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SOUTH DAKOTA STATUTES
GOVERNING
MINERAL RESOURCES

Foreword

Because of the frequency of requests for information on the state laws covering the prospecting and development of mineral resources in South Dakota, the State Geological Survey has collected from the Revised Code of 1919 and the Session Laws of that and the following years, those laws which have to do directly with the production of mineral resources. This compilation is not offered as a compendium for the solution of all legal difficulties which may arise during the development of mineral resources. It is hoped, however, that it will furnish information needed by the layman for the solution of the simpler problems in the production and use of our metals, fuels, and waters.

E. P. Rothrock,
State Geologist

MINERAL RESERVATIONS

RESERVING MINERALS, ETC., IN SALES OF PUBLIC LANDS

(Chapter 308, Session Laws of S. Dak., 1919)

AN ACT Entitled An Act to Reserve to the State of South Dakota all Deposits of Coal, Ores, Metals and Other Minerals, Asphaltum, Oil, Gas and Other Like Substances in the Lands Sold or Leased by the State of South Dakota, and the Right to Remove the Same; Also Providing Compensation to the Owner or Lessee Thereof for Damages Resulting from Such Removal; Providing for the Disposition of Funds Derived from Sale or Lease Under this Act, and Declaring an Emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. All sales, leases and conveyances of lands belonging to the State of South Dakota or to which it may now or hereafter be entitled, including all common school, public buildings and endowment lands, shall be subject to and contain a reservation to the State of South Dakota of all deposits of coal, ores, metals and other minerals, asphaltum, oil, gas and other like substance in such lands, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal; and all money and proceeds derived from the sale or lease of the property and rights reserved by and under the provisions of this section shall inure to the benefit of the funds for which said lands are held by the state or any of its departments. Such reserved deposits shall be disposed of only in the manner hereafter expressly provided by law.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 3. There being no provision of law for the conservation of natural resources contained in lands belonging to the State of South Dakota, and this act being necessary for the immediate support of the state government and its existing institutions, 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 February 21, 1919.

RELATING TO PROSPECTING FOR AND REMOVAL OF RESERVED MINERALS

(Chapter 305, Session Laws of S. Dak., 1919)

AN ACT Entitled, An Act Relating to Prospecting for, and the Removal of Deposits of Coal, Ores, Oil, Gas, Asphaltum, Metals, Minerals and Other Metallic and Mineral Products, Which are in Lands Sold or Leased by or Belonging to the State, Authorizing the Issuance of Licenses and Permits Therefor, and Providing Compensation to the Owner or Lessee of Such Lands for Damages Resulting From Such Prospecting and Removal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. All coal, ores, oil, gas¹, asphaltum, metals, minerals and other metallic and mineral products in or upon lands belonging to the state or in lands which may hereafter be sold, granted, conveyed or leased for agricultural, meadow, pasturage or other purposes, or in any way transferred by the state, shall be subject to license or contract by the state. Provided, however, this act shall not apply to lands sold prior to the reservation of such coal, ores, oil, gas, asphaltum, metals, minerals and other metallic and mineral products. The state and all persons claiming under it shall have the right to enter upon such lands and to prospect for, mine, sell and remove such coal, ores, oil, gas, asphaltum, metals, minerals and other metallic and mineral products and for such purpose to construct all necessary roads, buildings, and improvements thereon, including machinery for mining or removing such coal, ores, oil, gas, asphaltum, metals, minerals and other metallic and mineral products. All coal, ores, oil, gas, asphaltum, metals, minerals and other metallic and mineral products in such lands may be removed by the state or may be disposed of by the commissioner of school and public lands under such rules and regulations as the board of school and public lands may establish to properly carry into effect the provisions of this act and not inconsistent herewith.

Section 2. Permit. The commissioner of school and public lands may execute and deliver a permit granting the right to prospect for coal, ores, oil, gas, asphaltum, metals and minerals on any state land described therein for the period of one year from the date thereof, and the consideration for such permit shall be determined by the board of school and public lands, but no coal, ores, oil, gas, asphaltum, metals and minerals shall be removed from the land described in such permit until a license has been secured.

Section 3. License. At any time prior to the expiration of any prospecting permit as provided in the preceding section, the original holder or any assignee thereof shall have the right to receive from the commissioner of school and public lands a

1. Chapter 305 of the Session Laws of 1919 repealed insofar as it relates to oil and gas, by the Session Laws of 1931, Chapter 203, p. 255.

license as provided in this act which shall bind the state and the person to whom it shall issue to the mutual observance of the obligations and conditions thereof.

Section 4. Assignments. No license or permit shall be assignable or transferrable except on the written consent of the commissioner of school and public lands.

Section 5. Holder of Permit or License. In all cases where state lands have been heretofore or may hereafter be sold subject to the reservation regarding coal, ores, oil, gas, asphaltum, metals, and mineral rights referred to in Section 1 hereof, and in all cases where such lands have heretofore been or hereafter may be leased for agricultural, meadow, pasturage or other purposes, pursuant to the provisions of law, the holder of any permit or license subsequently issued thereon may nevertheless enter upon the same and prospect thereunder.

Section 6. Bond. Before the issuance of any license the commissioner of school and public lands shall require the execution of a good and sufficient bond conditioned upon the payment of all moneys, rentals and royalties provided for by the terms of said license for the full compliance and observance of all rules and regulations established by said board and all other terms which may be set forth in said lease.

Section 7. Compensation of Agricultural Lessee. Before entering upon the property covered by the permit or license, the holder thereof shall pay or secure to any person holding a lease on said lands for agricultural, meadow, or pasturage purposes or to the owner thereof as the case may be all damages which may arise therefrom, and in case of disagreement the board of school and public lands shall determine the amount of security to be given to the lessee. Provided, that the state of South Dakota shall bear no part of the costs of any proceeding that may be had for determining the amount of damages to which the owner or person holding such agricultural, meadow or pasturage lease is entitled, nor shall the state pay any part of the damages awarded.

Section 8. All licenses for the removal of coal, ores, oil, gas, asphaltum, metals and minerals from the lands belonging to this state or for lands heretofore sold in which the coal, ores, oil, gas, asphaltum, metals or mineral rights and interests have been reserved, shall be for a term not exceeding five years, on a royalty basis but shall never be issued for an annual payment of less than Twenty-five (\$25.00) Dollars, which payment shall be applied on such royalty as may be provided for by the terms of the license, and which royalty shall be fixed according to the amount of coal, ores, oil, gas, asphaltum, metals or minerals produced from said lands. Whenever the licensee of such rights or interests shall have performed the amount of work per year required by the terms of the license in the development of the coal, ores, oil, gas, asphaltum, metals

or mineral resources covered by such license and shall have in all other respects complied with the terms thereof, and whenever the board of school and public lands shall be satisfied that the licensee is operating in good faith under such license, and has proven to its satisfaction that he has performed the required amount of work in the development of the property for the purpose stated in such license, he shall have the preferred right to renew the license for further terms of five years each.

Section 9. Authority of Board. The board of school and public lands shall fix the terms and conditions of all such permits and licenses, not inconsistent with provisions of this act.

Approved March 15, 1919.

METAL MINING

MINING CLAIMS

(Article 3, South Dakota Revised Code of 1919)

Section 8726. Length of Lode Claim. The length of any lode claim hereafter located within this state may equal but shall not exceed fifteen hundred feet along the vein or lode.

Section 8727. Width of Lode Claim. The width of a lode claim shall be three hundred feet on each side of the center of the vein or lode; provided, that any county may, at any general election, determine upon a width less than three hundred feet but not less than twenty-five feet on each side of the vein or lode.

Section 8728. Record of Claim. The discoverer of a lode shall within sixty days from the date of discovery record his claim in the office of the register of deeds of the county in which such lode is situated, by a location certificate, which shall contain:

1. The name of the lode.
2. The name of the locator, or locators.
3. The date of location.
4. The number of feet in length claimed on each side of the discovery shaft.
5. The number of feet in width claimed on each side of the vein or lode.
6. The general course of the lode as near as may be.

Section 8729. Certificate Void, When. Any location certificate of a lode claim which shall not contain the name of the lode, the name of the locator, the date of location, the number of lineal feet claimed on each side of the discovery shaft, the number of feet in width claimed, the general course of the lode, and such description as shall identify the claim with reasonable certainty, shall be void.

Section 8730. Manner of Locating Claim. Before filing such location certificate the discoverer shall locate his claim:

1. By sinking a discovery shaft thereon sufficient to show a well defined mineral vein or lode, and not less than ten feet in depth on the lower side;
2. By posting at the point of discovery, on the surface, a plain sign or notice containing the name of the lode, the name of the locator or locators and the date of discovery, the number of feet claimed in length on either side of the discovery, and the number of feet in width claimed on each side of the lode; and,
3. By marking the surface boundaries of the claim.

Section 8731. Marking Surface Boundaries. Such surface boundaries shall be marked by eight substantial posts, hewed or blazed on the side or sides facing the claim and plainly marked with the name of the lode and the corner, end or side of the

claim that they respectively represent, and sunk in the ground: one at each corner and one at the center of each side line, and one at each end of the lode. When it is impracticable on account of rock or precipitous ground to sink such posts, they may be placed in a monument of stone.

Section 8732. Dimensions of Cut or Adit. Any open cut, at least ten foot face, cross cut or tunnel at a depth sufficient to disclose the mineral vein or lode, or an adit of at least ten feet in along the lode from the point where the lode may be in any manner discovered, shall be equivalent to a discovery shaft.

Section 8733. Time Allowed for Sinking Shaft. The discoverer shall have sixty days from the time of uncovering or disclosing a lode to sink a discovery shaft thereon.

Section 8734. Certificate--Construction. The location or location certificate of any lode claim shall be construed to include all surface ground within the surface lines thereof, and all lodes and ledges throughout their entire depth, the top or apex of which lie inside of such lines extended vertically with such parts of the lodes or ledges as continue by dip beyond the side lines of the claim, but shall not include any portion of such lodes or ledges beyond the end lines of the claim or the end lines continued, whether by dip or otherwise, or beyond the side lines in any other manner than by the dip of the lode.

Section 8735. Limits of Claim. If the top of apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface, or as extended vertically downward, such lode may not be followed in its longitudinal course beyond the point where it is intersected by the exterior.

Section 8736. Security to Owner of Land. When the right to mine is in any case separate from the ownership or right of occupancy to the surface, the owner or rightful occupant of the surface may demand satisfactory security from the miner, and if it be refused may enjoin such miner from working until such security is given.

Section 8737. Amended Certificate. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing his surface boundaries, or of taking in any part of an overlapping claim which has been abandoned, and he shall be desirous of securing the benefit of this article, such locator or his assigns may file an additional certificate subject to the provisions of this article; provided, that such relocation does not interfere with the existing rights of others at the time of such relocation; and no such relocation or the record thereof shall preclude the claimant from proving any such title as he may have held under any previous location.

Section 8738: Annual Work Required. The amount of work to be done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States, to-wit: one hundred dollars annually; provided, that the period within which the work required to be done annually on all unpatented claims so located shall commence on the first day of January succeeding the date of location of such claim.

Section 8739. Abandoned Claim--Relocation. The relocation of an abandoned lode claim shall be by sinking a new discovery shaft and fixing new boundaries in the same manner as if it were the location of a new claim, or the relocater may sink the original shaft, cut or adit to a sufficient depth to comply with the requirements of an original location, and erect new or adopt the old boundaries, renewing the posts if removed or destroyed. In either case a new location stake shall be erected. In any case, whether the whole or part of an abandoned claim is taken, the location certificate must state that the whole or any part of the new location is located as abandoned property.

Section 8740. Certificate Limited to Single Location. No location certificate shall claim more than one location, whether the location be made by one or several locators; and if it purports to claim more than one location it shall be absolutely void, except as to the first location therein described; and if they are described together, or so that it cannot be told which location is first described, the certificate shall be void as to all.

Section 8741. Recording Fee. The register of deeds shall be entitled to receive the sum of one dollar for each location certificate recorded and certified by him, and shall furnish the locator or locators with a certified copy of such certificate when demanded, for which he shall be entitled to receive fifty cents.

Section 8742. Disputed Property--Survey. In all actions in any circuit court of this state wherein the title or right of possession to any mining claim shall be in dispute, the court or judge thereof may, upon application of any of the parties to such suit, enter an order for the underground as well as surface survey of such part of the property in dispute as may be necessary to a just determination of the question involved. Such order shall designate some competent surveyor not related to any of the parties to such suit, or in any wise interested in the result of the same; and upon the application of the party adverse to such application, the court may also appoint some competent surveyor, to be selected by such adverse applicant, whose duty it shall be to attend upon such survey and observe the method of making the same, at the cost of the party asking therefor. It shall also be lawful in such order to specify the names of witnesses named by either party, not exceeding three on each side, to examine such property, who shall be allowed to enter into such property and examine the same; such court, or the judge thereof, may also cause the removal or any rock, debris or other obstacle in any

of the drifts or shafts of such property, when such removal is shown to be necessary to a just determination of the question involved; provided, that no such order shall be made for survey and inspection except in open court or in chambers, upon notice of at least six days, and not then except by agreement of parties or upon the affidavit of two or more persons that such survey and inspection is necessary to the just determination of the suit, which affidavits shall state the facts in such case and wherein the necessity for survey exists; nor shall such order be made unless it appears that the party asking therefor has been refused the privilege of survey and inspection by the adverse party.

Section 8743. Affirmative Relief by Injunction. The circuit court, or any judge thereof, shall have power to issue writs of injunction for affirmative relief, having the force and effect of a writ of restitution, restoring any person to the possession of any mining property from which he may have been ousted by force and violence or by fraud, or from possession of which he is kept by threats, or whenever such possession was taken from him by entry of the adverse party on a Sunday or legal holiday or while the party in possession was temporarily absent therefrom; the granting of such writ to extend only to the right of possession under the facts of the case in respect to the manner in which the possession was obtained, leaving the parties to their legal rights on all other questions as though no such writ had issued.

Section 8744. Right of Way. The proprietor, owner or owners of mining claims, whether patented under the laws of the United States or held under the local laws and customs of the state, shall have a right of way for ingress for necessary purposes over and across the land or mining claim of others, patented or otherwise, as provided in this article.

Section 8745. Right of Way.--Road or Ditch. Whenever any such mine or mining claim shall be so situated that it cannot be conveniently worked without a road thereto, or a ditch or a cut to convey the water therefrom, or without a flume to carry water and tailings therefrom, or without a shaft or tunnel thereto, which road, ditch, cut or tunnel shall necessarily pass over, under, through or across any lands or mining claims owned or occupied by others, either under a patent from the United States or otherwise, such owner or owners shall be entitled to a right of way for such road, ditch, flume, shaft or tunnel over, under, through and across such other lands or mining claims upon compliance with the provisions of this article.

Section 8746. Proceedings to Secure Right of Way. Whenever the owner of any mining claim shall desire to work the same and it is necessary to enable him to do so successfully and conveniently, that he have a right of way for any of the purposes mentioned in the preceding section, and such right of way shall not have been acquired by agreement between him and the owner of the claim over, under, across or upon which he seeks to establish

such right of way, it shall be lawful for him to present to the judge of the circuit court of the several counties in which such right of way or some part thereof sought to be enforced is situated, a petition praying that such right of way be awarded to him. Such petition shall be verified and contain a particular description of the character and extent of the right sought, a description of the mine or claim of the petitioner, and the claim or claims on lands to be affected by such right or privilege, with the names of the occupants or owners thereof; it may also set forth any tender or offer hereinafter mentioned, and shall demand the relief sought.

Section 8747. Court Proceedings. Upon the filing of such petition with the clerk of such court, the judge shall direct an order to issue to the owners, named in the petition, of mining claims and lands to be affected by the proceeding, directing each of them to appear before the judge on a day therein named, which shall not be less than ten days from the service thereof, and show cause why such right of way should not be allowed as prayed for. Such order shall be served on each of the parties in the manner prescribed by law for serving summons in a civil action.

Section 8748. Commissioners Appointed by Judge. Upon the return day of the order, or upon any day to which the hearing shall be adjourned, the judge shall proceed to hear the allegations and proofs of the respective parties; and if upon such hearing he is satisfied that the claim of the petitioner should be worked by means of the privilege prayed for, he shall make an order adjudging and awarding to the petitioner such right of way, and shall appoint three commissioners, who shall be disinterested residents of the county, to assess the damage resulting to the lands or claims affected by such order.

Section 8749. Commissioners Assess Damage. The commissioners so appointed shall be sworn or affirmed to faithfully and impartially discharge their duties, and shall proceed without unreasonable delay to examine the premises, and shall assess the damage resulting from such right or privilege prayed for, and report the amount to the judge appointing them; and if such right of way shall affect the property of more than one person or company, such report shall contain an assessment of the damages to each company or person.

Section 8750. Report of Commissioners. For good cause the judge may set aside the report of such commissioners and appoint three other commissioners, whose duties shall be the same as provided in the preceding section.

Section 8751. Right of Way on Tender of Payment. Upon the payment of the sum assessed as damages to the persons to whom it shall be awarded, or a tender thereof to them, the person petitioning shall be entitled to the right of way prayed for in his petition, and may immediately proceed to occupy the same and to erect thereon such work and structures and make thereon such excavations as may be necessary to the use and enjoyment of the right of way so awarded.

Section 8752. Appeals from Assessment. Appeals from any assessment of such commissioners may be taken and prosecuted in the proper circuit court by any party interested, at any time within ten days after the filing of the report of the commissioners, and a written notice of such appeal shall be served upon the respondent in the same manner as a summons is served in civil actions. The appellant shall file with the clerk of the court to which the appeal is taken a bond with sureties to be approved by the clerk, in the amount of the assessment appealed from, conditioned that the appellant will pay any costs that may be awarded to the respondent and abide any judgment that may be rendered in the cause.

Section 8753. Trial on Appeal. Such an appeal shall bring before the appellate court only the propriety of the amount of damages, and shall be tried by a jury unless a trial by jury be waived as in other civil cases.

Section 8754. Appeal Not Delay Work. The prosecution of any appeal shall not hinder, delay or prevent the respondent from exercising all the rights and privileges mentioned in the third preceding section; provided, that the respondent shall file with the clerk of the court in which the appeal is pending a bond with sufficient sureties to be approved by the clerk, in double the amount of the assessment appealed from, conditioned that the respondent will pay to the appellant whatever amount he may recover in the action, not exceeding the amount of such bond.

Section 8755. Respondent to Pay Costs, When. If the appellant recover fifty dollars more damages than the commissioners shall have awarded, or the respondent shall offer to allow judgment against him to be taken the respondent shall pay the costs of the appeal; otherwise the appellant shall pay such costs.

Section 8756. Costs and Disbursements. The costs and expenses under the provisions of this article, except as herein otherwise provided, shall be paid by the party making the application; provided, that if the applicant shall, before the commencement of such proceeding, have tendered to the parties owning or occupying such lands or mining claims a sum equal to or more than the amount of damages assessed by the commissioners, all of the costs and expenses shall be paid by the party or parties owning the lands or claims affected by such right of way, and who appeared and resisted the claim of the applicant.

HOMESTEADS

(Chapter 3, Part 2, Revised Code of 1919, p.100)

Section 459. Area of Homestead Limited. If within a town plat it must not exceed one acre in extent, and if not within a town plat it must not embrace in the aggregate more than one hundred and sixty acres. If the homestead is claimed upon any land, the title or right of possession to which was acquired or claimed under the laws of the United States, relating to mineral lands, then the area of the homestead, if within a town plat, shall not exceed one acre, and if without a town plat it must not exceed forty acres, if title thereto has been acquired as a placer claim, but if the title has been acquired under the laws of congress as a lode mining claim, the area of the homestead shall not exceed five acres.

Section 460. Gold or Silver Mines or Mills Not Included. This chapter shall not be deemed or construed to include any gold or silver mine, or gold or silver mill, or any mill, smelter, or machinery intended or used for the reduction or milling of gold or silver ores.

MORTGAGE FORECLOSURES ON MINING CLAIMS

(Revised Code of 1919, p.675)

Section 2691. Mining Claims, Assessment Work. In all redemptions from sales of unpatented mining claims under execution or mortgage foreclosure, there shall be added to the total amount otherwise required to redeem such sum or sums, if any, as may be necessarily and actually expended by the purchaser, after such sale and before the redemption, in performing or completing the annual assessment work, not exceeding one hundred dollars for any one claim sold; provided, that this section shall not apply to any claim or claims on which the owner or redemptioner shall himself have performed the necessary annual labor during the period above specified; provided, further, that it shall not be deemed necessary under this section for the purchaser to perform the annual labor on such claims until after the first day of November of each year.

MINE REGULATIONS

(South Dakota Revised Code of 1919)

Section 8719. Ladderways Required. In all mining shafts fifty feet or more in depth, containing two or more compartments, ladderways shall be constructed in a compartment separate from the compartment in which the cage or bucket runs, and platforms shall be built for landings at every twelve feet, with inclined ladders between such platforms. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars, or by imprisonment in the county jail not exceeding three months, for each offense.

Section 8720. Mine Signals--Must Adopt. At all mines where hoisting apparatus is operated the following code of bell signals shall hereafter be adopted and used:

One bell, hoist; one bell, stop, (if in motion).

Two bells, lower men; three bells, hoist men.

Four bells, blasting signal. Engineer must answer by raising bucket or cage a few feet and letting it back slowly; then one bell, hoist men away from blast.

Five bells, steam on; six bells, steam off.

Seven bells, air on; eight bells, air off.

Three-two-two bells, send down tools.

Nine bells, danger signal (fire, accident or other danger.) Then ring number of station where danger exists. No person shall ring any signal except the station tender, except in case of danger, or when the main shaft is being sunk.

Engineers must slow up when passing stations when men are on the cage or bucket.

Station Bells

Bells	Pause	Bells	No. Station	Bells	Pause	Bells	No. Station
2	"	1	1	4	"	1	11
2	"	2	2	4	"	2	12
2	"	3	3	4	"	3	13
2	"	4	4	4	"	4	14
2	"	5	5	4	"	5	15
3	"	1	6	5	"	1	16
3	"	2	7	5	"	2	17
3	"	3	8	5	"	3	18
3	"	4	9	5	"	4	19
3	"	5	10	5	"	5	20

If cage is wanted ring signal. Station tender will respond in person.

If station is full of ore and station tender is wanted, ring station signal.

One copy of this code shall be posted on the gallows frame and one before the engineer.

Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars, or by imprisonment in the county jail not exceeding three months for each offense.

Section 8721. Safety Apparatus. It shall be unlawful for any person to sink or work through any vertical or inclined shaft, where mining cages are used, at a greater depth than two hundred feet unless such shaft is provided with an iron bonnetted safety cage, to be used in lowering and hoisting employes or any other persons into or from such shaft. The safety apparatus, whether consisting of eccentrics, springs or other devices, must be securely fastened to the cage and be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk. The iron bonnet must be made of boiler sheet iron of good quality, at least three sixteenths of an inch in thickness, and must cover the top of the cage in such a manner as to afford the greatest protection to life and limb from any debris or anything falling down the shaft. Every person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars.

Section 8722. Smelter Operators---Duty. Any person operating any smelter or dry crushing reduction works shall install therein exhaust fans and dust chambers or some other contrivance for the removal of all gases, fumes, dust and other impurities that accumulate, at all times, in the operation of such works.

Section 8723. Violation---Penalty. Any person who shall fail to comply with the provisions of the preceding section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

Section 8724. Proof of Failure---Negligence. Proof of the failure of any such person to comply with the provision of the second preceding section shall be prima facie evidence of negligence on the part of such person.

Section 8725. Inspector---Duty. The state mine inspector is hereby empowered and compelled to visit such works at least once every month to see that the provisions of the third preceding section are enforced.

OIL AND GAS

REGULATING OIL AND GAS DRILLING

(Chapter 250, Session Laws of S. Dak., 1925)

AN ACT Entitled, An Act Fixing Certain Duties of the State Geologist, Providing for the Inspection and Regulation of the Drilling and Operation of Oil and Gas Wells, Fixing Penalties for Violations of this Act and Repealing Chapter 242 of the Session Laws of 1923.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Duties of State Geologist. It shall be the duty of the state geologist to make examinations and reports on any state or school lands of South Dakota when so requested by the Commissioner of School and Public Lands and to make a written report concerning the geology of any lands in which the State of South Dakota is or hereafter may become interested, and on such other matters as the Board of School and Public Lands may desire information upon. Such reports shall be in writing and filed with the Commissioner of School and Public Lands. He shall be charged with the duty of enforcing all the laws of the State of South Dakota relating to the oil and gas industry, and to perform such other acts as are provided by the laws of the State of South Dakota relating to the oil and gas deposits therein.

Section 2. Rules and Regulations. For the purpose of conserving the natural resources of the state and to prevent waste thereof through negligent methods of operation, the state geologist shall prescribe and enforce rules and regulations governing the drilling, casing and abandonment of oil and gas wells and the waste of oil and gas therefrom upon all lands in the State of South Dakota excepting public lands subject to the Act of Congress approved February 25th, 1920, (Public 146). The rules and regulations so prescribed shall be those from time to time adopted by the Bureau of Mines or by the Secretary of the Interior of the United States pursuant to said Act of Congress, governing methods of operation of operators upon lands embraced within permits or leases issued under the provisions of said Act of Congress, and it shall be the duty of all persons and corporations, drilling or operating oil or gas wells upon patented or state lands, to comply with all of the said rules and regulations, to file with the state geologist all logs of wells and other reports thereby required, and to case, control and plug all wells as therein prescribed.

Section 3. Appointments of Inspectors. Whenever the state geologist shall require assistants to enable him to carry out the duties imposed upon him by this act and to enforce the rules and regulations so prescribed, he shall appoint, with the approval of the Governor, one or more inspectors who shall be petroleum engineers or practical oil well drillers with not less than three years' field experience, for such time as the state geologist shall determine to be necessary to protect the resources of the state.

Section 4. The state geologist may from time to time delegate his authority to supervise the abandonment of wells or the extinguishment of fire to an inspector of the Bureau of Mines or to the field superintendent of any company or operator operating in the same field, who shall receive no compensation, but no such appointment shall be made without the consent of the owner of the well.

Section 5. Reports Shall Be Confidential. All well-logs and reports filed with the state geologist by any operator shall be confidential and shall be disclosed to no person without the written authority of the operator, except that the state geologist shall make quarterly confidential and person reports of such well-logs to the Governor; provided, that said logs and reports may be offered in evidence in any prosecution under this act.

Section 6. Violation and Penalty. Any person or corporation violating the provisions of this act or rules and regulations prescribed pursuant hereto or the lawful orders of the state geologist or his inspector under said rules and regulations, shall upon conviction be fined not more than five hundred dollars or imprisoned not more than six months or both.

Section 7. Chapter 242 of the Session Laws of 1923, relating to oil and gas wells, is hereby repealed.

Approved March 10, 1925.

RELATING TO THE CONSERVATION OF NATURAL GAS

(Chapter 202, South Dakota Session Laws, 1929)

AN ACT Entitled, An Act for the Protection and Conservation of the Supply of Natural Gas of the State of South Dakota, Prohibiting the Waste and Wasteful Use of Natural Gas Through the Burning or Consumption Thereof for the Manufacturing or Producing of Carbon or Other Resultant Products Therefrom, Prohibiting the Taking, Using, Sale or Other Disposition of Natural Gas from Gas Wells for Such Purposes, and Providing Penalties for the Violation of Such Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Wasteful and Extravagant Use Defined. The use, consumption or burning of natural gas taken or drawn from any natural gas well or wells, or borings from which natural gas is produced for the products where such natural gas is burned, consumed or otherwise wasted without the heat therein contained being fully and actually applied and utilized for other manufacturing purposes or domestic purposes is hereby declared to be a wasteful and extravagant use of natural gas and shall be unlawful when such gas well or source of supply is located within ten miles of any incorporated town or industrial plant.

Section 2. Manufacture of Carbon Prohibited. No person, firm or corporation, having the possession or control of any natural gas well or wells, except as herein provided, or borings from which natural gas is produced, whether as a contractor, owner, lessee, agent or manager, shall use, sell, or otherwise dispose of natural gas, the product of any such well or wells, or borings for the purpose of manufacturing or producing carbon or other resultant products from the burning or consumption of such natural gas, without the heat therein containing being fully and actually applied and utilized for other manufacturing purposes or domestic purposes.

Section 3. Penalty. Any person, firm or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1000.00) for each offense and each and every day in which any person, firm or corporation shall violate any of the provisions hereof shall constitute a separate offense hereunder and subject the offender to the penalty hereby provided.

Approved March 6, 1929.

LEASING OF STATE RIGHTS IN LAND FOR OIL AND GAS PURPOSES

(Chapter 203, South Dakota Session Laws, 1931)

AN ACT Entitled, An Act Relating to the Leasing for Oil and Gas Purposes of State Lands and Lands Sold by the State with the Reservation of the Minerals to the State, Defining and Limiting the Powers of the Commissioner of School and Public Lands With Respect Thereto, Authorizing the Board of School and Public Lands to Prescribe Rules and Regulations Governing Procedure for Such Leases, Authorizing the Surrender of Permits Heretofore Issued on Such Lands, and the Issuance of Leases in Lieu Thereof and Repealing All Laws in Conflict with This Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The Commissioner of School and Public Lands, hereinafter referred to as the "Commissioner", is hereby authorized to execute and issue in the name of the State of South Dakota, as lessor, under the rules and regulations prescribed by the Board of School and Public Lands, leases for the exploration and development of and production of oil and/or gas from any lands belonging to the State of South Dakota, including lands which have been or may hereafter be sold by the State with the reservation of the minerals in the land, such leases to be issued upon such terms and conditions as the Commissioner may deem to be to the best interests of the State and not inconsistent with the provisions of this Act.

Section 2. The term of all oil and gas leases issued under the provisions of this Act shall be for a period of two years and as long thereafter as oil and/or gas is produced from the leased land; provided, however, that if for any reason production of oil and/or gas from the leased lands shall cease after the primary term of two years, the lessee shall be entitled to resume drilling operations on said land withⁱⁿ such reasonable time as may be prescribed by the rules and regulations of the Board of School and Public Lands and, if such drilling operations shall be continued with reasonable diligence and the production of oil and/or gas in paying quantities shall result therefrom, then said lease shall remain in force as long thereafter as oil and/or in paying quantities is or can be produced from the leased lands. All such leases shall provide for the delivery to the State, in the pipe line to which the lessee may connect the wells, of a royalty of one eighth (1/8th) of the oil and gas produced, saved and marketed from the leased lands, or the equivalent proportion of the market value of such oil and gas in the field at the time of production, at the option of the Commissioner; provided, however, no royalties shall be payable from oil and/or gas used in operations on the land for the development and production of oil and/or gas therefrom. Provided further, that of oil and/or gas so used, the same shall be in the proportion of seven-eighths (7/8ths)

belonging to the lessee, or assigns, and one-eighth (1/8th) which, but for such use, would be delivered to the State. The leases shall provide for the payment of a reasonable annual rental as fixed by the rules and regulations of the Board of School and Public Lands.

Section 3. Lessees and assignees of oil and gas leases on state lands who have not made a discovery of oil or gas in paying quantities within two years from the date of the lease and who are not in default in complying with the terms of their leases shall be given the preference over any and all other applicants for a new lease upon said lands at the rentals prevailing in the district in which the lands are situated, but such rentals shall not be less than those fixed by the Board of School and Public Lands, and whenever any such lessee or assignee, during the original or primary term of the original lease whether such lease was issued under this or prior acts, shall have made substantial expenditures in good faith on the lands covered by such lease, for the purpose of discovering and developing oil and/or gas thereon, such lessee or assignee shall be entitled to and shall receive from the Commissioner an extension of the original or primary term of his lease for an additional period of five years. Applications for lease or extension under this section must be filed with the Commissioner prior to the expiration of any existing lease, and in case of any application for extension claimed under this section on account of expenditures made on the lands, satisfactory proof of such expenditures must be shown at the time of filing such application or within such reasonable time as the Commissioner may require.

Section 4. All leases issued under the provisions of this act shall be assignable in whole or in part, provided no assignment of less than a legal sub-division shall be recognized or approved by the Commissioner. The term "legal sub-division", as used in this act shall be construed in its ordinary sense as used and recognized in the General Land Office of the United States. The assignments provided for herein shall be executed and acknowledged in duplicate in the manner prescribed for the conveyances of real estate in this state, and subject to recordation as other instruments conveying real estate and, in addition thereto, a duplicate original shall be filed in the office of the Commissioner who shall record the same in permanent form in his office as a public record and shall return the original to the person entitled thereto after recording. The approval of the Commissioner shall be noted upon all originals of the assignment. The Board of School and Public Lands shall prescribe the form to be used for such assignments and shall fix a reasonable fee for the filing, recording and approval of the same. The Commissioner shall have the right to refuse approval of any assignment not executed in proper form or by the proper person or persons, or when the lease is not in good standing as to the assigned tracts, or when litigation is pending affecting the lease or the interest of any person therein. Upon approval by the Commissioner of an assignment the assignor shall stand relieved from all obligations to the state with respect to the lands embraced

in the assignment and the state shall likewise be relieved from all obligations to the assignor as to such tract or tracts and, thereupon, the assignee shall succeed to all of the rights and privileges of the assignor with respect to such tracts and shall be held to have assumed all of the duties and obligations of the assignor to the state as to such tracts.

Section 5. Applications for the issuance of any lease authorized by this act shall be executed under oath by the applicant or his agent or attorney duly authorized in writing, or by any officer or attorney-in-fact of the corporation, if the application is made by a corporation. The application shall be accompanied by the amount offered by the applicant as the bonus, if any. The form of the application shall be prescribed by the Commissioner and all applications shall contain a description of the lands by legal sub-divisions upon which the lease is desired, together with such data and information concerning development on and in the vicinity of the land as may reasonably be required by the Commissioner. No lease shall be issued without the filing of an application therefor as prescribed herein and no lease shall be issued for less than the amount offered by the applicant as a bonus, if any.

Section 6. The Board of School and Public Lands shall prescribe by regulation the annual rental charge which shall be specified in leases issued under the provisions of this act, which said annual rental charge shall be a reasonable rental charge, but in no case less than twenty-five cents per acre.

Section 7. Nothing contained in this act shall be construed as requiring the Commissioner to offer any tract or tracts of land for lease, nor to lease the same, but the Commissioner shall have the power to withhold any tract or tracts from leasing for oil and/or gas purposes if, in his opinion, the best interests of the state shall be served by so doing.

Section 8. The Commissioner is hereby authorized to cancel any lease issued as provided for non-payment of rentals, or non-performance by the lessee of any provision or requirement of the lease; provided, however, that if any such cancellation shall be made the Commissioner must mail to the lessee or assignee, by registered letter addressed to the postoffice address of such lessee or assignee shown by the records of the office of the Commissioner, a notice of intention to cancel said lease, specifying the default for which the lease is subject to cancellation and if within thirty days after the mailing of said notice to the lessee or assignee he shall remedy the default specified in such notice, then no cancellation of said lease shall be ordered by the Commissioner but, otherwise, the cancellation shall be made and all rights of the lessee or assignee under the lease shall thereupon terminate. The mailing of the notice as provided in this section shall constitute notice of the intention of the Commissioner to cancel the lease and no proof of receipt of such notice shall be necessary or required.

Section 9. The Commissioner is authorized to insert in the leases issued under the provisions of this act such general provisions as are customary and proper for the protection of the rights of the state and of the lessee and of the owners of the surface of the leased lands and not inconsistent or in conflict with the provisions of this act and of other laws.

Section 10. The Board of School and Public Lands shall from time to time promulgate such rules and regulations not in conflict with any of the provisions of this act, as may be necessary or proper for carrying out the provisions of this act governing the duties of the Commissioner in executing leases, specifically prescribing forms to be used, fixing minimum bonus and rentals, and prescribing the method of sale, whether private or by public auction, or either or both; provided, however, that no rule or regulation or amendment of the same or any order representing any rule or regulation shall become effective earlier than fifteen days after the promulgation of same and a copy of the proposed rule, regulation, amendment or order shall be posted in a conspicuous place in the office of the Commissioner for a period of at least fifteen days prior to the taking effect of the same.

Section 11. All oil and gas permits issued prior to the effective date of this act and which are in full force and effect may, under such rules and regulations as may be prescribed by the Board of School and Public Lands, be surrendered by the holder thereof to the Commissioner and there shall be issued in lieu thereof oil and/or gas leases to the holder as other leases are issued and executed under the provisions of this act. Provided further that where heretofore or hereafter any person, firm or corporation has been granted a lease or leases and has not tested or prospected the land so leased and a mistake has been made in the description of the land, there may be substituted therefor other land for that leased, under such rules and regulations as may be prescribed by the Commissioner of School and Public Lands; provided, however, that such application for such correction must be made within six months from the date of the lease.

Section 12. If any provision of this act shall be declared invalid, then such invalidity shall not affect the remaining valid provisions of the act, it being the intent that all of the valid provisions hereof shall be given full force and effect, regardless of the invalidity of any other provision.

Section 13. Chapter 305 of the Session Laws of 1919, State of South Dakota, is hereby repealed insofar as they relate to oil and gas, and all other acts and parts of acts in conflict or inconsistent with the provisions of this act, are hereby repealed.

Approved March 16, 1931.

RELATING TO LEASING LANDS OF MINORS AND INCOMPETENTS

(Chapter 202, South Dakota Session Laws, 1931)

AN ACT Entitled, An Act Relating to the Leasing of Lands Belonging to Minors, Incompetents and Insane Persons for Oil and Gas Mining Purposes, Providing for the Leasing of Such Lands for Oil and Gas Mining Purposes by the Guardian of any such Person with the Approval of the County Court, Providing the Procedure to be Followed in Procuring Authority to Execute and Deliver Such a Lease, Providing for the Validating of Oil and Gas Mining Leases Heretofore Executed by the Guardian of Any Such Person with the Approval of the Proper County Court, and Declaring an Emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. County courts having jurisdiction of the estates of minors, incompetents and insane persons are hereby given jurisdiction, on the application of the guardian of any such person, to authorize such guardian to lease the lands of his ward for oil and gas mining purposes for such term, either within or beyond the period of the incapacity of his ward, and upon such conditions as the court may deem for the best interests of such ward.

Section 2. Before any court makes an order authorizing any such lease, the guardian shall file with the county court a verified petition for leave to make such lease, stating the reasons why such leasing would be to the interests of his ward, and, if the county court be of the opinion that making such lease will be for the best interests of the ward, it shall make an order authorizing such guardian to make an oil and gas mining lease upon the lands of his ward for such term and upon such conditions as the court may direct and for a bonus and rental in a sum not less than the court in such order prescribes, and the court may order such lease to be made either with or without notice.

Section 3. When a guardian makes any such lease in pursuance of the authority given by the county court, he shall make a return and report to the court of such leasing, submitting therewith the lease and, if the county court approves said lease, it shall make an order approving the same and direct the guardian to deliver such lease to the lessee, and such lease shall thereupon become a valid and subsisting lease.

Section 4. All leases for oil and gas mining purposes made by guardians of minors, incompetents and insane persons with the consent and approval of the county court having jurisdiction of the estates of any such persons, prior to the approval of this act, are hereby validated.

Section 5. Whereas, this act is necessary for the immediate support of the state government, and its existing public institutions, 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 February 11, 1931.

WATER

ARTESIAN WELLS

(Chapter 3, Part 16, Revised Code of 1919)

Article 1

Private Wells

Section 8272. Right to Construct--Use Limited. Any person owning land shall have the right to sink or bore an artesian well or wells on his land, for the purpose of procuring water for domestic use, for irrigation or for manufacturing purposes; but from wells constructed subsequent to the ninth day of March, 1891, no more water shall be appropriated by such person than is needed for such purposes, when such additional use of water shall interfere with the flow of wells on adjacent lands.

- Section 8273. Location of Waterways.
- Section 8274. Limitation of Burden.
- Section 8275. Selection of Route.
- Section 8276. Surplus Water.
- Section 8277. Damages for Property Taken.
- Section 8278. Damages Determined.
- Section 8279. Right of Way Across Railway.
- Section 8280. Obstructions.
- Section 8281. Interference--Penalty.
- Section 8282. Unlawful Use--Injury to Property--Penalty.
- Section 8283. Plat of Route.
- Section 8284. Repair of Waterways.
- Section 8285. Repairs by Person at Fault.
- Section 8286. Owner's Right to Designate Crossing.
- Section 8287. Surplus Waters.
- Section 8288. Public Use.
- Section 8289. Across School Lands.

Article 2

County Wells

Sections 8290 to 8325.

Article 3

Civil Township Wells

Sections 8326 to 8376.

Article 4.

Miscellaneous

Section 8377. Distribution of Wells. In locating wells in any township wherein public or private wells have been established, due regard shall be had to their proper distribution in order that the flow of the wells may be properly equalized and least likely to interfere with each other. Should any well in such township, public or private, be located so near any well already completed or in process of completion as to be likely to interfere with the same, any person may complain in writing to the state engineer, who shall without delay proceed to examine the locality and determine from its topography and the proximity of the wells whether in his judgment the well as located would unduly interfere with the one completed or in the course of completion. If in his judgment there will be no material interference the location shall not be changed, but if in his opinion the well as located will materially interfere with the one completed or in the course of completion, he shall change the location of such well to some more suitable locality; provided, that when permanent buildings have been located on any farm prior to the sinking of any artesian well on any adjoining farm, this section shall not be construed as prohibiting the agent or proprietor of such farm from sinking any artesian well at or near such buildings without reference to the proximity of any other artesian well. The state engineer shall, within five days after such examination make a written statement of his decision and file the same, or a copy thereof, in the office of the clerk of courts of the county wherein such wells are located. Any person aggrieved by the decision of the state engineer may within ten days after the filing of his decision appeal from the same to the circuit court, and upon such appeal the question shall be tried de novo.

Section 8378. State Engineer to Determine Flow and Pressure. The state engineer is authorized, and it shall be his duty, to measure or cause to be measured the flow and pressure of all artesian wells, public and private, at such times as he may deem proper, for the purpose of determining the increase or diminution of the flow or pressure of such wells, and is authorized to enter upon any grounds for such purpose, and the owner of such well or wells shall furnish the necessary material to construct a suitable wier to measure the flow and all reasonable conveniences shall be afforded for such purpose.

Section 8379. Wellcasing Required. Every person sinking or boring for an artesian well shall cause to be placed in such well a proper and sufficient casing, of strength sufficient and so arranged and placed as to prevent the caving in of such well and to prevent the escape of water therefrom where it is desirable to confine the same, and to provide the necessary valves and appliances to prevent or control the flow of water from such well.

Section 8380. Waste Prohibited. No person controlling an artesian well shall suffer or permit the water thereof to flow to waste, except so far as reasonably necessary to prevent the obstruction thereof, or the water to flow or to be taken therefrom, save

for beneficial uses; provided, that nothing in this section shall be so construed as to prevent the reasonable use of water for the necessary irrigation of trees standing along or upon any street, road or highway or for ornamental ponds or fountains or the propagation of fish.

Section 8381. Well Inspection. Any township, county or municipal officer within the township, county or municipality, upon complaint of any person that the proprietor of any artesian well, or person controlling the same, is wont to suffer the waters thereof to unreasonably run to waste, or to have in any respect violated this article, may at any reasonable hour of the day or night enter upon any premises where such well is situated for the purpose of inspecting the same and ascertaining whether there is sufficient cause for such complaint, and in order to institute or cause to be instituted criminal prosecutions for any violation of this article, and every person sinking or boring for an artesian well upon his own land, or suffering others to do so, shall be deemed in law to expressly license the entry of any such officer for the purposes of such inspection.

Section 8382. Violation--Penalty. If any person, being the proprietor of or controlling any artesian well, shall suffer the same to flow without causing it to be furnished with the necessary valves or appliances for arresting or preventing the flow of water therefrom, as provided in the third preceding section, or shall knowingly permit the water thereof to flow to waste unnecessarily and to the injury of others, or being in possession of or controlling the premises where any artesian well is situated shall wilfully prevent any officer entitled by this article to visit and inspect the same, or to measure the flow and pressure thereof, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

RELATING TO THE USE OF ARTESIAN WATER

(Chapter 100, South Dakota Session Laws, 1919)

AN ACT Entitled, An Act to Regulate the Use of Artesian and Phreatic Waters of the State of South Dakota.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Each land owner by virtue of the existence of subterranean waters on his property which communicate with similar waters on adjacent lands, has certain rights in the same and certain civil obligations to all sharing in said underground waters, and the state is bound to secure to each land owner his rights therein, and to require of him the fulfillment of his obligations therefor.

Section 2. For the purposes of conserving the natural resources of the state and of regulating the use of artesian and phreatic waters of the state and preventing the waste thereof, and not for the purpose of raising revenue, all artesian wells, whether state, county, township, municipal, corporation or private, shall be subject to the following taxes, to-wit:

(a) A registration tax, for each flowing well running on May 1, 1919, and for everyone made thereafter, there shall be paid into the State Treasury by its owner, the sum of fifty (50) cents, through the officers hereafter designated.

(b) An annual tax assessed as follows: For every quarter section twenty-five gallons per minute shall be allowed free, but for every twenty gallons per minute or fraction thereof, for each quarter section, over that amount, ten (\$10.00) dollars shall be paid into the state treasury for each year, beginning with May 1st, which moneys shall be deposited in a fund known as the Artesian Well Fund.

Provided, that the owner or owners of a well may count several quarter sections to one well, provided that they own the land, in which case the facts shall be duly recorded in the county records, and no division or duplication of quarter sections shall be allowed.

Provided also, that in wells constructed prior to the taking effect of this act and used for power purposes, the annual tax shall not exceed five (\$5.00) a year for a two inch well, ten (\$10.00) dollars for a three inch well, twenty-five (\$25.00) dollars for a six inch well and forty (\$40.00) dollars for an eight inch well, except where an unnecessary waste of water occurs, such waste shall be subject to the maximum tax prescribe in this section.

Provided also, that where an artesian well does not exceed two inches in diameter which is used for the purpose of supplying both water and gas for domestic purposes only, there shall be no annual tax in such amount of flow as is necessary to supply the required amount of gas for domestic use only, but such additional and unnecessary flow, if any shall be subject to the maximum tax prescribed by this section.

Provided also, that any well constructed prior to the taking effect of this act, used for domestic purposes and irrigation, the annual tax shall not exceed twenty (\$20.00) dollars on a two inch well, forty (\$40.00) dollars on a three inch well, fifty (\$50.00) dollars on a four inch well and one hundred (\$100.00) dollars for a six inch well, except in such cases as part of the water is flowing to waste, in which case all such water will be subject to the maximum tax prescribed in this section.

Provided further, that in wells owned or controlled by any county, township or municipal corporation, there shall be no annual tax collected, except where the flow of the wells exceeds ten barrels for twenty-four (24) hours for each inhabitant thereof.

Section 3. The county and township assessors shall list all artesian or flowing wells in their respective territories each year at the time of filing the assessment, giving the quarter section on which each is situated, the owner of each with his address, and the quarter section on which his well is apportioned, also as far as possible, the diameter, depth to main flow and number of gallons per minute flowing, when the well is wide open. This data is to be forwarded by the County Auditor to the State Engineer.

Section 4. The taxes upon wells owned by private corporations or individuals mentioned in the previous sections shall be reported by the assessors and collected by, and the collections thereof enforced by the County Treasurer with the regular taxes, and forwarded by the latter with the other state taxes to the State Treasurer. The taxes upon county, township, and municipal wells shall be paid to the State Treasurer on or before October 1st of each year and deposited in the artesian well fund.

Section 5. Any pump well of over three-inch diameter shown to draw water from the supply which affords flowing wells, shall be subject to the same annual taxes as flowing wells, for corresponding amounts drawn, and the owner or person in charge of any well suspected to be liable to tax, shall give the assessor all information in his power from which an estimate of the water used may be estimated.

Section 6. When a flowing well has been constructed and the driller or owner is unable to control the flow thereof, it shall be the duty of the owner to notify the State Engineer forthwith, who shall thereupon cause such measures to be taken as he deems expedient to control the flow. In case such owner neglects to give such notice, the State Engineer may proceed likewise to control or stop such flow, the expense of which shall in the first instance, be paid out of the artesian well fund by warrant drawn upon such fund by the State Auditor upon the presentation of proper vouchers approved by the State Engineer. In either case, one-half the expense thereof shall be paid by the owner and if he neglects or refuses to pay his share, the same shall be recoverable in an action in the name of the state to be instituted

by the States Attorney of the county under the direction of the Attorney General.

Section 7. Every owner of a well capable of delivering more than twenty-five (25) gallons per minute shall provide and sustain a valve or valves, capable of controlling the discharge of the well, and only such escape of water shall be allowed as corresponds to the taxes assessed and paid for that year. In case of disagreement as to the amount of water used, the State Engineer or his deputy, may assume control and adjust and lock the valves so as to deliver the just amount of water, at the expense of the owner.

Section 8. The owner or person in control of an artesian or flowing well who shall allow the same to flow without a valve or sufficient contrivance for checking the flow as required by law, or who shall interfere with the same when properly adjusted by the proper authority, or shall knowingly permit the water to waste unnecessarily and to the injury of others, having control of premises where a flowing well is located, or shall interfere with any officer duly authorized to inspect the same or measure its flow or pressure, shall be guilty of misdemeanor and on conviction of the same, shall be punished by imprisonment in the county jail not exceeding two months, or by a fine not exceeding fifty (\$50.00) dollars, or by both imprisonment and fine at the discretion of the court where the conviction is had. The provisions of this section shall also apply to the officer or board in charge of wells belonging to the state, or any county, township or municipality.

Section 9. The State Engineer shall have the general oversight of the water of the state, and shall be ready to advise the citizens of the state as to the practicability of measures affecting the phreatic or underground waters of the state. He shall select at least three representative flowing wells in each county of the state, having that number and as many more as he may deem advisable, and he shall cause the records of their flows and pressures to be taken from time to time to learn as much as possible of the decline, fluctuations, and permanence of the artesian supplies, and also plan and conduct such other investigations as he may find advisable to ascertain the best method of prolonging the utility of the same. He shall keep a full record as possible of the location, size, depth, flow, pressure, character of water, construction and history of all artesian wells of the state, and keep it on file for public reference.

He shall secure the enforcement of all laws pertaining to artesian and phreatic waters of the state.

He shall publish from time to time, as he may deem advantageous, bulletins containing information concerning the artesian wells and the phreatic waters of the state. He shall make such additional reasonable rules and regulations governing the construction of such wells and the use thereof as he may deem for the best interest of the public and not inconsistent with the

laws of the state; which rules and regulations shall in all cases be compiled with and in case the same are violated he shall have the power to cause the construction thereof to be stopped or the use of the water thereof stopped.

Section 10. Every person, firm or corporation engaged in the business of constructing artesian wells in this state, before doing any such work, and before taking contract for such work, shall be required to furnish a bond, in the minimum sum of one thousand (\$1000.00) dollars and not exceeding ten thousand (\$10,000.00) dollars; said bond to be approved by the state engineer and the amount thereof to be determined by him with reference to the number of well rigs used by such driller; and which bond shall run to the State of South Dakota, and be conditioned for the faithful performance and proper construction of any artesian wells constructed by the party giving the bond. The bond shall be filed with the Secretary of State and may be sued upon by the State of South Dakota, by any county, township or municipality of the state or by any person damaged upon account of the failure, neglect or mismanagement in the construction of wells by the bounden. This act shall not apply to wells of less than three hundred (300) feet in depth.

Section 11. All acts and parts of act in conflict with this act are hereby repealed.

Approved March 11th, 1919.

RELATING TO THE OWNERSHIP OF WATERS

(Chapter 221, South Dakota Session Laws, 1927.)

AN ACT Entitled, An Act to Amend Section 348 of the South Dakota Revised Code of 1919, Relating to Water Rights and Dams.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That Section 348 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 348. Land Includes Water, Non-Navigable Stream Dam. Subject to the provisions of this code relating to artesian wells and water, the owner of the land owns water standing thereon, or flowing over or under its surface, but not forming a definite stream. Water running in a definite stream, formed by nature, over or under the surface, may be used by him as long as it remains there; but he may not prevent the natural flow of the stream, or of the natural spring from which it commences its definite course, nor pursue nor pollute the same, except that any person, owning land through which any non-navigable stream passes, may construct and maintain a dam across such non-navigable stream; provided, that the course of the water is not changed, that vested rights are not interfered with, and that no land shall be flooded other than that belonging to or upon which an easement for said purpose has been secured from the owner of such dam.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 4, 1927.

MISCELLANEOUS

RELATING TO STATE GEOLOGIST

(Chapter 332, South Dakota Session Laws, 1919)

AN ACT Entitled, An Act to Provide for a State Geologist and Defining His Duties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The professor of geology of the State University is hereby constituted ex-officio, state geologist. As such officer he shall perform his duties under the direction of the state board of regents of education.

Section 2. It shall be the duty of said state geologist, under the direction of said board of regents as aforesaid, to continue the geological, natural history, archaeological and anthropological survey of the state, emphasizing the economic geology and shall make to the governor, immediately after the close of the fiscal year next previous to the meeting of the legislature, a full report of his doings as such geologist and the results thereof which report shall be published as are the reports of other state officers.

Approved March 12th, 1919.

RELATING TO MINERS' LIENS

(Article 11, Chapter 15, Part 2, Revised Code of 1919)

- Section 1631. Liens--Who Entitled.
- Section 1632. Lien Account.
- Section 1633. Owner Furnish Contractor Copy.
- Section 1634. Recovery from Owner.
- Section 1635. Lien Statement Filed. (Amended by Session Laws of 1919, Chapter 261, p. 305.)
- Section 1636. Foreclosure.
- Section 1637. Procedure--Bringing in Parties.
- Section 1638. Receiver.
- Section 1639. Satisfaction.
- Section 1640. Fee-Costs.
- Section 1641. Foreclosure Noted on Lien Record.
- Section 1642. Article Applies to Wells.

RELATING TO STATE ENGINEER

(Article 1, Chapter 1, Part 16, Revised Code of 1919)

- Section 8183. Appointment, Qualifications, General Powers, Salary.
- Section 8184. Deputy--Assistants.
- Section 8185. Official Bonds.
- Section 8186. Traveling Expenses.
- Section 8187. Biennial Report.
- Section 8188. Fees.
- Section 8189. Disposition of Fees.
- Section 8190. Records of Office.
- Section 8191. Rules and Regulations.
- Section 8192. Authority to Make Surveys.
- Section 8193. Hydrographic Surveys.
- Section 8194. Record of Survey Files--Evidence.
- Section 8195. Licensing Surveyors.
- Section 8196. Rules for Surveyors.
- Section 8197. Examinations--Date--Where Held.
- Section 8198. Fee for Certificate.
- Section 8199. Certificate Without Examination.
- Section 8200. Bond of Licensed Surveyor.
- Section 8201. Licensed Surveyor May Administer Oaths.
- Section 8202. Legal Survey Defined.
- Section 8203. Government Survey Corners Not Disturbed.
- Section 8204. Powers as to Irrigation.
- Section 8205. Observation Stations.
- Section 8206. Analyses.
- Section 8207. To Negotiate With Manufacturers.

RELATING TO MINE INSPECTION¹

(Article 1, Chapter 9, Part 16, Revised Code of 1919)

- Section 8705. Inspector--Appointment--Term.
- Section 8706. Vacancy.
- Section 8707. Oath of Office--Form.
- Section 8708. Seal of Office.
- Section 8709. Duties of Inspector.
- Section 8710. Complaint to Inspector--Action.
- Section 8711. Inspector to Visit Mines.
- Section 8712. Accident--Inspector Notified.
- Section 8713. Neglect to Notify of Accident--Penalty.
- Section 8714. Mines Exempted from Article.
- Section 8715. Annual Report.
- Section 8716. Mileage.
- Section 8717. Salary.
- Section 8718. Bond.

1. Sections 8705 to 8718 amended by Chapter 259, Session Laws of 1919, providing for the inspection of commercial stone quarries, by the Inspector of Mines.

DEALERS IN METAL

(Chapter 12, Part '22, Revised Code of 1919)

Section 10428. Record of Purchases. Every person engaged in the business of a retail or manufacturing jeweler, assayer or ore sampler shall keep and preserve a book in which shall be entered at the time of delivery thereof, the name of any person delivering to such person any uncoined precious metal, pure or in chemical or mechanical combination with another or with any other substances; the weight or amount and a short description of each lot thereof, and the date of delivery; provided, that this chapter shall not apply to articles of manufactured merchandise.

Section 10429. Record Book Open. Such book shall be open to the inspection of the public at any time during business hours.

Section 10430. Violation--Penalty. Every person who shall fail or refuse to keep the book required by the second preceding section, or shall fail or refuse to make any proper entry therein as required by such section, or shall make any false entry therein, or shall refuse to permit an inspection thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine or not less than fifty nor more than five hundred dollars or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment.