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and this offense is becoming of common practice, therefore, there exists a public and imperative necessity for the suspension of the constitutional rule requiring bills to be read on three several days in each house, be and the same is hereby suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-third day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—Geo. W. SMITH, Secretary of State.]

### "RAILROAD COMMISSION OF TEXAS."

- Sec.
1. Commission created; provides for three commissioners, how appointed, term of office, their qualifications, oath, salary.
  2. Organization; appointment of secretary, clerks and experts, and to fix their salaries; name "Railroad Commission of Texas;" seal; office in capitol, etc.; traveling expenses, how paid.
    - (a.) May hold sessions at any place in State.
  3. Vests power in commission to adopt, regulate and enforce rates; duties of railway companies as to depots.
    - (a.) Power to classify freight; (b.) to fix rates.
    - (d.) May make different rates for express companies.
    - (e.) and (f.) Joint rates for connecting lines.
    - (g.) When partial or special classification may be made.
    - (h.) Power to change classification and rates.
    - (i.) May hear and determine complaints.
    - (k.) May establish passenger rates.
  4. Notice to be given before establishment of rates; mode of procedure and powers of commission in such cases.
  5. Rates conclusive until set aside by direct action. (See Secs. 6 and 7.)
  6. When and where suit may be brought to hear complaint against commission; such action shall have precedence; right of appeal.
  7. Burden of proof rests upon plaintiff.
  8. Schedules of classification and rates to be furnished each railroad; railroads shall post same for public inspection.
  9. Complaint against railroads, how made and investigated; evidence therein when reduced to writing admissible upon trial of causes, when.
  10. The right to inspect books and papers of any railroad company, etc.; penalty for refusal to permit such inspection.
  11. Commission to ascertain cost of construction, equipment, etc., of railroads; bonds, indebtedness, etc.; amounts paid for salaries and wages; may employ experts; shall make report to Attorney General and Comptroller.

- Sec.
12. Commission may propound questions to railroads to be answered under oath.
    - (a.) Penalty for refusal to answer; may prescribe a system of bookkeeping.
    - (b.) Shall make annual report to the Governor.
    - (c.) Shall investigate all through freight rates; Interstate Commerce Commission to be notified, when.
  13. Power to summon and compel the attendance of witnesses; fees of witnesses; compensation of sheriffs.
  14. Extortion defined, and penalty therefor.
  15. Discrimination defined and prohibited.
    - (c.) Commission may allow special rates for long hauls, when; may make group rates.
    - (h.) Free transportation, when allowed.
  16. Punishment for false billing, classification, weight, etc.
  17. Liability of railroads to persons and corporations injured by violations of this act; additional penalty for extortion or discrimination; venue.
  18. Penalty where not otherwise provided.
  19. Penalties, how recovered; venue, attorney's fees, rules of evidence, fines payable into State treasury.
  20. Authorized copies of classifications, rates, etc., admissible in evidence.
  21. Duty of commission to enforce provisions of this act; all suits between the State and railroads to have precedence.
    - (a.) Contracts between connecting railroads to be approved by the commission.
  22. "Road," "railroad," "railroad companies" and "railroad corporations" defined.
    - (a.) Applies to transportation between points in this State only, and not to street railways, etc.
    - (b.) At least one passenger train a day required, Sundays excepted.
  23. Penalties cumulative.
  24. Emergency clause.

CHAP. 51.—[H. S. S. H. B's. Nos. 1, 3, and 58.] An Act to establish a Railroad Commission for the State of Texas, whereby discrimination and extortion in railroad charges may be prevented, and reasonable freight and passenger tariffs may be established; to prescribe and authorize the making of rules and regulations to govern the Commission and the railroads, and afford railroad companies and other parties adequate remedies; to prescribe penalties for the violation of this act and to provide means and rules for its enforcement.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That a Railroad Commission is hereby created, to be composed of three persons to be appointed by the Governor, as follows: If the Legislature

be then in session the Governor shall, upon the taking effect of this act, or as soon thereafter as practicable, by and with the advice of the Senate, if the Legislature then be in session, appoint said Commissioners; but if the Legislature be not in session, the Governor shall make such appointments, and each Commissioner so appointed shall hold his office until the second Monday after the inauguration of the next succeeding Governor and until his successor is appointed and qualified. Each succeeding Governor shall on the second Monday after his inauguration, or as soon thereafter as practicable, appoint said Commissioners, who shall each hold his office until the second Monday after the inauguration of the next succeeding Governor and until his successor is appointed and qualified.

(a.) The persons so appointed shall be resident citizens of this State, and qualified voters under the Constitution and laws, and not less than twenty-five years of age. No person shall be appointed as such Commissioner who is directly or indirectly interested in any railroad in this State or out of it, or in any stock, bond, mortgage, security, or in the earnings of any such road; and if such Commissioner shall voluntarily become so interested his office shall become vacant; and if any Railroad Commissioner shall become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest; failing to do this, his office shall become vacant.

(b.) No Commissioner hereunder shall hold any other office under the government of the United States or of this State or of any other State government; and shall not while such Commissioner engage in any occupation or business inconsistent with his duties as such Commissioner.

(c.) The Governor shall fill all vacancies in the office of Commissioner by appointment, and the person so appointed shall fill out the unexpired term of his predecessor.

(d.) Before entering upon the duties of his office, each of said Commissioners shall take and subscribe to the oath of office prescribed in the Constitution, and shall, in addition thereto, swear that he is not directly or indirectly interested in any railroad, nor in the bonds, stock, mortgages, securities, contracts, or earnings of any railroad, and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this act and all laws of this State concerning railroads, which oath shall be filed with the Secretary of State.

(e.) Each of said Commissioners shall receive an annual salary of \$4000, payable in the same manner that salaries of other State officers are paid.

Sec. 2. The Commissioners appointed shall meet at Austin and organize and elect one of their number chairman of said Commission. A majority of said Commissioners shall constitute a quorum to transact business. Said Commission may appoint a secretary at a salary of not more than \$2000 per annum, and may appoint not more than two clerks at a salary of not more than \$1500 per annum each, and such other persons as experts as may be necessary to perform any duty that may be required of them by this act. The secretary shall keep full and correct minutes of all the transactions and proceedings of said Commission, and perform such duties as may be required by the Commission. The Commission shall have power to make all needful rules for their government and for their proceedings. They shall be known collectively as "Railroad Commission of Texas," and shall have a seal, a star of five points, with the words, "Railroad Commission of Texas" engraved thereon. They shall be furnished with an office in the Capitol at Austin, and with necessary

furniture, stationery, supplies, and all necessary expenses, to be paid for on the order of the Governor.

The Commissioners, secretary and clerks shall be entitled to receive from the State their actual necessary traveling expenses, which shall include the cost only of transportation while traveling on the business of the Commission, to be paid out on the order of the Governor upon an itemized statement thereof, sworn to by the party who incurred the expense and approved by the Commission.

(a.) Said Commissioners may hold sessions at any place in this State when deemed necessary to facilitate the discharge of their duties.

SEC. 3. The power and authority is hereby vested in the Railroad Commission of Texas, and it is hereby made its duty, to adopt all necessary rates, charges, and regulations to govern and regulate railroad freight and passenger tariffs, the power to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and to enforce the same by having the penalties inflicted as by this act prescribed through proper courts having jurisdiction.

(a.) The said Commission shall have power, and it shall be its duty, to fairly and justly classify and subdivide all freight and property of whatsoever character that may be transported over the railroads of this State into such general and special classes or subdivisions as may be found necessary and expedient.

(b.) The Commission shall have power, and it shall be its duty, to fix to each class or subdivision of freight a reasonable rate for each railroad subject to this act for the transportation of each of said classes and subdivisions.

(c.) The classifications herein provided for shall apply to and be the same for all railroads subject to the provisions of this act.

(d.) The said Commission may fix different rates for different railroads and for different lines under the same management, or for different parts of the same lines if found necessary to do justice, and may make rates for express companies different from the rates fixed for railroads.

(e.) The said Commission shall have power, and it shall be its duty, to fix and establish for all or any connecting lines of railroad in this State reasonable joint rates of freight charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(f.) If any two or more connecting railroads shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the Commission shall fix the pro rata part of such charges to be received by each of said connecting lines.

(g.) Until the Commission shall make the classifications and schedules of rates as herein provided for, and afterwards if they deem it advisable, they may make partial or special classifications for all or any of the railroads subject hereto, and fix the rates to be charged by such roads therefor; and such classifications and rates shall be put into effect in the manner provided for general classifications and schedules of rates.

(h.) The Commission shall have power, and it shall be its duty from time to time, to alter, change, amend, or abolish any classification or rate established by it when deemed necessary; and such amended, altered, or new classifications or rates shall be put into effect in the same manner as the originals.

(i.) The Commission may adopt and enforce such rules, regulations,

and modes of procedure as it may deem proper to hear and determine complaints that may be made against the classifications or the rates, the rules, regulations, and determinations of the Commission.

(j.) The Commission shall make reasonable and just rates of charges for each railroad subject hereto for the use or transportation of loaded or empty cars on its road; and may establish for each railroad or for all railroads alike reasonable rates for the storing and handling of freight and for the use of cars not unloaded after forty-eight hours' notice to the consignee, not to include Sundays.

(k.) The Commission shall make and establish reasonable rates for the transportation of passengers over each or all of the railroads subject hereto, which rates shall not exceed the rates fixed by law. The commission shall have power to prescribe reasonable rates, tolls, or charges for all other services performed by any railroad subject hereto.

(l.) It shall be the duty of each and every railway subject to this act to provide and maintain adequate, comfortable, and clean depots and depot buildings at its several stations for the accommodation of passengers, and said depot buildings shall be kept well lighted and warmed for the comfort and accommodation of the traveling public; and all such roads shall keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing, and delivering of all freights handled by such roads: *Provided*, that this shall not be construed as repealing any existing laws on the subject.

SEC. 4. Before any rates shall be established under this act, the Commission shall give the railroad company to be affected thereby ten days notice of the time and place when and where the rates shall be fixed; and said railroad company shall be entitled to be heard at such time and place, to the end that justice may be done; and it shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases.

(a.) The Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the establishment of rates, orders, charges, and other acts required of it under this law: *Provided*, no person desiring to be present at any such investigation by said Commission shall be denied admission.

(b.) The chairman and each of the Commissioners, for the purposes mentioned in this act, shall have power to administer all oaths, certify to all official acts, and to compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents, and testimony, and to punish for contempt as fully as is provided by law for the district or county court.

SEC. 5. In all actions between private parties and railway companies brought under this law, the rates, charges, orders, rules, regulations, and classifications prescribed by said Commission before the institution of such action shall be held conclusive, and deemed and accepted to be reasonable, fair, and just, and in such respects shall not be controverted therein until finally found otherwise in a direct action brought for that purpose in the manner prescribed by section 6 and 7 hereof.

SEC. 6. If any railroad company or other party at interest be dissatisfied with the decision of any rate, classification, rule, charge, order, act, or regulation adopted by the Commission, such dissatisfied company or party may file a petition setting forth the particular cause or causes of objection to such decision, act, rate, rule, charge, classification, or order,

or to either or all of them, in a court of competent jurisdiction in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court, at either of its terms, and said action so appealed shall have precedence in said appellate court of all causes of a different character therein pending: *Provided*, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days notice.

SEC. 7. In all trials under the foregoing section the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulations, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them.

SEC. 8. The said Commission shall, so soon as the classifications and schedules of rates herein provided for are prepared by them, furnish each railroad subject to the provisions of this act with a complete schedule in suitable form, showing the classification of freight made by them and the rates fixed by said Commission to be charged by such road for the transportation of each class of freight, and shall cause a certified copy of such classification and schedule of rates to be delivered to each of said railroads at its principal office in this State, if it has such office in this State, and if not, then to any agent of said company in this State, which said schedule, rules, and regulations shall take effect at the date which may be fixed by said Commission, not less than twenty days. Each of said railroad companies shall cause said schedules to be printed in type of a size not less than pica, and shall have the same posted up in a conspicuous place at each of its depots, so as to be inspected by the public. Said Commission may at any time abolish, alter, or in any manner amend the said schedules, or abolish or amend any such regulations, and in that event certified copies of the schedules, rules, or regulations, showing the changes therein, shall be delivered to each road as herein specified. In all cases where the rates shall not have been fixed by the Commission, no changes shall be made except after ten days notice to and consent of the Commission.

SEC. 9. Any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing association, or any body politic, or municipal organization, complaining of anything done or omitted to be done by any railroad subject hereto, in violation of any law of this State or the provisions of this act for which penalty is provided, may apply to said Commission in such manner and under such rules as the Commission may prescribe; whereupon, if there shall appear to the Commission to be any reasonable grounds for investigating such complaint, it shall give at least five days notice to such railroad of such charge and complaint, and call upon said road to answer the same at a time and place to be specified by the Commission. The Commission shall investigate and determine such complaint under such rules and modes of procedure as it may adopt. If the Commission find that there has been a violation, it shall determine if the same was willful; if it finds that such violation was not willful it may call upon said road to satisfy the damage done to the complainant thereby, stating the amount of such damage, and to pay the cost of such investigation; and if the said railroad shall do so within the time specified by the Commission there shall be no prosecution by

the State; but if said railroad shall not pay said damage and cost within the time specified by said Commission, or if the Commission find such violation to be wilful, it shall institute proceedings to recover the penalty for such violation and the cost of such investigation. All such complaints shall be made in the name of the State of Texas upon the relation of such complainant. All evidence taken before said Commission in the investigation of any such complaint, when reduced to writing and signed and sworn to by the witness, may be used by either party—the State, complainant, or the railroad company—in any proceeding against such railroad involving the same subject matter: *Provided further*, that the Commissioners may require the testimony so taken before them to be reduced to writing when they may deem it necessary, or when requested to do so by either party to such proceedings, and a certified copy, under the hand and seal of said Commission, shall be admissible in evidence upon the trial of any cause or proceeding growing out of the same transaction against such railroad, involving the same subject matter and between the same parties. The provisions of this section shall not abridge nor effect the right of any person to sue for any penalty that may be due him under the provisions of this act or any other law of this State.

SEC. 10. The Commissioners, or either of them, or such persons as they employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad company, and to examine under oath any officer, agent, or employe of such railroad in relation to the business and affairs of the same. If any railroad shall refuse to permit the Commissioners, or either of them, or any person authorized thereto, to examine its books and papers, such railroad company shall, for each offense, pay to the State of Texas not less than \$125 nor more than \$500 for each day it shall so fail or refuse: *Provided*, that any person other than one of said Commissioners who shall make any such demands shall produce his authority, under the hand and seal of said Commission, to make such inspection.

(a) Any officer, agent, or employe of any railroad company who shall, upon proper demand, fail or refuse to exhibit to the Commissioners, or either of them, or any person authorized to investigate the same, any book or paper of such railroad company which is in the possession or under the control of such officer, agent, or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof shall be fined for each offense a sum not less than \$125 and not [to] exceed \$500.

SEC. 11. The Commission shall ascertain as early as practicable the amount of money expended in construction and equipment per mile of every railway in Texas; the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the road bed, track, depots and transportation, and to replace all the physical properties belonging to the railroad. It shall also ascertain the outstanding bonds, debentures and indebtedness and the amount respectively thereof, when issued and rate of interest, when due, for what purposes issued, how used, to whom issued, to whom sold, and the price in cash, property or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due and his address, the credits due on it, the property on hand belonging to the railroad company, and the judicial or other sales of said road, its

property or franchises, and the amounts purporting to have been paid, and in what manner paid therefor. The Commission shall also ascertain the amounts paid for salaries to the officers of the railroad, and the wages paid its employees. For the purpose in this section named, the Commission may employ sworn experts to inspect and assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the Attorney-General by report, and file a duplicate thereof with the Comptroller for public use, and said information shall be printed from time to time in the annual report of the Commission.

SEC. 12. The said Commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads, and as often as it may be necessary furnish said blanks to each railroad company. Any railroad company receiving from the Commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officer of said company, shall be returned to said Commission at its office in the city of Austin within thirty days from the receipt thereof.

(a.) If any officer or employe of a railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, where the fact enquired of is within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor, and shall on conviction thereof be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid a penalty of \$500, and the Commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered from the company when it appears that such person acted in obedience to its direction, permission, or request in his failure, evasion or refusal. Said Commission shall have the power to prescribe a system of bookkeeping to be observed by all the railroads subject hereto, under the penalties prescribed in this section.

(b.) The said Commission shall make and submit to the Governor annual reports containing a full and complete account of the transactions of their office, together with the information gathered by such Commission as herein required, and such other facts, suggestions, and recommendations as may be by them deemed necessary, which report shall be published as the reports of the heads of departments.

(c.) The said Commission shall have power, and it is hereby made its duty, to investigate all through freight rates on railroads in Texas; and when the same are, in the opinion of the Commission, excessive or levied or laid in violation of the interstate commerce law, or the rules and regulations of the Interstate Commerce Commission, the officials of the railroads are to be notified of the facts and requested to reduce them or make the proper corrections, as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the Commission, the latter is instructed to notify the Interstate Commerce Commission and to apply to it for relief.

SEC. 13. The said Commission, in making any examination or investigation provided in this act, shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe. Each wit-



ness who shall appear before the Commission by order of the Commission, at a place outside of the county of his residence, shall receive for his attendance one dollar per day and three cents per mile, traveled by the nearest practicable route, in going to and returning from the place of meeting of said Commission, which shall be ordered paid by the Comptroller of Public Accounts upon the presentation of proper vouchers, sworn to by such witness, and approved by the chairman of the Commission: *Provided*, that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any railroad in this State or out of it, or who is in any wise interested in any stock, bond, mortgage, security or earnings of any such road, or who shall be the agent or employe of such road, or an officer thereof, when summoned at the instance of such railroad; and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. In case any witness shall fail or refuse to obey such subpoena, said Commission may issue an attachment for said witness, directed to any sheriff or any constable of the State of Texas, and compel him to attend before the Commission and give his testimony upon such matters as shall be lawfully required by them. If a witness, after being duly summoned, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, the Commission shall have the power to fine and imprison such witness for contempt, in the same manner that a judge of the district court might do under similar circumstances. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding: *Provided*, the Commission shall in all cases have the right in its discretion to issue proper process and take depositions instead of compelling personal attendance of witnesses. The sheriff or constable executing any process issued under the provisions of this section or under any other provisions of this bill shall receive such compensation as may be allowed by the Commission, not to exceed fees as now prescribed by law for similar services.

SEC. 14. If any railroad company subject to this act, or its agent or officer, shall hereafter charge, collect, demand or receive from any person, company, firm or corporation a greater rate, charge, or compensation than that fixed and established by the Railroad Commission for the transportation of freight, passengers, or cars, or for the use of any car on the line of its railroad, or any line operated by it, or for receiving, forwarding, handling, or storing any such freight or cars, or for any other service preformed or to be preformed by it, such railroad company and its said agent and officer shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not less than \$100 nor more than \$5000.

SEC. 15. If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback, or other device, shall 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 than it charges, demands, collects, or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a.) It shall also be an unjust discrimination for any such railroad to make or give any undue or unreasonable preference or advantage to any

particular person, company, firm, corporation, or locality, or to subject any particular description of traffic to any undue or unreasonable prejudice, delay, or disadvantage in any respect whatsoever.

(b.) Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without delay or discrimination the passengers, tonnage, and cars, loaded or empty, of any connecting line of railroad, and every railroad which shall, under such regulations as may be prescribed by the Commission, fail and refuse to transport and deliver without delay or discrimination any passengers, tonnage, or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: *Provided*, perishable freights of all kinds and live stock shall have precedent of shipment.

(c.) It shall also be an unjust discrimination for any railroad subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers for a shorter than for a longer distance over the same line: *Provided*, that upon application to the Commission any railroad may in special cases, to prevent manifest injury, be authorized by the Commission to charge less for longer than for shorter distances for transporting persons and property, and the Commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operations of this provision: *Provided*, that no manifest injustice shall be imposed upon any citizen at intermediate points. *Provided*, further, that nothing herein shall be so construed as to prevent the Commission from making what are known as "group rates" on any line or lines of railroad in this State.

(d.) Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Texas a penalty of not less than five hundred dollars nor more than five thousand dollars.

(h.) Nothing herein shall prevent the carriage, storage, or handling of freight free or at reduced rates for the State, or for any city, county, or town government, or for charitable purposes, or to and from fairs and expositions for exhibition thereof, or the free carriage of destitute and indigent persons, or the issuance of mileage or excursion passenger tickets; nor to prevent railroads from giving free transportation to ministers of religion, or free transportation to the inmates of hospitals, eleemosynary and charitable institutions, and to the employes of the agricultural and geological departments of this State, or to peace officers of this State; and nothing herein shall be construed to prevent railroads from giving free transportation to any railroad officers, agents, employes, attorneys, stockholders, or directors, or to the Railroad Commissioners, their secretary, clerks, and employes herein provided for, or to any person not prohibited by law: *Provided*, they, or either of them, shall not receive from the State mileage when such pass is used.

SEC. 16. Any officer or agent of any railroad subject to this act who, by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person or persons to obtain transportation for property at less than the regular rates then in force on such railroad, or who by means of false billing, false classification, false weighing, or by any device whatever shall charge any person, firm, or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum of not less than \$100 nor more than \$1000.

SEC. 17. In case any railroad subject to this act shall do, 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 herein required to be done by it, such railroad shall be liable to the person or persons, firm, or corporation injured thereby for the damages sustained in consequence of such violation; and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then, in addition to such damages, such railroad shall pay to the person, firm, or corporation injured thereby a penalty of not less than \$125 nor more than \$500, to be recovered in any court of competent jurisdiction in any county into or through which such railroad may run: *Provided*, that such road may plead and prove as a defense to the action for said penalty that such overcharge was unintentionally and innocently made through a mistake of fact: *Provided*, that any such recovery as herein provided shall in no manner affect a recovery by the State of a penalty provided for such violation.

SEC. 18. If any railroad, as aforesaid, shall willfully violate any other provisions of this act, or shall do any other act herein prohibited, or shall fail or refuse to perform any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay the State of Texas a penalty of not more than five thousand dollars.

SEC. 19. All of the penalties herein provided, except as provided in Section 17, shall be recovered and suits thereon shall be brought in the name of the State of Texas in the proper court having jurisdiction thereof in Travis County, or in any county to or through which such railroad may run, by the Attorney-General or under his direction; and the attorney bringing such suit shall receive a fee of fifty dollars for each penalty recovered and collected by him, and ten per cent of the amount collected, to be paid by the State. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the State under this act shall be paid into the treasury of the State.

SEC. 20. Upon application of any person the Commission shall furnish certified copies of any classification, rates, rules, regulations, or orders, and such certified copies, or printed copies published by authority of the Commission, shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order, or classification therein contained and which may be in issue in the trial is the official act of the Commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements, and orders made and established by the Commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

SEC. 21. It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all such violations, with the facts in their possession, to the Attorney-General or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings; and all suits between the State and any railroad shall have precedence in all courts over all other suits pending therein.

(a.) It shall be the duty of the Commission to investigate all com-

plaints against railroad companies subject hereto, and to enforce all laws of this State in reference to railroads. But any two connecting railroads may enter into a contract whereby any part or all of the passengers, freight, or cars, empty or loaded, hauled or transported by one and destined to points on or beyond the line of the other shall be delivered to, received and transported by the other; which contract, however, shall be submitted to the Railroad Commission for examination and approval, and when so approved shall be binding; but if the said contract be not approved by the Commission the same shall be void: *Provided*, that any connecting line delivering freight to the owner or consignee of such freight may be sued by the owner thereof in the county where the freight is delivered for any damage that may be done to such freight in its transportation.

SEC. 22. The terms "road," "railroad," "railroad companies," and "railroad corporations," as used herein, shall be taken to mean and embrace all corporations, companies, individuals, and associations of individuals, their lessees or receivers (appointed by any court whatsoever), that may now or hereafter own, operate, manage, or control any railroad or part of a railroad in this State, and all such corporations, companies, and associations of individuals, their lessees or receivers, as shall do the business of common carriers on any railroad in this State.

(a.) The provisions of this act shall be construed to apply to and affect only the transportation of passengers, freight, and cars between points within this State; and this act shall not apply to street railways nor suburban or belt lines of railways in or near cities and towns.

(b.) It shall be the duty of the Commission to see that upon every railroad and branch of same carrying passengers for hire in this State shall run at least one train a day (Sundays excepted), upon which passengers shall be hauled, and the Commission shall have no power to relax this provision.

SEC. 23. This act shall not have the effect to release or waive any right of action by the State or any person for any right, penalty, or forfeiture which may have arisen or may hereafter arise under any law of this State; and all penalties accruing under this act shall be cumulative of each other, and a suit for or recovery of one shall not be a bar to the recovery of any other penalty; and all laws and parts of laws in conflict with this act are hereby repealed.

SEC. 24. The fact that there is no adequate and sufficient law for the regulation of railroads in the transportation of freight and passenger traffic, and the near approach of the close of the present session, creates an imperative public necessity and an emergency, necessitating the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House, and passed the same by two-thirds vote yeas 92, nays 5; and passed the Senate by two-thirds vote yeas 26, nays 0.]

Approved April 3, 1891.