

RAILROADS.

CHAPTER 99.

[H. B. No. 157.]

RAILROAD RIGHTS OF WAY.

AN ACT Granting Right of Way to Railroad Companies Through Public Lands.

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

§ 1. RIGHTS OF WAY—CONDITIONS—PROVISOS.] Every railroad company duly organized under the laws of any state or territory, or by the Congress of the United States authorized to build and operate a railroad within this State, which shall have filed with the Secretary of State a copy of its articles of incorporation, properly certified, shall have the right to take, hold and use for the purpose of a railroad, a strip of land one hundred feet wide, fifty feet on each side of the center line of said railroad, through each and every tract of public land owned or held by the State, across which its road has been or shall be located or constructed; *Provided*, That where it shall be necessary to protect such railroad from snow, or to use extra width in its construction, said company shall have the right to take, hold and use a strip of land not exceeding two hundred feet wide, one hundred feet on each side of said center line, through such public lands; *Provided, further*, That at all its regular stations, established upon such lands, said company shall have the right to take a strip of land 1,600 feet long and 300 feet wide for station purposes.

§ 2. SCHOOL LANDS TO BE PAID FOR AT APPRAISED VALUE.] Wherever any school or State lands are taken for railway purposes, as provided in the preceding section, the railway company so taking such lands shall pay to the State Treasurer the appraised value thereof, but in no case any sum less than ten dollars per acre for all such lands so taken.

§ 3. BENEFITS OF ACT, HOW OBTAINED.] Any railroad company desiring to secure the benefits of this act shall, within ninety days after the passage of this act, as to any railway already located, and within ninety days after the definite location of its road hereafter, across any section of such land, file in the office of the Board of University and School Lands a plat of such section of land, showing the location of such road through the same, and all stations located thereon; and thereafter all such lands over which such road shall pass shall be disposed of subject

to this grant; and every certificate or patent for such land thereafter sold shall contain an express reservation, to the use of such company, of all lands which it shall have appropriated in accordance with the provisions of this act; *Provided*, That if such road shall not be completed across any such section within five years after the location of the same thereon, the rights herein granted shall be forfeited as to any such section of land.

§ 4. LANDS ABANDONED ONE YEAR, TO REVERT.] If any railway company, appropriating any public lands by virtue of this act, shall at any time abandon the use of any such lands for railway purposes, for a period of one year, all such lands so abandoned shall revert to the State.

§ 5. REPEAL.] This act shall have full force and effect, notwithstanding any provisions of the general statutes, or other law of the State inconsistent therewith.

§ 6. EMERGENCY.] An emergency exists in that there is no way provided by existing law by which the right of way over public lands can be obtained by railway companies; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved, March 1, 1893.

CHAPTER 100.

[S. B. No. 145.]

RAILROAD CONNECTIONS.

AN ACT to Require One Railroad to Permit Another Railroad to Cross it and to Connect with it, and to Require Both Companies to Pay the Expense of Connection.

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

§ 1. CONNECTIONS.] Every railroad corporation shall have power to cross, intersect, join and unite its railroad with any other railroad before constructed at any point on its route and upon the grounds of such other railroad corporation, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the objects of its connection; and every corporation whose railroad is or shall hereafter be intersected by any new railroad shall unite with the owners of such new railroad in forming such intersection and connection and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor or the points and manner of such crossings and connections, the same may be ascertained and determined by the district court, on proper proceedings therefor, and judgment awarded by it.

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

Approved, March 6, 1893.

CHAPTER 101.

[H. B. No. 174.]

FREIGHT RATES ON COAL.

AN ACT Fixing the Maximum Rates that Railroad Companies May Charge for the Transportation of Coal Mined Within the State of North Dakota.

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

§ 1. MAXIMUM COAL RATES.] All railroad companies doing business as common carriers within the State of North Dakota shall not charge for the transportation of coal mined within the State from any station or siding within the State to any station or siding within the State a greater rate per ton than the following: For the first fifty miles or fractional part thereof, seventy-five (75) cents per ton; for any distance over fifty miles and not to exceed one hundred miles, ninety-five (95) cents per ton; for any distance over one hundred miles and not to exceed one hundred and fifty miles, \$1.15 per ton; for any distance over one hundred and fifty miles and not to exceed two hundred miles, \$1.35 per ton; for any distance over two hundred miles and not to exceed two hundred and fifty miles, \$1.55 per ton; for any distance over two hundred miles and not to exceed three hundred miles, \$1.75 per ton; for any distance over three hundred miles and not to exceed three hundred and fifty miles, \$1.95 per ton; for any distance over three hundred and fifty miles and not to exceed four hundred miles, \$2.15 per ton.

§ 2. PENALTY FOR FAILURE TO COMPLY WITH ACT.] Any neglect or refusal to carry out any part of the provisions of this act shall subject the railroad company so refusing or neglecting to carry out the provisions of this act to a fine or penalty of not less than twenty-five (25) dollars per day for each and every day so neglecting or refusing, to be recovered by any person suffering loss or damage thereby; said forfeiture may be recovered in any competent court of jurisdiction.

§ 3. DUTY OF ATTORNEY GENERAL.] It shall be the duty of the Attorney General and states attorneys to have enforced the provisions of this act in the name of the State of North Dakota.

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

§ 5. EMERGENCY.] An emergency exists in that there are no laws now in force for the regulating of railroad freight rates for the transportation of coal mined in the State of North Dakota, this act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1893.

CHAPTER 102.

[H. B. No. 9.]

LIABILITY OF RAILROADS FOR PRAIRIE FIRES.

AN ACT Regulating the Liability of Railroad Companies or Corporations for Damages Caused by Fire Escaping from Their Cars or Engines, and the Rules of Evidence Relating Thereto.

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

§ 1. LIABILITY FOR DAMAGES.] All railroad companies or corporations operating or running cars or steam engines over roads in this State shall be liable to any party aggrieved for all damages resulting from fire negligently escaping, or being negligently scattered or thrown from said cars or engines; *Provided*, That such railroad company or corporation shall not be liable for said damages when the same results from the default or negligence of the party injured.

§ 2. EVIDENCE OF NEGLIGENCE.] That upon the trial of any action against a railroad company or corporation doing business in this State from damages resulting from fire escaping or being scattered or thrown from its cars or engines, or from cars or engines under its control, the party injured shall not be required to show defect in said cars or engines or negligence on the part of the employes of said company or corporation; but the fact of such fire so escaping, or being so scattered or thrown, shall be construed by all courts having jurisdiction as *prima facie* evidence of such defect or negligence.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved, March 6, 1893.

CHAPTER 103.

[H. B. No. 74.]

TRAINS TO BE RUN EVERY WEEK DAY.

AN ACT to Require All Railways in This State to Run a Train for Freight and Passenger Traffic Over Their Roads and All Lines and Branches Thereof During Each Week Day of the Year.

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

§ 1. ONE TRAIN EACH WEEK DAY.] That every railway company owning or operating a railway line in this State is hereby required to run a train of cars over its lines, and branches of any

line, one way or the other, during every week day of the year, when in the opinion of the management of such company the operating thereof will pay the running expenses thereof and a reasonable compensation therefor.

§ 2. PENALTY.] That for each and every violation or neglect of this act, when not prevented by storm, the railway company violating it shall be subject to a fine of five hundred dollars.

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

Approved, March 6, 1893.

CHAPTER 104.

[S. B. No. 108.]

"ANTI-SCALPERS" ACT.

AN ACT to Regulate the Sale and Redemption of Transportation Tickets of Common Carriers.

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

§ 1. AGENTS TO OBTAIN STATE LICENSE—FEE.] It shall be the duty of the owners of any railroad or steamboat for the transportation of passengers to provide each agent who may be authorized to sell within the State, tickets or other evidence thereof entitling the holder thereof to travel upon his or their railroad or steamboat with a certificate setting forth the authority of such agent to make such sales, which certificate shall be duly attested by the corporate seal of any corporate owner of such railroad or steamboat, and shall, for the information of travelers, be kept posted in a conspicuous place in the office of such agent. After issue of such certificate as aforesaid such agent or a superintendent or general officer of such owners shall, within ten (10) days thereafter, exhibit the same to the Secretary of State of the State of North Dakota, and at the same time shall pay to said Secretary of State a license fee of five dollars (\$5), whereupon said Secretary of State shall issue to such agent so presenting said certificate a license under the seal of the State of North Dakota, authorizing such agent to engage in the business of selling transportation tickets of said common carrier, and said license so issued to such agent by said Secretary of State, shall also be kept posted in a conspicuous place in the office of such agent for the information of travelers and of the public. Whenever any agent so authorized as aforesaid, shall, by death, resignation or otherwise, cease to be such agent, his successor, appointed by said railroad or steamboat company, or the owner or owners thereof, shall be authorized to sell tickets for said company and act as the agent thereof, under the provisions of this act.

§ 2. TICKETS NOT TO BE TRANSFERRED WITHOUT LICENSE.] It shall not be lawful for any person not in the possession of such certificate and license so posted as aforesaid to sell, barter or transfer within this State for any consideration the whole or any part of any ticket or other evidence of the owner's title or right to travel on said railroad or steamboat, whether such railroad or steamboat be situated, operated or owned within or without the limit of this State.

§ 3. VIOLATION—PENALTY.] Whoever shall violate the provisions of the second section of this act shall be deemed guilty of a misdemeanor and shall be punishable by a fine not exceeding five hundred dollars (\$500) and by imprisonment not exceeding one (1) year, or either or both, in the discretion of the court in which such offender shall be convicted.

§ 4. AGENT TO EXHIBIT LICENSE.] It shall be the duty of any agent residing or acting within this State who shall be authorized to sell therein tickets or other evidences of the holder's title to travel upon any railroad or steamboat, to exhibit to any person desiring to purchase a ticket, or any officer of the law who may request him so to do, such certificate of his authority thus to sell, and such license.

§ 5. REDEMPTION OF UNUSED TICKETS—VIOLATION OF PROVISIONS—PENALTY.] It shall be the duty of the owners of every railroad or steamboat situate or operated, in whole or in part, within this State to provide for the redemption, under reasonable precautions, of the whole, or of any coupon or coupons of any ticket theretofore sold by any agent authorized as aforesaid, which the purchaser, for any reason other than the expiration of time limited in said ticket for the use thereof, has not used, in case of a ticket not used, and, in case of a coupon or a ticket partially used, at a rate which shall be equal to the difference between the price paid for the whole ticket and the cost of a ticket between the points for which the used portion of said ticket was actually used; *Provided*, That such ticket or coupon or coupons shall be presented for such redemption to any agent authorized as aforesaid, before the time therein limited for the use thereof shall have expired, and the deposit of such ticket or part of ticket in the postoffice, addressed to any such agent, with postage thereon duly paid, before the expiration of the time limited on any such ticket or part of ticket, shall be deemed such presentation; and the sale by any person of such ticket or the unused portion of any such ticket or coupon or coupons, otherwise than by the presentation of the same for redemption, as hereinbefore provided, shall be deemed to be a violation of the provisions of this act, and any person guilty of such violation shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500), or by imprisonment not exceeding one year, or either or both, in the discretion of the court in which such offender shall be convicted; *Provided*, however, That when any ticket-selling agent so licensed as

aforesaid or any common carrier subject to the provisions of this act shall sell, barter or transfer to any person any mileage book or commutation ticket or excursion ticket at any reduced rate authorized by law, and when such mileage book, commutation ticket or excursion ticket shall by the terms thereof be limited in respect of the time in which the same shall be used, then, and in that case, such mileage book, commutation ticket or excursion ticket shall not be redeemed by said common carrier subject to the provisions of this act.

§ 6. REFUSAL TO REDEEM—PENALTY.] Any railroad company or steamboat company which shall by any of its authorized ticket-selling agents within this State, unreasonably refuse to redeem any coupon of a ticket, or any ticket as required by Section 5 of this act, shall pay to the State of North Dakota a fine not exceeding five hundred dollars (\$500) for each offense.

§ 7. FRAUDULENT USE OR TRANSFER OF TICKET—PENALTY.] Whenever any person in the employ of any railroad or steamboat company doing business in this State, shall fraudulently neglect to cancel or return to the proper officer of the company, or agent of such railroad or steamboat company, any coupon, or any ticket or pass with intent to permit the same to be used in fraud of any railroad company or steamboat company; or if any person shall steal or embezzle any such coupon or other ticket or pass, or shall fraudulently stamp, or print, or sign any such ticket, coupon or pass, or shall fraudulently sell, or put in circulation, any such ticket, coupon or pass, said person shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a period not exceeding five (5) years.

§ 8. DISCRIMINATION IN PRICE OF TICKETS FORBIDDEN--PENALTY.] It is hereby declared to be unlawful for any ticket-selling agent so authorized and licensed as aforesaid, or for any common carrier subject to the provisions of this act, to charge, demand, collect, receive from, or to sell, barter, transfer or assign to, any person or persons, firm or company, corporation or association, any tickets of any class whatever entitling the purchaser or holder thereof to transportation by the common carrier issuing such ticket or tickets, for a greater or less sum or price than is charged, demanded, collected or received by such ticket-selling agent or common carrier subject to the provisions of this act, for a similar ticket or tickets of the same class. Any person, ticket-selling agent or common carrier subject to the provisions of this act who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars for each offense.

Approved, March 13, 1893.

CHAPTER 105.

[S. B. No. 127.]

RAILWAY CONNECTIONS.

AN ACT to Amend Chapter 126 of the Session Laws of 1890, Being an Act Entitled "An Act to Provide for a Transfer of Freight at Railroad Crossings and the Maintenance of Depots at the Same;" the Purpose of This Amendment Being to do all Proceedings in Courts and to Limit Such Act to the Purpose of Building Y's and Proper Connecting Tracks Between all Railways Crossing Each Other in This State, and to Require Transportation from One Road to Another Over Such Y's or Connections at Two Dollars (\$2) Per Car, and to Equally Apportion the Freight Rate Between the Different Railways of This State When Such Connections are Made on the Basis of the Miles of Transit by Each.

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

§ 1. Y'S AND FACILITIES TO BE PROVIDED.] That in all cases where any line of railroad shall cross or intersect any other line of railroad in this State on the same grade it shall be the duty of the railroad companies owning or operating such intersecting railroad lines within sixty (60) days after the passage of this law to provide at such crossing or intersection suitable and sufficient facilities such as building Y's or other tracks for transferring cars or traffic of all kinds and classes from one such line of railroad to another, and to afford equal and reasonable facilities for the interchange of cars and traffic between the respective lines.

§ 2. ATTORNEY GENERAL TO ACT, WHEN—PROCEEDINGS.] That upon the failure of any railroad company or companies to build the Y's or other tracks at railroad crossings to make suitable and sufficient intersection facilities for the transfer of cars from one line of railway to another line of railway crossing it, whether the different lines are owned by one or different companies, it shall be the duty of the Attorney General of the State to prepare a suitable complaint in the name of the State and against said railway company or companies, and any party who may own the land needed to make such Y crossing or whose land will need to be taken therefor, not then owned or held by said railway companies, for the purpose of having said land condemned for such purpose, and for an order to require said railway companies to build said Y's or intersecting tracks to enable the transfer of cars from one of said railways to the other, and the proceedings in said suit and the trial thereof shall be according to the course of other proceedings of a like nature, in which, after the court has determined the value of the land through the condemnation branch of the case, it shall require the proper owner thereof to be awarded and paid the sum awarded him with his costs, which the State or any

interested person can advance and have taxed up [as] a part of the judgment in the case against the said railways; and upon this being done the court shall order and direct the said railroad companies to build within a time to be stated in its decree the Y or intersecting connection for the transfer of cars from one road to the other heretofore described, unless said railroad or railroads shall show good and sufficient reasons why said Y or other facilities should not be built; and upon the failure of said railway companies or either of them to obey the said order of the said court the said order shall provide that the sheriff or some suitable person therefor, to be designated by the court, shall go upon the right of way of said railroad companies and build and make said intersecting and Y facilities for the transfer of cars from either of said roads to the other and report the cost thereof to the court, and that the court shall find what items of the expense were necessary, and what is a reasonable allowance for the same, for which sum it shall award a judgment for the same against said railway companies, including the cost for condemning the land and paying for it, together with all other costs in the case. No condemnation proceedings shall be needed in the case where all of the land used to make the Y connection belongs to either or both of said railway companies. Any judgment rendered in the case may be collected as any other judgment in execution, and in addition to this the court shall be authorized to exercise all its chancellor powers to compel obedience to any order, decree, or writ that it shall make.

§ 3. EXPENSE, HOW APPORTIONED.] The expense of the transfer connections described in this act shall be borne in equal proportion by each of the railway companies whose lines are thus connected, and there shall be allowed on each car so transferred, two (2) dollars of extra freight to pay for said transfer, one-half of which two dollars shall go to each of said lines of railway; and each railway in this State where the loading and delivery shall take place within this State shall divide the freight receipts for transportation of such car, or any portion of the freight therein, according to the pro rata distance each of the different lines shall have transported the same from its starting point to its destination.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. EMERGENCY.] An emergency existing in that there is no adequate law on this subject, and that it is necessary that proceedings be taken before July next under this act; therefore, it shall take effect from and after its approval.

Approved, March 16, 1893.