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# RAILROADS.

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## CHAPTER 150.

[H. B. No. 277—Lillie.]

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### RAILROADS.

AN ACT to Amend Section 2947 of the Revised Codes of North Dakota for the Year 1899, Relating to the Powers of Railroad Corporations.

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

§ 1. AMENDMENT.] That section 2947 of the revised codes of the state of North Dakota for the year 1899 is hereby amended and re-enacted to read as follows:

§ 2947. POWERS.] Every corporation formed under this article, and every railroad corporation authorized to construct, operate or maintain a railroad within this state, shall have in addition to the powers mentioned in section 2882 the following powers:

1. To cause such examination and surveys for its proposed railroad, as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants to enter upon the lands or waters of any person, but subject to responsibility for all damage which shall be done thereto.

2. To take and hold such voluntary grants of real estate and other property as may be made to it to aid in the construction, maintenance and accomodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

3. To acquire under the provisions of the chapter on eminent domain or by purchase all such real estate and other property as may be necessary for the construction, maintenance and operation of its railroads and the stations, depot grounds and other accommodations reasonably necessary to accomplish the objects of its incorporation; to hold and use the same, to lease or otherwise dispose of any part or parcel thereof, to sell the same when not required for railroad uses and no longer necessary to its use.

4. To lay out its road not exceeding one hundred feet in width and to construct the same; and for the purpose of cuttings and embankments and of obtaining gravel and other material to take as much land as may be necessary for the proper construction, operation and security of the road, and for the protection of such road from snow, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided by law for land taken for the use of the corporation.

5. Subject to the provisions of section 2956, to construct its railroad across, along or upon any stream of water, water course, street, highway, toll or wagon road, plank road, turnpike, wharf, levee, river front, steamboat or other public landing or canal which its route shall intersect or touch; to carry any highway, street, toll or wagon road, plank road or turnpike which it shall touch, intersect or cross, over or under its track, as may be most expedient for the public good; to change the course or direction of any highway, street, turnpike, toll or wagon road or plank road when made necessary or desirable to secure more easy ascent or descent by reason of any embankment or cut made in the construction of the railroad and to take land necessary therefor; provided, such highway or road is not so changed from its original course more than six rods nor its distance thereby lengthened more than five rods.

6. To cross, intersect, join and unite its railroad with any railroad heretofore or hereafter constructed at any point on its route and upon the grounds of such railroad corporation, with the necessary turn-outs, sidings and switches and other conveniences in furtherance of the objects of its connections. And every corporation whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections 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 shall be ascertained and determined in the manner provided by law for the ascertainment and determination of damages for the taking of real property. But the making of such crossing by the railway corporation constructing said new railroad shall not be hindered, delayed or prevented pending the ascertainment and determination of said matter; provided, said railroad company proposing to make such crossing shall execute and file with the clerk of the district court in which such proceedings are pending, a bond in such amount as the judge of said court may order, conditioned that the railroad company executing the same shall pay whatever amount may be so ascertained and determined, and shall abide any judgment or order of the court made in relation to the matter in controversy; the sufficiency of said bond and the sureties thereof shall be approved by said judge, but no corporation which shall have obtained the right of way and constructed its road at the point of intersection before the commencement of an action under the provisions of the chapter on eminent domain shall be required to alter the grade or change the location of its road or be required to bear any part of the expense of making and maintaining such crossing.

7. To have and use equal room, ground rights, privileges and conveniences for tracks, switches, sidings and turn-outs upon any levee, river bank, or front, steamboat or other public landing and upon any street, block, alley, square or public ground within any

incorporated town or city, any charter or ordinance of any such city or town to the contrary notwithstanding; and to accomplish this may adjust with other corporations the ground to be occupied by each with such tracks, switches, sidings and turn-outs, and if such corporations cannot agree upon such adjustment and the amount of compensation to be paid for the purchase or necessary change of location and removal of any track previously laid, the same shall be ascertained and determined and the common, mutual and separate rights adjusted in the manner provided by law for the ascertainment and determination of damages for the taking of real property. The court, or a judge thereof, may employ a competent engineer and define, locate and plat the ground and assign to each corporation the part for the tracks and other conveniences for each, and may require the removal or purchase of tracks previously laid so as to justly settle the rights of such corporation upon such ground, the damages to be paid being assessed in accordance with the chapter on eminent domain.

8. To take and convey persons or property over its road by the power or force of steam, or of animals, or by any mechanical power and to receive compensation therefor; and to do all business incident to railroad corporations.

9. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business, subject to the statutes in relation thereto.

10. To regulate the time and manner in which passengers and property shall be transported and the compensation to be paid therefor.

11. To borrow from time to time such sums of money at such rates of interest and upon such terms as the corporation or board of directors shall agree upon and authorize as necessary or expedient, and to execute deeds or mortgages, or both, as occasion may require on any railroads or parts thereof constructed or in process of construction, for amounts borrowed or owing by the corporation, and therein to make provisions granting, transferring or mortgaging its railroad track, right of way, depot grounds, rights, privileges, franchises, immunities, exemptions, machine houses, rolling stock, furniture, tools, implements, appendages and appurtenances used in connection with such railroads, in any manner whatever then belonging to the corporation or which may thereafter belong to it as security for any bonds or evidences of debt therein mentioned, in such manner as the corporation or directors shall think proper, and such instruments shall fully convey the same, or so much thereof as shall be therein described. In case of sale by virtue of any such trust deed, or upon foreclosure of any such mortgage the persons acquiring title under such sale and their associates, successors and assigns, or such corporation as they shall organize according to section 2944, with all the powers conferred upon corporations by this

chapter, shall thereafter have, exercise and enjoy all such described grants which were purchased at such sale, including all rights, privileges, grants, franchises, immunities and advantages mentioned in such instruments which were possessed by such corporation making the same or contracting such debts, so far as the same relate or appertain to that portion or line of road granted or mortgaged and purchased at such sale, and no further, as fully and absolutely in all respects as such corporation, its shareholders, officers and agents might have done if such sale had not taken place. And whenever the person so acquiring title under any such sale shall own or represent a majority in amount of the bonds or other evidences of debt secured by any such trust deed or mortgage, and shall also include the persons who owned at the time of the sale a majority in amount of the capital stock of such mortgagor corporation such purchasers and such corporation as they shall organize as aforesaid, shall also have, possess and enjoy any exemption, privilege or immunity previously granted by any law to such former corporation relating to any of the property so acquired to the same extent as if such latter corporation had been named in such law as the grantee thereof.

§ 2. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, there is no adequate provision of law relating to the crossing of one railroad by another, where such railroad companies are unable to agree as to the compensation to be made and the manner of such crossing, therefore an emergency exists, and this act shall take effect and be in force after its passage and approval.

Approved March 7, 1905.

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## CHAPTER 151.

[S. B. No. 140—Sharpe.]

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### ASSESSMENT OF RAILROADS.

AN ACT Amending Section 1313 of the Revised Codes of North Dakota of 1899, Providing for the Assessment of Railroad Property in This State, and Prescribing the Manner of Levying and Collecting the Tax on the Same.

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

§ 1. AMENDMENT.] That section 1313 of the revised codes of North Dakota be amended so as to read as follows:

§ 1313. RAILROADS, HOW ASSESSED.] The state board of equalization shall at its annual meeting in August in each year, assess at its actual value the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state, including electric and all

other street and interurban railways. To enable said board to make a correct valuation of such property, they shall have access to all reports, estimates and surveys of such lines of railroads as may be on file in the office of the commissioners of railroads and shall have power to summon and compel the attendance of witnesses, and may examine such witnesses under oath in any matter relating to the value of such property. In estimating the value of such railroads, branches and sidetracks thereof they shall be governed by the same rules as are provided for the government of county and township assessors in valuing other property in this state. They shall cause a record to be made of the estimated value placed upon each of the items set forth in this section which go to make the aggregate valuation of such assessments.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, there is now no adequate provision of law fully providing for the assessment of taxes on all of the classes of property herein mentioned and described, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1905.

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## CHAPTER 152.

[H. B. No. 79—Phelan.]

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### BRANCH LINE TRAINS.

AN ACT to Amend Section 2967, Chapter 12 of Civil Code, Relating to Railway Corporations.

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

§ 1. AMENDMENT.] That section 2967 of the revised codes be amended to read as follows:

§ 2967. TRAIN TO BE RUN EACH WEEK DAY.] Every railway company owning or operating a railway line in this state, excepting railways or branch lines that may hereafter be constructed or extensions of railways or branch lines now in operation, for five years after construction of same, and also railways or branch lines whose total length does not exceed twenty-five miles, is required to run a train of cars over its lines and branches of any line one way during each week day of the year unless prevented by storm, accident or other cause over which the railroad company has no control.

Approved March 9, 1905.

## CHAPTER 153.

[S. B. No. 214—Hanna.]

## RIGHT OF WAY FOR ELECTRIC ROADS.

AN ACT to Provide for the Granting of the Right-of-way by Municipal Corporations for Constructing and Maintaining Electric and Other Railways On, Over and Upon Public Grounds and Highways, and Regulating the Use of the Same.

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

§ 1. BOARD OF COUNTY COMMISSIONERS, BOARD OF SUPERVISORS OR BOARD OF TRUSTEES MAY GRANT RIGHT OF WAY IN, OVER OR UPON PUBLIC HIGHWAY.] The board of county commissioners of any county, board of supervisors of any township, or board of trustees of any town or village in this state may, when deemed for the best interest of their respective municipal corporations, grant to any person, persons, company or corporation the right of way for the construction and operation of an electric or other railway in, over or upon any public grounds, streets, alleys or highways under the care or supervision of such board granting such right of way.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that the business interests of the state demand the rapid extension of inter-urban, electric and other railways, and no law now existing for the granting of franchises therefor; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1905.