

RAILROADS.

CHAPTER 115.

[Sub. B. 121.]

DEFINING DUTIES OF RAILROAD COMMISSIONERS.

AN ACT to Regulate the Transportation of Passengers and Property by Common Carriers, and the Receiving, Delivering, Storing and Handling of Property Between Points Within this State by Railroads, Railroad Corporations, Railroad Companies, Express Companies, Car Companies, Sleeping Car Companies, Freight and Freight Line Companies, and Common Carriers, Engaged in the Transportation of Passengers or Property on Railroads in this State Operated by Steam, and Bridge Corporations and Ferry Companies the Property of Which is Used or Operated for Railroad Purposes; to Provide for the Control Thereof, in the Matter of Rates to be Charged for Such Transportation and the Manner Thereof, to Define the Powers and Duties of Commissioners of Railroads, Courts and Other Officers in Regard to Such Regulation and Control; to Prescribe Penalties for the Violation of this Act, and the Rules, Regulations, Orders, Judgments and Decrees Made Under this Act by Such Courts and Commissioners for Such Regulations and Control; Also to Repeal Acts and Parts of Acts in Conflict Herewith.

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

§ 1. DUTIES.] The Commissioners of Railroads shall have the general supervision of all railroads, railroad corporations and common carriers in the state operated by steam, and of all bridge corporations and ferry companies, the property of which is used or operated for railroad purposes, and shall inquire into any neglect or violation of the laws of this state by any such railroad, railroad corporation, bridge corporation, common carrier or ferry company doing business therein, or by the officers, agents or employes thereof, and shall also from time to time carefully examine and inspect, as hereinafter provided, the condition of each railroad and railroad corporation in the state, and of its equipment, and the manner of its conduct and management, with reference to the public safety and convenience. Every railroad, bridge corporation or ferry company doing business in this state shall make semi-annual reports in each year to the Commissioners of Railroads as to the safety of their bridges and ferries. Whenever, in the judgment of the Commissioners of Railroads, it shall appear that any railroad, railroad corporation or common carrier fails in any respect or particular, to comply with the terms of its charter or the laws of the state, or whenever in their judgment

any repairs are necessary upon its road, or any addition to its rolling stock, or any addition to or change of its stations or station houses, or any change in its rates or fares for transporting freight property or passengers, or any change in the mode of operating its road and conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, said Commissioners of Railroads shall inform such railroad corporation of the improvements and changes which they adjudge to be proper, by a notice thereof in writing, to be served by leaving a copy thereof, certified by the commissioner's secretary, with any station agent, clerk, treasurer or any director of said corporation, and a report of the proceedings shall be included in the annual report of the commissioners to the Governor. Nothing in this section shall be construed as relieving any railroad company or railroad corporation from its present responsibility or liability for damage to person or property.

§ 2. REPORT.] The said Commissioners of Railroads shall, on or before the first Monday in December in each year, make a report to the Governor of their doings for the preceding year, containing such facts, statements and explanations as will disclose the workings of the system of railroad transportation in this state, and its relation to the general business and prosperity of the citizens of the state, and such suggestions and recommendations in respect thereto as may to them seem appropriate. Said report shall also contain, as to every railroad, railroad corporation or common carrier doing business in this state; the total number of miles of main line and branches owned or operated; the total number of miles of main line and branches owned or operated in each county within this state; the total mileage of sidetracks within each county or taxing district in this state. The amount of its capital stock issued; the amount paid therefor; the manner of the payment of the same; the dividends paid; the surplus fund, if any; the number of stockholders; the amount of its preferred stock, if any, and the condition of its preferment; the amount of its funded debt and the rate of interest paid thereon; the amount of its floating debt and the interest paid thereon; the amount expended for improvements each year, and how and where expended, and the character of the improvements made; the earnings and receipts from each branch of its business and from all sources; the operating and other expenses; the balances of profits and losses; the cost and actual present cash value of its franchises, road and equipment, including permanent way, buildings and rolling stock, all real estate used exclusively in operating the road, and all fixtures and conveniences for transacting its business; the estimated value of all other property owned by such corporation with a schedule of the same, not including lands granted in aid of its construction; the number of acres originally granted in aid of construction of its road by the United States or by this state, the number of acres of such land remaining unsold; a classified

list of its officers and directors, with their respective places of residence and the salaries paid to each class; the number of its employes, classified, and the salaries paid each class; such statistics of the road and of its transportation business for the year as may, in the judgment of the commissioners be necessary and proper for the information of the Legislative Assembly, or as may be required by the Governor. Such report shall exhibit and refer to the condition of such corporations and the details of its transportation business transacted during the year ending June thirtieth. The average amount of tonnage that can be carried over each road in the state with an engine of given power.

§ 3. REPORTS OF RAILROAD COMPANIES.] To enable said commissioners to make such a report, the president or managing officer of each railroad, railroad corporation or common carrier doing business in this state shall annually make to the said commissioners, on the fifteenth day of the month of July, such returns in the form which they may prescribe as will afford the information required for their said official report; such returns shall be verified by oath of the officer making them, and any railroad, railroad corporation or common carrier whose return shall not be made as herein prescribed by the fifteenth day of July, shall be liable to a fine of five hundred dollars for each and every day after the sixteenth day of July that such returns shall be wilfully delayed or refused; *Provided*, however, that for the purpose of enforcing the provisions of this act, during the year 1897, said returns shall be made to the said commissioners as herein provided for the year 1896, within thirty days after this act takes effect.

§ 4. EXAMINATION OF BOOKS OF OFFICERS.] The said commissioners shall have power, in the discharge of the duties of their office, to examine any of the books, papers or documents of any such person, company or corporation, or to examine under oath or otherwise any officer, director, agent or employe thereof, and any person who may wilfully obstruct said commissioners in the performance of their duties, or who may refuse to give any information within his possession that may be required by said commissioners within the line of their duty, shall be deemed guilty of a misdemeanor, and shall be liable, on conviction thereof, to a fine not exceeding one thousand dollars, in the discretion of the court.

§ 5. DUTY OF RAILROAD TO FURNISH AND TRANSPORT CARS.] It shall be the duty of any railroad corporation, when within its power to do so, and upon reasonable notice, to furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight or express, and to receive and transport such freight with all reasonable dispatch, and to provide and keep suitable facilities for the receiving and handling the same at any depot or receiving office of such corporation on the line of its road; and also to receive and transport in like manner the

empty or loaded cars, furnished by any connecting road, to be delivered at any station on the line of its road, to be loaded or discharged, or reloaded and returned to the road so connecting; and for compensation it shall not demand or receive any greater sum than is accepted by it from any other connecting railroad for a similar service.

§ 6. CHARGES TO BE REASONABLE.] All charges made for any service rendered or to be rendered by any railroad, railroad corporation or common carrier subject to the provisions of this act, in the transportation of passengers or property in this state as aforesaid, or in connection therewith or for the receiving, delivering, storage or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

§ 7. PENALTY.] Any railroad, railroad corporation or common carrier, which shall violate any of the provisions of this act, as to extortion or unjust discrimination, shall forfeit for every such offense to the person, company or corporation aggrieved thereby three times the actual damages sustained or overcharges paid by said party aggrieved, together with the cost of suit and a reasonable attorney's fee to be fixed by the court, and if an appeal be taken from the judgment or any part thereof, it shall be the duty of the appellate court to include in the judgment an additional reasonable attorney's fee for service in the appellate court or courts, or the same may be received in a civil action therefor. And in all cases where complaint shall be made, in accordance with the provisions of section eight hereinafter provided, that an unreasonable charge is made, the commissioners shall require a modified charge for the service rendered, such as they shall deem to be reasonable, and all cases of a failure to comply with the recommendation of the commissioners shall be embodied in the report of the commissioners to the Governor; and the same shall apply to any unjust discrimination, extortion or overcharge by said railroad, railroad corporation or common carrier or other violation of law.

§ 8. EXAMINATIONS OF RATES.] It shall be the duty of said commissioners upon the complaint and application of the mayor and aldermen of any city or the president and trustees of any incorporated town or the supervisors of any township, to make an examination of the rate of passenger fare, express or freight tariff charged by any railroad, railroad corporation or common carrier, subject to the provisions of this act, and of the condition or operation of any railroad, railroad corporation or common carrier, any part of whose location or route lies within the limits of such city, town or township, and if twenty-five or more legal voters in any city, town or township shall, by petition in writing request the mayor and aldermen of such city, the president and trustees of such town or the supervisors of such township, to make the said complaint and application, and the said mayor and

aldermen, president and trustees or supervisors refuse or decline to comply with the prayer of the petition, they shall state the reason for such non-compliance in writing upon the petition, and return the same to the petitioners; and the petitioners may thereupon, within ten days from the date of such refusal and return, present such petition to said commissioners and said commissioners shall, if upon due inquiry and hearing of the petitioners, they think the public good demands the examination, proceed to make it in the same manner as if called upon by the mayor and aldermen of any city, the president and trustees of any town or the supervisors of any township. Before proceeding to make such examination, in accordance with such application or petition, said commissioner shall give to the petitioners and the railroad, railroad corporation or common carrier reasonable notice, in writing of the time and place of entering upon the same. If, upon such an examination, it shall appear to said commissioners that the complaint alleged by the applicant or petitioners is well founded, they shall so adjudge, and shall inform the corporation operating such railroad or such railroad corporation or common carrier of their adjudication within ten days and shall also report their doings to the Governor, as provided in the second section of this act.

§ 9. TO WHOM APPLICABLE.] In the construction of this act, the phrase railroad shall be construed to include all common carriers, railroads, and railways operated by steam, whether used or operated by the corporation owning them or by other corporations or otherwise. The phrase railroad corporation shall be construed to mean the corporation which constructs, maintains, uses or operates a railroad operated by steam power, and used for the transportation of persons or property, or leases cars by whatever name known to such railroad for such purpose.

§ 10. CUMULATIVE.] Nothing in this act shall be construed to stop or hinder any persons or corporations from bringing suit against any railroad company for any violation of any of the laws of this state or of the United States for the government of railroads, except as hereinafter provided.

§ 11, DECREES OF COMMISSIONERS ENFORCED.] The district courts of this state shall have jurisdiction to enforce, by proper decrees, injunctions and orders, the reasonable rulings, orders and regulations affecting public right, made or to be made by the board of Commissioners of Railroads, such as are now, or may hereafter be authorized to be made by them for the future direction and observance of railroads, railroad corporations or common carriers in this state. The proceedings shall be by equitable action in the name of the State of North Dakota, and shall be instituted by the Attorney General, whenever advised by the board of Commissioners of Railroads that any railroad, railroad corporation or common carrier is violating and refusing

to comply with any rule, order or regulation made by such Commissioners of Railroads, and applicable to such railroad, railroad corporations or common carrier. It shall be the duty of the court in which any cause shall be pending to require the issues to be made up at the first term of the court to which cause is brought which shall be the trial term, and to give the same precedence over other civil business. If the court shall find that such passenger fare, freight, or express rate, rule, regulation or order is reasonable and just, and that in refusing compliance therewith said railroad company, railroad corporation or common carrier is failing and omitting the performance of any public duty or obligation, the court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with such rule, fare, rate, order or regulation by said railroad, railroad corporation or common carrier or its officers, agents, servants and employes and may grant such other relief as may be deemed just and proper with costs. All violations of such decree shall render the company, person, officers, agents, servants and employes, who are in any manner instrumental in such violations, guilty of contempt of court, and the court may punish such contempt by fine not exceeding one thousand dollars for each offense, or may imprison the guilty of contempt until he shall sufficiently purge himself therefrom. And such decree shall continue and remain in effect and be enforced until the rule, fare or rate, order or regulation shall be modified or vacated by the board of Commissioners of Railroads.

§ 12. COMPENSATION OF ATTORNEY—COSTS.] The Attorney General is hereby authorized, in case he shall deem it necessary so to do in order to enforce the provisions of this act, to employ an attorney to assist him in any proceedings brought under this act, and such attorney shall be paid from the general fund of the State of North Dakota for his services an amount to be approved by the Attorney General and the board of Railroad Commissioners, and all necessary and usual costs of actions brought by the Attorney General under this act shall be itemized and paid from said fund upon his approval.

§ 13. COSTS.] Whenever a decree shall be entered against a railroad, railroad corporation, common carrier or person under section eleven, the court shall render judgment for costs, including a reasonable attorney's fee for counsel representing the state in said case, and said judgment shall be enforced by execution.

§ 14. TO WHAT APPLICABLE.] The provisions of this act shall apply to the transportation of passengers and property, and to receiving, delivering, storage and handling of property wholly within this state, and shall apply to all railroads, railroad corporations and railway companies, express companies, car companies, sleeping car companies, freight or freight line companies, and to any common carrier or carriers engaged in this state in the trans-

portation of passengers or property by railroad therein, and shall also be held to apply to shipments of property made from any point to some other point within the state, whether the transportation of the same shall be wholly within this state, or partially within this and an adjoining state or states. The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation, receiver, trustee or other person used as a common carrier or operated as a railroad whether owned or operated under contract, agreement, lease or otherwise, and the term "transportation" shall include all the instrumentalities of shipment or carriage, and the term "railroad corporation" contained in this act shall be deemed and taken to mean all corporations, companies or individuals now owning or operating or using or which may hereafter own, operate or use as a common carrier any railroad operated by steam in whole or in part in this state, or leases cars by whatever name known for the purpose of transportation and the provisions of this act shall apply to all persons, firms and companies and to all associations of persons whether incorporated or otherwise that shall do business as common carriers upon any of the lines of railway operated by steam in this state the same as to railroad corporations herein mentioned.

§ 15. UNJUST DISCRIMINATION.] If any railroad, railroad corporation or common carrier subject to the provisions of this act shall directly or indirectly, by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property subject to the provisions of this act, than it charges, demands, collects or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic, it shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared unlawful; this section, however, is not to be construed as prohibiting a less rate per one hundred pounds in a carload lot than is charged, collected or received from the same kind of freight in less than a carload lot.

§ 16. NO PREFERENCE OR ADVANTAGE—INTERCHANGES.] It shall be unlawful for any railroad, railroad corporation or common carrier, subject to the provisions of this act, to make or give any preference or advantage to any particular person, company, firm, corporation or locality or any particular description of traffic, in any respect whatsoever or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever; *Provided*, however, that nothing herein shall be construed to prevent any railroad, railroad corporation or common carrier from giving preference as to time of shipment of live stock, uncured meats and other perishable property. All railroads,

railroad corporations and common carriers subject to the provisions of this act, shall according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and switching of cars, and the receiving forwarding and delivering of passengers and property to and from their several lines; and to and from other lines and places connected therewith; and shall not discriminate in their accommodations, rates and charges between such connecting lines. And any railroad, railroad corporation or common carrier may be required to switch and transfer cars for another for the purpose of being loaded or unloaded, upon such terms and conditions as may be prescribed by the board of Commissioners of Railroads.

§ 17. LONG AND SHORT HAULS.] It shall be unlawful for any railroad, railroad corporation or common carrier, subject to the provisions of this act, to charge or receive any greater compensation in the aggregate for the transportation of passengers or of a like kind of property for a shorter than for a longer distance over its railroad, all or any portion of the shorter haul being included within the longer. And said railroad, railroad corporation or common carrier shall charge no more for transporting passengers or freight to or from any point on its railroad than a fair and a just rate as compared with the price it charges for the same kind of transportation to or from any other point.

§ 18. FREIGHT POOLING.] It shall be unlawful for any railroad, railroad corporation or common carrier, subject to the provisions of this act, to enter into any contract, agreement or combination with any other railroad, railroad corporation or common carrier for the pooling of freight of different and competing railroads or railroad corporations or common carriers, or divide between them the aggregate or net proceeds of the earnings of such railroads or railroad corporations or common carriers or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

§ 19. SCHEDULES OF RATES AND FARES.] Every railroad, railroad corporation or common carrier subject to the provisions of this act, shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such railroad, railroad corporation or common carrier has established, and which are in force at the time upon its railroads as defined by this act. The schedules printed as aforesaid by any such railroad, railroad corporation or common carrier shall plainly state the places upon its railroads between which property and passengers will be carried and shall contain the classification of freight or express in force upon it, and shall also state separately any terminal charges and any rules or regulations which in any wise change, affect or

determine any part of the aggregate of such aforesaid rates, fares and charges. Such schedules shall be plainly printed in large type of at least the size of ordinary pica, and a copy for the use of the public shall be kept in every freight, express or receiving office or passenger station of such railroad, railroad corporation or common carrier where it can be conveniently inspected, and it shall keep a printed notice posted in every such office and passenger station indicating where therein such schedules can be found. No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any railroad, railroad corporation or common carrier in compliance with the requirements of this section, except after ten days' notice in writing to the Commissioners of Railroads, which shall plainly state the changes proposed to be made in the schedules then in force and the time when the increased rates, fares or charges will go into effect; and the proposed charges shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reduction in such published rates, fares or charges may be made without previous notice, but whenever any such reduction is made, notice of the same shall immediately be publicly posted, and the change made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection. And when any such railroad, railroad corporation or common carrier shall have established and published its rates, fares and charges, in compliance with the provisions of this section, it shall be unlawful for it to charge, demand, collect or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any service in connection therewith than is specified in such published schedule of rates, fares and charges as may at the time be in force. Every railroad, railroad corporation or common carrier subject to the provisions of this act shall file with the board of Commissioners of Railroads of this state copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commissioners of all changes made in the same. Every such railroad, railroad corporation or common carrier shall also file with said commissioners copies of all contracts, agreements or arrangements with other railroads, railroad corporations or common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes in this state operated by more than one person or company and the several railroads, railroad corporations or common carriers operating such lines or routes have established joint tariffs or rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with said commissioners. Such joint

rates, fares and charges on such continuous lines so filed as aforesaid shall be made public by such railroads, railroad corporations or common carriers when directed by said commissioners, in so far as may, in the judgment of the commissioners be deemed practicable; and said commissioners shall, from time to time, prescribe the measures of publicity which shall be given to such rates, fares and charges, or to such parts of them as they may deem it practicable for such railroad, railroad corporation or common carrier to publish and the places in which they shall be published; but no railroad, railroad corporation or common carrier, party to any such joint tariff shall be liable for the failure of any other railroad, railroad corporation or common carrier party thereto, to observe and adhere to the rates, fares or charges thus made and published. If any such shall neglect or refuse to file or publish its schedules or tariff of rates, fares and charges as provided in this section or any part of the same, it shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus to be issued by any district court of this state in the judicial district wherein such offense may be committed. And if such railroad, railroad corporation or common carrier be a foreign corporation then such writ may be issued by any district court, in the judicial district where such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section, and such writ shall issue in the name of the State of North Dakota at the relation or upon the petition of the said board of Commissioners of Railroads of this state; and failure to comply with its requirements shall be punishable as and for a contempt; and shall make said railroad, railroad corporation or common carrier liable to a penalty of five hundred dollars for each day's failure to comply therewith and when any such writ of mandamus, shall be so applied for by said commissioners, no bond shall be required of them by any court or judge, in which or before whom any such application may be made.

§ 20. CONTINUOUS SHIPMENTS.] It shall be unlawful for any railroad, railroad corporation or common carrier subject to the provisions of this act to enter into any combination, contract or agreement, expressed or implied, to prevent by change in time schedules, carriage in different cars or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination in this state; and no break of bulk, stoppage or interruption made by such railroad, railroad corporation or common carrier shall prevent the carriage of freights from being, and being treated as one continuous carriage from the place of shipment to the place of destination, unless such breaks, stoppage or interruption was made in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

§ 21. LIABILITY—TREBLE DAMAGES.] In case any railroad,

railroad corporation or common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, it shall be liable to the person or persons injured thereby, for three times the amount of damages sustained in consequence of any violation of the provisions of this act, together with costs of suit and a reasonable counsel or attorney's fee to be fixed by the court in which the same is heard on appeal or otherwise, which shall be taxed and collected as part of the cost in the case; *Provided*, that in all cases demand in writing on said railroad, railroad corporation or common carrier shall be made for the money damages sustained before suit is brought for recovery under this section and that no suit shall be brought until the expiration of fifteen days after such demand.

§ 22. REMEDY—EVIDENCE.] Any person or persons claiming to be damaged by any railroad, railroad corporation or common carrier, subject to the provisions of this act, may either make complaint to the board of Commissioners of Railroads of this state, who may bring suit in their own name when they deem it advisable, or such person or persons may bring suit in his or their own behalf for the recovery of damages for which any such railroad, railroad corporation or common carrier may be liable, under the provisions of this act, in any court of this state of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies at the same time. In any such action brought for the recovery of damages, the court before whom the same shall be pending may compel any director, officer, receiver, trustee or agent of the defendant in such suit to attend, appear and testify in such case and may compel the production of the books and papers of such railroad, railroad corporation or common carrier party to any such suit; the claims that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person or witness from testifying or producing said books and papers; but such evidence or testimony shall not be used against such person in any way, on the trial of any criminal proceedings.

§ 23. PENALTY AGAINST INDIVIDUALS.] Except as otherwise specially provided in this act, and unless relieved from the consequence of a violation of the law, as provided in section twenty-seven (27) of this act, any railroad, railroad corporation or common carrier subject to the provisions of this act, or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for, or employed by it who alone or with any other corporation, company, person or party shall willfully do, or cause to be done, or shall willingly suffer or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid and abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done or

shall cause or willingly suffer, or permit any act, matter or thing so directed or required by this act to be done, not to be so done, or shall aid or abet any such omission, or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor and shall upon conviction thereof in any district court of this state of competent jurisdiction be subject to a fine of not to exceed five thousand dollars and not less than five hundred dollars for each offense.

§ 24. INQUIRY BY COMMISSIONERS.] It shall be the duty of and the board of Railroad Commissioners of this state shall have the authority to inquire into the management of the business of all railroads, railroad corporations and common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from them full and complete information necessary to enable the said commissioners to perform the duties and carry out the object for which said board was created and which are contemplated by this act; and for the purpose of this act the said commissioners shall have power to require the attendance and testimony of witnesses and the production of books, papers, tariffs, schedules, contracts, agreements and documents relating to any matter under investigation, and to that end may invoke the aid of any court of competent jurisdiction in this state in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section. And any court of this state within the jurisdiction of which such inquiry is carried on, shall in case of contumacy, or refusal to obey a subpoena, or other proper process issued to any railroad, railroad corporation or common carrier or person subject to the provisions of this act, or other persons, issue an order requiring such railroad, railroad corporation, common carrier or other person to appear before said commissioners (and produce books and papers if so ordered), and give evidence touching or in relation to the matter in question; and any failure to obey such order of the court shall be punished by such court as a contempt thereof; the claim that any such testimony or evidence may tend to criminate the person giving such evidence, shall not excuse such person or witness from testifying; but such evidence or testimony shall not be used against such person on trial of any criminal proceeding.

§ 25. COMPLAINT.] Any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complaining of anything done, or omitted to be done, by any railroad, railroad corporation or common carrier subject to the provisions of this act, in contravention of the provisions thereof, may apply to said commissioners by petition which shall briefly state the facts, whereupon a statement of the complaint thus made with the damages, if any are alleged, shall be forwarded by the said com-

missioners to such railroad, railroad corporation or common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time to be specified by the commissioners. If such railroad, railroad corporation or common carrier within the time specified shall make reparation for the injury alleged to have been done or shall correct the wrong complained of, it shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If it shall not satisfy the complaint, within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the said commissioners to investigate the matters complained of in such manner and by such means as said commissioners shall deem proper, and said commissioners whenever they may have sufficient reason to believe that any railroad, railroad corporation or common carrier is violating any of the provisions of this act shall at once institute an inquiry in the same manner, and to the same effect, as though complaint had been made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant or petitioner.

§ 26. INVESTIGATION.] Whenever an investigation shall be made by said commissioners, as provided by this act, it shall be their duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commissioners are based, together with its or their recommendation or orders as to what reparation, if any, should be made by the railroad, railroad corporation or common carrier to any party or parties, who may be found to have been injured; and such finding so made shall thereafter in all judicial proceedings be deemed and taken as prima facie evidence as to each and every fact found. All reports of investigations made by said commissioners shall be entered of record, and a copy thereof shall be furnished to the party who may have complained and any other person or persons directly interested, and to any railroad, railroad corporation or common carrier that may have been complained of.

§ 27. FINDINGS.] If in any case in which an investigation shall be made by said commissioners it shall be made to appear to the satisfaction of the commissioners, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said commissioners, by any railroad, railroad corporation or common carrier, or that any injury or damages has been sustained by the party or parties complaining, or by other parties aggrieved, in consequence of any such violation it shall be the duty of said commissioners forthwith to cause a copy of their report in respect thereto to be delivered to such railroad, railroad corporation or common carrier, together with a notice to said railroad, railroad corporation or common carrier, to cease

and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time to be specified by the commissioners; and if within the time specified it shall be made to appear to the commissioners that such railroad, railroad corporation or common carrier has ceased from violation of such law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the commissioners, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commissioners, and the said railroad, railroad corporation or common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

§ 28. ENFORCEMENT OF ORDERS.] Whenever any railroad, railroad corporation or common carrier, subject to the provisions of this act, shall violate or refuse or neglect to obey any lawful order as to passenger, freight or property rates or fares, or as to any requirement of the said board of Commissioners of Railroads, it shall be the duty of said commissioners and lawful for any company or person interested in such order or requirement, to apply in a summary way by petition to the district court in any county of this state in which the railroad, railroad corporation or common carrier complained of has its principal office, or in any county through which its line or road passes or is operated, or in which the violation or disobedience of such order or requirement shall happen alleging such violation or disobedience as the case may be; and the said court shall have power to hear and determine the matter, on such notice to the party complained of as the court shall deem reasonable; and such notice may be served on such party, his or its officers, agents or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of said commissioners shall be *prima facie* evidence of the matter therein, or in any order made by them stated; and if it be made to appear to such court on such hearing, or on the report of any such person or persons that the order or requirement of said commissioners drawn in the question, has been violated or disobeyed, it shall be the duty of such court to issue a writ of injunction, or other proper process, mandatory or otherwise, to restrain such railroad, railroad corporation or common carrier from further continuing such violation or disobedience of such order or requirement of said commissioners and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper

process, mandatory or otherwise, it shall be lawful for such courts to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such railroad, railroad corporation or common carrier or against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver or other person failing to obey such writ, writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such railroad, railroad corporation or common carrier or other person so disobeying such writ of injunction or other process, mandatory or otherwise, to pay such sum of money not exceeding for each corporation, carrier or person in default the sum of one thousand dollars for every day after a day to be named in the order that such corporation, carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall, upon the order of the court, be paid into the treasury of the county in which the action was commenced, and one-half thereof shall be transferred by the county treasurer to the state treasury and the payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order, in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court, saving to the commissioners and any other party or person interested the right to appeal to the Supreme Court of the state under the same regulations now provided by law in relation to appeals to said court as to security for such appeal, except, that in no case shall security for such appeal be required when the same is taken by said commissioners; but no appeal to said Supreme Court shall operate, to stay or supercede the order of the court, or the execution of any writ or process thereon; and such court may in every such matter order the payment of such costs and attorney and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented, or be prosecuted by the said commissioners, or by their direction, it shall be the duty of the Attorney General of the state to prosecute the same, and in such prosecution he shall have the right to have the assistance of any states attorney of the county in which any such proceedings are instituted, and it is hereby made the duty of any such states attorney to render such assistance; and the costs and expenses on the part of said commissioners of any such prosecution, or proceeding in court, shall be paid out of the general fund of the state under the approval of the Attorney General, Governor and State Auditor.

§ 29. COMMISSIONERS TO MAKE SCHEDULES.] The board of Commissioners of Railroads of this state are hereby empowered and directed to make for each of the railroads, railroad corporations and common carriers, subject to this act doing business in this state, as soon as practicable, a schedule of reasonable maxi-

imum rates of charges for the transportation of passengers, freight property and cars on each of said railroads; and said power to make schedules shall include the power of classification of all such freights and property, and it shall be the duty of said commissioners to make such classification; and said schedules so made by said commissioners, shall in all suits brought against any such railroad, railroad corporation or common carriers, wherein is in any way involved the charges of any such railroad, railroad corporation or common carrier, for the transportation of any passenger, freight, property or cars or unjust discrimination in relation thereto be deemed and taken in all courts of this state as *prima facie* evidence that the rates therein fixed are reasonable and just maximum rates or charges for the transportation of passengers, freight, property and cars upon the railroads for which said schedules may have been respectively prepared. Said commissioners shall from time to time but not oftener than once in six months unless upon appeal from the order fixing such rate the court should modify or reverse such order, and then only to the extent made necessary by such modification or reversal, change and revise said schedules. When any schedule shall have been made or revised as aforesaid, it shall be the duty of said commissioners to forthwith serve a copy of said schedule upon such railroad, railroad corporation or common carrier affected thereby and a notice stating when such schedule shall go into effect and to cause notice thereof to be published for two successive weeks in one public newspaper published in each judicial district in this state which notice shall state the fact that a new schedule has been made and the date of the taking effect of said schedule and said schedule shall take effect at the time so stated in such notice and a printed copy of said revised schedule shall be conspicuously posted by such railroad, railroad corporation or common carrier in each freight, express or receiving office and passenger depot upon its line or lines. All such schedules, so made, shall be received and held in all such suits as *prima facie* the schedule of said commissioners without further proof than the production of the schedule desired to be used as evidence, with a certificate of said Commissioners of Railroads, that the same is a true copy of the schedule prepared by them for the railroad, railroad corporation or common carrier therein named, and that notice of making the same has been published as required by law; provided, that before finally fixing and deciding what the original maximum rates and classification shall be, it shall be the duty of the Commissioners of Railroads to publish ten day's notice in two daily papers published in the state, setting forth in such notice that at a certain time and place they will proceed to fix and determine such maximum rates and classifications; and they shall at such time and place and as soon as practicable afford to any person, firm, corporation, railroad, railroad 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 maximum rates, fares and classification; and a schedule of rates, fares and classification of freights or property on all lines of railroad, railroad corporations or common carriers subject to this act in North Dakota shall be fixed within sixty days from the taking effect of this act.

§ 30. COMPLAINT OF VIOLATION OF SCHEDULE.] Whenever any person upon his own behalf, or class of persons similarly situated, or any firm, corporation, or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, shall make complaint to said board of Commissioners of Railroads that the rate charged or published by any railroad, railroad corporation or common carrier, or the maximum rate fixed by said commissioners in the schedule of fares or rates made by them under the provisions of section 29 of this act, or the maximum rate that now or may hereafter be fixed is unreasonably high or discriminating, it shall be the duty of said commissioners to immediately investigate the matter of such complaint. If such complaint appears to be well founded and not trivial in character, the board shall fix a day for hearing the same and shall notify such railroad, railroad corporation, or common carrier of the time and place of such hearing by serving a notice properly directed on any division superintendent, general or assistant superintendent, general manager, president, secretary or agent of such railroad, railroad corporation or common carrier, which notice shall contain the substance of the complaint so made, and the board shall also notify the person or persons complaining of such time and place.

§ 31. HEARING EVIDENCE.] Upon such hearing so provided for the said commissioners shall receive whatever evidence, statements or arguments either party may offer pertinent to the matter under investigation; and the burden of proof shall not be held to be upon the person or persons making the complaint, but the commissioners shall add to the showing made at such hearing whatever information they may then have, or can secure from any source whatsoever, and the person or persons complaining shall be entitled to introduce any published schedule of rates of any railroad, railroad corporation or common carrier or evidence of rates actually charged by any railroad, railroad corporation or common carrier for substantially the same kind of service, whether in this or in any other state, and the lowest rate published or charged by any railroad, railroad corporation or common carrier for substantially the same kind of service, whether in this state or in any other state, shall, at the instance of the person or persons complaining, be accepted as *prima facie* evidence of a reasonable rate for the services under investigation, and if the railroad, railroad corporation or common carrier complained of is operating a line of railroad beyond the State of North Dakota, or if it appears that it has a traffic arrangement

with any such railroad, railroad corporation or common carrier, then the commissioners in determining what is a reasonable rate, shall take into consideration the charge made, or rate established by said railroad, railroad corporation or common carrier, or the company with which it has traffic arrangements for carrying freight, passengers or property from beyond the state to points within the state, and from within the state to points beyond the state; and if such company be operating a line of railway beyond the state they shall also take into consideration the rate charged or established for a substantially similar or greater service by such company in any other state in which said railroad, railroad corporation or common carrier operates a line of railway.

§ 32. DECISION.] After such hearing and investigation the said commissioners shall fix and determine the maximum charge to be thereafter made by the railroad, railroad corporation or common carrier complained of, and the said commissioners shall render their decision in writing; and shall spread the same at length in the record to be kept for that purpose; such decision shall, specifically, set out the sums or rates which the railroad, railroad corporation or common carrier, so complained of, may thereafter charge or receive for the service therein named and including a classification of such freight or property, and the said commissioners shall not be limited in their said decision and the schedule to be contained therein to the specific case or cases complained of, but it shall be extended to all such rates between points in this state and whatever part of the line of railway of such company, railroad, railroad corporation or common carrier within this state as may have been fairly within the scope of such investigation; and any such decisions so made and entered on record of said commissioners, including any such schedules and classifications, shall, when duly authenticated, be received and held in all suits brought against any such railroad, railroad corporation or common carrier wherein is in any way involved the charges of any such railroad, railroad corporation or carrier mentioned in said decisions, in any of the courts of this state, as *prima facie* evidence that the rates therein fixed are reasonable maximum rates, the same as the schedules made by said commissioners as provided in section 29 of this act; and the rates, charges and classifications so established after such hearing and investigation shall from time to time thereafter upon complaint duly made be subject to revision by said commissioners the same as any other rates, charges and classifications.

Any railroad, railroad corporation or common carrier subject to the provisions of this act, or any other person interested in the order made by the Commissioners of Railroads may appeal to the district court of the proper county in the judicial district of this state from which the complaint arose, and which is the subject and basis of the order from any order made by the Commissioners of Railroads regulating or fixing its tariffs of rates, fares, charges

or classifications, or from any other order made by said commissioners under the provisions of this act by serving a notice in writing upon the secretary of said commissioners, or any one of said commissioners, within twenty days after such railroad, railroad corporation or common carrier shall receive notice from such commissioners of the making and entry of such order. If the order appealed from does not regulate or fix the tariff of rates, fares or charges, the district court to which the appeal is taken may in its discretion suspend the operation and effect of the order appealed from, pending such appeal. The district courts of this state shall be deemed to be always in session for the purpose of hearing and determining all appeals taken under the provisions of this act. The party taking such appeal may bring the same on for hearing and determination at any time after taking such appeal, upon serving a notice to that effect upon any one of the commissioners or their secretary at least ten days prior to the day set for such hearing. The district court shall, upon the hearing of such appeal, receive and consider such evidence as may be adduced by either party and shall rescind, modify or alter said order appealed from in such manner as may be equitable and just. Any railroad, railroad corporation, common carrier, the Commissioners of Railroads or any party interested in the decision of said court may appeal from the decision of the district court to the supreme court of this state by serving a notice of such appeal upon the opposite party within twenty days after the rendition of such decision and service of notice thereof. For the purpose of hearing such appeal the supreme court shall be deemed to be in session, and appeals to it may be heard summarily by either parties serving upon the other a notice of hearing at least fifteen days before the day fixed for such hearing. When evidence has been taken before the district court such evidence shall be signed by the judge of said district court, the party presenting such evidence to said judge for signature, giving the other party five days' notice of the time and place of such presentation. The evidence signed as aforesaid shall become a part of the record in the case, and upon an appeal to the supreme court being taken as hereinbefore mentioned shall be transmitted by the clerk of the district court to the supreme court, together with all the records and files in the case. The supreme court may reverse, affirm or modify the decision of the district court as may seem equitable and just.

§ 33. PROCEEDINGS OF COMMISSIONERS.] That the said board of Commissioners of Railroads may in all cases conduct its proceedings when not otherwise particularly prescribed by law, in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commissioners shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any direct personal pecuniary interest. Said com-

missioners may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before them, including forms of notice and the service thereof, which shall conform as nearly as may be to those in use in courts of this state. Any party may appear before said board of commissioners and be heard in person or by attorney. Every vote and official action of said board of commissioners shall be entered of record and its proceedings shall be public upon the request of either party or any person interested. Said board of Commissioners of Railroads shall have an official seal, which shall be judicially noticed, and every commissioner shall have the right to administer oaths and affirmations in any proceeding pending before said board.

§ 34. SPECIAL REPORTS.] The Commissioners of Railroads are hereby authorized to require of any and all railroads, railroad corporations and common carriers, subject to the provisions of this act, such special reports, besides the annual reports hereinbefore required, as in the judgment of such commissioners shall be deemed necessary and reasonable. Such special reports shall be in such form and concerning such subjects and be from such sources as the commissioners shall require, except as otherwise provided herein. The time when such special report shall be fixed by the Commissioners of Railroads. Any railroad, railroad corporation or common carrier subject to the provisions of this act, which shall fail, neglect or refuse to make any of the special reports provided for herein by the date fixed by the Commissioners of Railroads shall be subject to, and pay a penalty in the sum of one hundred dollars for each and every day a delay in making such reports after the date fixed.

§ 35. EXTORTION—PENALTY.] If any railroad, railroad corporation or common carrier, subject to the provisions of this act, shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers, property or freight of any description or for the use and transportation of any railroad car upon its track, or any of the branches thereof, or upon any railroad within this state which it has the right, license or permission to use, operate or control, or shall make any unjust and unreasonable charge prohibited in section 6 of this act, the same shall be deemed guilty of extortion, and shall be dealt with as hereinafter provided, and if any such railroad, railroad corporation or common carrier shall be found guilty of any unjust discrimination as defined in section 15 of this act, upon conviction thereof shall be dealt with as hereinafter provided.

§ 36. DISCRIMINATION—PUNISHMENT.] If any such railroad, railroad corporation or common carrier shall charge, collect or receive for transportation of any passenger, property or freight of any description upon its railroad for any distance within this state a greater amount of toll or compensation than is at the

same time charged, collected or received for transportation in the same direction of any passenger or like quantity of property or freight of the same class over a greater distance of the same railroad; or if it shall charge, collect or receive at any point upon its railroad a higher rate of toll or compensation for receiving, handling or delivering property or freight of the same class and quantity, than it shall at the same time charge, collect or receive for the transportation of any passenger, freight or property of any description over its railroad a greater amount of toll or compensation than shall at the same time be charged, collected or received by it for the transportation of any passenger or like quantity of property or freight of the same class being transported in the same direction over any portion of the same railroad of equal distance; or if it shall charge, collect or receive from any person or persons a higher or greater amount of toll or compensation than it shall at the same time charge, collect or receive from any other person or persons for receiving, handling or delivering property or freight of the same class and like quantity, at the same point upon its railroad; or if it shall charge, collect or receive from any person or persons, for the transportation of any property or freight upon its railroads a higher or greater rate of toll or compensation than it shall at the same time charge, collect or receive from any other person or persons, for the transportation of the like quantity of property or freight of the same class, being transported from the same point in the same direction over equal distance of the same railroad; or if it shall charge, collect or receive from any person or persons, for the use and transportation of any railroad car or cars upon its railroad for any distance, a greater amount of toll or compensation than is at the same time charged, collected or received from any other person or persons for the use and transportation of any railroad car of the same class or number, for a like purpose, being transported in the same direction, over a greater distance of the same railroad; or if it shall charge, collect or receive from any person or persons, for the use and transportation of any railroad car or cars upon its railroad a higher or greater compensation in the aggregate than it shall at the same time charge, collect or receive from any other person or persons for the use and transportation of any railroad car or cars of the same class for a like purpose, being transported from the same original point in the same direction over an equal distance of the same railroad; all such discriminating rates, charges, collection or receipts, whether made directly or by means of any rebate, drawback or other shift or evasion, shall be deemed and taken against such railroad, railroad corporation or common carrier as *prima facie* evidence of the unjust discriminations prohibited by the provisions of this act; and it shall not be deemed a sufficient excuse or justification of such discrimination on the part of said railroad, railroad corporation or

common carrier that the railway station or point at which it shall charge, collect or receive less compensation in the aggregate for the transportation of such passenger, property or freight, or for the use and transportation of such railroad car the greater distance than for the shorter distance is a railway station or point at which then exists competition with any other railroad or means of transportation. This section shall not be construed so as to exclude other evidence tending to show any unjust discrimination in freight and passenger rates. The provisions of this section shall extend and apply to any railroad, the branches thereof and any road or roads which any railroad, railroad corporation or common carrier has the right, license or permission to use, operate or control wholly or in part within this state; *Provided, however*, that nothing herein contained shall be so construed as to prevent railroad corporations from issuing commutation, excursion or thousand-mile tickets; *Provided*, the same are issued alike to all applying therefor.

§ 37. DISCRIMINATION AS TO QUANTITY.] It shall be unlawful for any such railroad, railroad corporation or common carrier to charge, collect, demand or receive more for transporting a car of freight than it at the same time charges, collects, demands or receives per car for several cars of a like class of freight over the same railroad, for the same distance in the same direction, or to charge, collect, demand or receive more for transporting a ton of freight than it charges, collects, demands or receives per ton for several tons of freight under a carload of a like class of freight over the same railroad for the same distance, in the same direction, or to charge, collect, demand or receive more for transporting a hundred pounds of freight or property than it charges, collects, demands or receives per hundred for several hundred pounds of freight under a ton of a like class of freight or property over the same railroad, for the same distance, in the same direction; all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, drawback or other shift or evasion, shall be deemed and taken against such railroad, railroad corporation or common carrier as *prima facie* evidence of the unjust discrimination prohibited by this act; *Provided, however*, that for the protection and development of any new industry within the state, such railroad, railroad corporation or common carrier may grant concessions or special rates for any agreed number of carloads, but such special rates aforesaid shall first be approved by the board of Commissioners of Railroads, and a copy thereof filed in the office thereof.

§ 38. PENALTY FOR DISCRIMINATION.] Any such railroad, railroad corporation or common carrier guilty of extortion or making any unjust discrimination as to passenger or freight or other rates for the use and transportation of railroad cars or in receiving, handling or delivering freights or property, shall upon conviction thereof, be fined in any sum not less than one thousand dollars

nor more than five thousand dollars for the first offense, and for every subsequent offense not less than five thousand dollars nor more than ten thousand, such fine to be imposed in a criminal prosecution, as provided by law, or shall be subject to the liability prescribed in the next succeeding section, to be recovered as therein provided.

§ 39. FORFEITURE.] Any such railroad, railroad corporation or common carrier guilty of extortion or of making any unjust discrimination as to passenger, property or freight rate or rates for the use and transportation of railroad cars, or in receiving, handling or delivering freights or property shall forfeit and pay to the State of North Dakota not less than one thousand dollars nor more than five thousand dollars for the first offense and not less than five thousand nor more than ten thousand dollars for every subsequent offense, to be recovered in a civil action by proceedings instituted in the name of the State of North Dakota. And the release from liability or penalty provided for in section twenty-seven of this act, shall not apply to either a criminal prosecution or a civil action brought under this act.

§ 40. SUITS BY COMMISSIONERS.] Whenever said Commissioners of Railroads have good reason to believe that any railroad, railroad corporation or common carrier subject to the provisions of this act has been guilty of extortion or unjust discrimination and thereby become liable to the penalties prescribed in sections thirty-eight and thirty-nine hereof, it shall be their duty to immediately cause suits to be commenced and prosecuted against any such railroad, railroad corporation or common carrier. Such suits and prosecutions may be instituted in any county of this state through or into which the line of the railroad corporation sued for violation of this act may extend. And the court may in its discretion give preference to such suits over all other business except criminal cases.

§ 41. FREE TRANSPORTATION—REDUCED RATES.] Nothing in this act shall apply to the carriage, storage or handling of property free or at reduced rates for the United States or this state or municipal governments or for charitable purposes, or to and from fairs and expositions for exhibition thereat, or for the employes of such common carriers or their families, or private property or goods for the family use of employes of such common carriers, or the issuance of mileage, excursion or commutation passenger tickets. Nothing in this act shall be construed to prohibit any railroad, railroad corporation or common carrier from giving reduced passenger rates to ministers of religion, or to prevent railroads from giving free carriage to their own officers and employes and their families or others and to persons in charge of live stock being shipped from the point of shipment to destination and return, and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law, or by statute, but the provisions of this act are in addition to the such

remedies; *Provided*, that no pending litigation shall in any way be affected by this act.

§ 42. COMMISSIONERS TRANSPORTED FREE.] The said Commissioners of Railroads and their secretary shall have the right of free transportation in the performance of their duties concerning railroads, on all railroads and railroad trains in this state.

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

§ 44. EMERGENCY.] An emergency existing in that the laws of the State of North Dakota do not sufficiently define the duties of the Commissioners of Railroads of this state, this act shall take effect and be in force from and after its passage and approval.

Approved March 8th, 1897.

CHAPTER 116.

[S. B. 17.]

MEETINGS OF RAILWAY CORPORATIONS.

AN ACT to Amend Section Two Thousand Eight Hundred and Ninety-Eight and to Repeal Section Two Thousand Eight Hundred and Ninety-Nine of the Revised Codes.

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

§ 1. AMENDMENT.] That section two thousand eight hundred and ninety-eight of the Revised Codes is hereby amended so as read as follows, to-wit:

§ 2898. WHERE MEETINGS HELD.] The meetings of the stockholders and board of directors for the election of officers of a corporation must be held at its office or principal place of business within this state, and the corporate records must be kept at such office or principal place of business. All other meetings of the board of directors may be held at such place, within or without the state, as may be provided in the by-laws; *Provided*, that the meetings of the board of directors of a railway corporation may be held at the business office of such corporation without the state as well as at its principal place of business within the state.

§ 2. REPEAL.] Section two thousand eight hundred and ninety-nine of the Revised Codes is hereby repealed.

§ 3. EMERGENCY.] *Whereas*, an emergency exists in that no adequate provision exists requiring the meetings of stockholders and directors of domestic corporations to be held within this state, and the annual election of directors of such corporations takes place before July 1, 1897, this act shall take effect and be in force from and after its passage and approval.

Approved February 9th, 1897.

CHAPTER 117.

[S. B. 94.]

DEFINING LUGGAGE.

AN ACT to Amend Section 4233 of the Revised Codes, 1895, of the State of North Dakota, Defining Luggage.

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

§ 1. AMENDMENT.] That section 4233 of the 1895 Revised Codes of the State of North Dakota, be amended to read as follows:

§ 2. LUGGAGE.] Luggage may consist of any articles intended for the use of a passenger while traveling or for his personal equipment. Bicycles are hereby declared to be, and be deemed luggage for the purposes of this article, and shall be transported as luggage for passengers by railroad corporations, and subject to the same liabilities as other luggage; and no passenger shall be required to crate, cover or otherwise protect any such bicycle, providing, however, that a railroad corporation shall not be required to transport under the provisions of this act more than one bicycle for a single person.

§ 3. EMERGENCY.] Whereas an emergency exists in that there is now no law of the State of North Dakota providing for the transportation of bicycles as luggage; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 10th, 1897.

CHAPTER 118.

[S. B. 96.]

LIABILITY OF COMMON CARRIERS.

AN ACT to Amend Section 4242 of the Revised Codes, Relating to the Liability of Common Carriers.

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

§ 1. AMENDMENT.] That section 4242 of the Revised Codes of the State of North Dakota be and the same is hereby amended to read as follows:

§ 4242. INLAND CARRIERS' LIABILITY—EXCEPTION.] Unless the consignor accompanies the freight and retains exclusive control thereof, an inland common carrier of property is liable from the

time that he accepts until he relieves himself from liability pursuant to sections 4191 to 4194, for the loss or injury thereof from any cause whatever, except:

1. An inherent defect, vice or weakness or a spontaneous action of the property itself.
 2. The act of a public enemy of the United States or of this State.
 3. The act of the law; or
 4. Any irresistible superhuman cause.
- Approved February 20th, 1897.

RAILROAD COMMISSIONERS.

CHAPTER 119.

[S. B. 102.]

SALARY AND EXPENSES OF RAILROAD COMMISSIONERS.

AN ACT to Amend Section 3006 of the Revised Codes of the State of North Dakota Relating to the Salary and Expenses of the State Board of Railroad Commissioners.

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

§ 1. AMENDMENT.] That section 3006 of the Revised Codes be, and the same is hereby amended to read as follows:

§ 3006.] SALARY AND EXPENSES.] The salary of each of such commissioners, to be elected after the taking effect of this act, shall be twelve hundred dollars per annum. The commissioners in office, and those hereafter to be elected, shall keep their office at the seat of government, and shall be provided with suitable rooms, necessary office furniture, stationery, books and maps, not exceeding the sum of five hundred per annum, to be paid out of the State treasury. The secretary of said Board of Railroad Commissioners shall receive a salary of one thousand dollars per annum. The accounts for all the expenses authorized by this act, except salary of members of the board, shall be audited only when approved by the Governor.

Approved, March 15th, 1897.