

When in the opinion of such commissioners or that of the court a final order for the custody or control of such child or children becomes necessary, either by sending the same to the state training school or other institution of this state; or to deprive the parents of their custody, and give the same to some other person or persons, either for the purpose of temporary control or permanent adoption, it shall be the duty of such commissioners to make findings and report the same with their recommendations to the district judge, who shall fix a reasonable time and place for hearing, and thereafter make such final judgment or order in the case as he shall deem proper and right.

§ 5. All acts and parts of acts inconsistent herewith are hereby repealed.

Approved March 8, 1929.

CRIMES AND PUNISHMENTS

CHAPTER 114

(H. B. No. 191—Indergaard.)

DEFINING AGGRAVATED ASSAULT AND BATTERY— PUNISHMENT

An Act defining the crime of aggravated assault and battery and prescribing the punishment therefor.

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

§ 1. Every person who, without justifiable or excusable cause and with intent to do great bodily harm, wilfully and unlawfully commits any assault and battery upon the person of another and thereby inflicts any grievous bodily harm upon such other person, shall be guilty of the crime of aggravated assault and battery and shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or be imprisoned in the county jail for not more than one year or imprisoned in the penitentiary for not more than one year, or by both such fine and imprisonment.

Approved March 11, 1929.

CHAPTER 115

(S. B. No. 193—Hoople.)

DEFINING ARSON—PUNISHMENT FOR BURNING PROPERTY TO
DEFRAUD INSURER

An Act defining arson, prescribing punishment for burning or attempting to burn buildings or other property, and burning of buildings or other property to defraud insurer, and repealing Sections 9849, 9850, 9851, 9852, 9853, 9854, 9855, 9856, 9857, 9858, 9859, 9860, 9861, 9862, 9863, 9864, 9865, 9866, 9867 of the Compiled Laws of 1913.

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

§ 1. ARSON. PUNISHMENT.] Any person who wilfully and maliciously sets fire to, or burns or causes to be burned or who aids, counsels or procures the burning of any dwelling house, or any kitchen, shop, barn, stable, or other outhouse that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, with the intent thereby to injure, damage or defraud another, shall be guilty of arson, and upon conviction thereof, be sentenced to the penitentiary for not less than two nor more than twenty years.

§ 2. BURNING BUILDINGS OTHER THAN DWELLINGS.] Any person who wilfully and maliciously sets fire to, or burns or causes to be burned or who aids, counsels or procures the burning of any barn, stable, garage or other building, whether the property of himself or of another, not a parcel of a dwelling house, or any shop, storehouse, warehouse, factory, mill or other building, whether the property of himself or of another; of any church, meeting house, court house, work house, school, jail or other public building or any public bridge, shall, upon conviction thereof, be sentenced to the penitentiary for not less than one nor more than ten years.

§ 3. BURNING OF OTHER PROPERTY.] Any person who wilfully and maliciously sets fire to, or burns or causes to be burned or who aids, counsels or procures the burning of any barrack, cook, crib, rick, or stack of hay, corn, wheat, oats, barley or other grain or vegetable product of any kind; or any field of standing hay or grain of any kind; or any pile of coal, wood, or other fuel; or any pile of planks, boards, posts, rails or other lumber; or any street car, railway car, ship, boat or other water craft, automobile or other motor vehicle; or any other personal property not herein specifically named; (such property being of the value of twenty-five dollars and the property of another person) shall upon conviction thereof, be sentenced to the county jail, not to exceed one year, or to the penitentiary not to exceed three years.

§ 4. BURNING TO DEFRAUD INSURER.] Any person who wilfully and with intent to injure or defraud the insurer sets fire to, or burns or causes to be burned or who aids, counsels or procures the burning of any goods, wares, merchandise or other chattels or personal property of any kind, whether the property of himself or of another, which shall at the time be insured by any person or corporation against loss or damage by fire; shall upon conviction thereof, be sentenced to the county jail not to exceed one year, or to the penitentiary not to exceed five years.

§ 5. ATTEMPT TO BURN BUILDINGS OR PROPERTY.] Any person who wilfully and maliciously attempts to set fire to, or attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in the foregoing sections, or who commits any act preliminary thereto, or in furtherance thereof, shall upon conviction thereof, be sentenced to the penitentiary for not less than one nor more than two years or fined not to exceed one thousand dollars.

§ 6. The placing or distributing of any flammable, explosive or combustible material or substance, or any device in any building or property mentioned in the foregoing sections in an arrangement or preparation with intent to eventually wilfully and maliciously set fire to, or burn same, or to procure the setting fire to or burning of same shall, for the purposes of this act constitute an attempt to burn such building or property.

§ 7. SAVING CLAUSE.] Any acts done in violation of Sections 9849 to 9867 both inclusive, or any of them, or any proceedings instituted before this act becomes effective, shall not be affected thereby but such may be prosecuted or proceeded with under the laws in force immediately preceding the time this act becomes effective.

§ 8. REPEAL.] Sections 9849, 9850, 9851, 9852, 9853, 9854, 9855, 9856, 9857, 9858, 9859, 9860, 9861, 9862, 9863, 9864, 9865, 9866, 9867 of the Compiled Laws of 1913 are hereby expressly repealed and all laws and parts of laws in conflict herewith are hereby repealed.

Approved March 4, 1929.

CHAPTER 116

(H. B. No. 235—Turner, Horner, Miller, Gilchrist, Aljets and Erickson.)

STATE SUPERINTENDENT CRIMINAL IDENTIFICATION

An Act creating a state superintendent of criminal identification, providing for his appointment, fixing and defining his powers and duties and providing for the payment of salary and expense of his office.

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

§ 1. Within thirty days after the taking effect of this act, there shall be appointed by the governor, an officer who shall be designated and known as "State Superintendent of Criminal Identification," and whose term of office shall be two years from and after his appointment, or until his successor is appointed, and qualifies. Such officer is hereinafter referred to as the "superintendent," and he shall be appointed without regard to political affiliations, and shall be a person having at least four years experience in the work of identifying and securing the conviction of criminals. Such "superintendent" shall receive an annual salary of twenty-eight hundred (\$2,800.00) dollars, payable monthly; and such salary, together with necessary expense for clerk hire, office furniture, equipment and supplies, and expense of travel when necessary, shall be paid out of the Twine and Cordage Operating Fund as now created and established.

§ 2. The "superintendent" may appoint, with the consent of the governor, only such clerical help as is necessarily required to the carrying out of the work of his office as provided herein. Such "superintendent" shall qualify by taking the oath of office as prescribed by the constitution, and shall give a bond in the sum of five thousand (\$5,000.00) dollars for the faithful performance of his duties as such "superintendent." The office of the "superintendent" shall be located at the state penitentiary near the city of Bismarck, and any and all equipment, together with all existing records and files, now used in the taking of finger prints or in the work of identification of criminals, at such penitentiary, shall be transferred to his office and made available to his use in such work. It shall be the duty of the "superintendent," and he is hereby authorized and empowered, to provide such necessary equipment, furniture, apparatus and appliances as may be required in addition to that now available as above, for the effective collecting, filing and preservation of finger prints and other records respecting the identification of criminals and the keeping of proper records thereof.

§ 3. It shall be the duty of said "superintendent" to procure and file for record in his said office, as far as can be procured, all

plates, finger prints, photographs, outline pictures, descriptions, information and measurements, of all persons who have been arrested for felony or shall hereafter be arrested for any felony under the laws of this or other states or of the United States, and of all well-known and habitual criminals, from wherever procurable; and it shall be the duty of the person in charge of any state penal institution, state's attorney and of every sheriff, chief of police or other police officer, to furnish any such material to the "superintendent" upon his request.

§ 4. The superintendent shall co-operate with and assist the Criminal Bureau of the Department of Justice, at Washington, D. C., and all judges, state's attorneys, sheriffs, chiefs of police and other law enforcement officers of the state, and of any other state, and of the federal government, in the establishment of a complete system of criminal identification, and shall file for record the finger print impressions of all persons confined in any penitentiary or jail, when such person confined in said jail is suspected of having committed any felony or of being a fugitive from justice and such other information as he may from time to time receive from the law enforcement officers of this and other states and of the federal government. It is specifically made the duty of such "superintendent" to co-operate with all such officers in the identification and conviction of criminals.

§ 5. It is hereby made the duty of all state's attorneys, sheriffs, chiefs of police and other law enforcement officers in the state of North Dakota, to immediately upon the arrest of any person, who in the best judgment of the arresting officer, is wanted on a felony charge, or who such officer has reason to believe is a fugitive from justice, to take and furnish to the said "superintendent," copies of finger prints in duplicate, with a description and all available information respecting such accused. The "superintendent" shall compare the finger prints and such description as received by him, with those already on file in his office, and if he finds that the person arrested has a criminal record or is a fugitive from justice, shall at once inform the arresting officer of such past criminal record, and in order to facilitate the work of identification, of the name or names under which such person has been arrested, together with his available criminal record as known.

§ 6. It is hereby declared to be the duty of every sheriff in the state of North Dakota to take the finger prints of every defendant charged with a felony within their respective counties, and to transmit said finger prints to the bureau for identification, within twenty-four hours after such defendant is taken into custody. The "superintendent" shall, as soon as possible, ascertain the criminal record, if any, of the defendants so charged, and shall forward said

record immediately to the sheriff of said county and a carbon copy thereof to the state's attorney. The "superintendent" shall assist sheriffs and other peace officers, in the establishment of systems for the apprehension of criminals and the detection of crime, and shall instruct them in the taking of finger prints as herein provided. It is further provided that said sheriffs may take and forward to the "superintendent" the finger prints of any person who, in the best judgment of the sheriff, is wanted on a felony charge or who is believed to be a fugitive from justice, or who has in his possession at the time of his arrest goods or property reasonably believed to have been stolen, or in whose possession is found a burglary outfit, tools, keys or explosives reasonably believed by said sheriff to be intended for unlawful use, or who is carrying concealed or deadly weapons without lawful authority therefor, or who is in possession of any ink, dye, paper or other articles used in the making of counterfeit money, or who has in his possession counterfeit money of the United States of America, or who has in his possession any tools or equipment used in defacing or changing the number on motor vehicles, or who is believed by said officer to have been previously incarcerated in any state or federal penitentiary.

§ 7. It is hereby declared to be the duty of the judge of the district court of each county, or the state's attorney or sheriff thereof, to ascertain before sentence is passed, the criminal record, if any, of every defendant convicted of a felony, before passing sentence on said defendant. It is hereby declared to be the duty of the state's attorney and sheriff of each county, upon the request of the superintendent, or the attorney general, to furnish forthwith to such "superintendent," a statement of facts relative to the commission or alleged commission of all felonies within their respective counties and to furnish such information upon blanks, or in any form requested by said "superintendent" or the attorney general.

§ 8. Neglect or refusal of any officer herein mentioned to make the report required herein or to do or perform any other act hereby, on his part required to be done or performed, shall constitute a misdemeanor, and such officer shall upon conviction thereof be punished by a fine of not less than five nor more than twenty-five dollars. Such neglect or refusal shall also constitute non-feasance in office and subject the officer to removal from office.

§ 9. It shall be the duty of the "superintendent" to cooperate with similar departments or bureaus in other states and with the criminal bureau in the Department of Justice in Washington, D. C., and to develop and carry on a complete system of criminal identification.

§ 10. It shall be the duty of the "superintendent" to afford assistance and, when practicable, instructions to all judges, state's

attorneys, sheriffs, chiefs of police and other law enforcement officers in establishing efficient methods of criminal identification in their districts and in making such officials proficient in procuring finger print records.

§ 11. The "superintendent", with the approval of the attorney general, shall make and promulgate such rules and regulations from time to time as may be necessary and proper for the efficient administration of this act, and not inconsistent therewith. It is hereby made the duty of every state's attorney, sheriff, constable, marshal or other peace officer to assist the "superintendent" in the performance of his duties by complying with such rules and regulations promulgated by the "superintendent," and such rules and regulations shall be printed and forwarded to such peace officers.

§ 12. Any and all moneys collected or received, including all rewards for the apprehension or conviction of any criminal, earned and collected by the "superintendent" or any employee of his office, shall be forthwith covered into the Twine and Cordage Operating Fund.

§ 13. The "superintendent" shall make annual reports to the attorney general, which shall contain a complete summary of the work of his office during the period covered thereby, and such other matters as the attorney general may desire. The superintendent shall make recommendations to the legislature at each session relating to the matter of dealing with crime and criminals, and shall furnish information and data as to criminal conditions within the state, and of approved methods followed in other states in relation to criminal identification.

§ 14. The superintendent shall advise and instruct peace officers of the state in their duties under the provisions hereof, and in the use of approved equipment and methods for the detection and identification of criminals, and in the use and method of taking finger prints.

§ 15. All acts and parts of acts in conflict herewith, are hereby repealed.

§ 16. This act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 9, 1929.

CHAPTER 117

(H. B. No. 202—Horner, by Request.)

SLANDER OVER RADIO

An Act to prohibit slander over, through or by means of what is commonly known as the radio.

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

§ 1. Any person who shall falsely use, utter or publish words over, through or by means of what is commonly known as the radio, which in their common acceptance shall tend to blacken the memory of one who is dead, or impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him or her to public hatred, contempt, ridicule, or financial injury, shall be guilty of slander.

§ 2. In all prosecutions for slander, the truth shall be a sufficient defense.

§ 3. Every person convicted of a violation of Section 1 hereof shall be fined in a sum not exceeding one hundred dollars (\$100.00).

Approved March 8th, 1929.

DAIRY PRODUCTS

CHAPTER 118

(H. B. No. 188—Iverson.)

POSTING PRICES OF BUTTERFAT AT CREAMERIES, CREAM STATIONS, ETC.

An Act to provide for posting the price of butterfat at creameries and cream stations and other places of business purchasing such products from the public.

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

§ 1. PRICES TO BE POSTED.] Every person who owns, operates or manages a creamery or cream station in the State of North Dakota, where butterfat is purchased from the public shall post the price being offered for butterfat; such posting to be made in a place where it can be clearly seen from the street; and it shall be unlawful for any such person to pay for such product, a price different from