

continuance, which dates shall correspond to those found in the petition hereinbefore provided for, and said resolution shall be effective to permit stock to run at large between said dates of the year or years named only. Provided that if sixty per cent of the electors of any district as determined by the whole number of voters polled at the general election last held therein, excluding those votes cast within the corporate limits of any city, town or village therein, shall file a petition in the office of the County Auditor asking that such resolution be revoked, it shall be the duty of the Board of County Commissioners of said county, within ten days thereafter at any regular or special meeting, to revoke the previous resolution declaring that stock may run at large.

Sec. 2. AMENDMENT.) Section 2622, Compiled Laws of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

Sec. 2622. WHEN FENCES SHALL BE SUFFICIENT AND LAWFUL.) In any stock district in which the Board of County Commissioners shall have declared by resolution that stock may run at large between certain dates, a fence constructed as hereinafter described shall be sufficient and lawful.

Sec. 3. Any person, firm, association or corporation whose stock shall trespass upon the premises of another, or whose stock shall inflict damages to the crops or other property of another during the closed season shall be liable for the actual damages sustained, together with statutory costs and reasonable attorneys fees, to be allowed by the court.

Sec. 4. REPEAL.) Sections 2619, 2620 and 2621, Compiled Laws of North Dakota for the year 1913, and all Acts and parts of Acts in conflict herewith, are hereby repealed.

Approved February 28, 1919.

HIGHWAY COMMISSION

CHAPTER 141.

(H. B. No. 170—Brostuen.)

STATE HIGHWAY COMMISSION.

An Act Amending and Re-enacting Sections 1, 2 and 8 of Chapter 131, Laws of North Dakota for the Year 1917, Relating to the Creation of a State Highway Commission, Defining its Duties and Powers and Authorizing Said Commission to Purchase Right of Ways, Materials and Machinery for the Construction of Highways; Providing for the Co-operation of Said Commission with the State Educational Institutions; Amending and Re-enacting Section 2976-o as Amended by Chapter 131 of the Session Laws of North Dakota for the Year 1917; Declaring an Emergency, and Repealing All Acts and Parts of Acts in Conflict Herewith.

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

Sec. 1. AMENDMENT.) That Section 1 of Chapter 131 of the

Session Laws of North Dakota for the year 1917 be amended and re-enacted to read as follows:

Sec. 1. The State Highway Commission is hereby created, which shall consist of the Governor, who shall be chairman, the State Engineer, the Commissioner of Agriculture and Labor and two members to be appointed by the Governor. The appointive members shall be appointed by the Governor within ten days after this Act takes effect and shall hold office for two years from and after their appointment.

Sec. 2. AMENDMENT.) That Section 2 of Chapter 131 of the Session Laws of North Dakota for the year 1917 be amended and re-enacted to read as follows:

Sec. 2. That State Highway Commission shall meet at the capitol and other convenient places and at such times as it may deem essential to the carrying out of the provisions of this Act. It shall determine the character and have general control and supervision of the construction, reconstruction, improvement, repair and maintenance of all State Highways, hereinafter defined, including all bridges, culverts and other highway structures therein as are improved, constructed or reconstructed under the provisions of this Act and shall direct and supervise the maintenance of the entire system of State Highways. It shall determine the character and have general control and supervision of the construction and reconstruction of all bridges, culverts and other highway structures and of all other improvements on the system of State Highways. For the purposes of this Act the necessary bridges and culverts on any such highway shall be considered a part of such highway, but contracts for bridges and culverts may be let separately. From and after the passage and approval of this Act, no portion or portions of any State Highway shall be vacated or changed except upon the approval and consent of the State Highway Commission.

The terms "State Highway" and "State Highway System," as the same are used in this Act, shall refer only to such highways as have been heretofore or shall hereafter have been designated, improved or constructed under the provisions of Sections 4 and 5 of Chapter 131 of the Laws of North Dakota of 1917.

Section 3. AMENDMENT.) That Section 8 of Chapter 131 of the Session Laws of North Dakota for the year 1917 be amended and re-enacted to read as follows:

Sec. 8. The legislative assent required by Section 1 of the Act of Congress approved July 11, 1916 (Public No. 156) entitled, "An Act to provide that the United States shall aid the states in construction of rural post roads and for other purposes," is hereby given. The State Highway Commission is authorized and empowered to make all contracts and do all things necessary to cooperate with the United States Government in the construction of roads under the provisions of the said Act or any other Act of Congress that may hereafter be enacted.

Sec. 4. The state aid credited in the State Treasury to the various counties from the State Highway Fund shall be granted and expended as now by law prescribed except that, if any county shall at any time have such state aid credit in excess of three thousand dollars (\$3,000) or in amount greater than its accumulated credit for three years, the State Highway Commission shall notify such county of such fact and if the county fails to utilize such state aid in a State Highway project within three months after such notice, the State Highway Commission may use said fund in conjunction with Federal or other aid in said county in the construction of a road or roads to be by the State Highway Commission declared a part of the State Highway system.

Sec. 5. Any portion of the State Highway Fund that may be expended at the discretion of the Highway Commission for the construction of State Highways, may be expended in such construction without supplementary county funds and with or without Federal aid as the State Highway Commission shall decide or may be expended in the purchase of machinery, tools, supplies, materials, the hire of teams or labor, or the rental of machinery, in the construction, improvement or maintenance of State Highways.

Sec. 6. The State Highway Commission may purchase on behalf of the state as part of the construction cost of a State Highway project, take over, hold for the state for public use such materials and lands as may be necessary to provide a change of location or alignment of any State Highway project herein designated, or to secure materials, including clay, gravel, sand or rock, with necessary ways and access thereto, or to secure and provide adequate drainage in the improvement, construction, reconstruction or maintenance of state highways under the provisions of this Act. Whenever the State Highway Commission determines that public exigency requires the taking of land as aforesaid, it shall cause the same to be surveyed and described and a plan thereof and said description be recorded in the registry of deeds for the county where the same is located, and notice thereof shall be given in some newspaper, if any, published wholly or in part in said county. If the State Highway Commission is unable to purchase such material or land with necessary ways and access thereto at what it deems a reasonable valuation, the county commissioners of the county wherein such material or land is located shall, on petition of the State Highway Commission or interested parties, ascertain and determine the damages in the same manner as provided by statute for land taken for highway purposes, and all parties aggrieved by the estimate of damage shall have like remedies provided by statute for appraisal of damage for land taken by towns or counties for highway purposes, and such damage shall be paid by the Treasurer of the State, from the state aid granted for use in the proposed project. The State Highway

Commission may vacate any land or part thereof or rights in land which have been taken or acquired for highway purposes under the provisions of this Act by executing and recording a deed thereof, and said vacation shall revert the title to the lands or rights so vacated in the persons, their heirs, successors or assigns in whom it was vested at the time of the taking, and the value at the time of vacation may be pleaded in mitigation of damages in any suit therefor on account of such taking. The Governor on recommendation of the State Highway Commission is authorized to sell and convey on behalf of the state the interests of the state in property acquired by purchase under this section and deemed no longer necessary for the purposes of this Act, and the proceeds of such sale so far as practicable be credited to the funds from which such purchase was originally made.

Sec. 7. The apparatus and supplies of the University of North Dakota and the North Dakota Agricultural College may be used by the State Highway Commission or any of its employees as far as the demands of the institution permit and in such manner and under such conditions as the presidents of the institutions shall permit, to make investigation, etc., concerning the chemical and physical character of road and bridge materials, highway, engineering, practices. The State Highway Commission may, however, purchase and provide such equipment, apparatus, tools and material, as may be necessary to make desired field or laboratory tests or investigations. The State Highway Commission shall also, as soon as practicable, prepare a map showing the road material resources within the State, make road material surveys, and may co-operate with other state institutions in performing these functions.

Sec. 8. Whenever a Board of County Commissioners shall set aside out of such funds as are or may become available to pay the county's share of the cost of repair or construction of a portion of the state highways it shall pass a resolution ordering the County Auditor to draw warrants on the County Treasurer in favor of the contractor for such amounts as may be due him according to certificates issued by the Secretary of the State Highway Commission.

Sec. 9. Section 2976-o of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 131 of the Laws of North Dakota for 1917 is hereby amended to read as follows:

Sec. 2976-o. CLAIMS FOR MONEYS EXPENDED ON HIGHWAYS.) All claims for money expended on county highways under the provisions of this article shall be paid by the county treasurer upon presentation of properly prepared vouchers approved by the County Superintendent of Highways, if there be one, and the Board of County Commissioners. All moneys spent on the state highway system by the counties for maintenances; all moneys spent in conjunction with Federal and state aid shall be paid by the county treasurer upon the presentation of properly pre-

pared vouchers, following certificates prepared and presented by the secretary of the State Highway Commission. All claims for money expended by the State Highway Commission under the provisions of this article shall be paid by the State Treasurer upon presentation of properly prepared vouchers approved by the Secretary of the State Highway Commission. Provided, that in all expenditures made under contract under this Act, there may be paid the contractor, in his partial payments, amounts up to but not exceeding 90 per cent of the value of the work done.

Sec. 10. EMERGENCY.) This Act is hereby declared to be an emergency measure, and shall be in force and effect from and after its passage and approval.

Sec. 11. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 7, 1919.

HIGHWAYS

CHAPTER 142.

(S. B. No. 215—Ward.)

PROHIBITING OBSTRUCTION OF HIGHWAYS.

An Act to Prevent the Obstruction of Highways and Section Lines, to Prevent the Placing of Stone or Rubbish Within Twenty-seven Feet of Any Section Line, and to Provide for the Removal of Stone, Rubbish and of Fences Along Section Lines When Such Lines are Opened as Public Highways.

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

Sec. 1. No person shall hereafter place or cause to be placed any stone or rubbish within twenty-seven feet of any section line, unless he shall first secure permission in writing from the Board of County Commissioners or the Board of Township Supervisors, as the case may be. Such permission to place or cause to be placed any stone or rubbish along a section line shall only be granted where the topography of the land along such Section line is such that in the opinion of the Board of County Commissioners or Board of Township Supervisors, as the case may be, the construction of a road on the section line is impracticable.

In case any person shall place or cause to be placed any stone or rubbish within twenty seven feet of any section line, the Board of County Commissioners or Board of Township Supervisors, as the case may be, shall, when a public highway is opened along such section line, notify the owners of adjacent property to remove such stone or rubbish. Written notice by registered mail to the record owner of such adjacent property mailed to such own-