

VETOES

(S. B. No. 143—Ployhar.)

PROBATION OF CRIMINALS

An Act to amend and re-enact Section 10950 of the Compiled Laws of North Dakota of 1913, relating to probation of criminals.

V E T O

March 13, 1929.

To the Honorable Secretary of State:

I herewith file Senate Bill No. 143 without my approval.

This bill is intended to enlarge the power of the Courts in the matter of probation of prisoners who have been convicted of felonies. Under the present law, the Court having jurisdiction to sentence a defendant to the Penitentiary, may in his discretion, with certain exceptions and in the case of first offenders, suspend the execution of the sentence and place the prisoner on probation or parole until the term of the sentence shall have expired. Senate Bill No. 143, if it becomes a law, will empower the Court to suspend a part of such sentence after the defendant has been committed to and has served a part of his sentence in the Penitentiary. This is a power which is now exercised exclusively by the Board of Pardons. Should this power also be exercised by the Courts, it will result in a conflict of authority and confusion in the administration of the parole laws of the State.

Such a law would also be an inducement for the Courts to send first offenders to the Penitentiary for a short time who might not otherwise be committed to the Penitentiary. In my judgment, no first offender should ever be sent to the Penitentiary, unless in the judgment of the Court, the facts in the case warrant his imprisonment for at least the minimum sentence provided by law.

Very truly yours,

Geo. F. Shafer,
Governor.

GFS:E

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

§ I. AMENDMENT.] That Section 10950 of the Compiled Laws of North Dakota of 1913 is hereby amended and re-enacted to read as follows:

§ 10950. In all prosecution for crime, except as hereinafter provided, where the defendant has pleaded or been found guilty,

and where the court or magistrate has power to sentence such defendant to the penitentiary, and it appears that the defendant has never before been imprisoned for crime, either in this state or elsewhere (but detention in an institution for juvenile delinquents shall not be considered imprisonment), and where it appears to the satisfaction of the court or magistrate that the character of the defendant and circumstances of the case are such that he is not likely to engage in an offensive course of conduct, and where it may appear that the public good does not demand or require that the defendant shall suffer the penalty imposed by law, said court or magistrate may suspend the execution of the whole or a part of the sentence, and place the defendant on probation either immediately or at a specific time after a part of the sentence has been served.

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

Vetoed March 13, 1929.

(H. B. No. 74—Veitch, Treffry and Martin.)

DOG REGISTRATION

An Act imposing a tax upon dogs; providing for the levy and collecting thereof; providing for the issuance of license tags for all dogs upon which said tax is paid; requiring the killing of dogs upon which the tax is not paid; providing for the payment of the expense of enforcement of such act and the distribution of the tax collected hereunder.

V E T O

March 14, 1929.

To the Honorable Secretary of State:

I herewith file House Bill No. 74 without my approval.

This bill imposes an annual tax upon all dogs within the State, requires the registration of all dogs upon which a tax is paid and the destruction of all dogs upon which the tax is not paid by August 1st of each year. The general purpose of this bill is good. It is intended to protect sheep owners from damages caused by sheep-killing dogs, which are said to have become numerous in some parts of the State, by providing for the destruction of all dogs for which no tax is paid.

I do not believe, however, that this bill is well designed to accomplish the purpose for which it is intended. On the contrary, I

think that if it is allowed to become a law, it will cause more harm than good in the state.

I am in sympathy with the desire of sheep owners to get rid of sheep-killing and other dangerous dogs, but it is not necessary nor desirable to tax all species of dogs in order to achieve that laudable purpose. Most species of dogs, including shepherd dogs, bull dogs, poodle dogs, water spaniels and other ordinary dogs, are not enemies of live stock. Many breeds of dogs are protectors of livestock and companions of both adults and children. The fact that most farmers keep one or more dogs about the farm is clear evidence that such dogs are not harmful.

Under the provisions of this bill the dog tax comes due on August 1st, a date different from that on which other taxes fall due. There is no period of grace allowed before the tax becomes delinquent as is the case with other taxes, but the dog tax is delinquent upon the same date that it comes due. It is then the duty of the sheriff to immediately locate and kill all dogs upon which the tax has not been paid, unless the owner or keeper thereof pays the dog tax to the sheriff, together with his travel expenses. With this tax falling due and delinquent on August 1st, during the busiest season of the year, it is certain that most dog owners who are farmers, as well as others, would be in default. The enforcement of this law, in the fall of the year, would cause everyone concerned much annoyance and expense, and work a hardship on hundreds of people in the state.

I do not see how the taxation of dogs would remedy the evil. The owners of German Police dogs, Russian Wolf hounds and other species of dogs as are likely to become sheep-killers would pay their dog tax as well as others and let their dogs run at large and so the menace would continue. Taxing such dogs would not destroy them and since no provision is made for the payment of damages to sheep owners whose sheep are killed by licensed dogs, they are not any better off under this bill.

On the whole, I think this law is too harsh in its terms and too broad in its application. No doubt some legislation is required to protect sheep owners, although I understand, the menace complained of is local, rather than general in the state. It seems to me that the situation could be well taken care of by a law which applied only to certain species of dangerous dogs without including therein all other dogs, or by an act formulated upon the local option principle which could be put into operation in those counties where the conditions justify it.

Respectfully yours,
GEO. F. SHAFER,
Governor.

GFS :E

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

§ 1. ASSESSORS TO MAKE LIST.] That each assessor in this state when assessing personal property shall annually make a list of the names of all persons who own or keep dog or dogs, and shall set opposite the name of each such owner or keeper the number of dogs over four (4) months old on April 1st, he or she has in his or her possession, or kept on his or her premises, which list shall be returned by such assessor to the auditor of the county in which said assessment of dogs is taken, as soon as the assessment is completed. Such assessment list shall show whether each such assessed dog is a male, or female, or is unsexed.

§ 2. DOG TAX.] The county auditor shall charge upon the tax rolls against the name of each person reported as owner or keeper of a dog or dogs over four (4) months old on April 1st, a tax of one dollar (\$1.00) for each male and unsexed dog and two dollars (\$2.00) for each female dog owned or kept by such person, as a personal property tax, which said tax shall be in lieu of all other taxes or licenses upon such dogs either state or local.

Provided, that any person keeping or having in his possession dogs for boarding or breeding purposes or for the purpose of selling and exchanging such dogs not less than five (5) in number may obtain from the county treasurer a license for the kenneling of dogs and shall pay for such license in lieu of all other license fees the sum of seven dollars and fifty cents (\$7.50) for ten dogs or less, and ten dollars (\$10.00) for more than ten dogs which license shall be granted for a period of one (1) year and shall expire on the 1st day of August of each year. All moneys collected from such tax and such licenses shall be paid to the county treasurer who shall distribute the tax and license moneys so received by him to the political subdivision from which collected, in manner hereinafter provided.

§ 3. PAYMENT OF TAX.] The tax and license herein provided for shall be payable separately from other personal property taxes and shall become payable upon August 1st of each year in which the dog is listed by the assessor. On or before the 15th day of July of each year the county treasurer shall send by United States mail to each dog owner or keeper so listed a notice of the amount of dog tax due from such owner or keeper upon which notice shall be printed sections 3 and 4 of this act.

§ 4. AVOIDANCE OF TAX.] Any person not desiring to pay the tax herein provided may kill his dog or dogs; and if the owner of any dog shall file with the county treasurer on or before July 31st of any year an affidavit that any dog or dogs have been killed or

have died from any cause, the treasurer shall file the same and forthwith release, cancel and discharge all taxes assessed for that year against said person upon the dog or dogs so killed or dying.

§ 5. TAGS.] Upon payment of said individual dog tax, the county treasurer shall issue to said owner a metal tag for each dog upon which the tax is paid which said tag shall bear the words "dog tax," the name of the county, the year of its issue and the serial number of the tag. Said tags shall not be transferable and shall be good until August 1st of the year following that in which the tax is assessed. Said tag shall be worn by the dog for which it is issued at all times during the year issued for, and shall be firmly attached to a collar to be provided by the owner of such dog. Upon the payment of the kenneling license, the county treasurer shall issue to the person paying said license sufficient tags for all dogs kept by said person which tags shall bear the words "kennel tax" instead of "dog tax" and shall otherwise be in the same form as the individual dog tags. The county treasurer shall keep a record of the serial numbers of tags issued to both owners and kennel keepers. The shape of said tags shall be changed each year. The said tags shall be furnished by the county treasurer. The county treasurer is hereby authorized to pay for the first year's tags out of the county general fund. As soon as sufficient funds have accumulated in the dog tax fund, the county treasurer shall reimburse the county general fund for monies so expended.

§ 6. COLLECTION OF TAX.] On August 1st of each year the county treasurer shall prepare a list of all dogs listed for that year upon which the tax has not been paid or the affidavit herein provided for filed, and shall present said list to the sheriff of the county. It shall then be the duty of the sheriff to take possession of the dogs so listed and kill the same unless the owner forthwith pays to said sheriff the tax provided plus the sheriff's mileage for said trip in which case the sheriff shall pay over to the treasurer the amount of the tax and the tag shall be issued to the owner. For his service the sheriff shall be paid the sum of one dollar (\$1.00) for each dog so killed plus legal mileage which shall be paid out of the dog tax fund. The fee and mileage herein provided for shall be by the auditor assessed against the owner of each dog for the killing of which the expense is incurred. The killing of any dog or dogs after August 1st shall not release the tax, but the said tax plus the expense of killing shall be and remain a tax against the person assessed which shall be thereafter treated and considered as are other personal property taxes with the same penalties for non-payment and the same provisions for enforcement thereof.

§ 7. WHEN DOGS MAY BE KILLED.] If any person shall discover any dog or dogs in the act of killing, wounding or chasing

sheep in any portion of the state, or shall discover any dog or dogs under such circumstances as to satisfactorily show that such dog or dogs have been recently engaged in killing or chasing sheep for the purpose of killing them, such person is authorized to immediately pursue and kill such dog or dogs, and there shall be no liability on such person in damages or otherwise for such killing.

§ 8. PERSONS KNOWINGLY KEEPING A SHEEP-KILLING DOG OR DOGS.] Any person or persons who shall knowingly keep any dog known to be a sheep-killing dog, or shall keep such dog after it shall come to knowledge of such person that such dog has been engaged in the killing of sheep, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), or by imprisonment in the county jail not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who shall knowingly keep any sheep-killing dog, shall be held liable in punitive damages for any killing or injury to sheep, occasioned by such dog.

§ 9. LIABILITY.] Any person harboring or keeping in his or her possession any dog or dogs that are known to have killed, injured or worried sheep, shall come under the provisions of this law the same as if he or she owned the dog or dogs.

§ 10. DUTY OF OFFICERS.] It is hereby made the duty of every sheriff, deputy sheriff, constable, marshal, police officer or other peace officer within his jurisdiction to take into custody any dog found without the tag hereinbefore provided for when said dog appears to have been eight (8) months or more old on the previous August 1st. If the owner of said dog can be ascertained by the officer he shall be notified, otherwise the dog shall be kept in custody by the officer for two (2) days. Upon satisfactory showing to said officer that the dog was under the age requiring a license, it shall be released; and if the dog is of age requiring a license upon payment of all dog taxes and penalties assessed against the owner, a tag shall be issued by the county treasurer and the dog released. If the showing is not made or the tax is not paid the officer shall, after the expiration of two (2) days, kill the dog and upon proper voucher he shall be paid for such services the sum of one dollar (\$1.00).

§ 11. LOST TAGS.] Should any dog tag be lost the owner may, upon affidavit of the facts, procure from the treasurer another tag and the treasurer shall keep a record of all tags so replaced and the serial number of both the old and the new tag. All replacement tags shall be charged for at the rate of twenty-five (25) cents.

§ 12. The expense of procuring such tags and the charges of officers killing unlicensed dogs shall be paid out of the dog tax collected during the license year, and at the end of such license year

the balance of such tax collections shall be paid over by the county treasurer to the several townships, cities and villages, from which collected, in the proportion in which such collections were made from each such political subdivision.

§ 13. **NEGLECT OF DUTIES.]** Any officer who shall wilfully neglect or refuse to perform any of the duties imposed upon him by this act shall be deemed guilty of a misdemeanor.

Vetoed March 14, 1929.

(H. B. No. 212—Committee on Game and Fish.)

DEER AND BEAVER LICENSE, FEES

An Act to provide for licenses for hunting deer and trapping beaver in the State of North Dakota and for the issuance of search warrants.

V E T O

March 15, 1929.

To the Honorable Secretary of State:

I herewith file House Bill No. 212 without my approval.

This bill provides that in case the season for killing deer and hunting beaver should hereafter be declared open pursuant to the provisions of Chapter 147, of the Session Laws of North Dakota for 1927, a special hunting license for deer and trapping license for beaver shall be required, and special tags procured and attached to each animal killed.

In the case of beaver, a one dollar fee is charged for each tag which is required to be attached to every beaver or beaver skin legally taken and shipped within or without the state, or held in possession by anyone for a longer period than fifteen days.

The provision of this bill relating to deer is all right, but that requiring an individual tag at a cost of one dollar each as a condition to the right to either ship or possess beaver skins for more than fifteen days is not a reasonable provision. In my opinion, there is no reason why any person who has legally taken a beaver or any other animal, should be obliged to pay the state for the privilege of keeping possession of his property.

Furthermore, since there is little likelihood of the season for either deer or beaver being opened in the near future, this law is not needed at the present time.

Respectfully yours,

GEO. F. SHAFER,

GFS:E

Governor.

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

§ 1. Whenever an open season has been declared on deer and beaver pursuant to the provisions of Chapter 147, Session Laws 1927, the fee for a resident hunting license on deer shall be five dollars, and the fee for nonresident hunting license on deer shall be twenty-five dollars, and such licenses shall be procured in the same manner as other hunting licenses are procured, and shall have attached thereto a tag in duplicate with the same number as the license. Said tag shall be detached from the license and attached to the animal killed. The tag attached to the animal killed shall give a description of the animal, place and manner of killing and how disposed of. The duplicate tag shall be filled out in the same manner as the original and forwarded to the game and fish board, and a complete record thereof shall be kept by the secretary of the game and fish board. All licenses issued under this act shall be void when tag or duplicate is detached from such license. The bag limit shall be one antlered deer for each person having the required license.

§ 2. The fee for resident trapping license for beaver shall be two dollars, and the fee for non-resident trapping license for beaver shall be twenty-five dollars, and the same shall be procured in the same manner as other trapping licenses are procured. Provided, that a special beaver tag shall be procured from the secretary of the game and fish board, upon the payment of a fee of one dollar for each tag, said tag to be attached to each individual beaver, or beaver skin legally taken and shipped within or without the state, or held in possession of any one for a period longer than fifteen days.

§ 3. Any court shall upon proper application by any bonded game warden or any member of the game and fish commission, issue a search warrant.

§ 4. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 and not to exceed \$100.00, or by imprisonment in the county jail for a term not exceeding 30 days, or by both such fine and imprisonment.

Vetoed March 15, 1929.

(H. B. No. 116—Committee on Game and Fish.)

GOVERNOR POWER OPEN AND CLOSE HUNTING SEASON

An Act to amend and re-enact Chapter 147, 1927 Session Laws, relating to powers conferred upon the governor to open and close seasons in any and all sub-divisions of the state when deemed necessary for the better protection of game birds, fish and animals, and for the publication of orders.

V E T O

March 15, 1929.

To the Honorable Secretary of State :

I herewith file House Bill No. 116 without my approval.

This bill amends and re-enacts Chapter 147 of the Session Laws of North Dakota for the year 1927, relating to the powers conferred upon the Governor to open and close the season for hunting purposes in any part of the state when deemed necessary for the better protection of game birds, fish and animals, and for the publication of such orders.

Under the present law, any order so promulgated by the governor shall only be valid until the date of the closing of the regular Session of the Legislature next succeeding its issuance. House Bill No. 116 is in all respects exactly the same as the original law, except that it eliminates the limitation just referred to. I can see no good reason for eliminating this provision. On the contrary, it seems to me that it is wise and proper that any orders issued by the Governor changing the seasons for the hunting of wild game, should not be in force beyond the next Session of the Legislature.

Respectfully yours,

GEO. F. SHAFER,

GFS:E

Governor.

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

§ 1. ADDITIONAL PROTECTION. GOVERNOR'S ORDERS.] Whenever the governor, after investigation and recommendation by the game and fish commission, finds that any species of game birds, fish or animals for which an open season is provided, are in danger of undue depletion or extinction, or when necessary for the proper protection during the propagating period, he may, by an order, provide protection for such species additional to that provided by law, and to that end may prescribe in what manner, in what number, in

what places and at what times the same may be taken. Provided further that whenever the governor, after investigation and recommendation by the game and fish commission, finds that any species of game birds, fish or animals has become sufficient in numbers to warrant an open season, he may by order declare an open season thereon, or extend the already open season as now provided by law, and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken. Any order issued by the governor pursuant to this act shall have the force of law, and the appropriate penalty now prescribed by law for the unlawful killing of game and be applicable to violations of any such order.

§ 2. PUBLICATION OF ORDERS.] All orders and rules and regulations affecting the entire state, as provided for herein, shall be published once in the official newspaper of each county affected by such orders. No order, rule or regulation shall take effect until after such publication.

Vetoed March 15, 1929.

(H. B. No. 135—Committee on Appropriations.)

APPROPRIATION—INCOME TAX REFUNDS

An Act making an appropriation to provide for the payment of income tax refunds in connection with income taxes assessed and paid under the 1919 income tax law for the years 1919 to 1922, inclusive.

V E T O

March 16, 1929.

To the Honorable Secretary of State:

I herewith file House Bill No. 135 without my approval.

This bill purports to appropriate the sum of \$56,000.00 out of the general funds in the State Treasury for the purpose of paying claims arising from the overpayment of income taxes assessed under the 1919 income tax law for the years 1919 to 1922 inclusive. I understand that this appropriation was passed for the purpose of refunding the sum of \$55,580.00 to the Ford Motor Company, being the amount of certain income taxes which it is said was in the year 1923 illegally collected by the State Tax Department and paid under protest by this company. The State Tax Commissioner has advised the Legislature that this refund is legally and justly due to the Ford Motor Company.

The bill, however, makes no reference to the Ford Motor Company, nor to the circumstances under which the claim arises. Owing to the size and character of the claim, and the long period of time during which it has been pending, I feel that it should not be paid by the State until its validity has been established in the Courts.

I also feel that in view of the aggregate appropriations passed by the recent Legislative Assembly, which are substantially more in amount than those made by any previous Legislature, the payment of this claim, if it is a valid one, should be deferred to another time.

Respectfully yours,

GEO. F. SHAFER,

Governor.

GFS:E

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

§ I. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of fifty six thousand dollars (\$56,000.00), or as much thereof as may be necessary for the purpose of paying claims arising from overpayment of income taxes assessed under the 1919 income tax law for the years 1919 to 1922, both inclusive.

Vetoed March 16, 1929.

(H. B. No. 184—Thatcher.)

PASSENGER MOTOR BOAT REGISTRATION

An Act for the regulation of motor boats not under federal regulations, carrying passengers; providing for inspection, registering of same, registering of operators, specifying equipment, etc.

V E T O

March 13, 1929.

To the Honorable Secretary of State:

I herewith file House Bill No. 184 without my approval.

House Bill No. 184 provides for the inspection and registration of all passenger motor boats operating on waters within North Dakota not under Federal Regulation, and for the licensing of each motor propelled boat operator. The administration of the provisions thereof, is placed in the hands of the Sheriff. I do not think there is sufficient motor boat traffic in this State to warrant the existence and enforcement of a law of this character; and if there

was, the Sheriff is not the proper officer to inspect boats and conduct examinations as to the qualifications of applicants for motor boat operators' licenses. The efficient enforcement of such a law calls for special knowledge and experience in lake and river navigation which the ordinary sheriff does not possess.

Very truly yours,

GEO. F. SHAFER,

GFS:E

Governor.

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

§ 1. Any motor or power-propelled boat having a passenger carrying capacity of six or more persons carrying persons for hire on waters within the limits of the State of North Dakota and not under federal regulations, shall, between the hours of sunset and sunrise, carry the following lights: A white light aft to show all around the horizon, and in the fore part of the vessel and lower than the white light, a green light to starboard and a red light to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

§ 2. Every such motor or power propelled boat carrying passengers for hire shall be provided with a whistle or other sound producing mechanical device capable of producing a blast of two or more seconds of continuous duration.

§ 3. Every such motor or power propelled boat carrying passengers for hire shall carry either life preservers, life belts, buoyant cushions, ring buoys or some other government approved device sufficient to float every person on board, and same shall be readily accessible at all times and not less than one for each passenger carried. There also shall be carried, at all times, proper approved fire extinguishers in a readily accessible location.

§ 4. All such motor or power driven boats shall be inspected annually on or before May 1st of each year by the sheriff, his deputy, or person deputized for this work, of the county in which said boat or boats are assessed. During inspection of said boat or boats, same shall be taken entirely out of the water and must be found to be perfectly seaworthy in every respect and properly equipped according to this act. Each boat so examined by the sheriff, his deputy, or person deputized for this work, shall be numbered as so inspected, which number shall be the number of the permit to operate said boat, and which number shall be conspicuously painted in blue figures on same, figures to be not less than three inches nor more than four inches in height.

§ 5. The sheriff shall issue a license to operate any such boat to any person applying for the same, upon being satisfied as to such person having the qualifications necessary to properly and safely operate such passenger boats, and shall require the payment of a license fee of one dollar (\$1.00) from each such applicant. No person shall operate such boat unless such person shall be licensed under the provisions hereof.

§ 6. It shall be the duty of the sheriff to keep accurate record of all boats so inspected or registered and licensed; to keep a record of owners of same and each and every person operating each boat. The sheriff shall collect a fee for such examinations of twenty-five cents (25c) for each person carried in said boat at its capacity, but in no case less than \$5.00, and in addition he shall collect a fee of fifty cents (50c) for each operator's license. All fees collected hereunder by the sheriff shall be paid into the county treasury and the sheriff shall receive mileage for any travel hereunder at the rate provided by law.

§ 7. Any person found guilty of violating the provisions of this act shall be subject to a fine of not to exceed \$25.00 or by imprisonment in the county jail for a period of not to exceed 30 days, or by both such fine and imprisonment.

§ 8. Nothing in this act shall be in conflict with any federal regulations. Any part or parts of this act so interpreted shall be null and void.

§ 9. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect on and after its passage.

Vetoed March 13, 1929.

(H. B. No. 19—Northridge and Hamilton.)

**PUBLIC WAREHOUSE—STORAGE AND DELIVERY CHARGES,
TERMINAL DELIVERY**

An Act to amend and re-enact Section 18 of Chapter 155 of the Session Laws of the State of North Dakota for the year 1927; providing for the regulation of storage and delivery charges of public warehousemen and providing for the form of receipts to be issued by such warehouseman.

V E T O

March 15, 1929.

To the Honorable Secretary of State:

I herewith file House Bill No. 19 without my approval.

This bill amends and re-enacts Section 18 of Chapter 155, of the Session Laws of North Dakota for 1927, relating to grain storage rates and delivery charges of public warehousemen.

Under the existing law, a public warehouseman may charge one-thirtieth of one cent per net bushel per day from date of delivery, but not to exceed ten cents per net bushel for one year; provided that if the stored grain is sold within twenty days no storage shall be charged. House Bill No. 19 would reduce such storage rate from one-thirtieth of one cent per net bushel per day to one-fortieth of one cent per bushel per day, and provides that no storage shall be charged for twenty days from date of delivery.

If the change made by this bill was limited to the twenty days' free storage feature, it would merit approval, but I do not feel that the reduction in the storage rate from one-thirtieth of one cent per net bushel per day to one-fortieth of one cent is justifiable under present conditions. The rate prescribed by this bill is less than the the storage rates now in force in all of our adjoining states, Minnesota, South Dakota and Montana. It is also less than the rates charged for storage by the Minnesota Terminal Warehouses where many of our North Dakota elevators re-store a considerable quantity of grain each year. It is my information that the Minnesota Terminal Warehouse storage rates are the same as those now authorized by law in this State; namely, one-thirtieth of one cent per net bushel per day, with a maximum of ten cents per year.

I do not know what is, or is not a reasonable storage rate from the standpoint of the cost of value of the service rendered, but it is clear to me that it is unfair to compel our elevators to receive grain in storage at a rate which is less than the rate which they are obliged to pay to re-store such grain in Minnesota Terminal Warehouses. I am reliably informed that North Dakota elevators had at one time as much as 16,000,000 bushels of grain in storage in terminal warehouses during 1928. To reduce our storage rates below those charged by these terminal warehouses, would, it seems to me, discourage North Dakota elevators from storing grain in the terminals, and encourage them to follow the old practice of immediately selling all grain stored with them and buying options on the future's market to protect their liability on outstanding storage tickets. I believe that actual storage on the farms and in terminal warehouses should, by all means, be encouraged wherever possible, and that fictitious storage be discouraged. It is well known that the adequate storage of our surplus grain crops is one of the important elements of orderly marketing, and that such principle will be incorporated in any Federal market stabilization program that may be adopted by the Special Session of Congress which is being called to deal with that very subject. Legislation such as House Bill No. 19, which penalizes the re-

storage of grain in the terminal centers is not in harmony with recent programs for the improvement of our grain marketing system, and should not, under present conditions, be adopted.

There is also considerable evidence that the storage rate prescribed in this bill, although only slightly lower than that provided in the existing law, is less than the actual cost to many elevators doing business in this state. If this is true, it is evident that any such loss would have to be made up at the expense of those patrons who are obliged to sell their grain at the time of delivery. Thus, farmers who are forced to sell at once, would be required to pay a part of the cost of warehousing for those who store their grain. This is a condition not to be desired.

I trust, however, that the next Legislature will authorize twenty days free storage. This is, I think, a fair provision in this law; but I cannot allow it to become a law without, at the same time, approving the reduction in the storage rate.

Respectfully yours,

GEO. F. SHAFER,

GFS:E

Governor.

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

§ 18. AMENDMENT.] STORAGE AND DELIVERY CHARGES. TERMINAL DELIVERY.] Every public warehouseman shall receive for storage, so far as the capacity of his warehouse will permit, all grain tendered to him without discrimination of any kind, provided, that such grain is sound and in a warehousable condition. Upon date of delivery of grain for storage a warehouse receipt shall be issued to the owner or his agent, which shall state the place and date when the grain was received, the name of the owner of the grain, the kind and grade of the grain according to the official standards established by the Secretary of Agriculture of the United States, the gross weight, dockage, and net weight of the grain as per North Dakota standard weight. All receipts shall be consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No receipt shall be issued except upon actual delivery of grain into such warehouse. No warehouseman shall insert in any such receipt any language in any wise limiting or modifying his liability as imposed by the laws of this state. Such receipt shall contain either on its face or reverse side the following specific warehouse and storage contract:

“This grain is received, insured and stored subject to the following charges: One-fortieth of one cent per net bushel per day

from date of delivery, provided, however, that no storage shall be charged for grain so stored for twenty days from date of delivery. Upon surrender of this receipt and payment or tender of a delivery charge per gross bushel of three cents on flax, two cents on wheat or rye, and two cents on other grains, and all other stated lawful charges accrued up to the time of said surrender of this receipt, the above amount, kind and grade of grain will be delivered to the person named above or his order as rapidly as due diligence, care and prudence will permit. At the option of the holder of this receipt, the amount, kind and grade of grain for which this receipt is issued shall, on his demand, be delivered back to him, at any terminal point customarily shipped to, or at the place where received, upon the payment of the above charges for receiving, handling, storage and insurance; and in case of terminal delivery, the payment in addition to the above, of the regular freight charges on the gross amount called for by this ticket, or in lieu thereof, a receipt issued by a bonded warehouse or elevator company doing business at such terminal point. Nothing in this receipt shall be construed to require the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade, shall be delivered to him."

Public warehousemen may also insert in the said receipt the following provision:

"If any of the grain embraced in this receipt shall prove to be covered by a chattel mortgage or other lien, or the partial or absolute title prove to be in some other than the person to whom this receipt was issued, the same shall, if discovered before the delivery of the grain, be sufficient reason for the refusal to deliver to the holder of the receipt, or if discovered after the delivery of the grain such delivery shall be deemed an over delivery for which said holder of this receipt, to whom such delivery is made, shall be accountable."

Provided, further, that grain placed in a special bin shall be excepted from the provisions of this section.

Vetoed March 15, 1929.

(H. B. No. 219—Committee on Education.)

REDUCTION TEACHERS ANNUITIES

An Act to amend and re-enact Section 1522 of the Compiled Laws of North Dakota, 1913, relating to annuities payable from the teachers' insurance and retirement fund.

V E T O

March 13, 1929.

To the Honorable Secretary of State:

I herewith file House Bill No. 219 without my approval.

This bill makes it the duty of the trustees of the Teachers' Insurance and Retirement Fund to make a reduction in the annuities now being paid to annuitants thereunder not later than October 1, 1929, and every five years thereafter, to make such reductions or increases in the annuities as the condition of that fund may warrant.

The Legislature at this Session has also passed and I have approved House Bill No. 234, providing for the appointment of a commission of five members which shall make a thorough study and investigation of the conditions of the Teachers' Insurance and Retirement Fund and report its findings and recommendations to the Governor for the information of the next Legislative Assembly.

Since the condition and the requirements of this fund is to be made a subject of thorough investigation by a special commission, I think it is best to delay adopting any new legislation affecting such fund until we have the benefit of the report and recommendations of such commission. House Bill No. 219 is at best only a temporary makeshift and not a permanent solution of the problem involving the future solvency of the fund. Furthermore, any general reduction made by the Board of Trustees pursuant to the provisions of this bill would work a hardship on many retired teachers of advanced years, or in a condition of physical disability, who are now dependent for their living upon the annuities received by them from the fund. These beneficiaries should be spared this loss if possible.

Very truly yours,

GEO. F. SHAFER,

Governor.

GFS:E

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

§ I. AMENDMENT.] That Section 1522 of the Compiled Laws of North Dakota, 1913, is hereby amended and re-enacted to read as follows:

§ 1522. TRUSTEES SHALL RATABLY DIMINISH ANNUITIES.] Not later than the first day of October, 1929, the board shall ratably reduce the annuities then being paid to the extent necessary in order that those who are then annuitants, and those who may thereafter become such, shall each receive the same proportion of the maximum annuities to which this article entitles them. The board, immediately upon this act becoming effective, shall determine the condition of the fund and the reductions necessary to be made in order to comply with the provisions hereof, and for that purpose may employ such actuary as the board shall deem necessary, the expense thereof to be paid from the appropriation heretofore made by law for the employment of an actuary by the board, and may require any necessary facts or information from all state, county, municipal and school district officers. At least once in every period of five years from and after the first day of July, 1929, the board shall make an investigation of the condition of the fund and shall make such ratable reductions or increases in the annuities being paid at the time of making such investigation as shall be necessary in order that those who are then annuitants and those who may thereafter become such shall each receive the same proportion of the maximum annuities to which this article entitles them. Provided that any present or future annuitant after reaching the age of 60 years, or who is or shall be retired for total disability shall receive from the fund not less than three hundred fifty dollars (\$350.00) per year.

Vetoed March 13, 1929.

NOTE—H. B. 18, relating to wolf, coyote, lynx and bobcat bounty vetoed and returned to legislative assembly prior to adjournment.