

money so collected shall be by him paid into the office of the County Treasurer at the end of each month and be placed to the credit of the general funds of the county.

§ 2. 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 9, 1931.

COURTS

CHAPTER 122

(S. B. No. 120—Cain, Sathre, Matthaei and Fowler.)

ADMINISTRATION TRUST ESTATES IN DISTRICT COURT

An Act providing for the supervision of the administration of trust estates in the District Court and for the adoption of rules of procedure in relation thereto.

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

§ 1. SUPERVISION OF TRUSTS.] The District Court of the County where trust property or some portion thereof is situated, other than property held by an executor, administrator, guardian, or assignee or trustee for the benefit of creditors, shall have jurisdiction to supervise the administration, by the trustee, of such trust property; and reference in this act to trusts, trustees and trust property shall be construed as in this section defined. In case such property is situated in more than one county the District Court of the county to which application is first made shall supervise the administration of such property. The procedure shall be by special proceedings which may include proceedings ancillary to like proceedings of a foreign court when such court has acquired prior and original jurisdiction over the person of the trustee and a part only of the trust property is within this state.

§ 2. ADOPTION OF COURT RULES.] The Supreme Court shall on or before the 1st day of July, 1931, establish rules of practice for the District Court in its supervision of the administration of trust properties over which it has jurisdiction, and prescribe the notice that shall be given of proceedings in the District Court relating to such trusts. Such rules shall require every trustee holding any property in this state in trust for the benefit of another otherwise than as executor, administrator, guardian, or assignee or trustee for the benefit of creditors, to file at stated intervals itemized accounts of his or its receipts and disbursements as such trustee, and reports of the sale, mortgaging, leasing or other disposition of trust property and investment of trust funds; and determine the procedure by which

persons interested in such trust may compel the filing of such accounts or the performance of his or its duty by a trustee; to regulate the practice and procedure in the matter of filing such accounts, reports or petitions and the securing of judicial approval thereof by orders of the District Court and the taking of appeals therefrom; and prescribe the procedure for filling any vacancy in the trust administration, for the removal of such trustee, and the appointment of his or its successor; and shall prescribe the practice and procedure for the adoption by the District Court of the orders and decrees of a foreign court, applicable by ancillary proceedings to trust property within this state, and provide the practice and procedure in respect of any other matter involved in the supervision of the administration of such trust and the exercise by courts of equity of supervisory jurisdiction over the same. The Supreme Court may at any time thereafter revise such rules and make such amendments thereto or such further rules as it may deem necessary to carry out the objects of this act; and the clerk of the Supreme Court shall, after the adoption of such rules or amendments, transmit a copy thereof to the clerk of the District Court of each county in the state who shall thereupon file and record the same as a public record. All rules so established shall have the force and effect of a statute and be binding upon all the courts having jurisdiction of such trust.

§ 3. PROCEEDINGS, HOW COMMENCED.] Any trustee, beneficiary or person interested in such trust may file with the clerk of the District Court a petition that the administration of the trust shall be therein supervised. Said petition shall be in form and substance as by court rules provided. Notice of hearing thereon shall be as by this act provided and such further or additional notice as by court rules may be prescribed, and the court, upon hearing, may enter its order that all further proceedings in supervision of the administration of such trust shall be had in the said court; provided, that the District Court of the county where any portion of the trust property is located, may, upon petition of any interested person, and upon like notice, adopt and confirm as the act of such District Court any order or decree of a foreign court with respect to the sale, mortgaging, lease or other disposition of real property of a trust within this State.

§ 4. TRIAL, CORRECTION OF MISTAKES, RELIEF FROM DEFAULT.] Any person interested in the trust may file written objection to any account, report or petition of such trustee before or at the time of hearing thereof. Any order of the court in such proceeding may be modified or vacated by the court on its own motion or on notice, to correct clerical errors or mistakes of calculation apparent on the face of the record; and, within six months after the entry of any order, the District Court may relieve any interested person from the same where such order has been taken against him through his mistake, inadvertence, surprise or excusable neglect.

§ 5. EFFECT OF ORDERS OF DISTRICT COURT.] Every order entered in such proceedings, upon due notice as herein and by the rules of the Supreme Court prescribed, shall have the force and effect of judgment, and, subject to appeal as in this act provided, and the provisions of Section 4 of this act, shall be binding upon all parties in interest resident within or without the state, known or unknown, ascertained and in being or otherwise; provided, that no order approving a trustee's account or directing or approving the disposition or investment of trust property or funds shall be entered except on hearing and after service of notice by mailing copy of the same at least ten days before the hearing to all beneficiaries of the trust at their postoffice addresses, respectively, as last known to the trustee, and, where there are or may be beneficiaries or interested persons, unknown or unascertained or resident without the state or whose postoffice address is unknown to the trustee, the notice as to such persons shall be served by publication of the same in a newspaper of the county at least once and ten days prior to the hearing; and provided, that the appearance of any interested person at the hearing, in person or by attorney, or by the guardian of a minor or person incompetent, shall render prior notice to him unnecessary; and any such person or guardian may waive the notice herein provided by a written waiver filed with the clerk of the District Court.

§ 6. REPRESENTATION OF MINORS AND INCOMPETENTS.] In such special proceedings the District Court may, in its discretion, appoint a special guardian or guardian ad litem for any minor or person of unsound mind; provided, that it shall be the duty of and within the judicial power of the District Court at all hearings to represent all minors or persons incompetent who may not appear by guardian, and all orders of the District Court shall be deemed to have been made in lawful representation of such persons and of persons not in being, individually or as a class.

§ 7. POWER OF TRUSTEE.] Every act of the trustee in contravention of the terms of the trust shall be absolutely void, unless the District Court, having jurisdiction of the supervision of the administration of such trust shall, by order, on notice and hearing as hereinbefore provided, authorize any such trustee to sell, mortgage, pledge, lease or otherwise dispose of or invest, trust property in such manner as may best accomplish the object and purpose of the trust, when it is made to appear to the satisfaction of the court that such order is necessary and for the best interest or benefit of the trust estate, or person or persons beneficially interested therein, or who may thereafter acquire an interest in the trust, and where it is further established to the satisfaction of the court that the trust instrument is lacking in adequate directions as to the disposition or investment of trust property, or that strict compliance with the terms of such instrument will tend to destroy the trust estate or create losses

of principal or income. A single hearing may be had upon, and notice thereof may include, any number of accounts, reports or petitions previously filed in the proceeding by the trustee or other interested persons.

§ 8. WHEN COURT ORDER REQUIRED.] Except as by Section 7 of this act or by statute specifically required, as in Sections 6307 or 6283 of the Compiled Laws, no judgment or order of the court shall be necessary to render effective and valid any act of the trustee lawfully performed within the terms of the trust. The intentment of this act shall be taken to provide a speedy and convenient means to apprise interested persons of the progress of the trust administration; to bring the same before the court for its direction of the trustee; and provide for prompt hearing upon and adjudication of the claims and objections of interested persons, and timely and conclusive approval or confirmation of the acts, accounts and reports of the trustee.

§ 9. APPEALS.] Any trustee, beneficiary or person interested in such trust, feeling aggrieved by any order of the District Court, made in such proceedings, may appeal from the same or any part thereof to the Supreme Court within six months after the filing of such order with the clerk of the District Court. Such appeal shall be taken in such manner, and upon such record and notice, as the Supreme Court may by rule provide, and a single appeal may include any number of orders made appealable by this section.

Approved March 11, 1931.

CHAPTER 123

(S. B. No. 181—Fowler.)

COMMITMENT DEPENDENT, NEGLECTED OR DELINQUENT FEEBLE MINDED CHILD

An Act to authorize the juvenile court to commit to the Institution for the Feeble Minded any feeble minded, dependent, neglected or delinquent child.

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

§ 1. When in any proceeding instituted in Juvenile Court it shall appear to the satisfaction of the court that the child involved in the proceeding is dependent, neglected or delinquent and is also feeble-minded, the said Juvenile Court shall have authority to make an order committing such child to the Institution for the Feeble-minded. The procedure provided in this act shall not be exclusive, but in addition to the mode now provided by law for commitment of feeble-minded children to the Institution for the Feeble-minded. In any proceeding involving a dependent, neglected or delinquent child, the Juvenile Court, instead of determining whether such child is

feeble-minded, may direct that proceedings be had before the commissioners of insanity of the proper county for determination of such question.

Approved March 11, 1931.

CHAPTER 124

(S. B. No. 42—Whitman by Request.)

COSTS CIVIL ACTION COUNTY COURT

An Act to amend and re-enact Section 8957, Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 8957 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8957. Costs.] When the prevailing party in a civil action has appeared therein by an attorney duly authorized to practice in the Courts of this State, costs and disbursements shall be allowed and taxed as provided by the Code of Civil Procedure and all the provisions of Chap. 14 of the Code of Civil Procedure shall be applicable to civil actions tried or commenced in the County Courts of this State.

Approved March 9, 1931.

CHAPTER 125

(H. B. No. 261—Halvorson.)

REGULARLY CALLED JURY TO SERVE IN ANY CASES
PENDING

An Act authorizing the District and County Courts of the County in which there is a County Court of Increased Jurisdiction to make use of the jury regularly called and selected for service in either court in the trial of any cases then pending and ready for trial by a jury in said court and vice versa.

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

§ 1. That in all Counties wherein there is a County Court having increased jurisdiction, and a jury has been ordered, drawn and summoned for the trial of cases in said court pursuant to the provisions of Article 12 of the Political Code of North Dakota for the year 1913, and Acts amendatory thereof, by either the District Court or the County Court in and for said County; and there shall be a term of Court duly and regularly called or held in one of said courts in which the said jury or any jury has not been so ordered, drawn and summoned and while the said jury is in attendance in the court by which summoned at the election of the court wherein no

jury has been so summoned, and upon its Order, the jurors so summoned, selected and in attendance in the other court may be used by the court not calling the same in the trial of any and all actions and proceedings, civil and criminal, without a new jury being ordered, selected and summoned pursuant to the provisions of the law of this State with reference to the ordering, selecting and summoning of juries.

Approved March 11, 1931.

CHAPTER 126
(H. B. No. 231—Cox.)

DUTIES SUPREME COURT REPORTER AND STATE LAW
LIBRARIAN

An Act to amend and re-enact Section 7 of Chapter 211 of the Session Laws of the State of North Dakota for the year 1919 (Section 737a7, Supplement to the Compiled Laws of 1913) relating to the duties of the Supreme Court Reporter and State Law Librarian and the distribution and sale of Supreme Court Reports, and prescribing the purchase thereof by the different counties, and by the Board of Administration.

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

§ 1. AMENDMENT.] That Section 7 of Chapter 211 of the Session Laws of the State of North Dakota for 1919 (Section 737a7, Supplement to the Compiled Laws of 1913) be and the same hereby is amended and re-enacted to read as follows:

§ 737a7. Such Supreme Court Reporter shall have power and authority subject to the direction and control of the Supreme Court and under the rules and regulations as it may prescribe to sell and dispose of copies of such official reports at not less than the cost thereof to the public and to each county in this State, and it shall be the duty of every county in this State through its County Auditor to receive at least four copies of such official report and to make payment of the same at the rate prescribed by the Supreme Court Reporter. It shall also be the duty of the Board of Administration to purchase and receive fifty copies of such official reports. The Board of Administration shall pay for the reports so received and purchased by it at the same rate paid by the different counties; and it shall cause the reports so purchased to be transmitted and delivered to the University of North Dakota for use of the library of the Law Department of such University. Likewise, such Reporter shall distribute such official reports to each Judge of the Supreme Court and each of the Judges of the District Court in this State, the United States Attorney for North Dakota and Attorney General for the State, the Librarian of Congress of the United States, the Librarian of the Supreme Court of the United States, the Attorney General of the United States and the Governor of this State, and

shall further be empowered to make exchanges of such official reports for the official reports of the Courts of other states. All money received from the sale of such official reports shall be paid to such Reporter and shall be covered by him monthly into the State Treasury to be kept in a special fund to be known as the Supreme Court Reporter Fund. All disbursements shall be made in connection with publication of such official reports and to such Fund shall be covered and kept the Legislative appropriation made for the printing, publication and distribution of such official reports.

Approved March 9, 1931.

CRIMES AND PUNISHMENTS

CHAPTER 127

(S. B. No. 245—Delayed Bills Committee.)

DIVULGING TELEGRAPHIC OR TELEPHONE MESSAGES

An Act to amend and re-enact Section 10078 of the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 10078 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 10078. DIVULGING TELEGRAPHIC OR TELEPHONE MESSAGES.] Every person who shall wrongfully obtain, or attempt to obtain, any knowledge of a telegraphic or telephonic message, by connivance with a Clerk, Operator, Messenger or other employee of a telegraph or telephone company, and every Clerk, Operator, Messenger or other employee who shall wilfully divulge to any but the person for whom it was intended, the contents of any telephonic message or any telegraphic message entrusted to him for transmission or delivery, or the nature thereof, or who shall wilfully refuse or neglect duly to transmit or deliver any such message, shall be punished by imprisonment in the County Jail for not more than six months, or by a fine of not more than \$1000.00, or by both.

§ 2. REPEAL.] All acts or parts of acts in conflict with this Act, are hereby repealed.

Approved March 11, 1931.