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sive of Sundays and the day said bill was presented, and was filed in the office of the secretary of state, April 16, 1906.

LEWIS B. HOUCK,
Secretary to the Governor.
 175G

[House Bill No. 78.]

AN ACT

To regulate railroads and other common carriers in this state, create a board of railroad commissioners, prevent the imposition of unreasonable rates, prevent unjust discriminations and insure an adequate railway service.

Be it enacted by the General Assembly of the State of Ohio:

Railroad commission; appointment, number and term of members.

SECTION 1. A railroad commission is hereby created to be composed of three commissioners. Within sixty days after the passage of this act the governor shall, by and with the advice and consent of the senate, appoint such commissioners, but no commissioner so appointed shall be qualified to act until so confirmed, unless appointed during the adjournment of said senate. The term of one such appointee shall terminate on the first Monday in February, 1909; the term of the second such appointee shall terminate on the first Monday in February, 1911; and the term of the third such appointee shall terminate on the first Monday in February, 1913. In January, 1909, and biennially thereafter, there shall be appointed and confirmed, in the same manner, one commissioner for the term of six years from the first Monday in February of such year. Each commissioner so appointed shall hold his office until his successor is appointed and qualified. Any vacancy shall be filled by appointment by the governor for the unexpired term, subject to confirmation of the senate, but any such appointment shall be in full force until acted upon by the senate.

Vacancies.

Qualifications of commissioners.

a. The said commissioners shall have the following qualifications: One shall have a general knowledge of railroad law; each of the others shall have a general understanding of matters relating to railroad transportation, but at no time shall there be more than two of said commissioners members of the same political party.

Removals.

b. The governor may at any time remove any commissioner for any inefficiency, neglect of duty, or malfeasance in office. Before such removal he shall give such commissioner a copy of the charges against him and shall fix a time when he can be heard in his own defense, which shall be not less than ten days thereafter and said hearing shall be open to the public. If he shall be removed the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner and his findings thereon with the record of the proceedings.

c. No person so appointed shall be pecuniarily interested in any railroad in this state or elsewhere, and if any such commissioner shall voluntarily become so interested, his office shall ipso facto become vacant; and if he shall become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest; failing so to do, his office shall become vacant, and the governor shall proceed as provided for in section 1b of this act.

Additional
qualification;
effect of dis-
qualification.

d. No commissioner, nor the secretary, shall hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party, but shall devote his entire time to the duties of his office.

Commission-
ers shall devote
entire time to
duties of office.

e. Before entering upon the duties of his office, each of said commissioners shall take and subscribe "constitutional oath of office, and shall in addition thereto swear (or affirm) that he is not pecuniarily interested in any railroad in this state or elsewhere, and that he holds no other office of profit, nor any position under any political committee or party; which oath or affirmation shall be filed in the office of the secretary of state.

Oath of office.

f. Each of said commissioners shall receive an annual salary of five thousand dollars, payable in the same manner as salaries of other state officers are paid.

Salary.

g. The commissioners appointed under this act shall within twenty days after their appointment and qualification meet at the state capitol and organize by electing one of their number chairman, who shall serve until the second Monday of February, 1907. On the second Monday of February in each odd numbered year the commissioners shall meet at the office of the commission and elect a chairman, who shall serve for two years and until his successor is elected. A majority of said commissioners shall constitute a quorum to transact business, and any vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission, so long as a majority remains.

Organization.

h. Said commission may appoint a secretary at a salary of not more than twenty-five hundred dollars per annum, and may appoint not more than three clerks, two of whom shall receive an annual salary not exceeding one thousand dollars each, and one of whom shall be an expert stenographer and receive an annual salary not exceeding twelve hundred dollars, and may employ such other experts as may be necessary to perform any service it may require of them, and shall fix their compensation. They may appoint inspectors who shall have the right to inspect freight in the cars or warehouses of transportation companies. Such inspectors shall also have the right to inspect all waybills, bills of lading and shipping receipts of such transportation companies so that they may determine whether the classification and rating of such freight is in conformity with the published tariffs and classifications of such transportation companies. Said inspectors shall be employed at fixed compensation.

Secretary and
clerks; ap-
pointment and
salaries.

Inspectors.

Duties of
secretary.

i. The secretary shall take and subscribe to an oath similar to that of the commissioners, and shall keep full and correct records of all transactions and proceedings of the commission, and shall perform such other duties as may be required by the commission. Any person ineligible to the office of commissioner shall be ineligible to the office of secretary.

Name of
commission;
seal.

j. The commissioners shall be known collectively as "Railroad Commission of Ohio," and in that name may sue and be sued. It shall have a seal with the words "Railroad Commission of Ohio," and such other design as the commission may prescribe engraved thereon by which it shall authenticate its proceedings and of which the courts shall take judicial notice.

Office; furni-
ture and sup-
plies, ex-
penses.

k. The commission shall keep its office at the capitol, and shall be provided by the adjutant general with suitable room or rooms, necessary office furniture, supplies, stationery, books, periodicals, maps, and all necessary expenses shall be audited and paid as other state expenses are audited and paid. The commission may hold sessions at any place other than the capitol when the convenience of the parties so requires. The commissioners, secretary, and clerks, and such experts as may be employed, shall be entitled to receive from the state their actual necessary expenses while traveling on the business of the commission. Such expenditures to be sworn to by the person who incurred the expense and approved by the chairman of the commission.

Rules and
regulations.

l. The commission shall have power to adopt and publish rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroads and other parties before it, and all hearings shall be open to the public.

May confer
with railroad
commissioners
of other states.

m. The commission may confer by correspondence, or by attending conventions, or otherwise, with the railroad commissioners of other states, and with the interstate commerce commission, on any matters relating to railroads.

Term "rail-
road" defined.

SECTION 2. The term "railroad" as used herein shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court whatsoever) that now, or may hereafter, own, operate, manage or control any railroad or part of a railroad as a common carrier in this state, or cars, or other equipment used thereon, or bridges, terminals, or side tracks, or any docks or wharves or storage elevators used in connection therewith, whether owned by such railroad or otherwise, but the provisions of this act shall not apply to companies engaged exclusively in the sleeping car business. The term "railroad" whenever used herein shall also mean and embrace express companies, and all duties required of and penalties imposed upon any railroad or any officer or agent thereof shall, in so far as the same are applicable, be required of and imposed upon express companies and their officers and agents, and the commission shall have the power of supervision and control of express companies to the same extent as railroads.

a. The provisions of this act shall apply to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing and handling of such property, and to all charges connected therewith, including icing charges and mileage charges, and shall apply to all railroad corporations, express companies, car companies, freight and freight line companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers, upon or over any line of railroad within this state, and to any common carrier engaged in the transportation of passengers and property wholly by rail or partly by rail and partly by water.

To what the provisions of this act shall apply.

b. This act shall not apply to street and electric railroads engaged solely in the transportation of passengers within the limits of cities, nor other private railroads not doing business as common carriers.

To what this act shall not apply.

SECTION 3. Every railroad is hereby required to furnish reasonably adequate service and facilities, and the charges made for any service rendered or to be rendered in the transportation of passengers or property or for any service in connection therewith or for the receiving, switching, delivering, storing 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.

Duties of railroads.

SECTION 4. Every railroad shall print in plain type and file with the commission within a time fixed by the commission, schedules which shall be open to public inspection, showing all rates, fares and charges for the transportation of passengers and property, and any service in connection therewith, which it has established and which are in force at the time between all points in this state upon its line, or any line controlled or operated by it, and the rates, fares and charges shown on such schedules as are in effect at the date this act takes effect. The schedules printed as aforesaid shall plainly state the places upon its line or any line controlled or operated by it in this state between which passengers and property will be carried, and there shall be filed therewith the classification of freight in force. Every railroad shall publish with and as a part of such schedules all rules and regulations that in any manner affect the rates charged or to be charged for the transportation of passengers or property, also its charges for delay in loading or unloading cars, for track and car service, or rental and for demurrage, switching, terminal or transfer service, or for rendering any other service in connection with the transportation of persons or property. Two copies of said schedules for the use of the public shall be filed and kept on file in every depot, station and office of such railroad where passengers or freight are received for transportation in such form and place as to be accessible to the public and where they can be conveniently inspected. When passengers or property are transported over connecting lines in this state operated by more than one railroad, and the several railroads operating such lines establish joint

Same; schedules of rates, etc.

rates, fares and charges, a schedule of joint rates shall also in like manner be printed and filed with the commission and in every depot, station and office of such railroads where such passengers or property are received for transportation.

Changes in
schedules.

a. No change shall thereafter be made in any schedule, including schedule of joint rates, or in any classification, except upon ten days' notice to the commission, and all such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof ten days prior to the time the same are to take effect; provided, that the commission, upon application of any railroad, may prescribe a less time within which a reduction may be made. Copies of all new schedules shall be filed as hereinbefore provided in every depot, station and office of such railroad, ten days prior to the time the same are to take effect unless the commission shall prescribe a less time.

Changes in
schedules;
notices to be
posted.

b. Whenever a change is made in any existing schedule, including schedule of joint rates, a notice shall be posted by the railroad in a conspicuous place in every depot, station and office, stating that changes have been made in the schedules on file, specifying the class or commodity affected and the date when the same will take effect.

Unlawful for
railroads to
charge, demand,
collect or re-
ceive greater or
less compensa-
tion than that
specified in
schedules.

c. It shall be unlawful for any railroad to charge, demand, collect or receive a greater or less compensation for the transportation of passengers or property or for any service in connection therewith than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, and the rates, fares and charges named therein shall be the lawful rates, fares and charges until the same are changed as herein provided.

Form of
schedules.

d. The commission may prescribe such changes in the form in which the schedules are issued by the railroad as may be found expedient, and such schedule shall, as far as practicable, conform to the forms prescribed by the interstate commerce commission.

Rates shall be
just and reason-
able.

SECTION 5. Whenever passengers or property are transported over two or more connecting lines of railroad between points in this state, and the railroad companies have made joint rates for the transportation of the same, such rates and all charges in connection therewith shall be just and reasonable, and every unjust and unreasonable charge is prohibited and declared to be unlawful; provided, that a less charge by each of said railroads for its proportion of such joint rates than is made locally between the same points on their respective lines shall not for that reason be construed as a violation of the provisions of this act, nor render such railroads liable to any of the penalties hereof.

Special con-
tract rates.

SECTION 6. Nothing in this act shall be construed to prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be subject to the provisions of this act as

to the printing and filing of the same: Provided, all such rates shall be under the supervision and regulation of the commission.

SECTION 7. The classification of freight in the state shall be uniform on all railroads.

Classifications of freight shall be uniform.

SECTION 8. Nothing herein shall prevent the carriage, storage or handling of freight free or at reduced rates for the United States, the state, or any political subdivision thereof, or any municipality thereof, or for charitable purposes, or to and from fairs and expositions for exhibition thereat, or household goods the property of railway employees; or the issuance of mileage, commutation or excursion passengers' tickets, provided that the same shall be obtainable by any person applying therefor without discrimination, or of party tickets, provided, that the same shall be obtainable by all persons applying therefor under like circumstances and conditions. This act shall not be construed as preventing railroads from giving free transportation or reduced rates therefor to any minister of the gospel, officer or agents of incorporated colleges, regular agents of charitable societies, when traveling upon the business of the society only, destitute and homeless persons, railroad officer, attorney, director, employe or members of their families; or to prevent the exchange of passes with officers, attorneys or employes of other railroads and members of their families.

Free transportation or transportation at reduced rates, when lawful.

a. Upon any shipment of live stock or other property of such nature as to require the care of an attendant, the railroad may furnish to the shipper or some person or persons designated by him, free transportation for such attendant, including return passage to the point at which the shipment originated; provided, there shall be no discrimination in reference thereto between such shippers, and the commission shall have power to prescribe regulations in relation thereto.

Live stock attendants; may furnish free transportation for.

SECTION 9. It shall be the duty of every railroad to provide and maintain adequate depots and depot buildings at its regular stations for the accommodation of passengers, and said depot buildings shall be kept clean, well lighted and warmed, for the comfort and accommodation of the traveling public. All railroads shall keep and maintain adequate and suitable freight depots, buildings, switches and side tracks for the receiving, handling and delivering of freight transported or to be transported by such railroads; provided, that this shall not be construed as repealing any existing law on the subject.

Duty of railroads with respect to depots, buildings, side tracks, switches, etc.

SECTION 10. Every railroad shall, when within its power so to do, and upon reasonable notice, furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight in car load lots. In case of insufficiency of cars at any time to meet all requirements, such cars as are available shall be distributed among the several applicants therefor in proportion to their respective immediate requirements without discrimination

Duty of railroads with respect to furnishing cars.

between shippers or competitive or non-competitive places; provided, preference may be given to shipments of live stock and perishable property.

Power of
commission as
to enforcement
of reasonable
regulation for
furnishing
cars, etc.

a. The commission shall have power to enforce reasonable regulations for furnishing cars to shippers and switching the same, and for the loading and unloading thereof, and the weighing of the cars and freight offered for shipment over any line of railroad.

Interchange of
traffic between
railroads.

SECTION 11. All steam railroad companies as between themselves and all interurban and electric railroads as between themselves, shall afford all reasonable and proper facilities for the interchange of traffic between their respective lines, for forwarding and delivering passengers and property, and shall transfer and deliver without unreasonable delay or discrimination any freight or cars, loaded or empty, or any passengers destined to any point on its own or any connecting lines; provided, that precedence over other freight may be given to live stock and perishable freight.

Control of
commission
over private
tracks.

a. The commission shall have control over private tracks in so far as the same are used by common carriers, in connection with any railroad for the transportation of freight, in all respects the same as though such tracks were a part of the track of said railroad.

Investigation
of charges that
rates, fares,
etc., or regu-
lations, etc.,
are unreason-
able or un-
justly dis-
criminatory or
that service is
inadequate.

SECTION 12. Upon complaint of any person, firm, corporation or association, or of any mercantile, agricultural or manufacturing society, or of any body politic or municipal organization, that any of the rates, fares, charges or classifications, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation or practice whatsoever affecting the transportation of persons or property, or any service in connection therewith, are in any respect unreasonable or unjustly discriminatory, or that any service is inadequate, the commission may notify the railroad complained of that complaint has been made, and ten days after such notice has been given the commission may proceed to investigate the same as hereinafter provided. Before proceeding to make such investigation the commission shall give the railroad and the complainants ten days' notice of the time and place when and where such matters will be considered and determined, and said parties shall be entitled to be heard and shall have process to enforce the attendance of witnesses. If upon such investigation the rate or rates, or any regulation, practice or service complained of shall be found to be unreasonable or unjustly discriminatory, or the service shall be found to be inadequate, the commission shall have power to fix and order substituted therefor such rate or rates, fares, charges or classification as it shall have determined to be just and reasonable and which shall be charged, imposed and followed in the future, and shall also have power to make such orders respecting such regulation, practice or service as it shall have determined to be reasonable and which shall be observed and followed in the future.

a. The commission may, when complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately, and at such times as it may prescribe. No complaint shall of necessity at any time be dismissed because of the absence of direct damage to the complainant.

Separate
hearings.

b. Whenever the commission shall believe that any rate or rates or charge or charges may be unreasonable or unjustly discriminatory, and that an investigation relating thereto should be made, it may, upon its own motion, investigate the same. Before making such investigation it shall present to the railroad a statement in writing setting forth the rate or charge to be investigated. Thereafter, on ten days' notice to the railroad of the time and place of such investigation, the commission may proceed to investigate such rate or charge in the same manner and make like orders in respect thereto as if such investigation had been made upon complaint.

Power of com-
mission to
make investi-
gation upon its
own motion.

c. This section shall be construed to permit any railroad to make complaint with like effect as though made by any person, firm, corporation or association, mercantile, agricultural or manufacturing society, body politic or municipal organization.

Railroad may
make com-
plaint.

SECTION 13. Each of the commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and the production of papers, waybills, books, accounts, documents and testimony. In case of disobedience on the part of any person or persons to comply with any order of the commission or any commissioner or any subpoena, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the court of common pleas of any county, or a judge thereof, on application of a commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein, and in addition said commission shall have the powers vested in justices of the peace, or notaries public to compel witnesses to testify and to produce books and papers.

Power of com-
missioners to
administer
oaths, issue
subpoenas, com-
pel the attend-
ance of wit-
nesses, etc.

a. Each witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission; provided, that no witness subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated.

Witnesses'
fees and
mileage.

b. The commission or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by

Depositions.

law for like depositions in civil actions in courts of common pleas.

Record of investigations.

c. A full and complete record shall be kept of all proceedings had before the commission on any investigation had under section 12 of this act, and all testimony shall be taken down by the stenographer appointed by the commission. Whenever any complaint is served upon the commission under the provisions of section 16 of this act the commission shall, before said action is reached for trial, cause a certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the clerk of the court of common pleas of the county where the action is pending. A transcribed copy of the evidence and proceedings, or any specific part thereof, on any investigation, taken by the stenographer appointed by the commission, being certified by such stenographer to be a true and correct transcript in long-hand of all the testimony on the investigation, or of a particular witness, or of other specific part thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and transcribed shall be received in evidence with the same effect as if such reporter were present and testified to the facts so certified. A copy of such transcript shall be furnished on demand, free of cost, to any party to such investigation, and all other persons, a copy on payment of a reasonable amount therefor.

Value of certified copy of proceedings.

Action of commission when charges of unreasonableness or inadequacy of service are found to be true.

SECTION 14. Whenever, upon an investigation made under the provisions of this act, the commission shall find any existing rate or rates, fares, charges or classifications, or any joint rate or rates, or any regulation or practice whatsoever affecting the transportation of persons or property, or any service in connection therewith, are unreasonable or unjustly discriminatory, or any service is inadequate, it shall determine and by order fix a reasonable rate, fare, charge, classification or joint rate to be imposed, observed and followed in the future in lieu of that found to be unreasonable or unjustly discriminatory, and it shall determine and by order fix a reasonable regulation, practice or service to be imposed, observed and followed in the future, in lieu of that found to be unreasonable or unjustly discriminatory, or inadequate, as the case may be, and it shall cause a certified copy of each such order to be delivered to an officer or station agent of the railroad affected thereby, which order shall of its own force take effect and become operative thirty days after the service thereof. All railroads to which the order applies shall make such changes in their schedule on file as may be necessary to make the same conform to said order, and no change shall thereafter be made by any railroad in any such rates, fares, or charges, or in any joint rate or rates, without the approval of the commission. Certified copies of all other orders of the commission shall be delivered to the railroads affected thereby in like manner, and the same shall take effect within such times thereafter as the commission shall prescribe.

a. The commission may at any time upon application of any person or any railroad and upon notice to the parties in interest, and after opportunity to be heard as provided in section 12, rescind, alter or amend any order fixing any rate or rates, fares, charges or classification, or any other order made by the commission, and certified copies of the same shall be served and take effect as herein provided for original orders.

Power of commission to rescind, alter or amend its orders.

SECTION 15. All rates, fares, charges, classifications and joint rates fixed by the commission shall be in force and shall be prima facie lawful, for a period of one year from the date the same takes effect, unless or until changed or modified, by the commission, or in pursuance of section 16 of this act. All regulations, practices and service prescribed by the commission shall be in force and shall be prima facie reasonable, unless suspended or found otherwise in an action brought for that purpose pursuant to the provisions of section 16 of this act, or until changed or modified by the commission as provided for in paragraph a, section 14, of this act.

Rates, fares, classifications, etc., fixed by commission are prima facie lawful.

Regulations, practices and services prescribed by commission are prima facie reasonable.

SECTION 16. Any railroad or other party in interest being dissatisfied with any order of the commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices or services, may, within sixty days, commence an action in the court of common pleas against the commission as defendant to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order, is unlawful or unreasonable, or that any such regulation, practice or service, fixed in such order, is unreasonable, in which action the adverse parties shall be served with the summons. The commission shall file its answer, and on leave of court, any interested party may file an answer to said complaint within ten days after the service thereof, whereupon said action shall be at issue and stand ready for trial upon ten days' notice by either party. All actions brought under this section shall have precedence over any civil cause of a different nature pending in such court, and the court of common pleas shall always be deemed open for the trial thereof and the same shall be tried and determined as other civil actions; any party to such action may introduce original evidence in addition to the transcript of the evidence offered to said commission.

Proceedings in common pleas court to vacate or set aside orders of commission fixing rates, fares, classifications, etc., or orders fixing regulations, practices or services.

a. No injunction shall issue suspending or staying any order of the commission except upon application to the court of common pleas or judge thereof, notice to the commission having been given and hearing having been had thereon.

Injunctions.

b. If, upon the trial of such action, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before the commission, or additional thereto, the court before proceeding to render judgment, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to the commission, and shall stay further proceedings in said action for fifteen days from the date of such

Proceeding when evidence introduced by plaintiff is found to be different from that offered upon hearing before commission.

transmission. Upon the receipt of such evidence the commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, classification, joint rate or rates, regulation, practice or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence.

Judgment of
common pleas
court.

c. If the commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon, as though made by the commission in the first instance. If the original order shall not be rescinded or changed by the commission, judgment shall be rendered upon such original order.

Appeals.

d. Either party to said action, within sixty days after service of a copy of the order or judgment of the court may appeal or take the case up on error as in other civil actions. Where an appeal is taken the cause shall, on the return of the papers to the higher court, be immediately placed on the calendar of the then pending term, and shall be assigned and brought to a hearing in the same manner as other causes on the calendar.

Burden of
proof.

e. In all actions under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the commission complained of is unlawful, or unreasonable, as the case may be.

Judicial pro-
ceedings under
this act shall
be the same
as in civil
actions.

SECTION 17. In all actions and proceedings in court arising under this act all processes shall be served, and the practice and rules of evidence shall be the same as in civil actions, except as otherwise herein provided. Every sheriff or other officer empowered to execute civil processes shall execute any process issued under the provisions of this act, and shall receive such compensation therefor as may be prescribed by law for similar services.

Witness shall
not be excused
on ground that
evidence may
tend to in-
criminate.

a. No person shall be excused from testifying or from producing books and papers in any proceedings based upon or growing out of any violation of the provisions of this act on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may have testified or produced any documentary evidence; provided, that no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying.

Certified copies
of orders of
commission
shall be prima
facie evidence
in judicial
proceedings.

b. Upon application of any person the commission shall furnish certified copies, under the seal of the commission, of any order, made by it, which shall be prima facie evidence in any court or proceeding of the facts stated therein.

SECTION 18. The commission shall have authority to inquire into the management of the business of all railroads, 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 any railroad all necessary information to enable the commission to perform the duties and carry out the objects for which it was created.

Authority of commission to inquire into management of business of railroads.

a. The commission shall cause to be prepared suitable blanks for the purposes designated in this act, which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall, when necessary, furnish such blanks to each railroad. Any railroad receiving from the commission any such blanks, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the proper officer of said railroad and returned to the commission at its offices within the time fixed by the commission, the making of a false affidavit or filing of the same shall be deemed perjury and punishable as such under the statutes of Ohio defining perjury.

Blanks to be filled out by railroads; commission to prepare and furnish.

Perjury.

b. The commission or any commissioner, or any person or persons employed by the commission for that purpose, shall, upon demand, have the right to inspect the books and papers of any railroad and to examine under oath any officer, agent or employe of such railroad in relation to any matter which is the subject of complaint and investigation; provided, that any person other than the one of said commissioners who shall make such demand shall produce his authority to make such inspection under the hand of the commissioner, or of the secretary, and under the seal of said commission.

Right of commission to inspect books, etc.

c. The commission may require, by order or subpoena, to be served on any railroad, in the same manner that a summons is served in a civil action in the court of common pleas, the production within this state, at such time and place as it may designate, of any books, papers or accounts relating to any matter which is the subject of complaint or investigation kept by said railroad in any office or place without the state of Ohio, or verified copies in lieu thereof, if the commission shall so order, in order that an examination thereof may be made by the commission or under its direction, and such subpoena may issue to any sheriff in any county of the state. Any railroad failing or refusing to comply with any such order or subpoena within a reasonable time, shall, for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum of not less than one hundred dollars nor more than one thousand dollars, to be recovered in a civil action brought in the name of the railroad commission of Ohio.

Commission may require production of books, papers, accounts, etc.

Penalty for refusal to comply with order or subpoena.

SECTION 19. Every railroad whenever required by the commission shall, within a time to be fixed by the commission, deliver to the commission for its use copies of all contracts which relate to the transportation of persons or property, or any service in connection therewith, made or en-

Railroads to furnish commission with copies of contracts relating to transportation of persons or property.

tered into by it with any other railroad company, terminal company, depot company, car company, equipment company, express or other transportation company, bridge company, or any shipper or shippers, producers or consumers or other person or persons doing business with it.

Filing of verified list of tickets, passes and mileage books issued free.

a. Every railroad shall, on the first Monday in February in each year, and oftener if required by the commission, file with the commission a verified list of all railroad tickets, passes and mileage books issued free or for other than actual bona fide money consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amount received therefor and the reason for issuing the same. This provision shall not apply to the sale of tickets at reduced rates open to the public, nor to tickets, passes, or mileage books issued to persons not residents of this state, nor to tickets, passes or mileage books issued prior to the passage of this act, or issued pursuant to section 8 of this act.

Railroads shall file with commission full and true statement of affairs of corporation.

SECTION 20. Every railroad company incorporated or doing business in this state, or which shall hereafter become incorporated or do business in this state shall, on or before the 15th day of September, 1906, and on or before the same day in each year thereafter, make and transmit to the commission at its office in Columbus, a full and true statement under oath of the proper officer of such corporation, of the affairs of such corporation relative to the state of Ohio for the year ending on the 30th day of June preceding, which statement for the state of Ohio shall be similar in character and detail to the annual report required to be made by railroad companies to the interstate commerce commission.

Power and duty of commission to investigate freight rates on interstate traffic.

SECTION 21. The commission shall have power, and on complaint of any person it is hereby made its duty, to investigate all or any freight rates on interstate traffic on railroads in this state, and when the same are, in the opinion of the commission, excessive or discriminatory or are levied or laid in violation of the interstate commerce law, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission shall present the facts to the railroad, with a request to make such changes as the commission may advise, and if such changes are not made within a reasonable time, the commission shall apply by petition to the interstate commerce commission for relief. All freight tariffs issued by any such railroad relating to interstate traffic in this state shall be filed in the office of the commission within thirty days after the passage of this act, and all such tariffs thereafter issued shall be filed with the commission when issued.

Application to interstate commerce commission for relief.

"Unjust discrimination" defined; penalty.

SECTION 22. If any railroad, or any agent or officer thereof, shall directly or indirectly, by any special rate, rebate, drawback, or by means of false billing, false classification, false weighing, or by any other device whatsoever, charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service

rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith, than that prescribed in the published tariffs then in force, or established as provided herein, or than it charges, demands, collects or receives from any other person, firm, or corporation for a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions; such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful, and upon conviction therefor shall forfeit and pay into the state treasury not less than one hundred dollars nor more than five thousand dollars for each offense; and any agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars for each offense.

a. It shall be unlawful for any railroad to demand, charge, collect or receive from any person, firm or corporation a less compensation for the transportation of property or for any service rendered or to be rendered by said railroad in consideration of said person, firm or corporation furnishing any part of the facilities incident thereto; provided, nothing herein shall be construed as prohibiting any railroad from procuring any facilities or service incident to transportation and paying a reasonable compensation therefor.

Charging or collecting less compensation for services in consideration of the furnishing of part of the facilities therefor, unlawful.

SECTION 23. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable 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 undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Unlawful to make or give undue or unreasonable preference or advantage or to subject to undue or unreasonable prejudice or disadvantage.

SECTION 24. It shall be unlawful for any person, firm or corporation knowingly to accept or receive any rebate, concession or discrimination in respect to transportation of any property wholly within this state, or for any service in connection therewith, whereby any such property shall by false billing, false classification, false weighing, or any other device whatsoever, be transported at a less rate than that named in the published tariffs in force as provided herein, or whereby any service or advantage is received other than is therein specified. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars for each offense.

Unlawful to accept or receive rebate, concession, etc., by which property shall be transported at less than published rate.

Penalty.

SECTION 25. If any railroad shall do or cause to be done or permit to be done any matter, act or thing in this act, prohibited or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, such railroad shall be liable to the person, firm or corporation injured there-

Punitive damages.

by in treble the amount of damages sustained in consequence of such violation; provided, that any recovery as in this section provided shall in no manner affect a recovery by the state of the penalty prescribed for such violation.

Penalty
against
officers, agents
and employes.

SECTION 26. Any officer, agent or employe of any railroad who shall wilfully fail or refuse to fill out and return any blanks as required by this act, or shall wilfully fail or refuse to answer any questions therein propounded, or shall knowingly or wilfully give a false answer to any such question, or shall evade the answer to any such question, where the fact inquired of is within his knowledge, or who shall, upon proper demand wilfully fail or refuse to exhibit to any commissioner or any commissioners, or any person authorized to examine the same, any book, paper or account of such railroad, which is in his possession or under his control, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each such offense; and a penalty of not less than five hundred dollars nor more than one thousand dollars shall be recovered from the railroad for each such offense when such officer, agent or employe acted in obedience to the direction, instruction or request of such railroad or any general officer thereof.

Penalty
against rail-
road for viola-
tion of this
act, etc.

SECTION 27. If any railroad shall violate any provision of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, or upon failure of any railroads to place in operation any joint rate, or do any other act herein prohibited, for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by any court upon its application, for every such violation, failure or refusal, such railroad or railroads shall forfeit and pay into the state treasury a sum of not less than one hundred dollars nor more than ten thousand dollars for each offense. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any railroad, acting within the scope of his employment, shall in every case be deemed to be the act, omission or failure of such railroad.

Power of com-
mission to
regulate in
cases not
specifically
designated.

SECTION 28. Whenever, after hearing and investigation as provided by this act, the commission shall find that any charge, regulation or practice affecting the transportation of passengers or property, or any service in connection therewith, not hereinbefore specifically designated, is unreasonable or unjustly discriminatory, it shall have the power to regulate the same as provided in sections 12 and 14 of this act.

Railroad
accidents; duty
of commission
as to inves-
tigation.

SECTION 29. Every railroad shall, whenever an accident attended with loss of human life occurs within this state, upon its line of road or on its depot grounds or yards, give immediate notice thereof to the commission. In the event of any such accident, the commission, if it deem the public interest requires it, shall cause an investigation to be made

forthwith, which investigation shall be held in the locality of the accident, unless, for greater convenience of those concerned, it shall order such investigation to be held at some other place, and said investigation may be adjourned from place to place as may be found necessary and convenient. The commission shall seasonably notify an officer or station agent of the company of the time and place of the investigation. The cost of such investigation shall be certified by the chairman of the commission, and the same shall be audited and paid by the state in the same manner as other expenses are audited and paid and a record or file of said proceedings and evidence shall be kept by said commission.

SECTION 30. The commission shall inquire into any neglect or violation of the laws of this state by any such railroad corporation hereinbefore defined doing business therein, or by the officers, agents or employes thereof, or by any person operating a railroad, and shall have the power, and it shall be its duty, to enforce the provisions of this act as well as all other laws relating to railroads and report all violations thereof to the attorney-general; upon request of the commission it shall be the duty of the attorney-general or the prosecuting attorney of the proper county to aid in any investigation, prosecution, hearing or trial had under the provisions of this act, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act and of all other laws of this state relating to railroads and for the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered and suit thereon shall be brought in the name of the state of Ohio in the court of common pleas for Franklin county, or of any county having jurisdiction of the defendant. The attorney-general of Ohio shall be the counsel in any proceeding, investigation, hearing or trial prosecuted or defended by the commission, or any prosecuting attorney selected by said commission in any county where such action is pending.

Commission to inquire into neglect or violation of laws of state.

Upon request of commission attorney-general or prosecuting attorney shall prosecute.

SECTION 31. All claims against any railroad for loss of or damage to property from any cause, or for overcharge upon any shipments, or for any other service, if not acted upon within ninety days from the date of the filing of such claim with the railroad, may be investigated by the commission, in its discretion and the result of such investigation shall be embodied in a special report which shall be open to public inspection and may be included in the next annual report of the commission.

Commission may investigate claims against railroads not acted upon within ninety days after filing thereof; special report.

SECTION 32. A substantial compliance with the requirements of this act shall be sufficient to give effect to all rules, orders, acts and regulations of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

Substantial compliance with act sufficient to give effect to rules, etc., of commission.

Act shall not affect right of action for right, penalty or forfeiture; penalties and forfeitures under this act shall be cumulative.

Commission can enforce this act by mandamus, injunction, etc.

Filing by railroads of copies of schedules of rates in force when act takes effect.

Powers, duties, etc., of present commissioner of railroads and telegraphs conferred upon commission herein created.

Office of commissioner of railroads and telegraphs abolished.

Invalidity of any section or part thereof of this act shall not affect other sections or parts thereof.

Repeals, etc.

SECTION 33. This act shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty or forfeiture which may have arisen or which may hereafter arise under any law of this state; and all penalties and forfeitures accruing under this act shall be cumulative and a suit for, and recovery of one, shall not be a bar to the recovery of any other penalty.

SECTION 34. In addition to all the other remedies provided by this act for the prevention and punishment of any and all violations as to the provisions hereof and all orders of the commission, the commission can compel compliance with the provisions of this act and of the orders of the commission by proceedings in mandamus, injunction or by other appropriate civil remedies.

SECTION 35. Every railroad in this state shall, within thirty days after the passage of this act, file in the office of the commission copies of all schedules of rates, including joint rates in force on its line or lines, between points within this state, on the date this act takes effect.

SECTION 36. All powers, duties and privileges imposed and conferred upon the commissioner of railroads and telegraphs of this state under existing laws are hereby imposed and conferred upon the commission created under the provisions of this act; provided, that the power and duties conferred and imposed upon the railroad commissioner by laws in force at the passage of this act shall continue to be exercised by him until the commission provided for in section 1 of this act has been appointed and qualified, whereupon the office of commissioner of railroads and telegraphs is hereby abolished.

SECTION 37. Each section of this act and every part of each section are hereby declared to be independent sections and parts of sections and the holding of any section or part thereof to be void or ineffective for any cause shall not be deemed to affect any other section or any part thereof.

SECTION 38. Sections 245, 246 and section 249 of the Revised Statutes of Ohio are hereby repealed; provided, however, no rates fixed by the commission shall exceed the maximum rates prescribed by any statute of the state of Ohio in force at the time the commission fixes such rates, nor shall this act in any wise affect, modify or repeal section 3374 of the Revised Statutes of Ohio, as amended February 8, 1906.

C. A. THOMPSON,
Speaker of the House of Representatives.

JAMES M. WILLIAMS,
President pro tem. of the Senate.

Passed April 2, 1906.

This bill was presented to the governor, April 3, 1906, and was not signed or returned to the house wherein it originated within ten days after being so presented, exclu-

sive of Sundays and the day said bill was presented, and was filed in the office of the secretary of state, April 16, 1906.

LEWIS B. HOUCK,
Secretary to the Governor.
176G

[House Bill No. 233.]

AN ACT

To amend sections 395 and 396 of the Revised Statutes of Ohio, to provide for the appointment of a state inspector of oils and deputy inspectors of oils, and to define and prescribe the duties, and fix the compensation, of such state inspector of oils and of such deputy inspectors of oils.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 395 and 396 of the Revised Statutes of Ohio, be amended to read as follows:

Sec. 395. The governor, by and with [the] advice and consent of the senate, shall appoint a skilled and suitable person, who is not interested in manufacturing, dealing or vending any illuminating oils manufactured from petroleum, as state inspector of oils, whose term of office shall be for two years from the fifteenth day of May of each even numbered year and until his successor is appointed and qualified; provided, however, that the first appointment of a state inspector of oils under this act shall be for the term of two years commencing May 15, 1906, and continuing until his successor is appointed and qualified, and that the present inspector of oils for the first district of Ohio and the present inspector of oils for the second district of Ohio shall without salary or other compensation from the state jointly perform the duties of the state inspector of oils under this act, until May 15, 1906, and no longer and provide further, that in case of a vacancy occurring by death, resignation or otherwise in the office of state inspector of oils the governor shall fill the same as provided in section twelve of the Revised Statutes of Ohio.

The state inspector of oils, when so appointed and qualified, is empowered to appoint a suitable number of deputy inspectors of oils not exceeding eighteen in number, who are not interested in manufacturing, dealing or vending any illuminating oils manufactured from petroleum, who are empowered to perform the duties of inspection, and liable to the same penalties as the state inspector of oils; and the state inspector of oils may remove any one or more of such deputy inspectors of oils for a reasonable cause and appoint others in their places; provided, that all deputy inspectors of oils now in office shall remain in office and perform the duties of deputy inspector of oils under this act, until May 15, 1906, and no longer. The inspectors and their deputies

State inspector of oils:

Appointment and term of inspector of oils.

Empowered to appoint deputies.