

the county where such conviction and sentence was had; *Provided, however,* In cases where there be no jail in the county where conviction and sentence was had the imprisonment may be in the Penitentiary.

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 All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved, February 28, 1893.

## NOTARIES PUBLIC.

### CHAPTER 76.

[S. B. No. 61.]

#### APPOINTMENT OF NOTARIES PUBLIC.

AN ACT Providing for the Appointing of Notaries Public and Providing a Penalty for Violation of the Provisions Thereof.

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

§ 1. APPOINTMENT.] The Governor shall appoint in each of the organized and unorganized counties in this State, from among the citizens and from either sex thereof, one or more notaries public, who shall hold office for four years, unless sooner removed by the Governor, each of whom shall have power and authority anywhere in the State to administer oaths and perform all other duties required of them by law; *Provided, however,* That a person, to be eligible for such an appointment, must, at the time of the appointment, have the qualifications of an elector, so far as age, residence and citizenship are concerned.

§ 2. ISSUE OF COMMISSION—FEE.] The Secretary of State shall issue a commission and duplicate thereof to each notary public appointed by the Governor, one of which shall be, by said notary public, posted in a conspicuous place in his or her office for public inspection; and the Secretary of State shall collect and receive two (2) dollars for the issuance of said commission and duplicate, which two (2) dollars shall be paid into the State treasury and credited to the general fund. The Secretary shall keep in his office a careful record of such appointments and the date of the expiration of the same and shall notify each notary public, by mailing, at least thirty days before the expiration of his or her term, a notice of the date upon which his or her commission expires, which notice shall be addressed to said notary public at his or her last known place of residence.

§ 3. OATH AND BOND.] Each and every notary public, before entering upon the duties of his or her office, shall take an oath to support the Constitution of the United States and the Constitution of the State of North Dakota and to faithfully and impartially discharge the duties of his or her office, and shall give bond to the people of the State, to be approved by the clerk of the district court of his or her county, or of the county to which his or her county is attached for judicial purposes, or judicial subdivision thereof, with one or more sureties, in the penal sum of five hundred (500) dollars, conditioned for the faithful discharge of the duties of his or her said office.

§ 4. VACANCY—DISPOSAL OF RECORDS.] Whenever the office of any notary public shall become vacant, the records of said notary public, together with all papers relating to the office, shall be deposited in the office of the clerk of the district court in the county in which said notary public resides or of the county to which his or her county is attached for judicial purposes, and any notary public who, on resignation or removal from office, shall neglect to deposit such records and papers in the clerk's office, as aforesaid, for the space of three (3) months, shall forfeit and pay a sum not less than fifty (50) dollars nor more than five hundred (500) dollars; and if any executor or administrator of any deceased notary public shall neglect to lodge such records and paper as aforesaid which come into his hands, in the clerk's office for the space of three months after said records and papers shall come into his possession, he shall forfeit and pay a sum not less than fifty (50) dollars nor more than five hundred (500) dollars, and if any person shall knowingly destroy, deface or conceal any records or papers of any notary public, he shall forfeit and pay a sum not less than fifty (50) dollars nor more than five hundred (500) dollars, and shall moreover be liable to an action by the party injured.

§ 5. DUTY OF NOTARY.] It shall be the duty of each and every notary public, when any bill of exchange, promissory note or other written instrument shall be by said notary public protested for non-acceptance or non-payment, to give notice in writing thereof to the maker and each and every indorser of a bill of exchange and to the maker or makers of each and every security or indorsers of any promissory note or other written instrument immediately after such protest shall have been made.

§ 6. SERVICE OF NOTICE.] It shall be the duty of every notary public personally to serve notice upon the person or persons protested against, or by properly folding the notice, directing it to the party to be charged, at his place of residence, according to the best information that the person giving the notice can obtain, depositing it in the United States mail or postoffice most conveniently accessible from the place where the protest was made and prepaying the postage thereon.

§ 7. FEE FOR PROTEST.] The notary public making such protest shall receive the sum of twenty-five (25) cents and postage for each and every notice so made out and served.

§ 8. RECORD OF NOTICES.] Each and every notary public shall keep a record of all such notices and of the time and manner in which the same shall have been served and of the names of all the parties to whom the same were directed and the description and amount of the instrument protested, which record, or a copy thereof certified by the notary, under seal, shall at all times be competent evidence to prove such notice, in any trial before any court in this State where proof of such notice may become requisite.

§ 9. CLERKS OF DISTRICT COURT—DUTY.] It shall be the duty of the several clerks of the district court to receive and keep safe all the records and papers directed by this article to be deposited in their office, and give attest copies of any of said records or papers, when required; and copies so given by the said clerk are hereby declared to be as valid as if the same had been given by the said notaries public.

§ 10. IMPRESSION OF SEAL.] Every notary public, before entering upon the duties of such office, shall provide an official seal and deposit an impression of the same, together with said oath and bond, in the office of the Secretary of State.

§ 11. COMMISSION TO BE FILED WITH CLERK.] Every notary public, before entering upon the duties of such office, shall file his or her commission for record with the clerk of the district court of his or her county, or of the county [to] which his or her county is attached for judicial purposes, and shall deposit with such clerk an impression of his or her seal, together with his or her official signature; and the said clerk shall record the same in a book kept for that purpose; and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public during the time such commission is in force.

§ 12. REMOVAL FROM COUNTY—REQUIREMENTS.] Whenever such notary public shall change his or her place of residence from the county or subdivision in which such notary public was first appointed to another county or subdivision, it shall be necessary to comply with the requirements of Section 11 of this act before he or she can enter upon the duties of office.

§ 13. REVOCATION OF COMMISSION—NOTICE.] Should the commission of any person so appointed be revoked, the Secretary of State shall immediately notify such person and the clerk of the district court of the proper county or subdivision through the mail.

§ 14. FULL CREDIT TO ALL OFFICIAL ACTS.] Full faith and credit shall be given to all protestations, attestations, and other instruments of publication of all notaries public now in office or hereafter to be appointed under the provisions of this act.

§ 15. ACTING WHEN DISQUALIFIED—PENALTY.] Any notary public, exercising the duties of his or her office after the expiration of his or her commission, or when otherwise disqualified, or appending their official signature to documents when the parties

have not appeared before him or her, shall be guilty of a misdemeanor and be subject to a fine of one hundred (100) dollars for each offense, to be recovered before any court having competent jurisdiction, and shall also be removed from office by the Governor.

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

Approved, March 6, 1893.

## OIL INSPECTION.

### CHAPTER 77.

[H. B. No. 212.]

#### AMENDMENT TO OIL INSPECTION LAW OF 1890.

AN ACT to Amend Section 2 of Chapter 107 of the Session Laws of 1890, Entitled "An Act to Provide for the Inspection of Illuminating Oils Manufactured from Petroleum or Coal Oils, for the Purpose of Raising the Tests of Oils."

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

§ 1. AMENDMENT.] That Section 2, Chapter 107, of the Laws of 1890, be so amended as to read as follows:

§ 2. OILS—HOW INSPECTED.] It shall be the duty of said State Inspector of Oils to examine and test, as provided by this act, the quality of all mineral or petroleum oil, or any oil, fluid or substance which is a product of petroleum or into which petroleum enters or is found as a constituent element, whether manufactured in this State or not, before the same is offered for sale or sold for illuminating purposes within the State; and such inspection shall be conducted as herein provided in the following manner: The test shall be made in the Tagliabue open cup tester or commercial tester, and in using the tester the oil shall not be heated after it has attained the temperature of 100 degrees Fahrenheit, faster than three degrees a minute, and the flame of the lamp shall be so adjusted as that the rise in temperature shall be as near to two degrees per minute as practicable, and the taper used in making the test shall be such as shall give a clean flame as nearly uniform in size as is practicable, and the State Inspector shall give such instructions as in his judgment shall be necessary to secure uniformity in the methods of making the tests, and it shall be unlawful to use or sell any illuminating oil which on the application of a well-lighted taper, or similar flame, will take fire and burn at a