

Dakota, and the Adjutant General of the State of North Dakota, or a majority thereof. Any person to be eligible for appointment as such Commissioner shall be an actual and bona fide resident of North Dakota, and shall possess an honorable discharge either from the Navy, Army or Marine Corps of the United States Government.

§ 2. REPEAL.] Chapter 74 of the Session Laws of 1929 and all Acts and parts of Acts in conflict herewith are hereby repealed.

§ 3. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,085.00, or so much thereof as may be necessary, to pay salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and Acts amendatory thereof:

Salary	\$ 4,800.00
Clerkhire:	
Secretary	2,160.00
Extra Clerk	600.00
Postage	600.00
Office Supplies	300.00
Furniture and Fixtures	150.00
Printing	75.00
Miscellaneous	300.00
Travel Expense	800.00
Rent	300.00
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TOTAL	\$10,085.00

Approved March 5, 1937.

WATER CONSERVATION

CHAPTER 255

H. B. No. 125—(Hagen and Jensen)

IRRIGATION

An Act to provide for the creation, the powers, the duties, the authority and the jurisdiction of the State Water Conservation Commission; prescribing its powers and duties to investigate, plan, regulate, control, and supervise for all purposes of flood control, water conservation, water irrigation, water rights, and pollution of water, all public or private navigable or non-navigable, surface and sub-surface, waters, streams, lakes, ponds, water-courses, surface waters, run-off waters, and water-sheds, located in or within the jurisdiction of the State of North Dakota and to exercise powers of contracting, of sale and of purchase, and of leasing and sub-leasing with respect thereof; providing for the construction, operation and maintenance

of a system of works for the conservation, development, storage, distribution and utilization of water, and for the acquisition and disposition of property necessary therefor; authorizing the issuance and sale of water conservation revenue bonds of the State, payable from the revenues of such works and the funds received from the sale or disposal of water and from the operation, lease, sale or other disposition of the works, property, and facilities to be acquired out of the proceeds of such bonds; providing for the lien upon bond proceeds, for exempting property of commission from taxation; providing for trust indentures; providing for the creation of certain funds in connection with the Act; providing for necessary help and expenses; providing for contracts with the United States; with political sub-divisions of the State, with associations, groups, and persons, providing for powers and duties concerning Inter-state Compacts and Commissions; providing for the purchase and condemnation, and otherwise to acquire lands and water rights and for the sale and lease thereof; making an appropriation; providing for the creation of a revenue bond payment fund; providing duties of State agencies acting Intra-state, concerning water conservation, flood control and pollution of waters and providing duties of State agencies concerning Inter-state compacts with respect to water conservation, flood control and pollution of waters; providing for the collection and payment of moneys into said fund and disbursements therefrom; for methods of paying principal and interest thereon by State Treasurer; providing for levy of tax, if necessary, to pay principal and interest of revenue bonds, and reimbursement of such levy, and to provide that the State Water Conservation Commission may mortgage property; and designating said Water Conservation Commission as a public corporation and agency of the State; and to grant additional powers to the Commission concerning irrigation, the sale and lease of water, and water rights; to borrow moneys; providing for authority of Bank of North Dakota to act as fiscal agent, to purchase and sell revenue bonds and to make loans; repealing inconsistent Acts and declaring an emergency.

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

§ 1. WATER CONSERVATION, FLOOD CONTROL AND ABATEMENT OF STREAM POLLUTION DECLARED A PUBLIC PURPOSE.] It is hereby declared that the general welfare and the protection of the lives, health, property and the rights of all people of this State require that the conservation and control of water in this State, public or private, navigable or un-navigable, surface or, sub-surface, the control of floods, the regulation and prevention of water pollution involve and necessitate the exercise of the sovereign powers of this State and are affected with and concern a public purpose.

It is hereby further declared that any and all exercises of sovereign powers of this State in investigating, constructing, maintaining, regulating, supervising, controlling any system of works involving the aforesaid subject matter embraces and concerns and is hereby declared to be a single object, and that the State Water Conservation Commission in the exercise of all powers conferred upon it herein, and in the performance of all its official duties, shall be considered and construed to be performing a governmental function pursuant

to a single object and for the benefit, welfare and prosperity of all the people of this State.

§ 2. DEFINITIONS.] As used in this Act, the following words and terms shall have the following meanings:

(a) The word "Commission" shall mean the State Water Conservation Commission hereinafter created.

(b) The word "Works" shall be deemed to include all property, rights, easements, and franchises relating thereto and deemed necessary or convenient for their operation, and all water rights acquired or exercised by the Commission in connection with such works, and shall embrace all means of conserving and distributing water, including without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, lateral ditches, pumping units, mains, pipelines and waterworks systems, and shall include all such works for the conservation, development, storage, distribution and utilization of water including, without limiting the generality of the foregoing, works for the purpose of irrigation, watering stock, supplying of water for public, domestic, industrial, recreational, fire protection and other uses and works, for the purpose of draining lands injured or in danger of injury as a result of such water utilization.

(c) The term "Cost of Works," shall embrace the cost of construction, the cost of all lands, property, rights, water rights, easements and franchises acquired, which are deemed necessary for such construction, the cost of all water rights acquired or exercised by the Commission in connection with such works, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding three (3) years after the completion of construction, cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction of the works and the placing of the same in operation.

(d) The word "Owner" shall include all individuals, associations, corporations, districts, municipalities and other political subdivisions of the State having any title or interest in any properties, rights, water rights, easements or franchises to be acquired.

(e) The word "Project" shall mean any one of the works hereinabove defined or any combination of such works which are physically connected or jointly managed and operated as a single unit.

(f) In case any water rights shall be acquired or exercised by the Commission in connection with two or more works and/or projects, the Commission by resolution shall apportion or allocate to each of such works and/or projects such part of such water rights

as it may determine, and upon the adoption of such a resolution, such water rights shall be deemed to be a part of each of such works and/or projects to the extent that such water rights have been so apportioned or allocated thereto respectively.

§ 3. CREATION OF STATE WATER CONSERVATION COMMISSION.] There is hereby created a Commission to be known as the "State Water Conservation Commission." The Commission shall consist of the Governor, and six other members to be appointed by the Governor. Each appointive member shall be a qualified elector of the State and shall be subject to removal by the Governor, for cause. In case of death, the resignation, or removal of such appointive member, the vacancy shall be filled by appointment by the Governor. The Governor shall appoint two members for a term of two years; two members for a term of four years; and two members for a term of six years, ending July 1st in each of the years 1939, 1941 and 1943, inclusive. Thereafter each new member shall be appointed and serve for a term of six years. Before entering upon the discharge of his official duties, each appointive member shall take, subscribe, and file with the Secretary of State his oath prescribed by the Constitution for the fulfillment of his duties as Commissioner.

The Governor shall be the Chairman of the Commission, which shall designate a Vice Chairman and a Secretary who may, but does not necessarily need be a member of the Commission.

§ 4. MEETINGS OF THE COMMISSION.] The Governor, as Chairman, shall preside at all meetings of the Commission and in case of his absence or disability, the Vice Chairman shall preside. The Commission shall maintain its principal office in the City of Bismarck and may maintain such branch offices in the State as it may determine. All meetings of the Commission shall be held at its principal office except that the Commission may hold special meetings at such times, places, and upon such notice as it may by resolution provide.

Notice of any meeting of the Commission may be given by telegram to members of the Commission at least 48 hours before the meeting, or by written notice sent to each member of the Commission at least three days before the meeting, but no notice shall be necessary for any member who has personally signed Admission of Notice and consent to holding the meeting. The majority of the members shall constitute a quorum, and the affirmative or negative vote of four members shall be necessary to bind the Commission, except for adjournments. The Chairman, or in his absence or disability, the Vice Chairman of the Commission may issue a call for any meeting at any time.

§ 5. COMMISSION A BODY CORPORATE AND AGENCY OF STATE.] There is hereby created a Commission to be known as the "State Water Conservation Commission" which shall act as a public corporation with all of the powers and authority possessed by such

corporation in the performance of their duties. The Commission may sue and be sued, plead and be impleaded, and contract and be contracted within its corporate name. The Commission in the exercise of all its powers and in the performance of all of its duties shall be deemed to be an agency of the State. The Commission shall have and adopt a seal bearing its name, which seal shall be affixed to such records and other instruments as it may direct, and all Courts shall take judicial notice thereof. It shall have power and is authorized to adopt and enact all rules, regulations, resolutions and by-laws deemed suitable and necessary in the conduct of its business and the performance of its duties. It shall keep accurate minutes and record of all of its acts which at all reasonable times shall be open for public inspection and which it may cause to be published as it may deem desirable.

§ 6. COMPENSATION AND EXPENSES OF COMMISSION.] Each appointed member of the Commission shall receive, as compensation for his services the sum of Ten Dollars (\$10.00) per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the place at which he performs such duties, together with actual traveling and maintenance expenses while away from his home in the performance of the duties of his office.

§ 7. EMPLOYMENT OF NECESSARY HELP.] The Commission is authorized and empowered to hire and employ all necessary aid, help, and assistance, including members of all of the professions, for the efficient performance of their powers and duties, and shall fix their compensation and allowances for their actual expenses, and in so doing the Commission shall be guided by the compensation and allowance for expenses permitted and made by the Federal Government for the performance of similar service by Federal employees and agencies. All claims for compensation and expenses made by the Commissioners, their agents, and employees, must be itemized as required by laws of this State and must be presented to the State Auditor and allowed by the State Auditing Board, for payment. In all matters pertaining to water resources, water supply, and construction of reclamation projects, and in all other matters relating to the duties of the State Engineer as now provided by law, the State Engineer shall be the chief technical adviser of the Commission. The State Engineer shall exercise such powers and perform such duties, in addition to his regular duties as State Engineer, as the Commission shall direct or prescribe, and he shall receive and be paid such additional salary for such additional services as may be fair and reasonable to be fixed by the Commission.

The Commission is authorized and directed to co-operate with the North Dakota State Planning Board and to employ such of the personnel of that Board as may be deemed desirable in the plan-

ning of projects for the efficient utilization of the waters of the State.

§ 8. POWERS AND DUTIES OF THE COMMISSION.] The Commission shall have and there is hereby vested in it full and complete power, authority and general jurisdiction:

(1) To investigate, plan, regulate, undertake, construct, establish, maintain, control and supervise all works, dams and projects, public and private, which in the judgment of the Commission may be necessary or advisable:

(a) To control the low-water flow of the streams of the State.

(b) To impound water for the improvement of municipal and rural water supplies.

(c) To control and regulate flood flow in the streams of the State to minimize the damage of such flood waters.

(d) To conserve and develop the waters within the natural water-shed area of the State.

(e) To improve the channels of the streams for more efficient transportation of the available water in the streams.

(f) To provide sufficient water flow for the abatement of stream pollution.

(g) To develop, by restoration and stabilization, the water areas of the State for recreation and wild life conservation.

(h) To promote the maintenance of existing drainage channels in good agricultural lands and to construct any needed channels.

(i) To provide more satisfactory sub-surface water supplies for the smaller towns of the State.

(j) To improve the condition of water flow where advisable for the production of hydro-electric energy.

(k) To generate and transmit hydro-electric energy to consumers.

(l) To provide for the storage, development, diversion, delivery and distribution of water for the irrigation of agricultural land.

(m) To provide for the drainage of lands injured by or susceptible of injury from the utilization of irrigation water.

(n) To provide water for stock.

(o) To provide water for mining and manufacturing purposes.

(2) To define, declare and establish rules and regulations:

(a) For the sale of waters and water rights to individuals, associations, corporations, and political sub-divisions of the State, and for the delivery of water to users.

(b) For the full and complete supervision, regulation and control of the water supplies within the State.

(c) For the complete supervision and control of acts tending to pollute water courses, for the protection of the health and safety of the people of the State.

(d) For the transmission, sale and distribution of electrical power incidental to the construction, establishment and maintenance of private and public works.

(3) To exercise full power and control of the construction, operation and maintenance of works and collection of rates, charges and revenues realized therefrom.

(4) To sell, lease and otherwise distribute all waters which may be developed, impounded and diverted by the Commission under the provisions of this Act for the purpose of irrigation, development of power, watering of livestock and for any other private or public use.

(5) To exercise all rights, power and authority, express and implied, that may be necessary and to do, perform and carry out all of the expressed purposes of this Act and of all purposes reasonably implied incidental thereto or lawfully connected therewith.

In planning and constructing irrigation projects it shall be the policy of the Commission to give preference to the individual farmer or groups of farmers or irrigation districts who intend to farm the land themselves.

It shall be the duty of the Commission to keep full and complete accounts and records of all matters and things relating to works and projects undertaken, established and maintained by the Commission; to prepare annual balance sheets, income, and profit and loss statements, showing the financial condition of each project, and to file copies thereof with the Secretary of State for public inspection at all reasonable times by any interested parties or citizens of the State.

Upon application by any landowner, or holder of any easement, or holder of any lease of five or more years duration, or of any group or association of such landowners, easement holders, or leaseholders, the Commission shall make such preliminary engineering, soil survey and other investigations as may be necessary to determine the feasibility of any proposed project, provided that such applicant submits, with his application, such fees as the Commission shall establish for projects of different classes.

Following such preliminary survey and upon further application by the applicant or applicants aforesaid, the Commission shall enter into a contract with such applicant or applicants for a complete engineering, soil survey and other investigations of said project, the soil survey to meet such standards as are now or may hereafter be prescribed by the Bureau of Chemistry and Soils of the Federal Government and/or the North Dakota Agricultural College, and the

engineering survey to be of sufficient detail and quality to enable the applicant to comply with the requirements now made, or which may hereafter be made, for obtaining a permit to appropriate water, and which will enable any competent contractor to estimate costs and quantities of material needed within reasonable limits and to install such project without further engineering service.

The contract for such engineering service between the applicant and the Commission shall require the Commission to pay not more than 75 per cent of the cost of such detailed engineering survey and the drawing of the necessary plans and specifications, with not less than 25 per cent to be paid by the applicant.

In any irrigation project undertaken by the Commission serving a single individual, or a group of individuals owning irrigable lands which in the aggregate shall not exceed 120 acres, the works of the Commission may include preparation of the land for irrigation.

§ 9. No dam exceeding ten (10) feet in maximum height, or capable of impounding more than thirty (30) acre-feet of water, shall be constructed in the State, either in a watercourse or elsewhere, without the prior written approval of the Commission. Before granting such approval the Commission shall require the person or organization proposing to construct such dam to file plans and specifications satisfactory to the State Engineer. The State Engineer may inspect such work during construction and require any changes necessary to insure its safety and the safety of life and property.

No sewage disposal plant or works for the water supply of any municipality shall be constructed without the prior approval of the Commission, which shall be granted only upon the approval of the State Health Department; provided, however, that nothing in this Section shall be construed as repealing or affecting any of the laws of this State relating to the functions of the State Health Department.

The provisions of this Section shall not apply to any works constructed by or under the supervision of the United States or any of its officers or employees.

§ 10. ACQUISITION OF NECESSARY PROPERTY AND POWER OF CONDEMNATION.] The Commission shall have full power and authority:

(1) To acquire by purchase or exchange, upon such terms and conditions as it may deem necessary and proper, and/or by condemnation in accordance with and subject to the provisions of all existing laws applicable to the condemnation of property for public use, any lands, rights, water rights of whatever character, easements, franchise and other property deemed necessary or proper for the construction, operation and maintenance of works. Provided, that nothing herein shall be construed to require the Commission,

in condemning any riparian water right, to condemn also the riparian land to which such right may be incident. The title to all property purchased, acquired or condemned shall be taken in the name of the Commission and held in trust for, and for the use and benefit of the people of the State.

(2) To institute, maintain and prosecute to final determination in any of the Courts of this or any other State, or in any of the Federal Courts, any and all actions, suits and special proceedings that may be necessary:

(a) To enable it to acquire, own and hold title to lands for dam sites, reservoir sites, water rights, easements, rights-of-way for diversion and distributing canals, lateral ditches and other means for the distribution of waters in this State, and for any other necessary purposes.

(b) To adjudicate all water rights upon any stream, water course, or source of water supply from which is derived the waters for such reservoir, diversion and distributing canals, lateral ditches and other means of distribution.

(c) To join any and all owners of vested water rights acquired by any person, association or corporation, so that adjudication may be had of all surplus water upon all of the water courses and sources, water supplies or any projects constructed under the supervision and control of the Commission.

(d) To join all persons interested, as parties, in all actions or condemnation proceedings affecting the title of or holding liens upon the property sought to be acquired as disclosed by the public records and the Court in such actions or special proceedings shall implead all parties necessary for a full and final determination of all issues, upon their merits, for the partition and distribution of damages awarded, if any, among such persons in such interests as their rights are made to appear or determined. In the event of controversy between such parties the Court may direct the amount of damages awarded to be paid in or deposited with the Clerk of Court to abide the result of further appropriate proceedings either in law or in equity. The taking possession of property sought to be condemned shall not be delayed by reason of any dispute between rival claimants or the failure to join any of them as parties to such actions or condemnations proceedings.

§ II. CO-OPERATION AND CO-ORDINATION WITH ALL EXISTING AGENCIES.] The State Water Conservation Commission is hereby authorized and empowered to investigate, plan, co-operate and make all contracts or compacts necessary or requisite:

(1) With the United States and any department, agency or officer thereof; (2) With the States of Minnesota, South Dakota and Montana, or any one of them, and with any department, agency or officer of any said State; (3) With the Dominion of Canada or any of its provinces and; (4) With any other agency or depart-

ment or officer of either of them, who may be concerned, or authorized, empowered and covering or involving water conservation, flood control, water pollution, irrigation, soil reclamation, or concerned with any of the powers or duties by this Act imposed upon the Commission for any of the purposes expressed herein.

This power herewith so granted shall extend to all waters, whether considered as intrastate or interstate. The Water Commission is specially authorized and empowered to co-operate with the United States or any of its agencies concerned with investigation, planning, conserving, utilizing, developing, and handling water in any form for purposes of water conservation, flood control, prevention of water pollution or soil reclamation, or with any other resources of the State, and concerned with the administration of the Public Works Program of the State or any part thereof; and it is further authorized to act and to fully contract with the United States, or with any department, agency or officer thereof with full power of purchase, sale, or lease for carrying out, developing, or administering any Federal project within the State of North Dakota, or partly within the State, and also to accept and to use any funds provided by the United States or any agency thereof for any such purposes.

§ 12. DUTIES OF STATE AGENCIES ACTING THROUGH INTERSTATE COMPACTS OR AGREEMENTS.] Every State officer, department, board, and commission heretofore or hereafter authorized by any law of this State to act upon or be concerned with any interstate commission or involving any interstate compact or upon any foreign commission involving any foreign compact, or with any Federal agency or department of the United States, the subject matter of which in any way concerns or involves water conservation, flood control, irrigation, water pollution or contamination, or the exercise of the powers and duties herein granted to the Commission, shall first submit to the Commission its plans, purposes, and contemplated action and receive the approval of the Commission therefor before making any agreement, contract, purchase or sale, or lease, for any of said purposes. The Commission is authorized and empowered to give its aid and assistance to any State agency so acting with respect to any interstate compact including the Tri-State Waters Commission.

§ 13. DUTIES OF STATE AGENCIES CONCERNED WITH INTRASTATE USE OR DISPOSITION OF WATERS.] It shall be the duty of every State officer, department, board, and commission heretofore or hereafter authorized by any law of this State, to take any action, perform any duties, or make any contract which concerns the use or disposition of waters, or water rights, within this State to first submit to the Commission any plans, purposes and contemplated action with respect to the use or disposition of such waters, and thereupon first receive the consent and approval of the Commission

before making any agreement, contract, purchase, sale, or lease to carry into execution any works or projects authorized under this Act.

§ 14. DUTIES OF PRIVATE PERSONS, AGENCIES AND ORGANIZATIONS.] It shall be the duty of any and all persons, including corporations, voluntary organizations, and associations, when concerned with any agreement, contract, sale, or purchase, or the construction of any works or project which involves the use and disposition of any water, or water rights under the jurisdiction of the Commission, to present to the Commission all proposals with respect to the use or disposition of any such waters before making any agreement, contract, purchase, sale, or lease in respect thereof.

§ 15. SPECIAL POWERS OF COMMISSION COVERING PLANS AND APPROPRIATIONS OF WATER AND IRRIGATION.] The Water Conservation Commission is herewith empowered and authorized to make plans, investigations, and surveys concerning the use of any and all waters, either within or without this State, for purposes of establishing, maintaining, operating, controlling, and regulating systems of irrigation works and projects in connection therewith within the State. The Commission shall have all necessary powers of purchasing and selling, leasing and assigning, rights and interests in the use or in the appropriation of waters concerned with such systems of irrigation projects or works in connection therewith and shall possess full authority and jurisdiction to exercise and assert actual possession over the corpus of all of such waters, and to secure control and regulation of the diversion thereof subject to rules and regulations and methods prescribed by the Commission. This power and authority shall include full right to contract and agree with any person, association, or agency concerning water rights possessed by them through which the Commission may be given full authority and jurisdiction over such water and water rights. In connection therewith the Commission may co-ordinate, subordinate, supplement and act jointly or subordinately with the United States and any Federal agencies or department thereof covering or concerning any Federal project affecting water use, works or projects in connection therewith.

§ 16. It is hereby declared that the Commission shall have full control over all public waters of the State now unappropriated, whether above or under the ground, to the extent necessary to fulfill the purposes of this Act.

In acquiring the rights and administering the terms of this Act herein prescribed and established, the Commission shall not be limited to the terms of the statutes of the State of North Dakota relating to water rights heretofore enacted; but, in addition thereto, may initiate a right to the waters of this State by executing a declaration in writing of the intention to store, divert, or control the unappropriated waters of a particular body, stream, or source, designat-

ing and describing in general terms such waters claimed, means of appropriation and location of use, and cause said notice to be filed in the office of the State Engineer, which right shall vest in such Commission on the date of the filing of such declaration. The Commission shall also file in the office of the State Engineer copies of its plans and specifications involved in completing all appropriations of water.

The priority of right shall date and continue from the time of such filing or recording, provided, the means of actual appropriation shall be commenced by actual work of construction within two (2) years from the date of original recording. Change in means or place of diversion or control shall not affect the right of priority, if others are not thereby injured.

It shall be the duty of the Commission, if it shall modify its plans in connection with any proposed project, concerning which the Commission shall have filed a declaration of intention to appropriate waters, to file in the office of the State Engineer a declaration releasing all or part of the waters affected by such declaration.

Upon completing the construction of works and application to beneficial use of the waters described in such declaration, the Commission shall file in the office of the State Engineer a declaration of completion of the appropriation, reciting the matters contained in the original declaration of intention to appropriate.

A certified copy of the record of such declaration of intention to appropriate, or of release of all or part of said waters, or of completion of appropriation, shall be received as competent evidence in all Courts and deemed to be prima facie proof of all matters therein recited.

§ 17. The right of the Commission to the waters within the State of North Dakota so acquired as hereinbefore provided for the purposes defined in this Act shall attach at and from their source and while flowing in the streams, traveling to the means of control as well as when actually confined by such means. The authority and jurisdiction of the Commission shall continue over said waters after they are released for purposes of use and shall continue to such places of use, and the Commission through and by officers and agents acting under its authority may continue to exercise and assert actual possession over the corpus of such waters and prevent the diversion thereof without permission first obtained. The Commission may reclaim and possess all waters furnished or supplied by it seeping or overflowing from the previous place of use.

§ 18. Wherever natural streams are employed as a means of diversion of water from the place of confinement to the place of use, the Commission shall adopt proper methods and means of determining the natural flow of such streams when the amount of such natural flow is insufficient to satisfy or fill the needs of appropriators prior in right.

All appropriators of the natural flow of said streams shall maintain headgates and measuring devices at their respective points of diversion for the purpose of enabling the Commission or its authorized agents to determine the amount of water being diverted at any time, and authority is hereby conferred upon the Commission to adopt and exercise any method or act to prevent the diversion of any waters owned by it without permission first obtained.

Any person owning a water right on said stream may agree with the Commission that it shall have control of the diversion of the waters due under such right, and, in such event, the Commission through its officers and agents may exercise the same authority over the waters due said appropriator and cause them to be delivered to him in the same manner as waters appropriated by the Commission.

§ 19. For that purpose of obtaining financial aid from the United States of America, the Commission may adjust the plans and operation of any project, created under this Act, to conform to the laws and regulations of the Federal Government and the supervision of any board, bureau or commission constituted under such authority, and may exercise such powers whenever conferred.

§ 20. The authority of the Commission conferred by the provisions of this Act shall extend and be applied to any and all rights to the natural flow of the waters of this State which it may acquire by condemnation, purchase, exchange, appropriation or agreement.

For the purpose of regulating the diversion of such waters, the Commission may enter upon the means and place of use of all appropriators for making surveys of respective rights and seasonal needs.

The Commission shall take into consideration the decrees of the Courts of this State having jurisdiction, which purport to adjudicate the waters of any such stream or its tributaries, and a fair, reasonable, equitable reconciliation shall be made between the claimants asserting rights under different decrees and between decreed rights and asserted rights of appropriation not adjudicated by any Court.

The Commission, at its discretion, may hold hearings relating to the rights of respective claimants after first giving such notice as it deems appropriate, and make findings of the date and quantity of appropriation and use of all claimants, which the Commission shall recognize and observe in diverting the waters which it owns. The Commission may police and distribute to the owner of any such recognized appropriation the waters due him upon request of such owner and under terms agreed upon.

The Commission, when engaged in controlling and diverting the natural flow of any stream under the authority granted by this Act, shall be deemed to be exercising a police power of the State of North Dakota, and Water Commissioners appointed by any Court

shall not have any authority or jurisdiction to deprive the Commission of any of the waters owned or administered under agreement with respective owners, provided the owner of any prior or vested right contending that the Commission is not recognizing and respecting such right may resort to a Court of Law or equity for the purpose of determining whether or not the rights of said claimant have been invaded and the Commission shall observe the terms of such final decree.

On the Commission's impounding or acquiring the right of appropriation of the waters of any stream, it may divert or authorize the diversion at any point on said stream, or any portion thereof, when the same may be done without injury to any prior appropriator or riparian owner whose rights shall not have been acquired by the Commission as provided in this Act.

Nothing herein contained shall repeal, amend, or modify any existing Acts or statutes pertaining to the appropriation or use of water except as herein otherwise provided, and nothing herein contained shall be deemed to interfere with any vested rights to the use of water.

§ 21. WATER CONSERVATION REVENUE BONDS.] The Commission is hereby authorized to provide, by resolution, at one time or from time to time, for the issuance of Water Conservation Revenue Bonds not exceeding a total of Three Million Dollars for the purpose of paying the cost as hereinabove defined of any one or more such public works, the principal and interest of which bonds shall be payable from the special fund herein provided for such payment. Such bonds shall mature at such time, or times, either serially or at one time, in not more than thirty (30) years from their date, or dates, as may be fixed by such resolution, but may be made callable before maturity, if so stated in the resolution and on the face of each bond, at 105 per cent of the par value, on any interest paying date, upon thirty days notice, which shall be published once in a newspaper of general circulation in Burleigh County. The Board shall determine the rate of interest such bonds shall bear, not exceeding five per centum (5%) per annum, the time, or times, of payment of such interest, the form of the bonds and the interest coupons to be attached thereto, and the manner of executing the bonds and coupons, and shall fix the denomination, or denominations, of the bonds and the place, or places, of payment of principal and interest thereof, which may be at any bank or trust company within or without the State. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. All such bonds shall be and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State. Such bonds shall

be secured by the revenues of such works and the funds received from the sale or disposal of water and from the operation, lease, sale or other disposition of the works, property and facilities to be acquired out of the proceeds of such bonds and as hereinafter provided.

Provisions may be made for the registration of any of the bonds in the name of the owner as to principal alone or as to both principal and interest. The bonds authorized under the provisions of this Act may be issued and sold from time to time, and in such amounts as may be determined by the Commission and the Commission may sell the bonds in such manner and for such price as it may determine to be for the best interests of the State, but no such sale shall be made for less than par value of each bond. The proceeds of such bonds shall be used solely for the payment of the cost of the works and shall be checked out in such manner and under such restrictions, if any, as the Commission may provide. Prior to the preparation of definitive bonds, the Commission may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Such bonds may be issued without any other proceedings or the happenings of any other conditions or things than those proceedings, conditions and things which are specified and required by this Act or by the Constitution of the State.

Each resolution providing for the issuance of bonds shall set forth the project or projects for which the bonds are to be issued, and the bonds authorized by each such resolution shall constitute a separate series. The bonds of each series shall be identified by a series of letter or letters, and may be sold and delivered at one time or from time to time.

§ 22. LIEN UPON BOND PROCEEDS.] All moneys received from any bonds issued pursuant to this Act shall be placed in the Construction Fund and applied solely to the payment of the cost of the works and there shall be and hereby is created and granted a lien upon such moneys until so applied, in favor of the holders of the bonds or the Trustee hereinafter provided for in respect of such bonds.

§ 23. TRUST INDENTURE, RESOLUTION AND COVENANTS OF COMMISSION.] In the discretion of the Commission any series of such bonds may be secured by a trust indenture by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the State. Each trust indenture or an executed counterpart thereof shall be filed in the office of the Secretary of State of North Dakota. The filing of a trust indenture or an executed counterpart thereof in the office of the Register of Deeds of the County in which the property covered by said trust indenture is located shall constitute constructive notice of the contents thereof to all persons from

the time of such filing and no recording of such trust indenture or the contents thereof shall be necessary.

Either the resolution providing for the issuance of bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the State and the Commission in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the works, the custody, safeguarding and application of all moneys, and may provide that the works shall be acquired, constructed, or partly acquired and partly constructed and paid for under the supervision and approval of consulting engineers employed or designated by the Commission and satisfactory to the original purchasers of the bonds issued therefor, their successors, assigns, or nominees, who may be given the right to require that security given by contractors and by any depository of the proceeds of the bonds or receipts and revenues of the works, or other moneys pertaining thereto, shall be satisfactory to such purchasers, successors, assigns, or nominees. Such resolution or indenture may set forth the rights and remedies of the bondholders and trustee, restricting the individual rights of action of bondholders as is customary in trust indentures, deeds of trust and mortgages securing bonds and/or debentures of corporations. No enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the works affected by such indenture.

In connection with the issuance of any such bonds for the purpose of paying in whole, or as supplemented by a grant as aforesaid from the United States of America or any instrumentality or agency thereof, the cost of any works or project, or in order to secure the payment of such bonds, the Commission shall have power :

(a) To pledge all or any part of the income, profit and revenue of such works or project, and all moneys received from the sale or disposal of water, use of water, water storage, or other service, and from the operation, lease, sale or other disposition of all or any part of such works or project, and to covenant to pay such income, profit and revenue into the Revenue Bond Payment Fund.

(b) To covenant against pledging all or any part of the income, profit and revenue of such works or project and all moneys received from the sale or disposal of water, use of water, water storage, or other service, and from the operation, lease, sale or other disposition of all or any part of such works or project.

(c) To covenant against mortgaging all or any part of such works or project, or against permitting or suffering any lien thereon.

(d) To covenant to fix and establish such prices, rates and

charges for water and other services made available in connection with such works or project so as to provide at all times funds which will be sufficient, (1) to pay all costs of operation and maintenance of such works or project together with necessary repairs thereto, and (2) to meet and pay the principal and interest of all such bonds as they severally become due and payable, and (3) to create such reserves for the principal and interest of all such bonds and for the meeting of contingencies in the operation and maintenance of such works or project as the Commission shall determine; and to make such further covenants as to such prices, rates and charges as the Commission shall determine.

(e) To create special funds, in addition to those required by this Act, for the meeting of contingencies in the operation and maintenance of such works or project and to determine the manner in which, and the depository or depositories in which, such funds shall be deposited and the manner in which the same shall be secured, and it shall be lawful for any bank or trust company incorporated under the laws of the State to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission on all deposits exceeding the sum of Five Thousand Dollars.

(f) To provide for the replacement of lost, destroyed, or mutilated bonds.

(g) To covenant against extending the time for the payment of the principal or interest on any of such bonds, directly or indirectly by any means or in any manner.

(h) To prescribe and covenant as to the events of default and terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.

(j) To vest in a trustee or trustees the right to enforce any covenant made to secure or to pay such bonds, or to foreclose any trust indenture in relation thereto, to provide for the powers and duties of such trustee or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant or exercise the right of foreclosure.

(k) To make covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or, in the absolute discretion of the Commission to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated or expressly authorized herein.

(1) It being the intention hereof to give the Commission power to do all things in the issuance of such bonds, and in providing for their security that may not be inconsistent with the Constitution of North Dakota.

§ 24. MORTGAGE OF COMMISSION.] In the discretion of the Commission any trust indenture executed by it as security for a series of such bonds may contain provisions for conveying in trust or mortgaging the works, the project, or any part of such works or project (including all water rights, which are a part thereof), constructed with the proceeds of such bonds or with such proceeds as supplemented by the proceeds of a grant to aid in financing such construction from the United States of America or any instrumentality or agency thereof, and may be in such form, and with such rights, remedies and provisions as is customary in trust indentures, deeds of trust, and mortgages securing bonds and/or debentures of corporations. Any purchaser at any sale of any works or project pursuant to a judgment or decree in an action to foreclose a trust indenture conveying in trust or mortgaging any works or project shall obtain title to such works or project free from any trust or other obligation of the Commission, the State of North Dakota, or the public thereof, as to its operation, maintenance, use or disposition except the obligation to use all water impounded in such works or project for sale, rental distribution, or other beneficial use.

§ 25. FUNDS.] The Commission shall create three funds to be known as "Administration Fund," the "Construction Fund" and as the "Revenue Bond Payment Fund." The moneys in each such fund shall be deposited in such depository or depositories and secured in such manner as may be determined by the Commission. It shall be lawful for any bank or trust company incorporated under the laws of this State to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission on all deposits exceeding the sum of Five Thousand Dollars.

The Commission shall establish a complete system of accounting to show—the total expenditure of and investment in each project and the total revenue derived therefrom and to prepare periodic reports giving the financial statement of each project and the status of all projects together.

§ 26. CONSTRUCTION FUNDS.] The proceeds of the bonds of each series issued under the provisions of this Act shall be placed to the credit of the Construction Fund, which fund shall at all times be kept segregated and set apart from all other funds. There shall be also credited to the Construction Fund all accrued interest upon the bonds and the interest received upon the deposits of moneys in such fund and moneys received by way of grant from the United States or from any other source for the construction of the works.

The moneys in the Construction Fund shall be paid out or disbursed in such manner as may be determined by the Commission, subject to the provisions of this Act, to pay the costs of the works as hereinabove defined. Any surplus which may remain in the Construction Fund, after providing for the payment of the cost of the works, shall be added to and become a part of the Revenue Bond Payment Fund hereinafter provided for.

§ 27. REVENUE BOND PAYMENT FUND.] To identify and distinguish the fund provided and available for the payment of the bonds issued pursuant to this Act and there is hereby created and established, as a part of the moneys of this State received and kept by the State Treasurer, a fund to be designated the Revenue Bond Payment Fund. All moneys received by the State Treasurer whether from payments made by the Commission or from Legislative appropriation or from the proceeds of taxes or otherwise, which shall be by law or by other authoritative designation made applicable to the payment of said bonds or interest thereon shall be kept by the State Treasurer in such fund distinct from all other moneys and shall be disbursed by him only for the particular purpose or purposes for which such moneys shall be delivered to him and no other appropriation shall ever be made of the moneys in such fund until such bonds shall be fully paid.

§ 28. APPROPRIATION TO PAY PRINCIPAL AND INTEREST OF REVENUE BONDS.] There is hereby appropriated all moneys paid to the State Treasurer by the Commission for conversion into the Revenue Bond Payment Fund and all moneys constituting the Revenue Bond Payment Fund or so much thereof as may be necessary from time to time to pay the interest and the principal payment on such revenue bonds; and such appropriation is out of moneys not otherwise appropriated and is irrespective of the provisions of the bill concerning the budget and whenever any of such revenue bonds, or any coupons thereon, being due, shall be presented for payment, the State Treasurer shall pay the same out of such fund applicable thereto.

§ 29. The State Treasurer shall pay the interest on said bonds upon presentment to him of the coupons for such interest when due, and shall redeem such bonds upon their maturity by paying the principal thereof, all such payments to be made out of the Revenue Bond Payment Fund without Auditor's warrant. All moneys in such fund, or so much thereof as may be necessary, is hereby appropriated for the payment of the interest and the principal of such bonds, and this appropriation shall not be repealed, and no provisions made in this Act for the payment of said bonds and interest shall be discontinued until the debt evidenced by said bonds, both principal and interest, shall have been paid.

§ 30. All the property of the Commission shall be exempt from taxation.

§ 31. APPROPRIATION.] There is hereby created a special fund to be known as "Administration Fund," into which there is hereby appropriated out of any money in the Treasury of the State, not otherwise appropriated, the sum of One Hundred Twelve Thousand Five Hundred Dollars (\$112,500); provided, however, that such appropriation shall be deemed and held valid notwithstanding the provisions of the Budget Act. All general administrative expenses of the Commission, the compensation and expenses of its employees, and the cost of investigations, planning, surveying, as authorized by this Act, shall be paid from the Administration Fund and also the cost of all preliminary work on any project and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the Administrative Fund. The amount of all such expenses on account of any project and such part of the general administrative expenses of the commission, its employees and of the cost of investigation as shall be properly chargeable, in the opinion of the Commission to such projects, shall be reimbursed to the Administration Fund upon the receipt of the proceeds of Revenue bonds issued and sold pursuant to this Act. No liability or obligation shall be incurred under the provisions of this Act beyond the extent to which money shall have been provided under its authority.

The Commission shall have authority to receive and accept appropriations and contributions from any source of either money or property or other things of value, to be held, used, and applied for the purposes in this Act provided.

§ 32. ACT LIBERALLY CONSTRUED.] This Act, being necessary for the welfare of the State and its citizens, shall be liberally construed to effect the purposes hereof.

§ 33. PROVISIONS OF THIS ACT SEVERABLE.] The Sections and provisions of this Act are severable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any Section or provisions or part thereof is for any reason held to be unconstitutional, void or inoperative, it is the intention that the remaining Sections and provisions and parts thereof shall remain in full force and effect.

§ 34. REPEAL.] All Acts, or parts of Acts in conflict herewith, are hereby repealed.

§ 35. EMERGENCY.] Because of the inability of thousands of citizens throughout the State to find employment and to support themselves and their families in the present depression, and because of serious crop failures, and health hazards, resulting from

unprecedented drought conditions, it is necessary to proceed immediately with the construction of the works authorized by this Act in order to create employment, assist the growing crops and prevent irreparable injury to the people of the State. An emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1937.

CHAPTER 256

H. B. No. 52—(Niewoehner and Graham)

VALIDATING FLOOD IRRIGATION PROJECT PROCEEDINGS

An Act to validate and legalize proceedings heretofore taken to establish and construct flood irrigation projects, issue bonds, warrants and other evidences of indebtedness to finance the cost of such projects, levy assessments and taxes for the payment of such indebtedness, and declaring such obligations and obligations issued or to be issued to fund such indebtedness valid and legal, and declaring an emergency.

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

§ 1. All proceedings had or taken by the Boards of County Commissioners of the Counties of this State to appoint Boards of Flood Irrigation in any of the Counties of this State and all proceedings had or taken by any Boards of Flood Irrigation so appointed to establish and construct flood irrigation projects in any County of this State and all indebtedness incurred by either or both of said Boards to establish, construct and complete any such flood irrigation projects, and all proceedings had or taken prior to the date this Act takes effect, to assess benefits or levy assessments and taxes for the cost thereof, including notices of hearings in connection with the creation of any flood irrigation district or for any assessment of damages and benefits resulting from flood irrigation projects, and all bonds, warrants, orders or other evidences of indebtedness and all obligations incurred to establish and construct any such flood irrigation projects are hereby declared to be valid and legal. All bonds, warrants or other evidences of indebtedness issued to fund said indebtedness or any part thereof, or to finance the cost of any such flood irrigation project, the construction of which was started prior to the date this Act takes effect, are hereby declared to be valid and legal obligations, notwithstanding any defects in giving notice of hearings, or any other irregularities in any proceedings.

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

Approved February 15, 1937.

CHAPTER 257
H. B. No. 341—(Niewoehner)

MOUSE RIVER VALLEY AUTHORITY

An Act to establish a Mouse River Valley Authority, and to fix its powers and duties.

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

§ 1. There is hereby created a Board to be known as the Mouse River Valley Authority which shall consist of the Governor, a member selected by the United States Bureau of Biological Survey, the Commissioner of Agriculture and Labor, and the State Engineer of the State of North Dakota, and one member selected by the Board of County Commissioners of each of the Counties of Renville, Ward, McHenry and Bottineau. The members first selected and each new member shall be selected from the membership of the Board of County Commissioners appointing him, but a member who shall cease to be a County Commissioner shall not thereby forfeit his membership on the Board of the Mouse River Valley Authority, provided, however, that removal from the County from which he was appointed shall be equivalent to resignation. In the interests of continuity of membership, each member shall serve for such period of time, without limit, as may be desired by the Board appointing him, and his membership shall terminate when, and only when, a successor is appointed and qualified.

§ 2. The Board shall meet within thirty days after this Act takes effect upon the call of the State Engineer and shall organize and select a chairman and a secretary from among its members, and it shall thereafter meet at such time and at such place within any of said Counties, as may be designated by resolution passed by the Board at a meeting, or as may be designated by the chairman upon ten days notice to the members thereof.

§ 3. All members of the Mouse River Valley Authority shall serve without additional compensation but shall receive their actual and necessary expenses incurred in the performance of their duties. The expenses of the State Engineer, the Governor, the member selected by the United States Bureau of Biological Survey, and the Commissioner of Agriculture and Labor shall be paid as their expense is ordinarily paid from the appropriation for their offices and the expenses of the members of the several Boards of County Commissions shall be paid by their respective Counties in the same manner as their expenses as members of the Board of County Commissioners are paid. Where a member of the Mouse River Valley Authority continues to serve as such after he has ceased to be a County Commissioner, his expenses shall be paid by the County which he represents on said Authority.

§ 4. It shall be the continuing duty of the Mouse River Valley Authority to give thorough and careful consideration to a comprehensive program for the development of the water, agricultural, game and fish, and recreational resources of the Mouse River Valley, including the daming and conservation of the waters thereof, the prevention of floods in the valley; the use of the waters for irrigation; the restoration of marsh lands, game and fish reserves, and generally to study and make recommendations concerning individual water development projects proposed within the Mouse River Valley with a view to the ultimate effect upon the entire Mouse River Valley as a whole.

§ 5. All proposed water development or conservation projects within the Mouse River Valley shall be submitted to and considered by the Mouse River Valley Authority before the same shall be undertaken and the said Mouse River Valley Authority, after a full hearing and consideration thereof, shall make such recommendations, objections and suggestions as may in the judgment of the Board be necessary to bring the proposal in harmony with the general development of the water resources of the valley as a whole.

§ 6. The Mouse River Valley Authority shall have the power and it shall be its duty to recommend, petition for, supervise and assist in the supervision of the construction of water development or conservation or agricultural projects at any place within the valley, and the petition of the Mouse River Valley Authority to any water conservation district or to the State Water Conservation Commissioner, or to any other officer or Board now existing or hereafter created, having any control over or function to perform relating to the Mouse River or the waters therein, shall be given the same force and effect as the petition of a City, Village or Township.

§ 7. The Mouse River Valley Authority shall have the power and it shall be its duty to adopt rules and regulations relative to the use of waters of the Mouse River for irrigation. Such rules shall regulate the flow of waters of such Mouse River and shall make provisions for the return of excess waters impounded during the irrigation season. The Mouse River Authority shall also have the power to appoint a competent water master.

§ 8. Nothing herein contained shall repeal, amend, or modify any existing Acts or statutes pertaining to the appropriation or use of water, and nothing herein contained shall be deemed to interfere with any vested rights to the use of water.

§ 9. REPEAL.] All Acts, or parts of Acts, in conflict herewith are hereby repealed.

Approved March 10, 1937.

CHAPTER 258

S. B. No. 180—(Coffey, Young, Fredrickson, Cain, Fowler, Nelson (Grand Forks), Brostuen, Stucke, Skarvold, Thatcher, Whelan, Vinje, Lian, Nelson (Barnes), Crandall, Lavik, Johnson, Bilden, Strehlow and Watt)

RED RIVER OF THE NORTH DRAINAGE BASIN COMMISSION

An Act creating a Red River of the North Drainage Basin Commission consisting of three members, one of whom shall be the Governor and two members appointed by the Governor, to act jointly with Commissions appointed for like purposes by the States of Minnesota and South Dakota with power to supervise the utilization and control of the waters of that portion of the drainage basin of the Red River of the North lying within the States of Minnesota, South Dakota and North Dakota.

WHEREAS, the States of Minnesota, South Dakota and North Dakota share the drainage basin of the Red River of the North and have a common interest in the most advantageous utilization of the surface waters of this drainage basin, in the control of the flood waters of this area, and in the prevention of pollution of these public waters, and

WHEREAS, action by individual States is inadequate to effectuate these purposes in a manner most advantageous to the common welfare of the people living in this drainage basin, and

WHEREAS, the only manner in which effective action can be taken with reference to these purposes is to create by compact between the said three States an Interstate Authority vested with sufficient power, and

WHEREAS, such an Authority can best be created by the passing by the Legislatures of each of said States of substantially identical bills providing for the creation of such an Interstate Authority.

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

§ 1. There is hereby created a Red River of the North Drainage Basin Commission, consisting of three members to act jointly with Commissions appointed for like purposes by the States of Minnesota, South Dakota, to be called the Tri-State Waters Commission of said three States. Said Commission for the State of North Dakota shall consist of three members; one of whom shall be the Governor of the State of North Dakota and two members to be named by the Governor; provided, however, that one of such members so named by the Governor shall be an actual resident of the Red River of the North Drainage Basin in North Dakota.

ARTICLE I

Each of the States of Minnesota, South Dakota and North Dakota undertakes to co-operate with the other two States for the most advantageous utilization of the public waters of the drainage

basin of the Red River of the North, for the control of the flood waters of this drainage basin, and for the prevention of the pollution of such waters.

ARTICLE II

To that end the said three States do hereby create a district to be known as the Tri-State Waters Area, which shall comprise that portion of the drainage basin of the Red River of the North, lying within the boundaries of the said States.

ARTICLE III

The said three States do hereby create the Tri-State Waters Commission, which shall be a body corporate and shall have the powers, duties and jurisdiction herein set forth and such other powers, duties and jurisdiction as shall hereafter be conferred upon it by acts of the legislatures of each of said three states concurred in, when of a character to require such concurrence, by Act of Congress.

ARTICLE IV

The Tri-State Waters Commission hereafter in this compact called the Commission, shall consist of nine Commissioners, three from each State, Minnesota, South Dakota and North Dakota. The Commissioners for the State of North Dakota shall not be entitled to compensation except the actual necessary traveling expenses incurred in discharge of their duties in connection with this Act.

ARTICLE V

The Commission shall elect from its number a chairman and vice-chairman and shall appoint and at its pleasure remove an executive secretary and such other officers and assistants as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications and compensation.

It shall adopt a seal and suitable by-laws and shall promulgate rules and regulations for its management and control.

It may maintain one or more offices for the transaction of its business and may meet at any time or place within the said States.

A majority of the members from each State shall constitute a quorum for the transaction of business, the exercise of any powers, or the performance of any duties, but no action of the Commission shall be binding unless at least two of the members from each State shall vote in favor thereof.

The Commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the Governor of each State setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the said signatory States

which may be necessary to carry out the intent and purpose of this compact, and such changes in the area of the district as may seem desirable.

The Commission shall not incur any obligations for salaries, office or other administrative expenses prior to the making of appropriations adequate to meet the same. The State of North Dakota shall not be liable in any manner for any damages, costs or obligations by reason of any action under the operation of this Act or by reason of any action or any regulation by the Tri-State Waters Commission. Each State reserves the right to provide hereafter by law for the examination and audit of the accounts of the Commission by its comptroller or other official.

The Commissioners shall meet and organize within thirty days after the effective date of this compact.

ARTICLE VI

It shall be the duty of the Commission to survey and study the various water problems relating to water supply, flood control, public health, water pollution, navigation, wild life, irrigation, drainage, water power, recreation, lake levels and stream flow within the Tri-State Waters Area, and to formulate a program of regulation of water levels, stream flow and water pollution.

Such programs formulated by the Commission shall conform to the constitutions of each of the several States concerned.

ARTICLE VII

Programs and plans for works of an interstate character in said drainage areas prepared by the State, municipal or industrial agencies shall receive the approval of the Commission before construction is begun.

It shall be the duty of the Commission to maintain and control lake levels and stream flow within the Area, but such action shall be taken only with the approval of the authorized State agencies.

The Commission shall have power to co-operate with any duly authorized Federal, State or municipal agency in studies and surveys, construction, maintenance and operation of water projects within the scope of its jurisdiction.

The Commission is hereby authorized to receive and to accept, and in the name of that State wherein the same is located, any water construction unit or units or control works constructed and completed by any Federal, or other agency.

The Commission shall be authorized to exercise the power of eminent domain, to acquire such real and personal property as may be reasonably necessary to effectuate the purposes of this compact, and to exercise all other powers not inconsistent with the constitutions of the States of Minnesota, South Dakota and North Dakota, or with the constitution of the United States, which may be reason-

ably necessary or appropriate for or incidental to the effectuation of its authorized purposes, and generally to exercise in connection with its property and affairs and in connection with property within its control any and all powers which may be exercised by a private corporation in connection with similar property and affairs.

ARTICLE VIII

All costs incident to the construction, control, maintenance and operation of any project shall be allocated by the Commission to benefitted taxing units, which are authorized and directed to levy taxes at such times as authorized by law and in such amounts as to pay such costs in full within two years after such allocation. Such costs may be estimated and allocated in advance of expenditures subject to proper allowances in subsequent allocations in so far as actual expenditures may vary from estimates.

ARTICLE IX

Should any part of this compact be held to be contrary to the constitution of the State of North Dakota or of the United States such part of said compact shall become inoperative as to the State of North Dakota but all other severable provisions of this compact shall continue in full force and effect.

ARTICLE X

EMERGENCY.] This Act is hereby declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 10, 1937.

INITIATED MEASURES

CHAPTER 259 LIQUOR CONTROL ACT

An Act to authorize, regulate, and control the transportation, importation, handling, possession, purchase, sale and dispensing of alcohol, and alcoholic beverages in the state of North Dakota; defining alcoholic beverages, providing the method of taxing and licensing the same, providing the manner of expending and distributing the revenues from such licenses and taxes; providing penalties for violations of the provisions of said Act, providing for a saving clause as to the constitutionality of any part of the Act; and repealing all Acts and parts of Acts in conflict therewith.

Be It Enacted by the People of the State of North Dakota:

§ 1. This Act shall be known as the Liquor Control Act.