

interest in any common carrier by any officer under this act after his election or appointment shall disqualify him to hold the office, and to perform the duties thereof.

SEC. 3. All vacancies in the office of railroad commissioners shall be filled by appointment of the Governor. The person appointed to serve until his successor is elected and qualified. The board of commissioners as constituted by chapter 77, acts 17th General Assembly shall hold office and have all powers conferred upon them by chapter 77, acts of the 17th General Assembly and acts amendatory thereto and such other powers and authority as are now or may hereafter be conferred upon them by law until commissioners shall be chosen and enter upon their duties as contemplated by this act.

Vacancies to be filled by appointment of Governor.

SEC. 4. The canvass of votes cast for election of commissioners provided for in this act shall be made and returns and abstracts thereof and relating thereto be made, certified and forwarded and results of said election declared (by the executive council) in all respects in the same manner and by the same officers and boards as now provided by law for canvassing, making, certifying, forwarding and declaring the same as to other State officers.

Canvass of votes cast.

SEC. 5. The commissioners chosen under this act shall have all the powers that are conferred upon the railway commission by chapter 77 acts of the 17th General Assembly, and such other powers and authority as may be now or shall hereafter be imposed by law.

Powers.

Approved April 6, 1888.

CHAPTER 30.

REQUIRING RAILROAD COMPANIES TO FENCE TRACKS.

AN ACT Requiring Rail-road Companies to Fence Their Tracks within the State of Iowa, and to Keep the Fences in Good Repair. S. F. 7.

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

SECTION 1. That all railroad corporations organized under the laws of this State, or any other State, owning or operating a line of railroad within this State, which have not already erected a lawful fence, shall construct, maintain and keep in good repair a suitable fence of posts and barb wire, or posts and boards on each side of the tracks of said railroad within the State of Iowa, and so connected with cattle guards at all public highway crossings as to prevent cattle, horses and other live stock from getting on the railroad tracks. Said railroad tracks to be fenced by said railroad companies, on or before January 1, 1890 where the railroads are now built, and within six months after the

Railway companies to fence their tracks.

Fences de-
fined.

completion of any new railroads, or any part thereof, the said fences to be constructed either of five barbed wires, securely fastened to posts; said posts to be not more than twenty feet apart, and not less than fifty four inches in height, or of five boards securely nailed to posts, said posts to be not further than eight feet apart, and said fence to be not less than fifty-four inches in height. Provided; when said railroad corporations, who have now their fences built shall when they rebuild or repair their fences the same shall be built as provided in this act: Provided: further that any other fence which in the judgment of the fence viewers is equivalent to the fence herein provided shall be a lawful fence. Provided however that this act shall not be so construed as to compel a railway company operating a third class railway to fence its road through the land of any farmer or other person, who by written agreement with said company has waived or may waive the fencing of said road through such land. Provided further however, that at any points where third class roads are not released by written agreement, from building fence as herein provided for, and fences are built on both sides of Railway track at such points, cattle guards shall be so constructed at such points as to prevent stock from going upon said track so fenced.

Cattle guards.

Penalty for
refusal to
comply.

SEC. 2. If any corporation or officer thereof or lessee owning or engaged in the operation of any railroad, in this State neglect or refuse to comply with any provision of Section one of this act, such corporation, officer or lessee, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding five hundred dollars for each and every offense. And every thirty days continuance of such refusal or neglect shall constitute a separate and distinct offense within and for the purposes of this Act.

Killing of
stock.

SEC. 3. Nothing herein contained shall relieve said railroad corporations from pecuniary liability arising from the killing or maiming of live stock on said track; or right of way by said corporation, that may occur through the negligence of said corporation or its employees, and provided further, that nothing in this act shall be construed so as to interfere with the right to open or private crossings, as now maintained, or with the right of persons to such crossings. Provided further, that nothing in this act contained shall in any way limit or qualify the liability of any corporation or person, owning or operating a railway that fails to fence the same against live stock running at large, for any stock injured or killed by reason of the want of such fence as now provided for in Sec. 1289 of the Code of 1873.

Approved April 6, 1888.