

the Idaho line at the point where it intersects the north bank of the Spokane river.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 93.

[S. B. 253.]

AMENDING RAILWAY COMMISSION ACT.

AN ACT relating to railroads, express, telephone and telegraph companies, and providing for the regulation thereof, and amending sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 27, 31, 32, 37 and 38 of an act entitled "An act relating to railroads and express companies and providing for the regulation thereof, and amending sections 2, 3, 4, 6, 12, 13, 15, 20 and 22 (and 23) of an act entitled 'An act to establish a railroad commission for the State of Washington, whereby discrimination and extortion in railroad and express charges may be prevented, and reasonable and just freight and passenger service and tariff may be corrected and established; to authorize the commission to make all necessary rules and regulations for its government and the carrying into effect of the provisions of this act; to give to said commission the power to regulate the sale of railroad tickets, and to correct and provide charges for hauling loaded or empty cars, proper trackage, proper train service, sufficient freight and passenger rooms, and just and reasonable joint rates and demurrage charges; to prescribe penalties for the violation of this act, and to provide means and rules for its proper enforcement, and making an appropriation therefor,' approved March 7, 1905, being chapter 81 of the laws of the legislature of the State of Washington passed in the year 1905; and to authorize the commission to provide for proper railroad connections and sidings; to provide proper and reasonable charges or penalties to be paid by shippers for failure to promptly load and unload cars; to provide proper and reasonable charges or penalties to be paid by railroads to shippers for failure to promptly furnish cars and equipment after demand therefor, or to promptly and expeditiously deliver cars and freight to the consignee, and to make all necessary rules and regulations to carry such provision into effect; to authorize and empower said commission to ascer-

tain the value of all railroad property used in this state for the public convenience; to authorize the commission to make findings thereon and establishing rules of evidence governing the same; to authorize said commission to designate certain books and accounts to be kept by the railroad and express companies doing business in this state; providing for safety appliances and track inspection; authorizing said commission to investigate accidents; and to provide penalties for the violation of this act, and declaring an emergency," approved the 16th day of March, 1907, and being chapter 226 of the Laws of 1907, and to authorize the commission to regulate telephone and telegraph companies and their rates and charges, to prevent discrimination and extortion by such companies; and to authorize the Railroad Commission of Washington to make all necessary rules and regulations for the enforcement of this act; to provide for joint rates between telephone companies and between telegraph companies, and joint service between telephone and telegraph companies; authorizing the Railroad Commission of Washington to ascertain the value of the property of express, telephone and telegraph companies within the state, to make findings thereon and establish rules of evidence governing the same; authorizing the commission to provide books and accounts to be kept by such telephone and telegraph companies doing business in this state; providing for safety appliances for all railroad, express, telephone and telegraph companies, and to provide penalties for the violation of this act.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 1 of an act entitled "An act relating to railroads and express companies and providing for the regulation thereof, and amending sections 2, 3, 4, 6, 12, 13, 15, 20 and 22 (and 23) of an act entitled 'An act to establish a railroad commission for the State of Washington, whereby discrimination and extortion in railroad and express charges may be prevented and reasonable and just freight and passenger service and tariff may be corrected and established; to authorize the commission to make all necessary rules and regulations for its government and the carrying into effect of the provisions of this act; to give to said commission the power to regulate the sale of railroad tickets, and to correct and provide charges for hauling loaded or empty cars, proper trackage, proper train service, sufficient freight and passenger rooms, and just and reasonable joint rates and de-

mural charges; to prescribe penalties for the violation of this act, and to provide means and rules for its proper enforcement, and making an appropriation therefor,' approved March 7, 1905, being chapter 81 of the laws of the legislature of the State of Washington passed in the year 1905; and to authorize the commission to provide for proper railroad connections and sidings; to provide proper and reasonable charges or penalties to be paid by shippers for failure to promptly load and unload cars; to provide proper and reasonable charges or penalties to be paid by railroads to shippers for failure to promptly furnish cars and equipment after demand therefor, or to promptly and expeditiously deliver cars and freight to the consignee, and to make all necessary rules and regulations to carry such provisions into effect; to authorize and empower said commission to ascertain the value of all railroad property used in this state for the public convenience; to authorize the commission to make findings thereon and establishing rules of evidence governing the same; to authorize said commission to designate certain books and accounts to be kept by the railroad and express companies doing business in this state; providing for safety appliances and track inspection; authorizing said commission to investigate accidents; and to provide penalties for the violation of this act, and declaring an emergency," be and the same is hereby amended to read as follows: Sec. 1. That a railroad commission is hereby created, to be composed of three persons to be appointed by the governor. Within thirty days after this enactment shall go into effect, three commissioners shall be appointed, one of whom shall be designated as chairman, one for the term of six years, one for the term of four years and one for the term of two years; and thereafter the term of each commissioner shall be six years from the date of the expiration of the term of his predecessor. Each commissioner shall hold office until his successor shall have been appointed and qualified. A commissioner may be removed by the governor for any cause

[See ch. 81,
p. 145, L. '05,
and ch. 226,
p. 536, L. '07,
for portions
amended by
this act.]

Commission
created.

Governor may
remove.

which he shall deem sufficient, which power of removal shall be absolute, and there shall be no right to review of the same in any court whatsoever; the cause or causes for such removal shall be set forth by the governor in a written statement which shall immediately be filed with the secretary of state. The commissioners so appointed by this act shall be confirmed or approved by the senate.

(a) No commissioner appointed under this act shall hold any other office under the government of the United States, or of this state, or of any county or municipal corporation within this state; and shall not, while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner.

Commissioner
to hold no
other office.

(b) 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.

Vacancies.

(c) Before entering upon the duties of his office each of said commissioners shall give a surety company bond (the cost of said bond to be paid by the state) in the sum of twenty thousand (\$20,000) dollars, payable to the State of Washington, conditioned upon the faithful performance of his duties, and shall take and subscribe to the usual oath of office prescribed by law for state officers, and shall in addition thereto swear that he is not directly or indirectly interested in any railroad, express, telephone or telegraph company, nor the bonds, stock, mortgages, securities, contracts or earnings of any railroad, express, telephone and telegraph company 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 the state concerning railroads, express, telephone or telegraph companies, which oath shall be filed with the secretary of state.

Bond.

Oath.

(d) Each of said commissioners shall receive an annual salary of four thousand dollars, payable in the same manner as the salaries of other state officers.

Salary.

SEC. 2. That section 2 of said act be and the same is hereby amended to read as follows: Sec. 2. The com-

mission appointed shall meet at the state capitol and organize. A majority of said commissioners shall constitute a quorum to transact business: *Provided*, That one member of the commission may hold hearings for the purpose of taking testimony in cases pending before the commission. Said commission may appoint a secretary at a salary of not more than two thousand dollars per annum, an expert rate clerk and statistician at a salary of not to exceed three thousand dollars per annum, a civil engineer at a salary of not to exceed two thousand four hundred dollars per annum, a stenographer competent to report hearings at a salary of not to exceed fifteen hundred dollars per annum, an inspector of tracks and safety appliances at a salary of not to exceed three thousand dollars per annum, an expert accountant at a salary of not to exceed eighteen hundred dollars per annum and may appoint such clerks as may be necessary, at a salary of twelve hundred dollars per annum each, and such other persons as experts as may be necessary to perform the duties that may be required of them by this act. The secretary shall keep full and correct minutes of all 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 proceedings. They shall be known collectively as "The Railroad Commission of Washington," and shall adopt and use an official seal. They shall be furnished with an office at the state capitol, and with necessary furniture, stationery and supplies to be paid for on the order of the governor. The commissioners shall reside at the state capital. The commissioners, secretary, stenographer, experts and clerks shall be entitled to receive from the state their actual necessary traveling expenses on the business of the commission, to be paid upon the presentation to the state auditor of an itemized statement thereof, with vouchers attached sworn to by the party who incurred the expense and approved by the commission.

Secretary.

Statistician.

Civil engineer.

Inspector of tracks.

Minutes.

Seal.

Office.

Traveling expenses.

(a) Said commission may hold sessions at any place Sessions.

in this state when deemed necessary to facilitate the discharge of their duties.

SEC. 3. That section 3 of said act be and the same is hereby amended to read as follows: Sec. 3. That the freight and passenger tariffs, charges for transportation of loaded or empty cars, whether said freight or cars be transported over one line of railroad or over two or more lines of railroad, charges for demurrage and reciprocal demurrage, as hereinafter defined, trackage, industrial and commercial spurs, railroad connections, sidings, equipment, facilities, train service, waiting rooms for passengers and rooms for freight and baggage at all stations of railroads, and charges for each kind and class of property, the quantity and character of baggage to be carried by each passenger, money, papers, packages and all other things to be charged for and received by each express company, on all such property, money, papers, packages and things which by the contract to carry are to be transported by said express company, to be demanded, collected, enforced or performed by railroad or express companies shall be just, fair, reasonable and sufficient.

Rates and facilities to be fair and sufficient.

Telegraph and telephone service.

That the rates, tolls, contracts and charges of telephone and telegraph companies for messages, conversations, services rendered and equipment and facilities supplied, whether such message, conversation or service to be performed be over one company or line or over or by two or more companies or lines, shall be fair, just, reasonable and sufficient and the service so to be rendered to any person, firm or corporation, by any telephone or telegraph company, shall be rendered and performed in a prompt, expeditious and efficient manner, and the facilities and equipment furnished by it shall be safe, kept in good condition and repair and its appliances and service shall be modern, sufficient and efficient: *Provided, however,* That nothing in this act contained shall authorize the establishing of any joint rate or rule respecting any telephone or telegraph service as to any business originating in any city or town in which each company to be affected by such

Joint telephone or telegraph rates.

joint rate or rule has transmitting offices, and the said railroad commission of Washington is hereby vested with power and authority, upon complaint made as herein-after provided or by inquiry upon its own motion, after a full hearing to make any findings declaring an existing rate, toll, contract or charge, or the absence of any rate, toll or charge, joint or otherwise for the transportation of persons or property, loaded or empty cars, the transmission of any message, conversation or service rendered, whether such rate charged be for a service rendered over one line of railroad, telephone or telegraph line, or over two or more lines of railroad, two or more telephone lines, or two or more telegraph lines, or any regulation or rule whatsoever affecting said rate or charge, or that the minimum carload weight or capacity of any commodity, or any rule or charge affecting demurrage or reciprocal demurrage, or the sufficiency of trackage, industrial and commercial spurs, railroad connections, sidings, equipment, facilities, train service, accommodation in the shape of waiting rooms for passengers and rooms for freight and baggage, or any rule or regulation concerning the quantity or character of baggage to be carried for each passenger, or the sufficiency and efficiency of any facilities or equipment used by any of such companies, to be unreasonable, insufficient, inefficient or unjustly discriminatory, and declare and order what shall be a just and reasonable rate, toll or charge, joint or otherwise, minimum carload weight or capacity, provided by the rules or tariffs of any railroad, practice, rule, regulation or thing to be charged, imposed, enforced, performed or followed in the future in place of that found to be unreasonable, insufficient, inefficient or unjustly discriminatory, to order that additional trackage, industrial and commercial spurs, sidings, equipment and facilities, be constructed and furnished, that railroad connections be made, or to make any findings declaring an existing rate, toll or charge, for the transportation of persons, property, messages, conversations, or service rendered, or any classification which has

Complaint.

May find rate or service unreasonable or insufficient.

May establish rates and rules.

Notice of hearing.

been the subject of inquiry, after notice duly given to be sufficiently remunerative to the railroad, express, telephone or telegraph company or to be reasonable, proper and sufficient, and to order that the same be not changed, altered, abrogated or discontinued either by changing the rate, tolls, charges, or classifications, without first obtaining the consent of the commission authorizing such change to be made. The order of the commission shall of its own force

Order in effect, when.

take effect and become effective twenty days after notice thereof has been given to the railroad, express, telephone or telegraph company, affected thereby. Said order shall be served on such railroad, express, telephone or telegraph company by delivery of a certified copy thereof under the seal of the commission, either to the attorney for the railroad, express, telephone or telegraph company, or the said company itself. Service of said order upon any officer upon whom summons in civil actions might be served shall be sufficient service thereof. Any railroad, express, telephone or telegraph company affected by the order of the commission and deeming it to be contrary to law, may institute proceedings in the superior court of the state of Washington, in the county in which the hearing before the commission upon the complaint had been held, and have such order reviewed and its reasonableness and lawfulness inquired into and determined. Pending such review, the court having jurisdiction may in its discretion, suspend the order of the commission until the further order of the court pending such litigation, in which event the court may require a bond with good and sufficient security, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums for transportation, transmission or service any person or corporation shall be compelled to pay pending the review proceedings, in excess of the sum such person or corporation would have been compelled to pay if the order of the commission had not been suspended. Said action of review shall be taken by

Service of order.

Order of commission reviewed.

the said railroad, express, telephone or telegraph company, affected thereby, within twenty days after notice of said order, and if said action of review is not taken within said time, then in all litigation thereafter arising between the state of Washington and the said railroad, express, telephone or telegraph company or private parties, and the said railroad, express, telephone or telegraph company, the said order shall be deemed final and conclusive. If however, said action in review is instituted within said time the said railroad, express, telephone or telegraph company shall have the right of appeal or to prosecute by other appropriate proceedings, from the judgment of the superior court to the supreme court of the State of Washington, as in other civil cases. In all such proceedings, however, bonds shall be required conditioned as hereinbefore provided in addition to the usual appeal bond. The action in review of such order, whether by writ of review or appeal or otherwise, shall be heard by the court without intervention of a jury and shall be heard and determined upon the evidence and exhibits introduced before the commission and certified to by it. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Time of appeal from commission.

Appeals to supreme court.

Case to be decided on record.

(a) The commission may at any time upon notice to the railroad, express, telephone or telegraph company, and after opportunity to be heard as provided in section 6 of this act, rescind, alter or amend any order fixing any rate or rates, tolls, fare, charges, or classifications or any other order made by the commission; and certified copies of the same shall be served and take effect as other orders of the commission.

(b) In case any order of the commission made as herein provided shall not be appealed from or reviewed within the time hereby provided, any railroad, express, telephone or telegraph company or other person or corporation, affected or aggrieved by any order of the commission, and being dissatisfied with any order of the commission fixing any rate or rates, tolls, fares, joint or

May amend order or rule.

Rehearing.

otherwise, or fixing a division of any joint rate, or being dissatisfied with any rates, tolls, fares, charges, classifications, or any order fixing any regulation, practice or service, may, after the expiration of six months after the taking effect of such order, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the promulgation of such order, or by showing a result from the effect of such order injuriously affecting the petitioner which was not considered or anticipated at the time of the former hearing, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing.

Order on rehearing.

Upon the filing of such petition proceedings shall be had thereon as are provided in this act for other hearings, and appeals may be prosecuted the same as provided for other orders of the commission: *Provided, however,* That no injunction or restraining order shall issue staying any order of the commission based on or by reason of such petition for rehearing, and no order of the commission on such rehearing shall affect any right of action or penalty accruing under such original order, unless so ordered by the commission. The commission may prohibit or regulate the running of a road engine backward on a regular run.

May prohibit engine running backward.

Joint rates apportioned.

SEC. 4. That section 4 of said act be and the same is hereby amended to read as follows: Sec. 4. That when the rate, fare or charge substituted or established by the commission, as hereinbefore provided, shall be a joint rate, and the railroad, express, telephone or telegraph companies parties thereto, fail to agree upon the apportionment or division thereof among themselves within ten days after notice of such order, the commission may issue a supplemental order, declaring the portion of such joint rate to be received by each railroad, express, telephone or telegraph company party thereto, which shall take effect

of its own force as part of the original order, and such supplemental orders shall be subject to review by the said superior court within the time and in the manner hereinbefore provided for the review of original orders of the commission.

SEC. 5. That section 5 of said act be and the same is hereby amended to read as follows: Sec. 5. That if any railroad, express, telephone or telegraph company, or any officer or agent thereof, bound thereby, shall refuse or neglect to obey or perform any order of the commission mentioned in this act, the commission may apply by petition to the superior court of this state, in any county in this state, in or through which the said railroad, express, telephone or telegraph company is doing business, to enforce obedience to its order by writ of injunction or other appropriate process, and in addition thereto, the offending party shall, for each day of the continuance of said refusal or neglect, be subject to a penalty of two hundred and fifty dollars, which, together with the cost of suit, shall be recoverable by the commission in an action instituted by it on the relation of the State of Washington, in the superior court of the State of Washington, in any county in this state, in or through which said railroad, express, telephone or telegraph company runs or does business.

Enforcement
of orders.

SEC. 6. That section 6 be and the same is hereby amended to read as follows: Sec. 6. When complaint is made to the commission in writing by any person, firm, corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural, or manufacturing society, or any body politic or municipal corporation in this state that any freight or passenger tariff, or any toll, rate or charge for any message, conversation or service rendered or that the absence of any tariff, toll, rate or charge, joint or otherwise, for the transportation of passengers, loaded or empty cars, messages, conversations or service, whether the same be over the line of one railroad, express, telephone or telegraph company or over

Grounds of
complaint.

the lines of two or more such companies, or trackage, industrial and commercial spurs, railroad connections, sidings, or charge for the storing and handling of freight, rates of charge for all kinds or classes of property, money, packages, paper or other things to be charged for and received by each railroad, express, telephone or telegraph company which by the contract of carriage are to be transported, transmitted, carried or forwarded by said railroad, express, telephone or telegraph company between points within the state, are unreasonable or unjustly discriminatory, or that service is not being promptly and expeditiously rendered or that its facilities and equipment are not safe, kept in good condition and repair or are not sufficient, modern and efficient or that any train service of railroads, whether freight or passenger or the amount of trackage, industrial or commercial spurs, or waiting rooms for passengers, or rooms for freight or baggage at any station, or the cars furnished by said road are insufficient or improper, or that the minimum carload weight or capacity of any commodity prescribed by the rules and tariffs of any railroad is unreasonable, the commission shall thereupon give to the railroad, express, telephone or telegraph company to be affected thereby, ten days' written notice of the time and place when and where such complaint will be heard and the said railroad, express, telephone or telegraph company shall be entitled to be heard at such time and place to the end that justice may be done and the commission shall issue process to enforce the attendance of all necessary witnesses. All process herein provided for shall be served as in civil cases; issues shall be made up without delay as nearly as practicable as in civil cases; such complaint shall be in the name of the commission and all railroad, express, telephone and telegraph companies and carriers interested shall be made parties to the hearing, and on such hearing all complaints made concerning any rates, tolls, or charges or absence of rates, tolls or charges, joint or otherwise, sufficiency of train service, trackage, railway connections, sidings, equip-

Notice of hearing.

Process, how served.

ment, facilities, rules and regulations or other matters upon which complaints may be founded, may be joined in one hearing and no motion shall be entertained against such complaint for misjoinder of complaints or grievances, or misjoinder of parties, it being the intention of this act to authorize said commission to inquire into all grievances whereof complaint may have been made, or by inquiry upon its own motion, at one hearing, and by one order and judgment, decide and adjust the same, and in any review in the courts of the orders of the commission, the same rule shall apply and pertain with regard to the joinder of complaints, and parties, as herein provided: *Provided*, All grievances to be inquired into whether by complaint made to the commission or by inquiry upon its own motion, shall be set out in the complaint, which shall be served upon the railroad, express, telephone or telegraph company, together with notice of the time and place of hearing.

Allegations
to be set out.

(a) The commission is hereby authorized and empowered to adopt, promulgate, and issue rules and regulations governing the bulletining of trains, showing the time of arrival and departure of all trains, and the probable time of arrival of delayed trains; the conditions to be contained in and become a part of contracts for transportation of freight and passengers, express packages, messages, conversations, and service to be rendered; the hours which station rooms and offices shall be kept open, rules governing demurrage, reciprocal demurrage, the delivery of messages, and generally such rules as pertain to the comfort and convenience of the public. Such rules and regulations shall be promulgated and issued by the commission on its own motion and shall be served on the railroad, express, telephone and telegraph companies affected thereby, as other orders of the commission are served. Any railroad, express, telephone or telegraph company affected thereby and deeming such rules and regulations improper, unjust or contrary to law, may within twenty days from the date of such service of such

Bulletin of
trains.

Depots.

order upon it file objections thereto with the commission specifying the particular grounds of such objection. The commission shall upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto as the evidence may justify. The commission shall have the power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings: *Provided*, No person desiring to be present at any such hearing shall be denied admission.

Hearings
public.

(b) The chairman and each of the commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to all official acts, and to issue subpoena for the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony. The superior court of the county in which any proceedings under this act may be instituted, shall have power to compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents and testimony as required by said subpoena. The said commission before which the testimony is to be given or produced, in case of the refusal of any witness to attend, or testify, or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner provided in this act, and that the fees and mileage of the witness has been paid or tendered to the witness for his attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before said commission, in the cause or proceeding named in the notice and subpoena, and ask an order of the said court, compelling the witness to attend to and testify before the said commission; the court upon the petition of the commission shall enter an order directing the witness to appear before the said court,

Powers of
commissioner.

Superior
court to
compel at-
tendance of
witness.

at a time and place to be fixed by the court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by said commission, the court shall thereupon enter an order that said witness appear before said commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court. In all proceedings before the commission the commission shall have the right in their discretion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the commission.

(c) In case the decision or order of the commission concerning any freight or passenger tariff, rate, toll, or charge for the transportation of loaded or empty cars, transmission of messages or conversations, whether the same be over the line of one of such companies, or over the lines of two or more of such companies, fixing the minimum carload weight or capacity of any commodity, or for demurrage or reciprocal demurrage, or charge for the storing or handling of freight, rates of charge for any kind or class of property, money, packages, papers or other things to be charged for or received by any railroad, express, telephone or telegraph company inquired into by the commission on the written complaint of any person or number of persons shall be unsatisfactory to any of the persons so making written complaint, upon any matter embraced in such written complaint, such dissatisfied party shall have the right of appeal from the order of the commission to the superior court of the State of Washington in the county in which the hearing before the commissioners had been held. Said appeal shall be taken by serving on the commission or filing with it a notice of appeal specifying the order or portion of the order appealed from within twenty days from the rendition of such decision and the execution and filing within said time

Complainants
may appeal.

of a bond in the sum of one hundred dollars conditioned to pay the costs of such appeal, which bond shall go to the State of Washington. Upon receipt of such notice and bond the commission shall notify all persons interested in the subject matter of said appeal being taken. On said appeal the order or portion of order appealed from shall be tried by the superior court without the intervention of a jury and shall be heard and determined upon the evidence and exhibits introduced before the commission and certified to by it, and the said court shall render such decision concerning the matter complained of as the justice of the case may require.

SEC. 7. That section 7 of said act be and the same is hereby amended to read as follows: Sec. 7. In all actions between private parties and railroads, express, telephone and telegraph companies brought under this law, and in all actions for the enforcement of penalties provided for in this act, the rates, charges, classifications and orders prescribed by the commission as hereinbefore provided, shall be held conclusive, and deemed and accepted to be fair and just, unless such order be suspended by the order of the court as hereinbefore provided; but in every such action any judgment averse to the railroad, express, telephone or telegraph companies rendered after the commission has determined the rate, charge, classification or order, and while same is pending on writ of review or appeal, and prior to the final determination of such action under section 3 of this act determining the reasonableness of such rate, charge, classification or order, shall be provisional only, and enforcement thereof and process thereunder, shall be stayed pending the final determination of such writ of review or appeal. Upon final determination of such writ of review or appeal, if the judgment therein be in favor of the rate, toll, charge, classification or order prescribed by the commission, the judgment theretofore provisional, shall thereupon become absolute, but if the determination be against the rate, charge, classification or order prescribed by the commission, in such event the

Rates fixed by
commission
not subject
to collateral
attack.

judgment theretofore provisional, shall be set aside or modified by the court to meet the final determination thereof.

SEC. 8. That section 8 of said act be and the same is hereby amended to read as follows: Sec. 8. That whenever the commission under section 3 of this act, has determined any rate, regulation, order, classification or charge, in any appeal or writ of review brought by a railroad, express, telephone or telegraph company to determine the reasonableness of such rate, regulation, order, classification or charge, the burden of proof shall be upon said railroad, express, telephone or telegraph company to establish that such rate, regulation, order, classification or charge, established by the commission is unreasonable or unjustly discriminatory or insufficient.

Presumption
in favor of
rate fixed by
commission.

SEC. 9. That section 9 of said act be and the same is hereby amended to read as follows: Sec. 9. The superior court of the State of Washington, in any county in or through which the said railroad, express, telephone or telegraph companies are doing business shall have jurisdiction to enforce by proper decree, injunction or orders, the rates, classifications, rulings, orders and regulations made or established by the commission. The proceeding therefor shall be by equitable action in the name of the state and shall be instituted by the attorney general whenever advised by the commission that any railroad, express, telephone or telegraph company or person operating a line of railways, express, telephone or telegraph companies in the state is violating or refusing to comply with any rule, order, rate, classification or regulation made by the commission and applicable to such railway, express, telephone or telegraph company. It shall be the duty of the superior court in which such action is pending to require the issues therein to be promptly made up, and to give the same precedence over all other civil business of a different nature. If in such action the court finds that the said defendant has failed, without sufficient cause, to comply with the rule, regulation, order,

Superior
courts to en-
force orders
of com-
mission.

Contempt.

rate or classification so made and established, the court shall decree a mandatory injunction compelling obedience to and compliance with the rule, rate, order, regulation or classification by the defendant and its officers, agents, servants and employes, and may grant such other relief as may be deemed just and proper. Any violation of such decree shall render the defendant and every officer, agent, servant and employe of the defendant who is in any manner instrumental in such violation, guilty of contempt, and upon conviction thereof shall be fined in a sum not exceeding one thousand (\$1,000) dollars for each offense, or may imprison the person guilty of contempt until he shall sufficiently purge himself therefrom, and such decree shall continue and remain in effect and be in force until the rule, order, regulation, rate or classification shall be modified or vacated by the commission, but the defendant railroad, express, telephone or telegraph company may thereafter petition the commission for and obtain a modification of the decree by reason of any change of circumstances occurring after the decree such as to render the rule, order, regulation, rate or classification involved unreasonable or unjust. An appeal within the same time as other actions, shall be allowed to the supreme court from the decree of such actions, and the cause shall have precedence over all other civil actions of a different nature pending in the supreme court.

Schedule of rates to be furnished commission.

SEC. 10. That section 10 of said act be and the same is hereby amended to read as follows: Sec. 10. Each railroad, express, telephone or telegraph company shall, within thirty days after this act shall take effect, furnish to the commission a complete schedule of all rates, rules, orders, classifications or regulations then in force by it between all points in this state, and shall keep at each station, depot or office a copy thereof for inspection by all interested persons, during business hours, and thereafter shall note thereon any changes that may be made therein within ten days after such change shall be made.

SEC. 11. That section 11 of said act be and the same is hereby amended to read as follows: Sec. 11. The commissioners or either of them, or such person as they may employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad, express, telephone or telegraph company and to examine under oath any officer, agent or employe of such railroad, express, telephone or telegraph company, in relation to the business and affairs of the same. If any railroad, express, telephone or telegraph company shall refuse to permit the commissioners, or either of them, or any person authorized by them, to examine its books and papers, such railroad, express, telephone or telegraph company shall, for each offense, pay to the State of Washington not less than one hundred twenty-five dollars nor more than five hundred dollars 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, from said commission, to make such inspection.

Inspection of books and records by commissioners.

Penalty for refusal to permit inspection.

(a) Any officer, agent or employe of any railroad, express, telephone or telegraph company who shall, upon proper demand, fail or refuse to exhibit to the commissioners, or either or any of them, or any person authorized to investigate the same, any book or paper of such railroad, express, telephone or telegraph company which is in the possession of, 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 one hundred twenty-five dollars and not to exceed five hundred dollars, or shall be imprisoned in the county jail not to exceed six months, or both such fine and imprisonment: *Provided*, That nothing in this act contained shall apply to the production or inspection of the contents of any telephone or telegraph message.

SEC. 12. That section 12 of said act be and the same is hereby amended to read as follows: Sec. 12. The com-

mission shall ascertain as early as practicable the original cost of construction and equipment, the amount expended in permanent improvements and the proportionate amount of such permanent improvements charged to construction, and to operating expenses respectively, the present as compared with the original cost of construction, and the cost of reproducing in its present condition each mile of railway in the state.

It shall also ascertain the amount and present market value of the capital stock and funded indebtedness of every railroad, express, telephone and telegraph line operating in this state.

It shall also ascertain the relative value of the use to which each railroad, express, telephone and telegraph company operating in this state is actually put in the carrying of intrastate and interstate business respectively.

It shall also ascertain the total market value of the line, equipment and property of each railroad, express, telephone and telegraph company operating in this state used for the public convenience within the state.

It shall also ascertain the time intervening between the expenditure of money in the cost of construction and the time when returns in the shape of dividends were first received by each of said companies.

It shall also ascertain the probable earning capacity of each railroad, express, telephone and telegraph company upon intrastate business under the rates now charged by such companies and the sum required to meet fixed charges and operating expenses on intrastate business by each of said companies.

It shall also ascertain the relative proportion of intrastate and interstate business, the relative proportion of the operating expenses connected therewith, and the relative proportion of the revenue which should be derived therefrom.

It shall also ascertain the density of intrastate traffic and the conditions which will tend to show whether such traffic is likely to continue, increase or diminish.

It shall also ascertain the density of population along

Cost of construction.

Value of capital stock.

Value of use.

Value of all property.

Earning capacity.

Intra and interstate business.

Population.

the line of each railroad, express, telephone and telegraph company within the state.

It shall also ascertain the existence of grades, curvatures and other physical conditions affecting the movement of traffic and business.

It shall also ascertain whether the expenditures already made in the construction and equipment of each railroad, express, telephone and telegraph line were such as were justified by the then existing conditions and such as might reasonably be expected in the immediate future.

Justifiable expenditures.

It shall also ascertain whether the money expended by each railroad, express, telephone and telegraph company is reasonable for present needs of the company and for such as may reasonably be expected in the immediate future.

It is, however, provided that it shall be discretionary with the commission to ascertain the whole or any part or parts of the matters and things above designated in this section at such time or times and in such order as to them may seem best.

When findings shall be made.

The commission is hereby authorized to cause a hearing or hearings to be held at such time or times and place or places as the commission may designate for the purpose of ascertaining the matters and things provided for in this section.

Time and place of hearings.

The commission shall before any hearing is had as to any railroad, express, telephone or telegraph company notify the company concerned of the time and place of such hearing, by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of such railroad, express, telephone or telegraph line within this state, which shall be a sufficient complaint to authorize the commission to inquire into the matters designated in this section as to such railroad, express, telephone and telegraph company.

Notice of hearing on value.

All railroad, express, telephone and telegraph companies concerned shall be entitled to be heard and introduce evidence at such hearing. The evidence introduced at

Evidence.

such hearing shall be reduced to writing and certified to by the commission under its seal of office.

Findings.

The commission shall make and render findings of fact in writing covering all matters in this section mentioned concerning which it is directed to inquire into, and shall make findings upon all matters concerning which evidence may have been introduced before it which shall tend to show the value of the property used by the railroad, express, telephone and telegraph companies for the public convenience.

Review of findings on same evidence.

Any railroad, express, telephone or telegraph company affected by the findings, or any of them, and considering itself aggrieved by the findings of the commission, or believing such findings, or any of them, to be contrary to the law or the evidence introduced, or that such findings are unfair, unwarranted or unjust, may institute proceedings in the superior court of the State of Washington in the county in which said hearing has been held, or, if held in more than one county, then in the county in which said hearing was commenced, and have such findings, or any of them, reviewed, and their correctness, reasonableness, and lawfulness inquired into and determined. Such review shall be heard by the court without the intervention of a jury and shall be heard upon the evidence and exhibits taken before the commission and certified to by it; and the court before which such hearing is had, in case it finds any such findings so sought to be reviewed unjust, incorrect, unreasonable, unlawful or not supported by the evidence, shall make new and correct findings to take the place of such as may not be sustained, unless such findings are set aside and reversed for error on the part of the commission in rejecting evidence properly proffered, in which case it shall remand said hearing to the commission with instructions to receive the evidence so proffered and rejected and make findings of fact on the evidence so proffered and that already received.

Appeals to supreme court.

Said railroad, express, telephone or telegraph company or the commission shall have the right to appeal or to prosecute by other appropriate proceedings from the su-

perior court to the supreme court of the State of Washington as in civil cases. In case the supreme court finds any findings so sought to be reviewed unjust, incorrect, unlawful or unreasonable, or not supported by the evidence, it shall either make and render proper findings or remand the same to the superior court with instructions to make proper findings on the evidence already submitted, unless the same is reversed for error in rejecting evidence properly proffered, in which case the hearing shall be remanded to the commission with instructions to receive the evidence so proffered and make findings on the evidence so proffered and rejected and that already received.

The findings of the commission so filed, or as the same may be corrected by the courts, when properly certified under the seal of the commission shall be admissible in evidence in any proceeding or hearing in which the public and the railroad, express, telephone or telegraph company affected thereby is interested, and such findings when so introduced, shall be conclusive evidence of the facts stated in such finding or findings as of the date of filing under conditions then existing, and such facts can only be controverted or contradicted by showing a subsequent change in conditions bearing upon the facts therein determined.

Findings conclusive evidence in collateral proceedings.

The commission shall also ascertain the amount paid for salaries to the officers of the railroads, express, telephone or telegraph companies, and the wages paid employes.

For the purpose of this section named the commission may employ sworn experts to inspect the books, papers, documents, contracts, reports of officers and agents, and any other documents or copies thereof, in the possession of the railroad, express, telephone or telegraph companies which will tend to show the expenditure of moneys in the cost of construction and equipment or the present value of such property; said information shall be printed from time to time in the annual reports of the commission; and all railroads now or hereafter constructed shall on demand furnish the commission profiles of its lines in this

Experts.

state in such form and according to such specifications as the commission shall direct.

Itemized
statement of
cost of con-
struction.

Any railroad, express, telephone or telegraph companies hereafter constructing any line, extension or siding in this state shall file with the commission an itemized statement showing the money expended in such construction, extension or siding in such form as the commission may prescribe. All railroads, express, telephone and telegraph companies doing business in this state shall also furnish the commission with an itemized statement in such form as the commission shall prescribe, showing any and all moneys expended by them in the purchase of equipment, and showing the cost of improvements and betterments in this state.

Further
hearings.

The commission shall hereafter, from time to time, cause further hearings to be had for the purpose of ascertaining the betterments, improvements, additions and extensions made by any such railroad, express, telephone or telegraph company since the date of any prior hearing and shall examine into all traffic movement and every matter and thing that would change, modify or affect any finding of fact previously made, and shall at such time make findings of fact supplemental to those theretofore made showing the amount expended in betterments, improvements, extensions and additions since such prior findings and the cost of reproducing the same, the value of the property used by such company at the time of such hearing, the relative value of the use to which such property is put in the performance of intrastate and interstate business respectively, the value of the property of such company in the state used for the public convenience of intrastate business. Such hearing shall be had upon the same notice, the examination conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings: *Provided*, The findings made at such supplemental hearing shall be considered in connection with and as a part of the original findings except

in so far as such supplemental findings shall change or modify the findings made at the original hearing.

SEC. 13. That section 13 of said act be and the same is hereby amended to read as follows: Sec. 13. The said commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroad, express, telephone or telegraph companies and as often as it may be necessary furnish said blanks to each railroad, express, telephone and telegraph company. Any railroad, express, telephone or telegraph 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 proper officers of said company, shall be returned to said commission at its office within thirty days from the receipt thereof. The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by the companies subject to the provisions of this act, whose line or lines extend beyond the limits of this state which are operated partly within and partly without this state so that the same shall show any information required by the commission concerning the movement of traffic as well as the receipts and expenditures appertaining to those parts of such line which are subject to the provisions of this act. All interstate tariffs affecting traffic over the lines in the State of Washington shall be filed with the commission. The commission shall at all times have access to all accounts, records, and memoranda kept by the carriers subject to this act. In case of refusal on the part of any such railroad, express, telephone or telegraph company, receiver or trustee to keep such accounts, record and memoranda on the books and in the manner prescribed aforesaid by the commissioners, or upon proper demand to submit such accounts, records, and memoranda as are kept to the inspection of the commission or any of its authorized agents or examiners, such railroad, express, telephone

Blanks.

Accounts of carriers to be kept.

or telegraph company, receiver or trustee shall forfeit to the State of Washington the sum of \$500.00 for each such offense, and for each and every day of the continuance of such offense, such penalty or forfeiture to be recoverable in the same manner as other forfeitures provided for in this act.

Refusal to report.

(a) If any officer or employe of a railroad, express, telephone or telegraph company shall wilfully fail or refuse to fill out and return any blanks as above required, or wilfully refuse or fail to answer any question therein propounded, or fails to keep his books and accounts as herein provided or give a false answer to any such questions, where the fact inquired for 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 a sum not to exceed five hundred dollars, 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 directions, permission, or request in his failure, evasion or refusal.

Penalty.

Annual report.

(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.

Commission shall investigate freight rates.

(c) The said commission shall have power, and it is hereby made its duty, to investigate all through freight rates on railroad and express companies in Washington; 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 commission, the officials of the railroads or the express companies are to be notified of the facts, and requested to re-

duce 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.

(d) The commission may require from any railroad, express, telephone or telegraph company doing business in this state the production within this state, at such time and place as it may designate, any books, papers or accounts kept by said railroad in any office or place without the State of Washington, or certified copies in lieu thereof may be made by the commission, or under its direction.

Records to
be produced.

Such demand shall be served upon the railroad, express, telephone or telegraph company in the manner that orders and complaints are served on corporations under the provisions of the act establishing the railroad commission. Any railroad, express, telephone or telegraph company failing or refusing to comply with any such order shall, for each day it shall without good cause so fail or refuse, forfeit and pay the State of Washington a sum of not less than one hundred dollars nor more than five hundred dollars, to be recovered as other penalties are recovered under said act.

SEC. 14. That section 14 of said act be and the same is hereby amended to read as follows: Sec. 14. Each witness who shall appear before the commission by order of the commission, shall receive for his attendance three dollars per day and five cents per mile traveled by the nearest practicable route in going and returning from the place of meeting of said commission; said fees and mileage shall be paid as other accounts, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission: *Provided*, That no witness shall be entitled to any fees or mileage from the State of Washington when summoned at the instance of the railroad, express, telephone or telegraph companies. The claim by any witness that any testimony sought to [be] elicited may tend to incriminate the person giving it, shall not excuse said witness from testifying, but such evidence

Witness fees.

Depositions.

or testimony shall not be used against such person on the trial of any criminal proceedings excepting in a prosecution for perjury: *Provided*, The commission shall in all cases have the right to take depositions instead of compelling attendance of witnesses and to compel witnesses to attend and testify as upon a hearing before them. The sheriff or constable executing any process issued under the provisions of this act shall receive such compensation as may be allowed by the commission, not to exceed fees as now prescribed by law for similar services. The said commission shall have power to subpoena and compel the attendance of witnesses from any place within the state to attend upon said commission at its meetings at any place in the state.

Unjust discrimination.

SEC. 15. That section 15 of said act be and the same is hereby amended to read as follows: Sec. 15. If any railroad, express, telephone or telegraph company 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 services 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, express, telephone or telegraph company shall be deemed guilty of unjust discrimination, which is hereby prohibited.

Further defined.

(a) It shall also be unjust discrimination for any such railroad, express, telephone or telegraph company 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, message or conversation to any undue or unreasonable prejudice, delay or disadvantage in any respect whatever.

(b) Every railroad or express company which shall wilfully 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 wilfully 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 freight of all kinds and livestock shall have precedence of shipment. And every telephone or telegraph company who shall wilfully fail or refuse under such regulations as may be prescribed by the commission to receive, transmit and deliver without discrimination or unnecessary delay the message, conversations or service of any connecting telephone or telegraph company, and any telephone or telegraph company which shall under such regulations as may be prescribed by the commission, wilfully fail or refuse to receive, transmit and deliver without discrimination or unnecessary delay any message, conversation or service destined to any point on or over the line of any telephone or telegraph company, to such connecting company, shall be deemed guilty of unjust discrimination.

Carrier to transport without delay.

Perishable freight.

(c) It shall be unjust discrimination for any railroad, express, telephone or telegraph company subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers, messages or conversations, for a shorter than for a longer distance over the same line: *Provided*, That upon application to the commission any railroad, express, telephone or telegraph company 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, property, messages and conversations, and the commission shall from time to time prescribe the extent to which such designated railroad, express, telephone or telegraph company may be relieved from the operations of this provision: *Provided*, That no manifest injustice shall be imposed upon any citizen at intermediate points.

Long and short haul.

(d) Any railroad, express, telephone or telegraph company violating any provision of this section shall be deemed

Penalty. guilty of unjust discrimination and shall for each offense pay to the State of Washington a penalty of not less than one hundred dollars nor more than two thousand dollars.

Special privileges. (e) Nothing herein shall prevent the carriage, storage or handling of freight, messages or conversations free or at reduced rates for the state, or for any city, county or town government, or for charitable purposes, or to and from or in aid of 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 or reduced transportation to ministers of religion, or the inmates of hospitals, eleemosynary and charitable institutions, State National Guard or Militia when on official duty and students going to and returning from institutions of learning within the state; and nothing herein shall be construed to prevent railroads, telephone and telegraph companies from giving free transportation, message or conversation to any of its officers, agents, employes, attorneys, stockholders or directors, and to employes' families, and to ex-employes in search of employment and to injured employes and their families, and the families of employes killed in service: *Provided*, Such carriage may extend to employe's household goods and personal effects.

Live stock attendant. (f) Upon any shipment of live stock or other property of such nature as to require the care of an attendant the railroad company may furnish to the shipper or to some person or persons designated by him free transportation for such attendant or attendants, including return passage to the point at which the shipment originated: *Provided*, There shall be no discrimination with reference thereto between such shippers, and the commission shall have power to prescribe regulations in relation thereto.

Fraud. SEC. 16. That section 16 of said act be and the same is hereby amended to read as follows: Sec. 16. Any officer or agent of any railroad, express, telephone or telegraph company subject to this act, who by means of false billing, false weights, or by any other device, shall suffer or permit any person or persons to obtain transportation

for property or transmission of messages and conversations at less than regular rates then in force on such railroad, express, telephone or telegraph company, or who, by means of false billing, false classification, false weighing or by any device whatsoever shall charge any person, firm or corporation more for the transportation of property or transmissions of messages or conversations than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum not less than one hundred dollars nor more than one thousand dollars.

SEC. 17. That section 17 of said act be and the same is hereby amended to read as follows: Sec. 17. In case any railroad, express, telephone or telegraph company 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, the said railroad, express, telephone or telegraph company shall be liable to the person or persons, firm or corporation injured thereby for the damage sustained in consequence of such violation: *Provided, however,* That nothing in this act contained shall prevent a special contract providing for the mutual exchange of service from being entered into between any railroad company and any telegraph company where the telegraph line is along the railroad right-of-way and used by both such companies.

Company
liable in
damages.

SEC. 18. That section 18 of said act be and is hereby amended to read as follows: Sec. 18. If any railroad, express, telephone or telegraph company as aforesaid shall wilfully violate any other provisions of this act, or shall do any other act herein prohibited, or shall fail or refuse to comply with any and all lawful orders emanating from said railroad commission or any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay to the State of Washington a penalty of not more than two thousand dollars.

Punishment
not otherwise
provided for.

SEC. 19. That section 19 of said act be and the same is hereby amended to read as follows: Sec. 19. All of the

Penalties.
how recov-
ered.

penalties herein provided shall be recovered and suits therefor shall be brought in the name of the State of Washington, in the superior court of Thurston county, or in the superior court of any county in or through which said railroad, express, telephone or telegraph company may do business, by the attorney general or under his direction. 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.

Duty of
commission.

SEC. 20. That section 21 of said act be and is hereby amended to read as follows: Sec. 21. It is hereby made the duty of such commission to see that the provisions of this act, and all laws of this state concerning railroad, express, telephone and telegraph companies 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, express, telephone or telegraph company shall have precedence over all the other suits pending therein.

Terms
defined.

SEC. 21. That section 22 of said act be and the same is hereby amended to read as follows: Sec. 22. The term "road," "railroad," "railroad companies," "railroad corporations" as used herein shall be taken to mean and embrace all corporations, companies, individuals and associations of individuals, their lessees or receivers, owning or operating any railroad or part of railroad in this state: *Provided, however,* That the provisions of this act shall not apply to street railroads, and "express companies" shall mean all corporations, companies and association of individuals, their lessees or receivers as shall do the business of express companies on any railroad in this state.

"Demurrage."

"Demurrage" as used in this act shall be defined as a charge or penalty to be paid to a railroad by a shipper for

delay after a reasonable time in loading a car or cars delivered to him for loading by the railroad; or to be paid by a consignee for delay on his part to unload a car or cars, within a reasonable time after delivery to him.

“Reciprocal demurrage,” as used herein, shall be defined as a charge or penalty to be paid the shipper by the railroad company for delay in furnishing, after a reasonable time after demand, any car or cars or facilities for shipment of freight, or for delay by the railroad company in promptly transporting and delivering to the consignee any freight received by it for delivery. “Reciprocal demurrage.”

“Telephone company” and “telephone line,” as used herein, shall be taken to mean and embrace all corporations, companies, individuals and associations of individuals, their lessees or receivers, owning and operating any telephone system or part of such system in this state; and “telegraph companies” and “telegraph lines,” as used herein, shall be taken to mean and embrace all corporations, companies, individuals, association of individuals, their lessees or receivers, owning or operating any telegraph line or system or part of such line or system within this state. “Telephone company.”

SEC. 22. That section 27 of said act be and the same is hereby repealed:

SEC. 23. That section 31 of said act be and the same is hereby amended to read as follows: Sec. 31. It shall be unlawful for any railroad or railway corporation or company owning and operating, or that may hereafter own or operate, a railroad in whole or in part in this state to knowingly or negligently use or operate any car, tender or locomotive that is defective, or any car or locomotive upon which the machinery or attachments thereto belonging are in any manner defective, or to knowingly operate its train over any defective or dangerous track, bridge or structure. Defective equipment.

It shall be unlawful for any railroad or railway corporation or company owning or operating or that may hereafter own or operate a railroad in whole or in part in this state, to use or operate any switching engine that is not Switch engine, how equipped.

properly equipped with foot boards on both ends not less than seven nor more than ten inches from the top of the rail to the bottom of the footboard, such footboards to be of the same length as the beam to which they are fastened and not to be more than two inches or less than one and one-half inches in thickness, with a toe board at least five inches wide, or that is not equipped with proper grab irons or uncoupling levers placed in lieu of such grab irons, such uncoupling levers to be securely fastened, and such grab irons or uncoupling levers to be placed in such position that men may stand upright on the footboards, excepting in cases of emergency and then only by consent of the railroad commission first had and obtained, or that is not equipped with head lamp on each end; or to use or operate an engine which by reason of defective pipes, cocks, valves or other causes will permit the escape of steam in such volume as to obstruct the view of the engine-men operating such engine; or to operate or move past and beyond any divisional repair point, any equipment that has defective sill steps, couplers or grab irons or defective flanges: *Provided*, That the railroad company may operate defective equipment from any place other than a divisional repair point to the nearest divisional repair point: *And provided further*, That any railroad company having at any divisional repair point defective equipment, may, upon repairing such defective equipment so that no defect longer exists in the sill steps, couplers, grab irons and flanges, make up such defective equipment into solid trains of defective equipment and move such solid trains to the general repair shops of such railway company, for the purpose of being repaired, but such train shall not be so made up and shall not move unless there be a sufficient number of air brakes in good working order to hold said train upon any grade to be encountered.

Solid trains
of defective
cars.

SEC. 24. That section 32 of said act be and the same is hereby amended to read as follows: Sec. 32. That every railroad corporation owning or operating a railroad or part of a railroad in this state shall on or before the first day of January, 1908, equip and furnish all cars owned or

leased and used by it in its service in this state with automatic couplers, coupling automatically which can be coupled and uncoupled without the necessity of men going between the ends of cars, and shall equip, furnish and operate all cars in its passenger service, and not less than 80 per cent. of such cars in its freight service with perfectly acting air brakes, and also with good and sufficient hand brakes, and in such a manner as to enable the engineer under ordinary conditions to control the speed of the train without the use of hand brakes, and no freight train shall after such date be run by any such railroad corporation over any part of its road lying within the state, unless the cars composing such freight train are so furnished and equipped. All freight cars shall be equipped and provided with proper grab irons, ladders and stirrups, securely bolted on so as to enable the employes to climb upon and off such cars with safety: *Provided, however,* That this section shall not apply to boarding and outfit cars when moved as work trains, or to trains consisting wholly of logging trucks and a passenger car or caboose, or to freight trains consisting of not to exceed 50 per cent. logging trucks.

All locomotives used in moving passenger trains excepting those assigned strictly to daylight runs shall be equipped with an electric headlight of approved design and capacity and it shall be unlawful to operate any locomotive on a passenger train (excepting a helper attached to the rear of the train, or a locomotive assigned to a daylight run, or in case of emergency occurring by reason of accident to the regular passenger locomotive) not so equipped after September 1st, 1909, or any locomotive used in main line road service not so equipped after February 1st, 1911, except as permitted by the railroad commission of Washington so to do; all frogs, switches and guard-rails on all railroads shall be so adjusted, filled, blocked and securely guarded as to protect and prevent the feet of persons being caught therein.

Collisions to
be reported.

SEC. 25. That section 37 of said act be and the same is hereby amended to read as follows: Sec. 37. It shall be the duty of the general manager, superintendent or other proper officer of any railroad operating in this state to make to the Railroad Commission of Washington at its office a monthly report under oath of all collisions of trains, or where any train or part of a train accidentally leaves the track, and of all accidents which may occur to its passengers or employes while in the service of such road and actually on duty, which report shall state the nature and cause thereof and the circumstances connected therewith: *Provided, however,* That neither said report nor any part thereof shall be admitted as evidence or used for any purpose against such railroad so making such report in any suit or action for damages growing out of any matter mentioned in said report; that the Railroad Commission of the State of Washington is hereby authorized to prescribe for such railroad a method and form for making the report in this section provided. And it is made the duty of the divisional superintendent or any other officer in charge of every operating division of any railroad within the state to notify the Railroad Commission at its office in Olympia by wire, of all accidents on such division resulting in death or injury to any passenger, employe or other person, immediately upon being informed of such accident.

Agent guilty,
penalty.

SEC. 26. That section 38 of said act be and the same is hereby amended to read as follows: Sec. 38. Any railroad divisional superintendent, agent, officer or employe of any railroad, or any agent, officer or employe of any express, telephone or telegraph company operating in this state who shall wilfully and knowingly violate any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding five hundred dollars.

Stop trains
before cross-
ing other
tracks.

SEC. 27. That said act be and the same is hereby amended by adding the following section to be known as section 40: Sec. 40. All railroads operating in this state shall cause their trains to come to a full stop at a distance not greater than five hundred feet, before crossing the

tracks of another railroad, crossing at grade, excepting at crossings where there are established and maintained signal towers, signalmen or gates. Any engineer in charge of any train violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars.

Passed by the Senate February 25, 1909.

Passed by the House March 5, 1909.

Approved March 11, 1909.

CHAPTER 94.

[H. B. 309.]

ADDITIONAL JUDGE FOR CHEHALIS COUNTY.

AN ACT providing for two judges of the superior court of the State of Washington, in and for Chehalis county, and fixing the term of office of the additional judge appointed, and providing for the election of a judge at the general election in November, 1910, and providing for the election of two judges at the general election in November, 1912, and every four years thereafter.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That hereafter there shall be two judges Two judges. of the superior court of the State of Washington, in and for Chehalis county.

SEC. 2. The Governor shall upon the taking effect of this act appoint one additional judge for the said superior court, who shall hold his office from the time of his appointment until his successor is elected and qualified, which said successor shall be elected at the general election in November, 1910. One appointed.

SEC. 3. That at the general election in November, 1912, there shall be elected two judges of the superior court of the State of Washington for Chehalis county, whose term of office shall be four years from the second Monday in January, 1913, and every four years thereafter there shall Two elected when.