

§ 2. EMERGENCY.] Whereas, it has been the custom heretofore to charge legislative printing up as legislative expense instead of public printing, thus decreasing the apparent amount of cost of public printing and wrongfully increasing the expense account of the legislative assembly, an emergency exists, and this act shall take effect from and after its passage and approval.

Approved March 2, 1907.

PROHIBITION

CHAPTER 187.

[S. B. No. 110—McLean]

TEMPERANCE COMMISSIONER.

AN ACT to Provide for the Better Enforcement of the Laws Against the Manufacture and Sale of Intoxicating Liquors, and to Repeal Section 9395 of the Revised Codes of 1905, Being Chapter 39 of the Session Laws of 1903.

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

§ 1. APPOINTMENT. CLERK.] The governor is hereby authorized to appoint a capable citizen of this state to be enforcement commissioner, who shall be paid a salary of two thousand dollars per annum and actual expenses, which salary shall be payable in four quarterly payments on the first days of January, April, July and October. Said enforcement commissioner shall be provided with an office at the state capitol with suitable furniture, stationery and other necessary facilities for transacting the business of his office, and he may employ a clerk at the expense of the state, which clerk may be paid at a salary not exceeding nine hundred dollars per year, payable in equal monthly installments.

§ 2. QUALIFICATIONS AND POWERS.] Said appointee shall be an attorney at law and shall be known as enforcement commissioner and with the advice and under the direction of the governor shall have and is hereby authorized to exercise in any part of this state, all of the common law and statutory powers of state's attorneys in their respective counties in the enforcement of the law against the manufacture and sale of intoxicating liquors.

§ 3. DEPUTY COMMISSIONER.] Said commissioner may appoint one deputy commissioner, if he shall consider it necessary, who shall also be an attorney at law. The deputy commissioner shall

have the same powers as are given to the enforcement commissioner. Said deputy commissioner shall be appointed in writing signed by said enforcement commissioner, which appointment shall be recorded in the office of said enforcement commissioner, and such deputy commissioner shall hold office during the pleasure of said enforcement commissioner. Upon being discharged he shall immediately surrender his certificate of appointment and all papers and other property relative to his office.

§ 4. SPECIAL ENFORCEMENT SHERIFFS.] The enforcement commissioner shall appoint such number of special enforcement sheriffs as in his judgment may be necessary, who shall have throughout the state all the common law and statutory powers of sheriffs in their respective counties in the enforcement of the law against the manufacture and sale of intoxicating liquors; such special sheriffs shall be appointed in writing signed by said enforcement commissioner, which appointment shall be recorded in the office of said enforcement commissioner, and they shall hold office during the pleasure of said enforcement commissioner. Upon being discharged, each shall immediately surrender his certificate of appointment and all papers and other property relative to his office.

§ 5. OFFICIAL BONDS.] The said enforcement commissioner, deputy commissioner and special sheriffs shall be sworn and give bonds to the state for the faithful discharge of their duties, the said enforcement commissioner in the sum of five thousand dollars, the said deputy commissioner in the sum of twenty-five hundred dollars, and said special sheriffs in the sum of two thousand dollars, all of which bonds shall be approved by the governor as to sufficiency and by the attorney general as to form, and such bonds and the oaths of such officers shall be deposited in the office of the secretary of state.

§ 6. EXPENSES, HOW PAID.] It shall be the duty of said deputy commissioner and special sheriffs to exercise all the powers herein conferred when, where, and as directed by said enforcement commissioner, and they shall be paid all the actual expenses occasioned by the performance of such duty and in addition thereto the said deputy commissioner shall be paid the sum of five dollars per day and the said special sheriffs each the sum of three dollars per day, and they shall at such time as may be fixed by the enforcement commissioner present their accounts for approval to him and after approval the same shall be subject to payment by the state from money in the treasury not otherwise appropriated.

§ 7. TAXATION OF COSTS.] There shall be taxed for said enforcement commissioner and said deputy commissioner, as costs in all actions in which either of them appear, the same fees as are allowed to be taxed for state's attorneys under the provisions of the laws of this state prohibiting the unlawful manufacture and sale of intoxicating liquors, and there shall be taxed for said special sheriffs the same fees as sheriffs and witnesses have here-

tofore been entitled to receive, all of which fees shall be paid directly to the state treasurer.

§ 8. POWERS WHERE LOCAL AUTHORITIES FAIL TO ENFORCE LAW.] The said enforcement commissioner, upon being satisfied that the local authorities fail to enforce the law against the manufacture and sale of intoxicating liquors in any county, city, village or town of this state, shall, subject to the limitations of section two hereof, with the aid, assistance and co-operation of the said deputy commissioner and one or more of such special sheriffs, enforce said laws.

§ 9. LOCAL OFFICERS NOT RELIEVED OF DUTY.] Nothing in this act shall in any way relieve the sheriffs or the municipal officers of states, towns and villages or the state's attorney for any county of the duties devolving upon them for the enforcement of the law against the manufacture and sale of intoxicating liquors.

§ 10. REMOVAL FROM OFFICE.] Whenever in the judgment of the governor said enforcement commissioner is negligent in the performance of his duty, it shall be the duty of the governor, and he is hereby authorized to remove said enforcement commissioner from office.

§ 11. OFFICE SUSPENDED, WHEN.] Whenever in the judgment of the governor the enforcement commissioner is no longer necessary, he is authorized to remove him from office, and the office shall thereby be suspended until the governor of this state deems his services are again required.

§ 12. REPEAL.] Section 9395 of the revised codes of 1905, being chapetr 39 of the session laws of 1903, is hereby repealed.

§ 13. APPROPRIATION.] There is hereby appropriated the sum of eight thousand dollars out of any funds in the treasury not otherwise appropriated, to defray the expense of carrying out the provisions of this act.

§ 14. EMERGENCY.] Whereas, an emergency exists in that better provisions are necessary for the enforcement of the laws of this state against the unlawful manufacture and sale of intoxicating liquors, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

CHAPTER 188.

[H. B. No. 190—Haugen]

SEIZURE OF INTOXICATING LIQUORS.

AN ACT Providing for the Seizure and Confiscation of Intoxicating Liquors Imported into the State of North Dakota in Violation of Law.

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

§ 1. PEACE OFFICERS SEIZE WITH OR WITHOUT WARRANT.]
Whenever any peace officer of the state of North Dakota has reasonable grounds to believe that intoxicating liquor has been imported into the state of North Dakota for the purpose of sale as a beverage in violation of law, and that such liquor so imported is then stored at or in any place in any city, town, village, township or county in the jurisdiction of such peace officer, it is hereby made his duty to seize such liquor with or without a warrant, and if seized without a warrant, to invoice and keep the same in his custody until finally disposed of as hereinafter provided.

§ 2. PROCEDURE WHERE SEIZURE IS MADE WITHOUT WARRANT.]
Whenever any liquor has been seized without a warrant, as provided in section one hereof, the officer so seizing shall immediately invoice the same, and file a copy of such invoice with some police magistrate or justice of the peace within the county in which the seizure was made, and at the same time file with such magistrate his information on oath setting out the fact of such seizure, a description of the place from which said property was taken, the name of the owner of the liquor seized, if known to him, if not, the name of the person in whose possession it was found, if known, and stating that to the best knowledge, information and belief of the informant, the liquor seized was unlawfully imported into this state with intent to be sold herein as a beverage, and praying judgment that the liquor so seized be destroyed as now provided by law in cases of seizure under section 9368, revised codes 1905. Thereupon, it shall be the duty of the magistrate or justice of the peace before whom such information is filed to cause notice to be served upon the owner of any such liquor seized, if known, or upon the person in whose possession it was found, if known, or upon the agent of any such owner, if known, informing such owner, agent or person in whose possession it was found of the seizure, and that such seizure was made on the grounds that the liquor so seized had been imported into this state in violation of the prohibitory law for the purpose of being sold as a beverage, and fixing a date for the hearing and trial not more than thirty days or less than ten days after the service of such notice. If at

the trial it shall be found that the liquor so seized was imported into this state in violation of the law, the court shall order the destruction thereof in the manner now provided by law in seizures under search warrants, and the officer making such seizure and carrying out the orders of such court shall be entitled to the same fee as for service of a search warrant under the provisions of chapter 65, revised codes of 1905.

§ 3. UNUSUAL QUANTITY PRESUMPTIVE EVIDENCE.] Proof of the finding of such intoxicating liquors stored in unusual quantities shall be presumptive evidence that such liquor was imported for such purpose in violation of law.

§ 4. DUTY OF MAGISTRATE AND STATE'S ATTORNEY.] Any magistrate or justice of the peace with whom the information has been filed as herein provided, shall immediately notify the state's attorney of his county of the filing of such information, and thereupon it shall be the duty of said state's attorney to make careful investigation of the facts, and if it shall reasonably appear that such liquor was imported into this state in violation of law, and the person causing the same to be imported or importing the same is within the state, he shall cause the arrest and prosecution of such person under the provisions of chapter 65, revised codes of 1905.

§ 5. EMERGENCY.] 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 13, 1907.

CHAPTER 189.

[H. B. No. 195—Haugen]

GOVERNMENT LIQUOR LICENSE.

AN ACT Providing for the Publication and Registration of Special Tax Receipts or Licenses from the Government of the United States to Sell Distilled, Malt and Fermented Liquors. Issued to Persons in North Dakota, the Payment and Collection of Registration Fees and Publication Fees, Regulating the Posting and Exhibiting of Such Tax Receipts or Licenses, Prescribing the Duties of Officials and Owners and Lessors of Property in Relation Thereto, Prescribing Penalties for Failure to Perform the Duties Prescribed and Other Regulations Pertaining to the Sale of Intoxicating Liquors.

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

§ 1. LIQUOR LICENSE. TAX RECEIPT MUST BE REGISTERED.] Every receipt, stamp or license showing payment of the special tax levied under the laws of the United States upon the business of

selling distilled, malt or fermented liquor, issued to or held by any person, firm or corporation in this state shall be registered and published as in this act required.

§ 2. NOTICE TO BE PUBLISHED. CONTAINS WHAT.] Immediately upon posting or displaying the special tax receipt or license mentioned in section one of this act as required under government regulations, it shall be the duty of the person in whose name such tax receipt or license is issued, to cause to be published for three successive weeks in the official newspapers of the county and for the same period in the official newspaper of the city, if within an incorporated city, a notice which shall contain the following information: Name of person to whom the government tax receipt or license is issued; date of special tax receipt or license; description of property where said tax receipt or license is posted, and, if within an incorporated city, the number of the lot and block and street number and setting forth specifically the room, building or place where said tax receipt or license is posted; the name of the owner and the name of the lessor of the property in which said tax receipt or license is posted. Upon discontinuance of business or removal of the special tax receipt or license mentioned in section 1 of this act to another building or place, a similar notice containing the information prescribed in this section, shall be published in the same manner as prescribed herein, and setting forth further the fact of removal, giving date and description of place to which such removal is made as fully as in the original notice.

§ 3. COPY OF RECEIPT FILED WITH AUDITOR.] It shall be the further duty of any person to whom a tax receipt or license from the government of the United States is issued, as mentioned in section 1 of this act, to file a duly authenticated copy of the same before or immediately upon posting, if in an incorporated city with the city auditor, otherwise with the county auditor of the county and pay a fee for the filing thereof of ten dollars, which fee shall be turned into the general fund of the city or county as the case may be.

§ 4. AUDITOR PUBLISHES LIST OF LICENSES.] The city auditor, if in an incorporated city, or county auditor, if not within an incorporated city, shall be required to publish in the official newspaper of the city and each of the official newspapers of the county the first week in each month a list of all such tax receipts or licenses filed during the previous month, such notice to be published one week in each newspaper.

§ 5. FEES FOR PUBLICATION. COPY POSTED.] The fee for publication of notices required under this act shall be the same as allowed by law for publication of other legal notices and the publisher may require the fee for such publication to be paid in advance. Upon the expiration of the publication required by this act the publisher or manager of the newspaper in which said notice is published shall make an affidavit of publication with a copy of

the advertisement attached thereto, together with the copy of notice or advertisement referred to herein shall be posted and remain posted at all times with the tax receipt or license referred to in section 1 of this act.

§ 6. OWNER OF PREMISES MUST PUBLISH, WHEN. PENALTY FOR FAILURE.] In case the person to whom the tax receipt or license referred to in section 1 of this act shall be issued, shall fail to cause to be published the notice required by this act, it shall be the duty of the owner or lessor of the premises whereon or wherein the tax receipt or license from the government of the United States referred to in section one of this act shall be posted, to cause such advertisement to be published as in this act required and if such owner or lessor shall knowingly fail to do so he shall be guilty of a misdemeanor.

§ 7. DUTY OF OFFICERS.] It shall be the duty of every sheriff, deputy sheriff, constable, mayor, marshal, police judge and police officer of any city or town having knowledge of any violation of the provisions of this act to notify the state's attorney of the fact of such violation and to furnish him the names of any witnesses within his knowledge by whom such violation can be proven. If any such officer shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor and upon conviction, in addition to the punishment therefor prescribed by law, shall forfeit his office. For failure or neglect of official duty in the enforcement of this act any of the city or county officers herein referred to may be removed by civil action.

§ 8. DUTY OF COUNTY AUDITOR.] It shall be the duty of the county auditor of each county to apply to the internal revenue department of the government of the United States the first week in each month for a list of all special tax receipts or licenses mentioned in section 1 of this act issued to persons within his county, naming the persons, date and places, and the same shall be immediately published one week in each of the official newspapers of the county and city. The cost of procuring such information, upon filing of a duly verified voucher, shall be paid by the county as other county expenses are paid.

§ 9. PENALTY.] Failure on the part of any person to comply with the provisions of this act shall constitute a misdemeanor.

§ 10. EMERGENCY.] Whereas, it is desirable that the publicity required by this act shall begin as soon as possible, an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 13, 1907.

CHAPTER 190.

[H. B. No. 120—Moore]

AFFIDAVIT FOR SEARCH WARRANT.

AN ACT to Amend Chapter 65 of the Penal Code of the Revised Codes of 1905 of the State of North Dakota, Relating to the Enforcement of the Prohibition Law.

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

§ 1. CONTENTS OF AFFIDAVIT. SEARCH WARRANT.] If any person shall make an affidavit before any person entitled to administer an oath, setting forth the fact that to the personal knowledge of the person making the affidavit that intoxicating liquors of any kind are being kept or are present upon certain premises, particularly describing such premises, and further stating that affiant verily believes that such intoxicating liquors are in unusual quantities, or are kept upon said premises for the purpose of barter and sale for use as a beverage contrary to law, and further stating the name of the person or persons keeping said intoxicating liquor or having such intoxicating liquor under their control, if known to affiant, and if unknown, stating the fact, and further stating the name of the person or persons who are in possession and control of the said premises, to the best knowledge, information and belief of affiant, and said affidavit setting forth the foregoing facts shall be filed with any justice of the peace, police magistrate or other magistrate having jurisdiction, together with the affidavit of the state's attorney that to the best of his knowledge, information and belief the facts set forth in such affidavit are true and which said affidavit of the state's attorney shall further request the said magistrate to issue a search warrant against said premises, said magistrate shall issue a search warrant directed to the proper officer, commanding him to search the premises described in the above affidavit, and to seize all intoxicating liquors, and all vessels or bottles containing the same or which shall have been used for the reception of intoxicating liquors of any kind, and take the same into his custody, to abide the further order of the court.

Approved March 12, 1907.

CHAPTER 191.

[H. B. No. 199—Nelson of Traill]

INTOXICATING LIQUOR DEFINED.

AN ACT to Amend Section 9366 of the Revised Codes of 1905, Same Being Section 7598 of the Revised Codes of 1899, Defining What Shall Be Considered and Held To Be Intoxicating Liquors.

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

§ 1. AMENDMENT.] Section 9366 of the revised codes of 1905 (same being section 7598 of the revised codes of 1899), be and the same is hereby amended to read as follows:

§ 9366. INTOXICATING LIQUORS DEFINED.] All spirituous, malt, vinous, fermented or other intoxicating liquors or mixtures thereof, by whatsoever name called, that will produce intoxication, or any mixtures of such liquors as, retaining the alcoholic principle or their intoxicating qualities as a distinctive force in the compound, may be used as a beverage and become a substitute for the ordinary intoxicating drinks, or any liquors or liquids which are 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, carnal seed, extract of logwood, salts of zinc, copper or lead, alum or any of its compounds, methyl alcohol or its derivatives, 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 chapter.

Approved March 12, 1907.

CHAPTER 192.

[S. B. No. 78—Pierce]

SOLICITING ORDERS FOR LIQUORS FORBIDDEN.

AN ACT to Prohibit the Soliciting of Orders for the Future Delivery Without this State of Intoxicating Liquors to be Transported Into this State to be Used or Sold in Violation of the Laws Thereof, and Providing a Penalty for Its Violation.

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

§ 1. UNLAWFUL.] It is hereby declared to be unlawful for any person to knowingly solicit or procure from, or to aid in soliciting or procuring from any person within this state, not a druggist hold-

ing a permit authorizing the sale of intoxicating liquors, any order, direction or instruction providing for the delivery at any place without the state of North Dakota, of any spiritous, malt, vinous, fermented or other intoxicating liquors, knowing or having reasonable cause to believe that if so delivered the same will be transported to this state and be used or sold therein in violation of the laws thereof.

§ 2. PENALTY.] Any person violating the provisions of section 1 of this act shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than two hundred nor more than one thousand dollars, and be imprisoned in the county jail not less than ninety days nor more than one year, and for every succeeding offense shall be deemed guilty of a felony, and be punished by imprisonment in the penitentiary not exceeding two years.

Approved March 8, 1907.

CHAPTER 193.

[H. B. No. 63—Haugen]

OWNER OF BUILDING LIABLE FOR UNLAWFUL USE.

AN ACT Prescribing a Penalty for Letting any Building or Portion of any Building, Knowingly, for the Purpose of Unlawful Dealing in Intoxicating Liquors.

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

§ 1. OWNER LIABLE. PENALTY. IF PUBLIC OFFICER, REMOVED.] Every owner, agent or other person, who, directly or indirectly, lets any building or portion of any building knowing that it is intended to be used for any purpose declared punishable by the provisions of chapter 110 of the penal code of the revised codes of North Dakota of 1895, commonly known as the "prohibition law," or who otherwise permits any building or portion of a building to be so used, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred nor more than one thousand dollars, and by imprisonment in the county jail not less than ninety days nor more than one year, and in addition thereto, if such person be a public officer, he shall forfeit his right longer to hold such public office or offices, and the court before whom such conviction is had shall order and adjudge such forfeiture.

§ 2. EMERGENCY.] Whereas, the enforcement of the prohibition law will be greatly facilitated by this act, therefore an emergency exists and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1907.