

## RAILROADS.

### CHAPTER 28.

TO REGULATE RAILROADS AND OTHER COMMON CARRIERS.

**AN ACT To Regulate Railroad Corporations and other Common Carriers in this State, and to Increase the Powers and further Define the Duties of the Board of Railroad Commissioners, in relation to the same, and to Prevent and Punish Extortion and unjust Discrimination in the Rates charged for the Transportation of Passengers and Freights on Railroads in this State, and to Prescribe a Mode of Procedure and Rules of Evidence in relation thereto, and to Repeal Section 11 of Chapter 77 of the Acts of the Seventeenth General Assembly in relation to the Board of Railroad Commissioners and all Laws in force in direct Conflict with the Provisions of this Act.** H. F. 372.

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

**SECTION 1.** The provisions of this act shall apply to the transportation of passengers and property, and to receiving, delivering, storage and handling of property wholly within this State and shall apply to all railroad corporations and railway companies, express companies, car companies, sleeping-car companies, freight or freight line companies and to any common carrier or carriers engaged in this State in the transportation of passengers or property by railroad therein, and shall also be held to apply to shipments of property made from any point within the State to any point within the State, whether the transportation of the same shall be wholly within this State or partly within this and an adjoining State or States. The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad and also all the road in use by any corporation, receiver trustee or other person operating a railroad whether owned or operated under contract, agreement, lease or otherwise, and the term "transportation" shall include all instrumentalities of shipment or carriage, and the term "railroad corporation" contained in this act shall be deemed and taken to mean all corporations, companies or individuals now owning or operating, or which may hereafter own or operate any railroad in

Application of  
the provisions  
of this act.

Charges to be reasonable and just.

whole or in part in this State; and the provisions of this act shall apply to all persons, firms and companies and to all associations of persons whether incorporated or otherwise that shall do business as common carriers upon any of the lines of railway in this State (street railways excepted) the same as to railroad corporations herein mentioned.

Unjust discrimination defined.

SEC. 2. All charges made for any service rendered or to be rendered in the transportation of passengers or property in this State, as aforesaid or in connection therewith or for the receiving, delivering, storage 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.

SEC. 3. That if any common carrier subject to the provisions of this act, shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property subject to the provisions of this act, than it charges, demands collects or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful; this section however, is not to be construed as prohibiting a less rate per 100 pounds in a car-load lot than is charged, collected or received for the same kind of freight in less than a car load lot.

Preference or advantage not to be given.

SEC. 4. That it shall be unlawful for any common carrier, subject to the provisions of this act to make or give any 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 prejudice or disadvantage in any respect whatsoever; provided, however, that nothing herein shall be construed to prevent any common carrier from giving preference as to time of shipment of live stock, uncured meats or other perishable property. All common carriers subject to the provisions of this act, shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and switching of cars, and the receiving, forwarding and delivering of passengers and property to and from their several lines, and to and from other lines and places connected therewith; and shall not discriminate in their accommodations, rates and charges between such connecting lines. And any common carrier may be required to switch and transfer cars for another for the purpose of being loaded or unloaded, upon such terms and conditions as may be prescribed by the Board of Railroad Commissioners.

Equal facilities for interchange of traffic between lines.

**SEC. 5.** That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation in the aggregate for the transportation of passengers or of a like kind of property for a shorter than for a longer distance over its railroad, all or any portion of the shorter haul being included within the longer. And said common carrier shall charge no more for transporting freight to or from any point on its railroad than a fair and just rate as compared with the price it charges for the same kind of freight transportation to or from any other point.

No greater charge to be made for a short, than a long haul.

No discrimination against shipping points.

**SEC. 6.** That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement or combination with any other common carrier or carriers for the pooling of freight of different and competing railroads, or divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

Freight pooling forbidden.

**SEC. 7.** That every common carrier subject to the provisions of this act, shall print and keep for public inspection, schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established, and which are in force at the time upon its railroad as defined by the first section of this act. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroads between which property and passengers will be carried and shall contain the classification of freight in force upon such railroad, and shall also state separately any terminal charges and any rules or regulations which in any wise change, affect or determine any part of the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type of at least the size of ordinary pica, and a copy for the use of the public shall be kept in every freight office and passenger station, on such railroad, where it can be conveniently inspected, and such common carrier shall keep a printed notice posted in every such freight office and passenger station indicating where therein such schedules can be found. No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days public notice, which shall plainly state the changes proposed to be made in the schedules then in force and the time when the increased rates, fares or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reduction in such published rates fares or charges may be made without previous public notice, but whenever any such reduction is made, notice of the same shall immediately be publicly posted, and the changes made shall immedi-

Schedules of rates and fare kept for inspection.

Schedules to be printed and publicly exposed.

Notice to be given of advance in schedule.

Reduction in schedules how made.

ately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection. And when any such common carrier shall have established and published its rates, fares and charges, in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand collect or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith than is specified in such published schedule of rates, fares and charges as may at the time be in force. Every common carrier subject to the provisions of this act shall file with the Board of Railroad Commissioners of this State, copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commissioners of all changes made in the same. Every such common carrier shall also file with said Commissioners, copies of all contracts, agreements or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes in this State operated by more than one common carrier and the several common carriers operating such lines or routes, have established joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commissioners. Such joint rates, fares and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers, when directed by said Commissioners in so far as may in the judgment of the Commissioners be deemed practicable; and said Commissioners shall from time to time prescribe the measures of publicity which shall be given to such rates fares and charges, or to such part of them as they may deem it practicable for such common carriers to publish and the places in which they shall be published; but no common carrier, party to any such joint tariff shall be liable for the failure of any other common carrier party thereto, to observe and adhere to the rates, fares or charges thus made and published. If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares and charges as provided in this section or any part of the same, such common carriers shall in addition to other penalties herein prescribed be subject to a writ of mandamus to be issued by any district court of this State in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed. And if such common carrier be a foreign corporation, then such writ may be issued by any district court, in the judicial district where such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section and such writ shall issue in the name of the State of Iowa at the relation or upon the pe-

Charges not to deviate from printed schedule.

Copy of schedule to be filed with R. R. Commissioners.

Copy of contracts to be filed with R. R. Commissioners.

R. R. Com. may make public such joint rates.

Refusal to publish schedules.

Foreign corporations refusal to publish schedule.

tition of the said board of railroad commissioners of this State; and failure to comply with its requirements shall be punishable as and for a contempt; and shall make said corporation liable to a penalty of five hundred dollars (\$500.00) for each day's failure to comply and when any such writ of mandamus, shall be so applied for by said commissioners, no bond shall be required of them by any court or judge, in which or before whom any such application may be made.

SEC. 8. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract or agreement, expressed or implied, to prevent by change of time schedules, carriage in different cars or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination in this State; and no break of bulk, stoppage or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break stoppage or interruption was made in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

Combinations  
against conti-  
nuous transit.

SEC. 9. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing, in this act required to be done, such common carrier shall be liable to the person or persons injured thereby, for three times the amount of damages sustained in consequence of any such violation of the provisions of this act together, with costs of suit and a reasonable counsel or attorneys fee to be fixed by the court in which the same is heard on appeal or otherwise, which shall be taxed and collected as part of the costs in the case; provided that in all cases demand in writing on said common carrier shall be made for the money damages sustained before suit is brought for recovery under this section and that no suit shall be brought until the expiration of fifteen days after such demand.

Penalty for  
violation of  
omission.

SEC. 10. That any person or persons claiming to be damaged by any common carrier, subject to the provisions of this act, may either make complaint to the board of railroad commissioners of this State or may bring suit in his or their own behalf for the recovery of damages for which any such common carrier may be liable under the provisions of this act in any court of this State of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies at the same time.

Complaint to  
railroad com-  
missioner's or  
suit for  
damages.

In any such action brought for the recovery of damages, the court before whom the same shall be pending may compel any director, officer, receiver, trustee or agent of the corporation or company, defendant in such suit to attend, appear and testify in

Attendance of  
witnesses and  
evidence.

such case and may compel the production of the books and papers of such corporation or company party to any such suit; the claims that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person or witness from testifying or producing said books and papers; but such evidence or testimony shall not be used against such person in any way, on the trial of any criminal proceedings.

Violation by individual or agent, and penalty.

SEC. 11. That except as otherwise specially provided for in sections twenty three to twenty-eight inclusive, of this act, and unless relieved from the consequences of a violation of the law as provided in section fifteen of this act, any common carrier, subject to the provisions of this act, or whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for, or employed by such corporation, who, alone or with any other corporation, company, person or party shall willfully do, or cause to be done, or shall willingly suffer or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer, or permit any act, matter or thing so directed or required by this act to be done, not to be so done, or shall aid or abet any such omission, or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor and shall upon conviction thereof in any district court of this State of competent jurisdiction be subject to a fine of not to exceed five thousand dollars (\$5,000) and not less than five hundred dollars (\$500) for each offense.

Railroad commissioners may inquire into the business of all common carriers.

SEC. 12. That it shall be the duty of and the board of railroad commissioners of this State shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, 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 such common carriers full and complete information necessary, to enable the said commissioners to perform the duties and carry out the object for which said Board was created and which are contemplated by this act; and for the purposes of this act the said Commissioners shall have power to require the attendance and testimony of witnesses and the production of all books, papers, tariffs, schedules, contracts, agreements and documents relating to any matter under investigation, and to that end may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of books papers and documents under the provisions of this section. And any Court of this State within the jurisdiction of which such inquiry is carried on, shall in case of contumacy, or refusal to obey a subpoena, or other proper process issued to any common carrier or person subject to the provisions of this act, or other

person, issue an order requiring such common carrier, or other person to appear before said Commissioners (and produce books and papers if so ordered) and give evidence touching or in relation to the matter in question; and any failure to obey such order of the court shall be punished by such court as a contempt thereof; the claim that any such testimony or evidence may tend to criminate the person giving such evidence, shall not excuse such person or witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 13. That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done, by any common carrier subject to the provisions of this act, in contravention of the provisions thereof, may apply to said Commissioners by petition which shall briefly state the facts whereupon a statement of the complaint thus made with the damages if any are alleged shall be forwarded by the said Commissioners to such common carrier who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time to be specified by the Commissioners. If such common carrier within the time specified shall make reparation for the injury alleged to have been done or shall correct the wrong complained of, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such common carrier shall not satisfy the complaint, within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the said Commissioners to investigate the matters complained of in such manner and by such means as said Commissioners shall deem proper and said Commissioners whenever they may have sufficient reason to believe that any common carrier is violating any of the provisions of this act shall at once institute an inquiry in the same manner, and to the same effect, as though complaint had been made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant or complainants or petitioners.

Complaint;  
mode of enter-  
ing and mak-  
ing.

SEC. 14. That whenever an investigation shall be made by said Commissioners after notice as provided by section 13, of this act, it shall be their duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commissioners are based, together with its or their recommendation or orders as to what reparation, if any, should be made by the common carrier to any party, or parties, who may be found to have been injured; and such finding, so made shall thereafter in all judicial proceedings be deemed and taken as *prima facie* evidence as to each and every fact found. All reports of investigation made by said Commissioners shall be entered of record, and a copy thereof shall be furnished to the party who may have complained and

Investigations.

Report of find-  
ings.

any other person or persons directly interested, and to any common carrier that may have been complained of.

Findings of  
the Commis-  
sioners.

SEC. 15. That if in any case in which an investigation shall be made by said Commissioners it shall be made to appear to the satisfaction of the Commissioners, either by the testimony of witnesses or other evidence that anything has been done or omitted to be done in violation of the provisions of this act or of any law cognizable by said Commissioners by any common carrier, or that any injury or damages has been sustained by the party or parties complaining or by other parties aggrieved in consequence of any such violation it shall be the duty of said Commissioners forthwith to cause a copy of their report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both within a reasonable time to be specified by the Commissioners; and if within the time specified it shall be made to appear to the Commissioners that such common carrier has ceased from such violation of law and has made reparation for the injury found to have been done in compliance with the report and notice of the Commissioners, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commissioners and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

Refusal or  
neglect to obey  
Board of  
Com's require-  
ments.

SEC. 16. That whenever any common carrier as defined in and subject to the provisions of this act shall violate or refuse or neglect to obey any lawful order or requirement of the said Board of Railroad Commissioners, it shall be the duty of said Commissioners, and lawful for any company or person interested in such order or requirement to apply in a summary way, by petition to the district or superior court in any county of this State in which the common carrier complained of has its principal office, or in any county through which its line or road passes or is operated, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents or servants in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity and without the formal pleadings and proceedings applicable to ordinary suits in equity but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit to direct and prosecute, in such mode and by such persons as it may appoint all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of said Commissioners shall be *prima facie* evidence of the matter therein, or in any order

made by them stated; and if it be made to appear to such court on such hearing or on the report of any such person or persons, that the order or requirement of said Commissioners drawn in question, has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction, or other proper process mandatory or otherwise to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commissioners and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such courts to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of one thousand (\$1,000.00) dollars for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process mandatory or otherwise; and such monies (moneys) shall, upon the order of the court, be paid into the treasury of the county in which the action was commenced and one-half thereof shall be transferred by the county treasurer to the State treasury; and the payment thereof may without prejudice to any other mode of recovering the same be enforced by attachment or order, in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree *in personam* in such court, saving to the Commissioners and any other party or person interested the right of appeal to the Supreme Court of the State under the same regulations now provided by law in relation to appeals to said court as to security for such appeal except that in no case shall security for such appeal be required when the same is taken by said Commissioners; but no appeal to said Supreme Court shall operate, to stay or supercede the order of the court, or the execution of any writ or process thereon; and such court may in every such matter order the payment of such costs and attorney and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented, or be prosecuted by the said Commissioners, or by their direction it shall be the duty of the Attorney General of the State to prosecute the same, and in such prosecution he shall have the right to have the assistance of any county attorney of the county in which any such proceedings are instituted, and it is hereby made the duty of any such county attorney to render such assistance; and the costs and expenses on the part of said Commissioners of any such

Court shall restrain by injunction.

Right of appeal to Supreme Court.

prosecution shall be paid out of the appropriations for the expenses of said Board of Commissioners.

R. R. Com's empowered to make schedules for railroad companies.

SEC. 17. The Board of Railroad Commissioners of this State are hereby empowered and directed to make for each of the railroad corporations, doing business in this State, as soon as practicable, a schedule of reasonable maximum rates of charges for the transportation of freight and cars on each of said railroads, and said power to make schedules shall include the power of classification of all such freights, and it shall be the duty of said Commissioners to make such classification; provided, that the said rates of charges to be so fixed by said Commissioners shall not in any case exceed the rates which are or may hereafter be established by law; and said schedules so made by said Commissioners, shall in all suits brought against any such railroad corporations, wherein is in any way involved the charges of any such railroad corporation for the transportation of any freight or cars or unjust discrimination in relation thereto be deemed and taken in all courts of this State as *prima facie* evidence that the rates therein fixed are reasonable and just maximum rates of charges for the transportation of freight and cars upon the railroads for which said schedules may have been respectively prepared. Said Commissioners shall from time to time, and as often as circumstances may require, change and revise said schedules, subject to the same provision that the rates fixed are not to be higher than now or hereafter established by law.

Schedules revised.

When any schedule shall have been made or revised as aforesaid, it shall be the duty of said Commissioners to cause notice thereof to be published for two successive weeks in some public newspaper published in the city of Des Moines in this State, which notice shall state the date of the taking effect of said schedule and said schedule shall take effect at the time so stated in such notice and a printed copy of said revised schedule shall be conspicuously posted by such common carrier in each freight office and passenger depot upon its line or lines. All such schedules, so made, shall be received and held in all such suits as *prima facie* the schedule of said Commissioners without further proof than the production of the schedule desired to be used as evidence, with a certificate of said Railroad Commissioners, that the same is a true copy of the schedule prepared by them for the railroad company or corporation therein named, and that notice of making the same has been published as required by law; provided that before finally fixing and deciding what the original maximum rates and classification shall be, it shall be the duty of the Railroad Commissioners to publish ten days notice in two daily papers published in Des Moines setting forth in such notice that at a certain time and place they will proceed to fix and determine such maximum rates and classification; and they shall at such time and place and as soon as practicable afford to any person, firm, corporation or common carrier who may desire it an opportunity to make an explanation or showing or to furnish information to said Commissioners on the subject

Com's shall cause notices of change to be published.

Time and place of fixing maximum rates.

of determining and fixing such maximum rates and classification; and in any event the original schedule of rates and classification of freights on all lines of railroads in Iowa shall be fixed and shall go into effect within sixty days from the taking effect of this act.

SEC. 18. Whenever any person upon his own behalf, or class of persons similarly situated, or any firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, shall make complaint to said Board of Railroad Commissioners, that the rate charged or published by any railroad company, or the maximum rates fixed by said Commissioners in the schedules of rates made by them under the provisions of section 17 of this act, or the maximum rate that now or hereafter may be fixed by law is unreasonably high or discriminating, it shall be the duty of said Commissioners to immediately investigate the matter of such complaint. If such complaint appears to be well founded and not trivial in character the Board shall fix a day for hearing the same and shall notify the railroad company of the time and place of such hearing by mailing a notice properly directed to any division superintendent general or assistant superintendent, general manager, president or secretary of such company, which notice shall contain the substance of the complaint so made and the board shall also notify the person or persons complaining of such time and place.

Investigation of violation of Com's schedule.

SEC. 19. Upon such hearing so provided for, the said Commissioners shall receive whatever evidence, statements or arguments either party may offer or make pertinent to the matter under investigation; and the burden of proof shall not be held to be upon the person or persons making the complaint, but the Commissioners shall add to the showing made at such hearing whatever information they may then have, or can secure from any source whatsoever, and the person or persons complaining shall be entitled to introduce any published schedules of rates of any railroad company, or evidence of rates actually charged by any railroad company for substantially the same kind of service, whether in this or any other State; and the lowest rates published or charged by any railroad company for substantially the same kind of service, whether in this or any other State, shall, at the instance of the person or persons complaining be accepted as *prima facie* evidence of a reasonable rate for the services under investigation, and if the railroad company complained of is operating a line of railroad beyond the State of Iowa or if it appears that it has a traffic arrangement with any such railroad company, then the Commissioners in determining what is a reasonable rate, shall take into consideration the charge made, or rate established by such railroad company or the company with which it has traffic arrangements for carrying freight from beyond the State to points within the State and from within the State to points beyond (the) State; and if such company be operating a line of railway beyond the State they

Hearing of case as to violation.

shall also take into consideration the rate charged or established for a substantially similar or greater service by such company in any other State in which said railroad company operates a line of railway.

Decision of the commissioners in the matter.

SEC. 20. After such hearing and investigation the said Commissioners shall fix and determine the maximum charge to be thereafter made by the railroad company or common carriers complained of, which charge shall in no event exceed the one now, or hereafter fixed by law, and the said Commissioners shall render their decision in writing; and shall spread the same at length in the record to be kept for that purpose; such decision shall, specifically, set out the sums or rate which the railroad company or common carrier, so complained of, may thereafter charge or receive for the service therein named and including a classification of such freight, and the said Commissioners shall not be limited in their said decision and the schedule to be contained therein to the specific case or cases complained of but it shall be extended to all such rates between points in this State and whatever part of the line of railway of such company or common carrier within this State as may have been fairly within the scope of such investigation, and any such decisions so made and entered on record of said commissioners, including any such schedules and classifications, shall, when duly authenticated be received and held in all suits brought against any such railroad corporation or common carrier wherein is in any way involved the charges of any such corporation or carrier mentioned in said decisions, in any of the courts of this State, as prima facie evidence that the rates therein fixed are reasonable maximum rates, the same as the schedules made by said commissioners as provided in section 17 hereof; and the rates and classifications so established after such hearing and investigation shall from time to time thereafter upon complaint duly made be subject to revision by said commissioners the same as any other rates and classifications.

Conduct of proceedings.

Quorum.

Amendment of general rules.

Any party may appear.

SEC. 21. That the said Board of railroad commissioners may in all cases conduct its proceedings when not otherwise particularly prescribed by law, in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commissioners shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commissioners may from time to time make or amend such general rules, or orders, as may be requisite for the order and regulation of proceedings before it including forms of notices and the service thereof, which shall conform as nearly as may be to those in use in courts of this State. Any party may appear before said board of commissioners and be heard in person or by attorney. Every vote and official action of said board of commissioners shall be

entered of record and its proceedings shall be public upon the request of either party or any person interested. Said board of railroad commissioners, shall have an official seal which shall be judicially noticed, and every commissioner shall have the right to administer oaths and affirmations in any proceeding pending before said board.

Record public.

Official seal.

SEC. 22. The said board of railroad commissioners is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made and to require from such carriers specific answers to all questions upon which the said commissioners may need information. Such annual reports shall show in detail the amount of the capital stock issued the amounts paid therefor and the manner of the payment of the same; the dividends paid, the surplus fund if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the costs and value of the carrier's property, franchises and equipment; the number of employes, and the salaries paid each class; the amounts expended for improvements each year, how and where expended and the character of such improvements; the earnings and receipts from each branch of business, and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations, concerning fares or freights, or agreements, arrangements, or contracts with other common carriers as the commissioners may require; and the said board of commissioners may within its discretion for the purpose of enabling it the better to carry out the purpose of this act, (if in the opinion of the commissioners it is practicable to prescribe such uniformity and methods of keeping accounts) prescribe a period of time within which all common carriers subject to the provisions of this act, shall have as near as may be a uniform system of accounts and the manner in which such accounts shall be kept.

Annual report required.

Contents of annual report.

Further information required.

SEC. 23. If any railroad corporation or common carrier subject to the provisions of this act, shall charge, collect demand or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight of any description or for the use and transportation of any railroad car upon its track, or any of the branches thereof, or upon any railroad within this State which it has the right, license or permission to use, operate or control or shall make any unjust and unreasonable charge prohibited in section two (2) of this act, the same shall be deemed guilty of extortion, and shall be dealt with as hereinafter provided, and if any such railroad corporation, (or common carrier) shall be found guilty of any unjust discrimination as defined in section three (3) of this act, upon conviction thereof, shall be dealt with as hereinafter provided.

Extortion and penalty.

Discrimination defined and punished.

Discrimination from one point to another.

Discrimination in car loads.

Evidence of unjust discrimination.

SEC. 24. If any such railroad corporation shall charge, collect or receive for the transportation of any passenger or freight of any description upon its railroad for any distance within this State, a greater amount of toll or compensation than is at the same time charged, collected or received for the transportation in the same direction of any passenger or like quantity of freight of the same class over a greater distance of the same railroad; or if it shall charge, collect or receive at any point upon its railroad a higher rate of toll or compensation for receiving handling or delivering freight of the same class and quantity, than it shall at the same time charge, collect or receive at any other point upon the same railroad; or if it shall charge, collect or receive for the transportation of any passenger or freight of any description over its railroad a greater amount as toll or compensation than shall at the same time be charged, collected or received by it for the transportation of any passenger or like quantity of freight of the same class being transported in the same direction over any portion of the same railroad of equal distance; or if it shall charge, collect or receive from any person or persons a higher or greater amount of toll or compensation than it shall at the same time charge, collect or receive from any other person or persons for receiving, handling or delivering freight of the same class and like quantity, at the same point upon its railroad; or if it shall charge collect or receive from any person or persons, for the transportation of any freight upon its railroad, a higher or greater rate of toll or compensation than it shall, at the same time, charge, collect or receive from any other person or persons, for the transportation of the like quantity of freight of the same class, being transported from the same point in the same direction, over equal distances of the same railroad, or if it shall charge, collect or receive, from any person or persons, for the use and transportation of any railroad car or cars upon its railroad, for any distance, a greater amount of toll or compensation than is at the same time charged, collected or received from any other person or persons, for the use and transportation of any railroad car of the same class or number, for a like purpose, being transported in the same direction, over a greater distance of the same railroad; or if it shall charge, collect or receive from any person or persons, for the use and transportation of any railroad car or cars upon its railroad, a higher or greater compensation in the aggregate, than it shall, at the same time, charge, collect or receive from any other person or persons, for the use and transportation of any railroad car or cars of the same class for a like purpose, being transported from the same original point, in the same direction, over an equal distance of the same railroad; all such discriminating rates, charges, collection or receipts whether made directly, or by means of any rebate, drawback, or other shift or evasion, shall be deemed and taken, against such railroad corporation, as prima facie evidence of the unjust discriminations prohibited by the provisions of this act;

and it shall not be deemed a sufficient excuse or justification of such discrimination on the part of said railroad corporation, that the railway station or point at which it shall charge collect or receive less compensation in the aggregate for the transportation of such passenger or freight, or for the use and transportation of such railroad car the greater distance than for the shorter distance, is a railway station or point at which then exists competition with any other railroad or means of transportation. This section shall not be construed so as to exclude other evidence tending to show any unjust discrimination in freight and passenger rates. The provisions of this section shall extend and apply to any railroad, the branches thereof, and any road or roads which any railroad corporation has the right, license or permission to use, operate or control wholly or in part, within this State; provided however, that nothing herein contained shall be so construed as to prevent railroad corporations from issuing commutation, excursion or thousand mile tickets: provided the same are issued alike to all applying therefor.

SEC. 25. It shall be unlawful for any such common carrier to charge, collect demand or receive more for transporting a car of freight than it at the same time charges, collects demands or receives per car for several cars of a like class of freight over the same railroad, for the same distance, in the same direction, or to charge, collect, demand or receive more for transporting a ton of freight than it charges, collects, demands or receives per ton for several tons of freight under a car load, of a like class of freight over the same railroad for the same distance, in the same direction or to charge collect, demand or receive more for transporting a hundred pounds of freight than it charges, collects, demands or receives per hundred for several hundred pounds of freight, under a ton, of a like class of freight over the same railroad, for the same distance, in the same direction, all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, drawback or other shift or evasion, shall be deemed and taken against such railroad company as *prima facie* evidence of the unjust discrimination prohibited by this act; *provided*, however, that for the protection and development of any new industry within this State, such railroad company may grant concession or special rates for any agreed number of car loads, but such special rates aforesaid shall first be approved by the Board of Railroad Commissioners, and a copy thereof filed in the office thereof.

Discrimination as to cars.

As to rates in car loads.

SEC. 26. Any such railroad corporation guilty of extortion or of making any unjust discrimination as to passenger or freight rates or the rates for the use and transportation of railroad cars or in receiving handling or delivering freights shall upon conviction thereof be fined in any sum not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for the first offense; and for every subsequent offense

Discrimination as to passengers, or freight rates or handling.

not less than five thousand dollars nor more than ten thousand dollars (\$10,000) such fine to be imposed in a criminal prosecution by indictment, or shall be subject to the liability prescribed in the next succeeding section to be recovered as therein provided.

Penalty for discrimination.

SEC. 27. Any such railroad corporation guilty of extortion or of making any unjust discrimination as to passenger or freight rates or the rates for the use and transportation of railroad cars, or in receiving, handling or delivering freights shall forfeit and pay to the State of Iowa not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for the first offense and not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) for every subsequent offense to be recovered in a civil action by ordinary proceedings instituted in the name of the State of Iowa. And the release from liability or penalty provided for in section 15 of this act shall not apply to either a criminal prosecution under the last preceding section or a civil action brought under this section.

SEC. 28. Whenever said Railroad Commissioners have good reason to believe, that any railroad corporation or common carrier subject to the provisions of this act has been guilty of extortion or unjust discrimination and thereby become liable to the penalties prescribed in sections 26 and 27 hereof, it shall be their duty to immediately cause suits to be commenced and prosecuted against any such railroad corporation or common carrier. Such suits and prosecutions may be instituted in any county of this state through or into which the line of the railroad corporation sued for violation of this act may extend. And such Railroad Commissioners are hereby authorized, when in their judgment, it is necessary so to do, to employ counsel to assist the Attorney General in conducting such suit on behalf of the State. No such suits commenced by said commissioners shall be dismissed unless the said commissioners and the Attorney General shall consent thereto. And the court may in its discretion give preference to such suits over all other business except criminal cases.

Handling of property for U. S. or the State.

SEC. 29. That nothing in this act shall apply to the carriage, storage or handling of property free or at reduced rates for the United States or this State or municipal governments or for charitable purposes, or to and from fairs and expositions for exhibition thereat or for the employes of such common carriers or their families or private property or goods for the family use of the employes of such common carriers, or the issuance of mileage, excursion or commutation passenger tickets. Nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to Ministers of religion, or to prevent railroads from giving free carriage to their own officers and employes and their families dependent upon said officer or employe for support and to persons in charge of live stock being shipped from the point of

shipment to destination and return, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes: and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies; provided, that no pending litigation shall in any way be affected by this act.

SEC. 30. The said railroad commissioners and their secretary shall have the right of free transportation in the performance of their duties concerning railroads, on all railroads and railroad trains in this state; and they may take with them experts or other agents whose services they may require and who shall in like manner be transported free of charge.

R. R. Commissioners and secretary to be transported free.

SEC. 31. To defray the necessary expenses of the said Railroad Commissioners in making investigations and prosecuting suits and to pay all necessary costs attending the same under the provision of this act there is hereby appropriated, out of any money in the state treasury not otherwise appropriated, the sum of ten thousand dollars (\$10,000) or so much thereof as may be necessary, to be drawn upon warrants of the State Auditor issued upon the requisition of said Commissioners, approved by the Governor, which requisition shall be accompanied by an itemized statement of the costs and expenses to be paid.

Expenses of Commissioners' investigation: how met.

SEC. 32. Section 11 of chapter 77 of the acts of the Seventeenth General Assembly in relation to the Board of Railroad Commissioners, and all laws now in force in direct conflict with any of the provisions of this act, are hereby repealed.

Conflicting law repealed.

SEC. 33. This act being deemed of immediate importance shall take effect and be in force from and after thirty days after publication in the Iowa State Register and Des Moines Leader newspapers published in Des Moines Iowa.

Publication.

Approved April 5th, 1888.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 10, 1888.

FRANK D. JACKSON, *Secretary of State.*