

1879, entitled an act for the protection of the public credit, approved March 18, 1890, be amended to read as follows:

Sec. 1. STATE FUNDING WARRANTS ISSUED.] That Section 2 of Chapter 58 of the Session Laws of 1879 be and the same is hereby amended to read as follows: The State Treasurer, with the advice and consent of the Governor and State Auditor, is hereby authorized and directed to pay all state warrants legally issued, that may have been or may hereafter be presented to him for payment; *Provided*, The money to pay the same can be obtained at a rate of interest not to exceed 8 per cent.; and the Auditor is hereby authorized and directed to issue funding warrants in lieu of the warrants so paid, and the Treasurer is hereby authorized and directed to apply all State funds by him received and not otherwise lawfully appropriated, to the payment and cancellation of the so-called funding warrants; *Provided, further*, That nothing in this chapter shall authorize said Treasurer, nor shall said Auditor and Governor consent to issue funding warrants in excess of \$80,000, nor shall they anticipate the needs of the State for a longer period than sixty days at any one time.

§ 2. EMERGENCY.] Whereas an emergency exists in that there is no authority of law to issue funding warrants in excess of 6 per cent. interest, and there is need of additional funds to pay the current expenses of the State and the Legislative Assembly, therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved January 29, 1891.

RAILROADS.

CHAPTER 95.

[H. B. No. 200.]

AMENDING LAWS OF 1890, REGULATING COMMON CARRIERS.

AN ACT to Amend Section 6, of Chapter 122, of the General Laws of 1890, Entitled "An Act to Regulate Common Carriers and Defining Common Carriers and Defining the Duties of the Commissioners of Railroads in Relation Thereto in the State of North Dakota," and to Re-enact the Same.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 122 of the General Laws of 1890, entitled, "An act to regulate common carriers," be and the same is hereby amended to read as follows:

Sec. 6. LONG AND SHORT HAULS.] That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation on the aggregate for the transportation of passengers or like kind of property, under substantially similar circumstances and conditions, for a shorter than or a longer distance over the same line, in the same direction the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, within the terms of this act, to charge and receive as great compensation for a shorter as for a longer distance; *Provided, however,* That upon application to the Commissioners of Railroads, such common carrier may, in special cases, after investigation by the Commissioners of Railroads, be authorized to charge less for a longer than for shorter distances of transportation of passengers or property, and the Commissioners of Railroads may from time to time prescribe the extent to which said designated common carrier may be relieved from the operation of this section of this act.

Approved March 20, 1891.

CHAPTER 96.

[S. B. No. 71.]

REGULATION OF COMMON CARRIERS.

AN ACT to Amend Subdivisions "E," "F" and "G," of Section 8 of Chapter 122, of the Laws of 1890, Pertaining to the Regulation of Common Carriers.

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

§ 1. AMENDMENT.] Subdivisions "e," "f" and "g" of Section 8 of Chapter 122, of the Laws of 1890, are hereby amended so as to read as follows:

(e.) POWER OF COMMISSIONER TO EQUALIZE TARIFFS.] That in case the commissioners shall at any time find that any part of the tariffs of rates, fares, charges or classifications so filed and published as hereinbefore provided, are in any respect unequal or unreasonable, they shall have the power and are hereby authorized and directed to compel any common carrier to change the same and adopt such rate, fare, charge or classification as said commissioners shall declare to be equal and reasonable; *Provided, however,* That before said commissioners shall finally fix and declare such rate, fare, charge or classification, it shall be the duty of the Commissioners of Railroads to serve a written notice by delivering a true copy thereof upon any agent of the Railroad Com-

pany within this State, setting forth in such notice that at a certain time and place they will proceed to fix and determine such rate, fare, charge or classification; and they shall at such time and place and as soon as practicable afford to any person, firm, corporation or common carrier who may desire it an opportunity to make an explanation or showing or to furnish information to said commissioners on the subject of determining and fixing such rate, fare, charge or classification; *Provided, further*, That the said Board [of] Commissioners of Railroads shall not make or declare any order for any purpose without first giving notice to all parties interested as provided in this subdivision.

(f) FINAL ORDER FIXING RATES—PUBLICATION OF SAME—WHEN RATES IN FORCE.] After the hearing provided for by subdivision "e" of this section the Commissioners of Railroads shall make its order finally fixing and declaring such rate, fare, charge or classification and shall immediately serve or cause to be served upon every person, firm, corporation or common carrier affected thereby, a copy of such order; in case such common carrier shall neglect or refuse for ten days after the service of such order to substitute such tariff of rates, fares and charges or classifications, or to adopt the same as fixed and declared by the Commission, it shall be the duty of said Commission to immediately publish such tariff of rates, fares, charges or classifications as they have ordered and declared to be equal and reasonable in one or more newspapers published in the county or counties through or into which the road or line may run, upon which the charges so fixed and declared by the Commission are to take effect, and to post a copy thereof in every railroad depot in the State. The newspapers in which such publication shall be made, (subject to the above condition that they shall be published in the county or counties through or into which such road or line of roads may run) and the duration of time which such notice shall be published shall be in the discretion of the Commission; but the tariff of rates, fares, charges or classifications fixed and declared by the Commission shall be in full force and effect from and after the expiration of ten days from the service upon such common carrier of the order provided in this subdivision without regard to the publication authorized by this subdivision; and after the expiration of ten days from the service of such order upon such common carrier it shall be unlawful for such common carrier to charge a higher or lower rate, fare, charge or classification than that fixed by said Commission; such order shall be *prima facie* evidence of the equality and reasonableness of the rate, fare, charge or classification fixed and declared thereby.

(g) MANDAMUS, WHEN — INJUNCTION.] If any common carrier, subject to the provisions of this act shall neglect or refuse to publish or file its schedule of classifications, rates, fares or charges or any part thereof as provided in this section, or if any common carrier shall refuse or neglect to

comply with such order made and served by such Commissioners, such common carrier shall be subject to a writ of mandamus, to be issued by any Judge of the Supreme Court, or of any of the district courts of this State upon application of the Commissioners to compel compliance with the requirements of this section, and with the order of the Commissioners, and failure to comply with the requirements of the writ of mandamus shall be punishable as and for contempt, and the Commissioners, as complainants, may also apply to any such judge for a writ of injunction against such common carrier from receiving or transporting property or passengers within this State until such common carrier shall have complied with the requirements of this section and the order of said Commissioners, and for any willful violation or failure to comply with such requirements or such order or orders of said Commissioners, the court may award such costs, including counsel fees, by way of penalty, on the return of said writs and after due deliberation thereon, as may be just.

§ 2. EMERGENCY.] The fact that there is no law requiring the notice and hearing provided by this act, and the fact that without such provision of law the Commissioners of Railroads will be hindered and delayed in the performance of their duties, create an emergency, therefore this act shall take effect and be in force immediately on its passage and approval.

Approved March 20, 1891.

CHAPTER 97.

[S. B. No. 126.]

AMENDING LAWS OF 1890, REGULATING SHIPMENTS OF LIVE STOCK AND GRAIN.

AN ACT to Amend Section 2, Chapter 124, of the General Laws of 1890, Entitled "An Act Relating to the Shipment of Live Stock and Grain."

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

§ 1. AMENDMENT.] That Section 2, Chapter 124, of the General Laws of 1890, entitled "An Act Relating to the Shipment of Live Stock and Grain." be amended so as to read as follows:

Sec. 2. SHIPPER'S RIGHT TO PUT MORE THAN ONE KIND OF STOCK OR GRAIN IN CAR.] Whenever any shipper shall order one or more cars from any railroad company for the transportation of stock or grain, he shall have the right and privilege to put in said car or cars two or more species of live stock or different kinds of grain and no railroad company or railroad agent shall charge for any car in which is shipped two or more species of live stock, any

greater prices than are charged when only one species of said stock is shipped therein. Nor shall said railroad agent or railroad company charge any greater sum when two or more kinds of grain are shipped in any car, than is charged when only one kind of grain which is in said car is shipped; *Provided*, That said different species of stock or kinds of grain which are placed in said car or cars do not exceed the maximum limit of pounds allowed by law and by the railroad company when only one species of live stock or one kind of grain is shipped in said car or cars; *Provided further*, That when more than one kind of stock or grain shall be shipped in the same car the highest rate may be the rate of freight to be charged; and be it *Further Provided*, That every railroad company doing business within the State of North Dakota, shall within ninety days from and after the taking effect of this act, provide and put in place at or near every intersection or junction of any of their branch lines of road, with any of their main lines of road within said State, suitable scales or weighing apparatus for the weighing of grain and other commodities in carload lots, and shall be obliged to weigh every carload lot loaded and shipped from this State when required by the shipper, and every shipper of one kind of grain shall pay a fee of fifty (50) cents for weighing each car which charge shall follow the car and be collected at its destination, shall receive from the agent in charge at any of said railroad company's intersections or junctions, a certificate, showing the weight of any such carload or carloads of grain or other commodities so weighed for them, and also the number of pounds or bushels of grain contained in each of said carload lots, which said certificate when presented to the proper agent of any of said railroad companies at the point of destination, shall entitle the owner or legal holder thereof to receive the same number of pounds or bushels of said grain so shipped. Said railroad company or companies to be liable for and to make good any loss which may occur between point of shipment and destination. Any points of difference occurring between said shippers and said railroad company or companies in regard to any of said losses shall be referred to and determined by the Commissioners of Railroads of said State of North Dakota under the rules and provisions of the laws in such cases made and provided.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 20, 1891.