

CHAPTER 77.

ESTABLISHING A BOARD OF RAILROAD COMMISSIONERS.

AN ACT to repeal Chapter 68, Acts of the Fifteenth General Assembly, and provide for the Establishment of a Board of Railroad Commissioners, and Defining their Duties and Term of Office. Substitute H. F. 268, 14, 245, 217311.

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

SECTION 1. That chapter 68, of the acts of the fifteenth general assembly, excepting sections one, two, and seven thereof, be and the same is hereby repealed, and the following be enacted: Parts of chapter 68, 15th G. A., repealed.

SEC. 2. The governor, with the advice and consent of the executive council shall, before the first day of April next, appoint three competent persons (one of whom shall be a civil engineer), who shall constitute a board of railroad commissioners, and who shall hold their offices from the date of their respective appointments, for the terms of one, two and three years, respectively, from the first day of April next. Board to consist of three persons, one a civil engineer. Term of office.

The governor shall, in like manner, before the first day in April of each year thereafter, appoint a commissioner, to continue in office for the term of three years from said day; and in case any vacancy occurs in the said board by resignation or otherwise, shall, in the same manner, appoint a commissioner for the residue of the term, and may remove such commissioners, and appoint others to fill their vacancy at any time, in the discretion of the governor and executive council. No person owning any bonds, stock or property in any railroad company, or who is in the employment of, or who is in any way or manner pecuniarily interested in any railroad corporation, shall be eligible to the office of railroad commissioner. Said commissioners shall be qualified electors of the state. Owning stock in R. R. etc. shall constitute ineligibility.

The commissioners shall, as nearly as practicable, be selected one from the eastern, one from the central and one from the western portions of the state.

SEC. 3. Said commissioners shall have the general supervision of all railroads in the state operated by steam, and shall inquire into any neglect or violation of the laws of this state by any railroad corporation doing business therein, or by the officers, agents or employees, thereof, and shall also from time to time carefully examine and inspect the condition of each railroad in the state, and of its equipment, and the manner of its conduct and management, with reference to the public safety and convenience, and for the purpose of keeping the several railroad companies advised as to the safety of their bridges, shall make a semi-annual examination of the same, and report their condition to the said companies. Duties of commissioners. Shall make semi-annual examination of bridges.

And if any bridge shall be deemed unsafe by the commis-

If bridge is found unsafe R. R. Co. shall be notified.

sioners, they shall notify the railroad company immediately, and it shall be the duty of said railroad company to repair and put in good order within ten days after receiving said notice, said bridge, and in default thereof, said commissioners are hereby authorized and empowered to stop and prevent said railroad company from running or passing its trains over said bridge, while in its unsafe condition.

Shall notify R. R. Co. of any repairs or changes deemed expedient.

Whenever, in the judgment of the railroad commissioners, it shall appear that any railroad corporation fails, in any respect or particular, to comply with the terms of its charter or the laws of the state, or whenever in their judgment any repairs are necessary upon its road, or any addition to its rolling stock, or any addition to or change of its stations or station houses, or any change in its rates of fare for transporting freight or passengers, or any change in the mode of operating its road and conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, said railroad commissioners shall inform such railroad corporation of the improvements and changes which they adjudge to be proper, by a notice thereof in writing to be served by leaving a copy thereof certified by the commissioners' clerk, with any station agent, clerk, treasurer or any director of said corporation and a report of the proceedings shall be included in the annual report of the commissioners to the legislature.

Railroads not relieved of liability.

Nothing in this section shall be construed as relieving any railroad company from their present responsibility or liability for damage to person or property.

Report of commissioners.

SEC. 4. The said railroad commissioners shall, on or before the first Monday in December in each year, make a report to the governor of their doings for the preceding year, containing such facts, statements and explanations as will disclose the working of the system of railroad transportation in this state, and its relation to the general business and prosperity of the citizens of the state, and such suggestions and recommendations in respect thereto as may to them seem appropriate. Said report shall also contain as to every railroad corporation doing business in this state:

First.—The amount of its capital stock.

Second.—The amount of its preferred stock, if any, and the condition of its preferment.

Third.—The amount of its funded debt and the rate of interest.

Fourth.—The amount of its floating debt.

Fifth.—The cost and actual present cash value of its road and equipment, including permanent way buildings and rolling stock, all real estate used exclusively in operating the road, and all fixtures and conveniences for transacting its business.

Sixth.—The estimated value of all other property owned by such corporation, with a schedule of the same, not including lands granted in aid of its construction.

Seventh.—The number of acres originally granted in aid of construction of its road by the United States or by this State.

Eighth.—Number of acres of such land remaining unsold.

Ninth.—A list of its officers and directors, with their respective places of residence.

Tenth.—Such statistics of the road and of its transportation business for the year as may, in the judgment of the commissioners, be necessary and proper for the information of the general assembly, or as may be required by the governor. Such report shall exhibit and refer to the condition of such corporation on the first day of July of each year, and the details of its transportation business transacted during the year ending June 30th.

Eleventh.—The average amount of tonnage that can be carried over each road in the state with an engine of given power.

SEC. 5. To enable said commissioners to make such a report, the president or managing officer of each railroad corporation doing business in this state, shall annually make to the said commissioners, on the 15th day of the month of September, such returns, in the form which they may prescribe, as will afford the information required for their said official report; such returns shall be verified by the oath of the officer making them; and any railroad corporation whose return shall not be made as herein prescribed by the 15th day of September, shall be liable to a penalty of one hundred dollars for each and every day after the 16th day of September that such return shall be wilfully delayed or refused.

Report of railroad companies.

SEC. 6. The said commissioners shall hold their office in the capitol, or at some other suitable place in the city of Des Moines. They shall each receive a salary of three thousand dollars per annum, to be paid as the salaries of other state officers are paid, and shall be provided at the expense of the state with necessary office furniture and stationery, and they shall have authority to appoint a secretary, who shall receive a salary of fifteen hundred dollars per annum.

Salary of commissioners,

and their secretary.

SEC. 7. Said commissioners and secretary shall be sworn to the due and faithful performance of the duties of their respective offices before entering upon the discharge of the same, as prescribed in section 676 of the Code, and no person in the employ of any railroad corporation, or holding stock in any railroad corporation, shall be employed as secretary.

Shall be sworn, and give bond.

Each of said commissioners shall enter into bonds with security to be approved by the executive council, in the sum of ten thousand dollars, conditioned for the faithful performance of his duties.

SEC. 8. To provide a fund for the payment of the salaries and current expenses of the board of commissioners, they shall certify to the executive council on or before the first day of January in each year, the amount necessary to defray the same, which amount shall be divided pro rata among the several railway corporations according to the assessed valuation of their property in the state. The executive council shall thereupon certify to the board of supervisors of each county, the amount due from the several railway corporations located and operated in said county and the board of supervisors shall cause the same to be levied and collected as other taxes upon railway corporations, and the county treasurer shall account to the state for the same as provided by law for other state funds.

Salaries to be paid by special fund.

SEC. 9. The said commissioners shall have power, in the discharge of the duties of their office, to examine any of the books, papers or documents of any such corporation, or to examine under oath or otherwise any officer, director, agent or employe of any such corporation, they are empowered to issue subpoenas and administer oaths in the same manner and with the same power to enforce obedience thereto in the performance of their said duties as belong and pertain to courts of law in this state; and any person who may wilfully obstruct said commissioners in the performance of their duties, or who may refuse to give any information within his possession that may be required by said commissioners within the line of their duty shall be deemed guilty of a misdemeanor, and shall be liable, on conviction thereof, to a fine not exceeding one thousand dollars, in the discretion of the court, the costs of such subpoenas and investigation to be first paid by the state on the certificate of said commissioners.

SEC. 10. It shall be the duty of any railroad corporation, when within their power to do so, and upon reasonable notice, to furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight, and to receive and transport such freight with all reasonable dispatch, and to provide and keep suitable facilities for the receiving and handling the same at any depot on the line of its road; and also to receive and transport in like manner, the empty or loaded cars, furnished by any connecting road, to be delivered at any station or stations on the line of its road, to be loaded or discharged, or re-loaded and returned to the road so connecting; and for compensation, it shall not demand or receive any greater sum than is accepted by it from any other connecting railroad, for a similar service.

SEC. 11. No railroad corporation shall charge, demand, or receive from any person, company, or corporation, for the transportation of persons or property, or for any other service a greater sum than it shall at the same time charge, demand, or receive from any other person, company, or corporation for a like service from the same place, or upon like condition and under similar circumstances, and all concessions of rates, drawbacks and contracts for special rates shall be open to and allowed all persons, companies and corporations alike, at the same rate per ton per mile by car load upon like condition and under similar circumstances, unless by reason of the extra cost of transportation per car load from a different point the same would be unreasonable and inequitable, and shall charge no more for transporting freight from any point on its line than a fair and just proportion of the price it charges for the same kind of freight transported from any other point.

SEC. 12. No railroad company shall charge, demand, or receive from any person, company, or corporation an unreasonable price for the transportation of persons or property, or for the handling or storing of freight, or for the use of its cars, or for any privilege or service afforded by it in the transaction of its business as a railroad corporation.

Powers in examining records of railroad companies.

Duties of railroads in certain cases.

Roads shall not discriminate in rates.

No railroad company shall charge unreasonable rates.

SEC. 13. Any railroad corporation which shall violate any of the provisions of this act, as to extortion or unjust discrimination, shall forfeit for every such offense to the person, company, or corporation aggrieved thereby, three times the actual damages sustained or overcharges paid by the said party aggrieved, together with the cost of suit, and a reasonable attorney's fee to be fixed by the court, and if an appeal be taken from the judgment or any part thereof, it shall be the duty of the appellate court to include in the judgment an additional reasonable attorney's fee for services in the appellate court or courts, to be recovered in a civil action therefor. And in all cases where complaint shall be made, in accordance with the provisions of section 15, hereinafter provided, that an unreasonable charge is made, the commissioners shall require a modified charge for the service rendered, such as they shall deem to be reasonable, and all cases of a failure to comply with the recommendation of the commissioners shall be embodied in the report of the commissioners to the legislature; and the same shall apply to any unjust discrimination, extortion, or overcharge by said company, or other violation of law.

Penalty for violation of provisions of this act.

SEC. 14. Upon the occurrence of any serious accident upon a railroad which shall result in personal injury, or loss of life, the corporation operating the road upon which the accident occurred shall give immediate notice thereof to the commissioners whose duty it shall be, if they deem it necessary, to investigate the same, and promptly report to the governor the extent of the personal injuries, or loss of life, and whether the same was the result of the mismanagement or neglect of the corporation on whose line the injury or loss of life occurred.

Investigation in case of accident.

Provided, That such report shall not be evidence or referred to in any case in any court.

Provide:

SEC. 15. It shall be the duty of said commissioners upon the complaint and application of the mayor and aldermen of any city or the mayor and council of any incorporated town, or the trustees of any township, to make an examination of the rate of passenger fare or freight tariff charged by any railroad company, and of the condition or operation of any railroad, any part of whose location lies within the limits of such city, town or township, and if twenty-five or more legal voters in any city or township shall, by petition in writing, request the mayor and aldermen of such city or the trustees of such township, to make the said complaint and application, and the mayor and aldermen, or the trustees, refuse or decline to comply with the prayer of the petition, they shall state the reason for such non-compliance in writing upon the petition, and return the same to the petitioners; and the petitioners may thereupon, within ten days from the date of such refusal and return, present such petition to said commissioners, and said commissioners shall, if upon due inquiry and hearing of the petitioners, they think the public good demands the examination, proceed to make it in the same manner as if called upon by the mayor and aldermen of any city, or the trustees of any township. Before proceeding to make such examination, in accordance

Examination of rates by commissioners on complaint of mayor &c.

Or on petition of twenty-five citizens.

with such application or petition, said commissioners shall give to the petitioners and the corporation reasonable notice, in writing, of the time and place of entering upon the same. If, upon such an examination, it shall appear to said commissioners that the complaint alleged by the applicants or petitioners is well founded, they shall so adjudge, and shall inform the corporation operating such railroad of their adjudication within ten days, and shall also report their doings to the governor, as provided in the fourth section of this act.

Phrases "railroad"

And "railroad corporation"

These provisions not to hinder any suit against railroad company.

Repealing clause.

Publication.

SEC. 16. In the construction of this act, the phrase railroad shall be construed to include all railroads and railways operated by steam, and whether operated by the corporation owning them or by other corporations or otherwise. The phrase railroad corporation shall be construed to mean the corporation which constructs, maintains or operates a railroad operated by steam power.

SEC. 17. Nothing in this act shall be construed to estop or hinder any persons or corporations from bringing suit against any railroad company for any violation of any of the laws of this state for the government of railroads.

SEC. 18. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 19. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register, and Iowa State Leader, newspapers published at Des Moines, Iowa.

Approved, March 23, 1878.

I hereby certify that the foregoing act was published in the *Iowa State Register*, March 24, and in the *Iowa State Leader*, March 25, 1878.

JOSIAH T. YOUNG, *Secretary of State*.

CHAPTER 78.

COUNTY RECORDER OF LEE COUNTY.

H. F. 418. AN ACT Legalizing the Acts of the County Recorder of Lee county, Iowa, in Recording Mortgages on Town Lots and other City Property with the Deeds in Town Lot Records.

Preamble. WHEREAS, It has been the custom of the recorder of Lee county, Iowa, in recording deeds on town lots and other city property, to intermingle with the said town lot records all mortgages affecting any city property, they being recorded with the deeds; and,

WHEREAS, The legality of said recording of said mortgages aforesaid has been questioned; therefore,

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

SECTION 1. That the acts of said recorders of Lee county Iowa, in recording said mortgages on town lots and other city property