

RAILROADS

CHAPTER 185.

[H. B. No. 106—Hendrickson.]

CONSTRUCTION OF TRANSFER FACILITIES.

An Act to Amend and Re-enact Section 4777 Relating to the Construction of Transfer Facilities, Railroad "Y's" and Connections between Railroads.

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

§ 1. That Section 4777 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted so as to read as follows:

§ 4777. CONSTRUCT "Y's."] In all cases where any line of railroad shall parallel or terminate within one-half mile of any common point, cross or intersect any other line of railroad at grade in this state, it shall be the duty of each of the railroad companies owning or operating such parallel or intersecting railroad lines to provide at such parallel or crossing or intersection, suitable and sufficient transfer facilities, such as waiting rooms, and "Y's" or other tracks and connections for transferring cars and traffic of all kinds and classes or cars from one such line of railroad to another, and to maintain the same and afford equal and reasonable facilities for the exchange of cars and traffic between the respective lines. The expense of constructing and maintaining such transfer facilities to be borne equally by each of such railroad companies, or in such proportions as they may agree upon, or as may be determined by the board of railroad commissioners, on joint hearing.

Approved March 10, 1917.

CHAPTER 186.

[S. B. No. 59—Haggart.]

MAKING ANNUAL REPORTS BY RAILROAD CORPORATIONS.

An Act to Amend and Re-enact Section 4630 of the Compiled Laws of North Dakota for 1913, Relating to the Making of Annual Reports by Railroad Corporations.

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

§ 1. AMENDMENT.] That Section 4630 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 4630. ANNUAL REPORTS MUST BE MADE, CONTENTS.] Every railroad corporation shall make an annual report to the stockholders,

of its operations during the year ending on the 31st day of December, which report shall be verified by the affidavit of the Secretary, Treasurer, Superintendent, and the Directors of the Corporation, and shall state:

1. The length of road in operation, the length of single track, the length of double track, the weight of the rail per yard.

2. The capital stock actually subscribed and the amount paid thereon.

3. The whole cost of the road, showing the amount expended for the right of way, bridging, grading, iron and buildings, respectively, and for all other purposes incidental to the construction of such road.

4. The amount and nature of its indebtedness, distinguishing the first, second and third mortgage bonds, and the unsecured indebtedness and the amount due the corporation.

5. The amount received for the transportation of passengers, property and mails, for interest and from other sources, respectively.

6. The amount of freight, specifying the quantity in tons or other usual mode of measurement.

7. The amount paid for the repairs of the road, buildings, engines and cars, respectively for fuel, taxes and interest, specifying the indebtedness on which the same is paid; for wages of employees; the aggregate amount paid for salaries of officers, and for any other purpose incidental to the business of transportation so as to give a complete statement of the entire annual expense of the corporation.

8. The amount of loss to the corporation paid for loss and damage to freight and injury to person and property.

9. The number and amount of dividends and when made and in what manner such dividends have been paid.

10. The amount appropriated to sinking fund and the manner in which the same has been applied and the total amount then held by such sinking fund.

11. The number of persons killed or injured, the causes thereof and whether passengers or persons employed by the corporation.

12. Whether any such accidents have arisen from carelessness or negligence of any person in the employ of the corporation and whether such person is retained in the service of such corporation. The secretary of each railroad corporation shall mail to every stockholder thereof, whose postoffice address is known, a copy of its annual report, and shall file a certified copy thereof with the Commissioners of Railroads on or before the fifteenth day of March in each year.

Approved February 15, 1917.

CHAPTER 187.

[S. B. No. 86—Lindstrom.]

PROTECTION OF PERSONS ACCOMPANYING LIVESTOCK SHIPMENTS.

An Act to Provide for the Accommodation and Protection of the Person or Persons Accompanying Livestock Shipments and Providing Penalty for Failure to Comply with the Provisions of this Act.

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

§ 1. It shall be the duty of every person, firm, company or corporation operating a railroad within this state, and every assignee, lessee or receiver of such railroad company, to attach to every stock freight train, carrying twenty-five or more cars of livestock, and generally known as a stock freight train, and to keep attached thereto while operating within this state, a good and sufficient sleeping car for the accomodation and protection of the person or persons accompanying such live stock.

§ 2. Any person, firm, corporation, violating the provisions of this act shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars.

Approved March 9, 1917.

CHAPTER 188.

[S. B. No. 77—Nelson of Richland.]

RAILROAD RATES.

An Act Relating to Railroad Rates in this State and to Increase the Powers and Further Define the Duties of the Board of Railroad Commissioners in Relation to the same and to Define, Prevent, and Punish Unjust Discrimination in the Rates Charged for the Transportation of Freight on Railroads in this State, and Prohibiting any Railway Company doing business in this State, from Charging or Receiving any Greater Compensation for the Transportation of a Like Kind or Class and Quantity of Property or Freight of any Description for a Shorter than for a Longer Distance over the Same Line and Empowering and Directing the Board of Railroad Commissioners to make and Promulgate a Schedule of Reasonable Maximum Rate of Charges for the Transportation of Freight and Cars and Vesting said Board of Railroad Commissioners with Power of Classification of Freight and of Rates and Railroads and Prescribing a Mode of Procedure and Rules of Evidence in Relation Thereto and Providing Penalties and Punishments for Violations of the Provisions Thereof.

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

§ 1. UNJUST DISCRIMINATION IN RAILROAD FREIGHT RATES PROHIBITED.] If any corporation shall charge, collect or receive

for the transportation of freight of any description upon its railroad for any distance within this state, a greater amount of freight, toll or compensation than is at the same time charged, collected or received for the transportation of like quantity of freight of the same class over a greater distance of the same railway; or if it shall charge, collect or receive at any point upon its road a higher rate of freight, toll or compensation for receiving, handling or delivering freight of the same class and quantity than it shall at the same time charge, collect or receive at any point upon the same line of railway; or if it shall charge, collect or receive for the transportation of any freight of any description over its railway a greater amount as freight, toll or compensation than shall at the same time be charged, collected or received by it for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or if it shall charge, collect or receive from any person a higher or greater amount of freight, toll or compensation than it shall at the same time charge, collect or receive from any person for receiving, handling or delivering freight, of the same class and like quantity at the same point upon its railway; or if it shall charge, collect, or receive from any person for the transportation of any freight upon its railway a higher or greater rate of freight, 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 freight of the same class being transported from the same point over equal distance of the same railway; or if it shall charge, collect or receive from any person for the use and transportation of any railway car or cars upon its railroad for any distance, a greater amount of freight, toll or compensation that is at the same time charged, collected or received from any other person for the use and transportation of any railway car of the same class or number, for a like purpose, being transported over a greater distance of the same railroad; or if it shall charge, collect or receive from any person for the use and transportation of any railroad car or cars upon its railway a higher or greater compensation in the aggregate than it shall, at the same time, charge, collect or receive from any other person for the use and transportation of any railway car or cars of the same class for a like purpose, being transported from the same original point, over an equal distance of the same railway, such railway corporation shall be deemed guilty of unjust discrimination which is hereby prohibited and declared to be unlawful, and all such are hereby declared to be discriminating, unjust and unreasonable rates, charges, collections and receipts and all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, draw-back or other shift or evasion, shall be received as prima facie evidence of the violation of the provisions of this act, and it shall not be sufficient excuse or justification thereof on the part of said railway corporation that the station or point at which it shall charge, collect or receive less compensation

in the aggregate for the transportation of such freight or for the use and transportation of such railway car the greater distance than for the shorter distance, is a station or point at which there exists competition with another railway or other transportation lines provided, however, where two or more railroads run into a city or village, one having a shorter mileage than the other from a given point, the railroad commissioners may permit the railroad or railroads having a longer mileage to meet the rate made by the shortest line at such city or village.

§ 2. PROVISIONS OF ACT NOT TO EXCLUDE EVIDENCE AND TO APPLY TO ALL RAILWAYS WITHIN THE STATE.] The provisions of this act shall not be construed so as to exclude other evidence than as herein provided, tending to show any unjust discrimination in freight rates and the provisions thereof shall apply to any railway, the branches thereof, and any road or roads which any railway corporation has a right, license or permission to use, operate or control within the state.

§ 3. RATES PER 100 POUNDS, PER TON, PER CAR, ETC., IN LIKE CLASS, TO BE THE SAME IN PROPORTION.] No such railway company shall 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 railway, for the same distance; nor 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 over the same railway for the same distance; nor charge, collect, or demand or receive more for transporting a hundred pounds of freight than it charges, collects, demands or receives per hundred for several hundred pounds of freight, under a ton, of a like class, over the same railway, for the same distance; and all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, draw-back, or other shift or evasion shall be received as prima facie evidence of the violation of the provisions of this act.

§ 4. PROVISIONS TO APPLY TO TRANSPORTATION OF PROPERTY WHOLLY WITHIN THE STATE.] The provisions of this act shall apply to the transportation of property wholly within this state and shall apply to all railroad corporations and common carriers engaged in this state in the transportation of property by railroad therein and to the shipment of property made from any point within the state to any other point within the state over or upon any railroad therein. The term railroad and railway, as used in this chapter, shall include all bridges and ferries used or operated in connection with any railroad and also all the roads in use by any corporation, receiver, trustee, or other person operating a railroad owned or operated under contract, agreement, lease or otherwise; and the term, transportation shall include all instrumentalities of shipment or carriages, and the term railway corporation shall mean all corporations, companies or individuals, owning or operating

any railroad in whole or in part in this state; and the provisions of this chapter 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 line of railway in this state, street railways excepted, the same as to railroad corporations herein mentioned. Provided, that nothing in this act shall apply to the carriage, storage, or handling of property free or at reduced rates for the United States, for this state, for municipal governments therein, or for charitable purposes or to and from fairs and expositions held under the authority of county or state or municipality therein for exhibition thereat.

§ 5. POWERS OF RAILROAD COMMISSIONERS NOT ABRIDGED.] Nothing in this act contained shall be construed as limiting or abridging the powers now vested by law in the board of railroad commissioners of the state of North Dakota, except that the said board of commissioners shall not have power to promulgate any rule or establish any rate or rates in conflict with or in violation of the provisions of this act, and nothing in this act shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions thereof are in addition to such remedies.

§ 6. COMMISSION EMPOWERED TO MAKE A SCHEDULE OF REASONABLE MAXIMUM RATES FOR EACH RAILROAD.] The board of railroad commissioners of this state is hereby empowered and directed to make for each of the railroad corporations doing business in this state, as soon as practicable, a schedule of reasonable maximum rates of charges for the transportation of freight and cars on each of said railroads and said power to make schedules shall include the classification of such rates and it shall be the duty of said commission to make such classification and said schedules so made by said commission shall, in all suits brought against any such railroad corporation wherein is in any way involved the charges of any such railroad corporation for the transportation of any freight 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 of charges.

§ 7. CLASSIFICATION OF RAILROADS AS TO GROSS EARNINGS.] The board of railroad commissioners shall have and are hereby given and vested with power and it shall be their duty to classify all railroads in this state according to the gross amount of their several annual earnings, within this state, per mile for the preceding year as follows:

"Class A shall include those whose annual earnings per mile shall be four thousand dollars (\$4,000.00) or more."

"Class B shall include those whose gross annual earnings per mile shall be three thousand dollars (\$3,000.00) or any sum in excess thereof less than four thousand dollars (\$4,000.00)."

"Class C shall include those whose gross annual earnings per mile shall be less than three thousand dollars (\$3,000.00) and shall have power to and may fix a higher maximum charge by the railroad cor-

porations included in Class C than those included in Class B and a higher maximum charge by the railroad corporations included in Class B, than those included in Class A.”

§ 8. SHIPMENTS OF FREIGHT OVER TWO OR MORE LINES TO BE MADE UNDER REASONABLE RATES.] When shipments of freight to be transported between different points within the state are required by two or more railway companies operating connecting lines, such railway company shall transport the same at reasonable through rates not greater than the maximum rates allowed by law and shall at all times give the same facilities and accommodations to local or state traffic as they give to interstate traffic over their lines of road.

§ 9. Judgment for fines and costs shall be entered in the same manner as in civil cases, and shall be enforced in like manner.

§ 10. PENALTY FOR VIOLATION. ATTORNEY FEES.] Any person or corporation guilty of violating the provisions of this act shall upon conviction thereof be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00) for the first offense and for each subsequent offense not less than five thousand dollars (\$5,000.00) nor more than ten thousand dollars (\$10,000.00) and shall pay in addition to said fine so imposed the costs of prosecution. In addition to the penalties and cost provided for in this chapter, the court shall allow in any action brought under the provisions of this chapter, a reasonable attorney's fee, to be assessed as part of the costs of said action, which attorney's fee, so assessed, shall go to the attorney general or state's attorney who conducted the prosecution, and shall be retained by such attorney general or state's attorney as additional compensation to that otherwise allowed by the laws of this state as such attorney general's or state's attorney's salary.

§ 11. PROSECUTION MAY BE MADE BY THE ATTORNEY GENERAL AND BY STATES ATTORNEY IN ANY COUNTY WHERE VIOLATION OCCURRED.] Prosecution shall be made by the attorney general and states attorney in the county where violation occurred, under any provision of this act, in any county of the state through or into which the line of any railway so offending against the provisions of this act may extend, it shall be and hereby is made the duty of the attorney general of the state and also of the states attorney of any such county to appear therein and conduct the prosecution, the attorney general shall conduct the prosecution, and shall be assisted by the states attorney, if so requested by the attorney general. If in any case the attorney general refuses to prosecute, upon request to do so by the states attorney then the states attorney may proceed without the consent of the attorney general.

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

Approved February 27, 1917.

CHAPTER 189.

[S. B. No. 78—Mostad.]

SEMI-MONTHLY PAY.

An Act to Require all Railroad Corporations Doing Business Within This State to Pay Their Employees at Least Semi-Monthly, the Wages Earned by Them to Within Fifteen (15) Days of the Date of Such Payment, Unless Prevented in Inevitable Casualty, and Providing Penalty in Case of Default.

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

§ 1. All railroad corporations doing business within this state are required to pay their employees at least semi-monthly, the wages earned by them within fifteen (15) days of the date of such payment, unless prevented by inevitable casualty. Provided, however, that whenever an employee shall be discharged, his wages shall be paid to him at the time of his discharge or whenever he shall demand the same thereafter.

§ 2. PENALTY FOR FAILURE TO MAKE PAYMENT.] Whenever any railroad corporation shall for seven days neglect or refuse to pay its employees as prescribed by Section 1 of this Act, the wages due them may be recovered by action without further demand, and there shall be allowed to the plaintiff and included in his judgment, in addition to his costs and disbursements allowed by law five dollars if the judgment be recovered in a justice court, and a like sum if the judgment be recovered in a municipal court where no statutory costs are now allowed in such municipal court in such action and double costs in all other courts on appeal.

§ 3. REPEAL.] All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 8, 1917.

CHAPTER 190.

[H. B. No. 184—Prater.]

SHIPMENT OF CASES CONTAINING BOTTLES.

An Act to Regulate the Shipment of Cases Containing Bottles, and Providing that Certain Additional Facts be Contained in the Bill of Lading and Freight Receipt Therefor.

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

§ 1. That whenever unsealed cases containing bottles are received by common carriers to be transported from one place to another, such cases shall be marked with a label or tag, on which shall be distinctly written or printed, the name of the consignor and consignee.

§ 2. That the bill of lading and freight receipt issued for such shipment, in addition to the other matter required by law to be

stated, specify the number of bottles in such cases, and whether such bottles are full or empty.

Approved March 12, 1917.

CHAPTER 191.

[H. B. No. 351—Blanchard.]

SIDE TRACKS ADJACENT TO COAL MINES.

An Act to Amend and Re-enact Section 4767 of the Compiled Laws of North Dakota for the year 1913, Relating to Side Tracks Adjacent to Coal Mines, and Providing for the Extension Thereof.

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

§ 1.] That Section 4767 of the Compiled Laws of North Dakota for the year 1913, be and the same is hereby, amended and re-enacted to read as follows:

§ 4767. SIDE TRACKS ADJACENT TO COAL MINES.] Whenever any person, owning or operating any coal mine within the State, from which not less than fifty cars of coal have been shipped from any one station over any portion of any railroad within the limits of the State shall petition any such railroad company to build a side track or spur at least three hundred feet in length adjacent to such mine, or for an extension of such side track or spur which is now in use, it shall then be the duty of such railroad company to build, equip and operate such side track or spur; provided, that such spur is not nearer than two miles from any station already in operation; provided, further, that any person opening a coal mine within two miles of any station may petition for a side track or spur, or for an extension of such side track or spur which is now in use, and by executing an indemnity bond in favor of such railroad company in the sum of two thousand dollars, conditioned on the agreement that such person will ship within one year after the completion of such spur or side track not less than one hundred car loads of coal and when such bond is duly executed with two sureties, approved by the county judge of the county wherein such side track is situated, such railroad company shall within sixty days build, equip, and operate such side track or spur as provided for in this section. And the commissioners of railroads shall have power to locate such side track or spur, or extension of such side track or spur which is now in use, and order it properly provided with platforms and other conveniences for loading coal and other commodities thereat.

Approved March 10, 1917.

CHAPTER 192.

[H. B. No. 195—Stinger.]

UNFAIR DISCRIMINATION BY RAILROAD COMPANIES.

An Act to Prevent Unfair Discrimination by Railroad Companies in the Furnishing of Cars to the Different Elevator Companies, at any Railroad Station in North Dakota and Prescribing Penalties.

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

§ 1. DUTIES OF RAILROAD COMPANIES. HOW PERFORMED.] Whenever one or more elevator companies, having an elevator located at a railroad station in North Dakota, shall order, or ask, of such railroad company on whose line the elevator is located, any car or cars, into which to load and ship grain, over such company's road, such railroad company shall furnish and distribute cars to the several elevator companies, applying for cars proportionately on the basis of daily receipts, in the following manner: The elevator company receiving the greatest number of bushels daily, shall receive the first available car, the elevator company receiving the second largest number of bushels daily, the next available car and so on proportionately, provided, however, that if any elevator company shall receive more than twice the number of bushels daily than any other elevator company receives at such station, then the elevator company receiving the highest number of bushels shall be allotted two times as many cars as are allotted to such other elevator company and if any elevator company shall receive three times as many bushels than any other elevator company receives at such station then such elevator company shall be allotted three times as many cars as such other elevator company and in the distribution of cars to such elevator companies for the shipment of grain the railroad company shall apportion such cars in the manner herein stated according to the daily receipts of grain of each such elevator company.

§ 2. Any elevator company, or agent of any elevator company that orders, or asks, a railroad company to furnish cars in which to ship grain shall if requested by the railroad company or the agent of the railroad company make a written statement showing the number of bushels the elevator company has received daily for the preceding ten days before such request is made and such elevator company or agent shall properly sign and file such request with the railroad company in their local office at the station where such car or cars are required or at the place where such orders are usually received by the railroad company or agent thereof. Any elevator company or agent thereof, or other parties that makes a false report so as to obtain more cars than such elevator company is entitled to under the provisions of this Act shall upon conviction thereof, be fined ten dollars for the first offense and for each other such offense twenty-five dollars and costs. Any railroad company

or agent thereof when applications are made for cars in which to ship grain failing to furnish such cars to the several elevator companies according to the terms and provisions of this Act shall upon conviction thereof be fined five dollars for the first offense and twenty-five dollars for each subsequent offense thereafter, together with costs. Provided further that individuals when ordering cars in which to loan and ship grain shall be entitled to the same privileges as the grain elevator companies, in the distribution of cars, and individual shippers shall not be obliged to certify to the daily receipts but shall certify that the car or cars are ordered to ship his own grain in only.

Approved March 12, 1917.

RAPE

CHAPTER 193.

[S. B. No. 199—Rowe.]

RAPE IN THIRD DEGREE.

An Act to Amend and Re-enact Section 9567 of the Compiled Laws of North Dakota for 1913, as Amended by Section 2, Chapter 201, Session Laws of North Dakota for 1915, Defining Rape in the Third Degree.

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

§ 1. AMENDMENT.] Section 9567 of the Compiled Laws of North Dakota for 1913, as amended by Section 2, Chapter 201, Session Laws of North Dakota for 1915 is hereby amended and re-enacted to read as follows:

§ 9567. RAPE IN THE THIRD DEGREE DEFINED. PUNISHMENT.] Rape if committed by a person under twenty years of age at the time of the commission of the act and under the conditions described in Sub-divisions 2, 3, 4, 5, 6 and 7 of Section 9563, or either of them, or in other cases with the apparent consent of the female, and she is under the age of eighteen years, is rape in the third degree and any person found guilty thereof shall be punished by confinement in the Reform School for a term of not less than one, nor more than three years, in the discretion of the court.

Approved March 9, 1917.