. WHEN RESIDENCE IS UNCERTAIN. ACTION TO DETERMINE.] If any one within the description of the poor persons specified in this Act shall be found in any county and the overseer of the poor of such county shall be unable to ascertain and establish the place of legal residence of such person, he shall proceed to provide for such poor person in the same manner as other persons are hereby directed to be provided for. When the question of legal residence of such person is an issue between the overseers of the poor in two or more counties and when an agreement cannot be effected, the county commissioners of the county in which the application is pending may bring action in the district court against the county or counties in which the legal residence of such applicant is alleged to be to determine the issue. The summons in such action shall be in the form prescribed for a summons in a civil action except that the defendant shall be required to serve an answer to the complaint

within twenty days after the service of the summons upon such defendant. When it appears from the pleadings in said action or is made to appear to the satisfaction of the court during the course of the trial that some county other than one of those named in the title of the action is or may be the legal residence of such poor person or that some person is legally responsible for the care of such poor person under Section 10 of this Act, then the court shall cause such county or person to be brought into the action and made a party thereto. The court shall have full power in such action to make determination fixing the rights and liabilities of the counties and of the several persons that may be made parties to such action. Such action shall be tried to the court without a jury on ten days' notice served by either party. When an action is brought for the purpose herein provided, the county commissioners of the county in which the applicant is located, shall contribute to the support of such poor during the pendency of such action, subject to reimbursement by the county where it is finally determined that such applicant has legal residence, if such action is decided favorably to the county contributing to the maintenance of such poor person.

§ 14. POOR PERSON CONVEYED TO PLACE OF RESIDENCE.] Whenever any poor person, who is likely to become a public charge; or has become a public charge, is found in any county other than that of his legal residence, the overseer of the poor may, in case such poor person refuses to voluntarily go to the county of his legal residence, make application to the district court for an order directed to such poor person and to be executed by the sheriff, cause any such poor person to be sent and conveyed at the expense of the county to the place where such poor person belongs, if the same can be conveniently done; but if such poor person cannot be so removed, such person shall be relieved as herein provided. Such application for an order of removal to the district court shall be made upon written notice and order to show cause served upon such poor person and such poor person shall be entitled to a hearing thereon before an order of removal is issued. Any person who has been removed to another county pursuant to an order and who returns to such county, shall be in contempt of court. If any such poor person shall be a legal resident of another state, the county in which he shall be found, may, in like manner procure an order of court, causing his removal to the state of his legal residence.

§ 15. APPEAL TO THE SUPREME COURT.] If any poor person is ordered removed to another county, or to another state, he may within twenty days after the service of such order of removal, appeal from the order of the district court ordering such removal to the supreme court, and such appeal shall be taken, tried and determined as in other cases of appeal from the judgment of the district court in cases tried without a jury, and the order of removal may be vacated or affirmed according to law and the right of the cause.

§ 16. COUNTY OF LEGAL RESIDENCE MUST RECEIVE PERSON.] If any person be removed by virtue of the provisions of this Act from any county to any other county within the state by order of the district court as hereinbefore provided, the overseer of the poor of the county to which such poor shall be removed shall be required to receive such person and provide care for such person in the same manner as to the persons whose legal residence are situated therein.

§ 17. BURIAL OF INDIGENT PERSONS.] If any person shall die in any county who shall not leave money or other means necessary to defray his funeral expenses, including costs of casket, it shall be the duty of the overseer of the poor of such county to employ some person to arrange for and superintend the burial of such deceased person, and the necessary and reasonable expense thereof shall be paid by the county upon the order of such overseer, provided that expenses of such funeral to be borne by the county shall not exceed \$50.00.

§ 18. COMPENSATION OF OVERSEERS AND TOWNSHIP SUPERVISORS.] Overseers of the poor shall receive two dollars per day for each day during which they shall be necessarily employed in the discharge of their duties as such overseers, to be allowed and paid out of the general fund of the county. Each township supervisor who shall make investigations of poor relief applications and make reports thereon as herein provided, shall receive two dollars per day for each day during which they shall be necessarily employed in the discharge of such duties, to be allowed and paid out of the general fund of the county.

§ 19. OVERSEERS SHALL SUBMIT ACCOUNTS. WHEN.] The overseers of the poor shall annually at the first session of the board of county commissioners in each year submit an annual report for the year past covering all poor relief expenditures authorized by them during the year, which report shall be presented to the county auditor on the first day of the session of such board.

§ 20. BLANKS.] All blanks for reports, schedules and information required under this Act shall be prepared and printed by the county and the expense thereof shall be paid out of funds of the county. The county auditor shall distribute said blanks among the overseers of the poor in each county. The Attorney General shall prepare all the forms for blanks to be used by the overseers of the poor under this Act, and such forms shall be sent to the county auditors promptly after the passage and approval of this Act, who shall thereupon print and distribute the said blanks hereinbefore required.

§ 21. RECORDS.] Every overseer of the poor and every person who administers relief from the public funds to the poor, sick and needy who are not inmates of any public institutions, shall keep a record in which shall be entered the full name, age, sex, color,

whether married or single, and nationality of every person to whom such officer or disburser of public funds gives relief, the date of giving relief in each instance, and the amount, if the relief be in form of money, or the value and kind, if such relief be in the form of articles of use or value. In the instance that relief is given to the person for the use of others, the records shall show the number of such recipients of relief, with the age and sex of each, if the relief be restricted to a single family, and the name, age, sex, color and nationality of each person partaking of such relief who is not a member of the family of the person into whose hands relief is given by the overseer of the poor or other disburser of public funds. The said record also be made to show the reason for the giving of relief in each instance.

§ 22. COPIES OF RECORD FILED WITH AUDITOR.] Two copies of the record so kept shall be filed in the office of the auditor of the county wherein such relief is given by every person keeping such a record, at least once every three months; and it is hereby made unlawful for the board of county commissioners of any county to approve or allow the payments from the county treasury of the expense of relief to any person, except for temporary aid, until two copies of such records, fully conforming to that described in the last preceding Section, shall have been filed in the office of the auditor of the county in which such relief is given.

§ 23. PROVISIONS HEREIN APPLICABLE TO CITY AND VILLAGE OFFICERS.] The provisions of this Act relative to the duty of township supervisors in connection with the investigation and making of reports on applications for poor relief shall apply to the mayor or the president of the city commission in cases of cities, and to the chairman of the board of village trustees in villages of this state.

§ 24. BOARD MAY EMPLOY SOCIAL WORKER OR POOR COMMISSIONER.] The board of county commissioners may, in its discretion, in behalf of the county, or in conjunction with other adjacent counties, employ an experienced social worker, or poor commissioner, who shall perform such duties respecting the administration of the poor laws in such county or counties, as the board of county commissioners shall require under the supervision of such board or boards, and may fix his compensation and allow and pay his necessary expenses from the general funds of the county.

§ 25. When the board of county commissioners shall determine the same to be necessary it may provide for the establishment of a county welfare board consisting of three or five persons. The members of such board shall be appointed by the board of county commissioners, and they shall be chosen without regard to political affiliations and upon the basis of their special fitness to serve in such capacity by reason of character, training and experience. There shall be persons of both sexes on the board. The or-

iginal members shall be divided into three classes; one person shall serve for one year; one-half of the remaining members shall serve for two years, and the other half for three years respectively. Thereafter all members shall serve three years or until their successors have been duly qualified. Each member shall file an oath of office with the county auditor. The members shall serve without compensation, but the county commissioners may make provision for payment of actual expenses incurred by the members of the board in the discharge of their duties. It shall be the duty of such county welfare board to aid and assist in every possible way to co-ordinate and bring about an efficient operation of all relief and welfare activities within their respective counties by private as well as public organizations engaged in welfare and relief work. It shall also be the duty of such welfare board to supervise and direct such relief and welfare activities as the county conducts. All acts of such board in the supervision or direction of welfare activities shall be subject to review by the board of county commissioners.

§ 26. REPEAL.] Sections 2496, 2497, 2498, 2499, 2500, 2501, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526 and 2527 of the Compiled Laws of North Dakota for 1913, and Section 2514 of the Supplement to the Compiled Laws of North Dakota for 1913, and Section 1 of Chapter 107 of the Session Laws of North Dakota for 1929, and all Acts and parts of Acts in conflict herewith, are hereby repealed.

§ 27. EMERGENCY.] This Act is hereby declared an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1933.

CHAPTER 98

H. B. No. 343—(Twichell, Swett, Aljets, and Homnes.)

COUNTY POOR RELIEF FUND

An Act establishing a Poor Relief Fund in each of the several counties of the State, providing for the creation thereof, expenditures therefrom, and permitting, under certain circumstances, exceptions to the laws relating to budgets and levy limitations.

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

§ 1. There is hereby established in each of the several counties of the state a fund to be known as the County Poor Relief Fund.

§ 2. The County Treasurer of each county shall immediately upon receipt thereof pay into the County Poor Relief Fund that

proportion of the tax receipts which the county poor relief appropriation bears to the total county appropriations.

§ 3. All expenditures for the relief of the poor shall be paid out of the County Poor Relief Fund, but said fund shall not be subject to any other charges and shall be exempt from the provisions of Section 2079b5 of the Supplement to the 1913 Compiled Laws of North Dakota.

§ 4. If the appropriation for poor relief purposes shall not be sufficient to meet the expenditures required by law, the county auditor may, on order of the Board of County Commissioners, make a transfer to the County Poor Relief Fund from any other fund, except sinking and interest funds, set aside to pay the principal or interest on outstanding bond issues, or funds set aside to retire any other outstanding indebtedness. Provided, however, that if there is not a sufficient unexpended balance in any fund or funds to meet an emergency created by unusual and unanticipated demands for the relief of the poor, then in that case and for that purpose, the Board of County Commissioners may, by resolution, authorize the expenditure of an amount in excess of budget appropriations, and may by resolution obligate the county in excess of such appropriations for the purpose of replenishing said Poor Relief Fund.

§ 5. In case the County Board of any County, due to an emergency, expends in any one year such an amount for poor relief purposes that the total county appropriations for that year are exceeded, the appropriations for the following year, to make up the deficit caused by such expenditures, shall not be included within the appropriations subject to the tax levy limitation for general county purposes now provided by law.

§ 6. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1933.