

CHAPTER XXVI.

AN ACT CREATING A BOARD OF RAILROAD COMMISSIONERS, DEFINING THEIR DUTIES, AND PROVIDING FOR THE ESTABLISHMENT OF MAXIMUM RATES FOR [THE] TRANSPORTATION OF PASSENGERS AND FREIGHT UPON THE RAILROADS OF THIS STATE, AND TO PREVENT EXTORTION AND UNJUST DISCRIMINATION OF RAILROAD CORPORATIONS OR THEIR EMPLOYEES, AND TO PRESCRIBE A MODE OF PROCEDURE AND RULES OF EVIDENCE IN RELATION THERETO.

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

Creation of
board of railroad
commissioners.

SECTION 1. There is hereby created a board of railroad commissioners, to consist of three suitable persons, citizens of the state of Minnesota, no one of whom is a stockholder, trustee, assignee, lessee, agent or employee of any railroad corporation, to be appointed by the governor—by and with the advice and consent of the Senate—who shall hold their office for the period of two years, and until their successors are appointed and qualified; such commissioners shall take the customary oath of office, and shall severally enter into bonds with security, to be approved by the governor, in the sum of twenty thousand dollars, conditioned for the faithful performance of their duties as such commissioners. They shall hold their office in the state capitol at St. Paul. The governor may remove from office any member of the said board, whenever it appears to him by competent evidence that said officer has been guilty of malfeasance or nonfeasance of his official duties; and the governor may fill any vacancy arising from any cause in said board.

Compensation.

SEC. 2. Each of said commissioners shall receive for his services as compensation the sum of three thousand dollars per annum, to be paid as the salaries of other officers are paid. They shall be furnished office furniture and stationery at the expense of the state, and shall have power to appoint a secretary to perform such duties as they shall assign to him, who shall receive for his services a sum not exceeding twelve hundred dollars per annum.

SEC. 3. The said commissioners shall be in session at all times for the performance of their duties under this act. The decision of a majority of the said commissioners upon any matter shall be the decision of the board; a majority of such board shall constitute a quorum for all purposes, and they shall keep a record of all their proceedings. Such commissioners shall, on or before the first day of December in each year, and oftener, if required by the governor so to do, make a report to the governor of their doings for the preceding year, containing such facts, statements and explanations as will disclose the actual workings of the system of railroad transportation in its bearings upon the business of the state, and such suggestions in relation thereto as may to them seem appropriate. They shall also, at such times as the governor may direct, examine any particular subject relative to the condition and management of such railroads, and report to him in writing their opinion thereon, with the reasons therefor.

What to constitute a quorum for the transaction of business—to make report.

SEC. 4. Said board of railroad commissioners shall have power to employ railroad experts; to examine the property books, records, accounts, papers and proceedings of all railroad companies; to issue subpoenas for the attendance of witnesses, and to administer oaths, and take testimony; and the attendance of witnesses and production of evidence, may be enforced as now provided for by law in causes before referees, and any court or officer authorized by law to issue subpoenas, shall, when ever requested by said board of commissioners, issue subpoenas requiring the parties therein named to appear before such board of railroad commissioners and testify, and any disobedience of such subpoena, or refusal to appear and testify thereunto, shall be regarded as a contempt of the court issuing the same, and punished by said court as a contempt. Whenever it shall come to the knowledge of said board of commissioners, or they shall have reason to believe that the laws of this state have been or are being violated by any railroad corporations, they shall, whenever in their judgment the public interest shall require, cause to be prosecuted all corporations or persons guilty of such violations, and to this end require the assistance of the attorney general or any county attorney, or other county officer, as may be needed to institute or prosecute any or all such proceedings. Whenever it shall be necessary to enable said commissioners efficiently to perform their duties under this act, for such commis-

Power of board

Allowed necessary travelling expenses.

sioners or any one of them, to visit any point in this state, such commissioners shall be allowed their necessary expenses.

To make schedule of maximum rates and charges for freight and passengers.

SEC. 5. The board of railroad commissioners provided for in this act is hereby directed to make for each of the railroad corporations doing business within this state, on or before the first day of August, Anno Domini one thousand eight hundred and seventy-four, a schedule of reasonable maximum rates of charges for any and all distances, for the transportation of freight of all kinds and quantities, and passengers and cars on each of said railroads, as well as reasonable maximum rates for receiving, handling and delivering freights and cars received by them for transportation.

Schedule to be taken and deemed as evidence that the rates are reasonable maximum rates.

SEC. 6. Said schedule, or a printed copy thereof, when certified as hereinafter provided, shall in all actions brought against any such railroad corporation wherein is in any way involved the charges of any such railroad corporation for the transportation of any passenger, or freight, or cars, or for receiving, handling or delivering freights, or cars, or any unjust discriminations in relation thereto, be deemed and taken in all courts of this state, as prima facie evidence that the rates therein fixed are reasonable maximum rates of charges for the transportation of passengers and freights and cars, and for receiving, handling or delivering freights and cars upon the railroads for which such schedules may have been respectively prepared.

Authorized to revise schedule and in case of change to be promulgated.

SEC. 7. Said board of railroad commissioners shall from time to time, and as often as circumstances may require, change and revise said schedules. When said schedules shall have been made, changed or revised as aforesaid, it shall be the duty of said board to cause publication thereof to be made once a week for three successive weeks in two weekly newspapers printed and published in the city of St. Paul, in this state. A printed copy of any such schedule, together with the certificate of the railroad commissioners of the state that the same is a copy of the schedule by such board made of reasonable maximum rates of charges for the transportation of passengers and freight and cars by any such railroad corporation, or for receiving, handling or delivering freights or cars, (naming it) and that the same has been printed and published as provided by the provisions of this act, (naming the title of this act) shall entitle such copy to be

read as evidence in all courts of this state upon the trial of any action arising under the provisions of this act.

SEC. 8. If any such railroad corporation shall make any unjust discrimination in its rates or charges of toll or compensation for the transportation of passengers or freight of the same class, or for the use and transportation of any railroad car upon its said road, or upon any of the branches thereof, or upon any railroads connected therewith which it has the right, license or permission to operate, control or use within this state, or in furnishing facilities for the loading, unloading, handling or transporting of freights, or shall make any unjust discrimination whatever against any person or persons, town, village, city or station in this state, the same shall be deemed guilty of having violated the provisions of this act, and upon conviction thereof shall be dealt with as hereinafter provided.

Unjust discriminations deemed a violation of law.

SEC. 9. 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, the same or 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 like quantity than it shall at the same time charge, collect, or receive at any 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 of toll or compensation than shall at the same time be charged, collected or received by it for the transportation of any passenger and 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 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

What deemed unjust discriminations.

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, the same or a greater amount of toll or compensation than is at the time charged, collected or received from any other person or persons for the use and transportation of any railroad cars 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 rate of toll or compensation 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 or number, for the like purpose, being transported from the same point, in the same direction, over an equal distance of the same railroad, or in furnishing facilities for loading, unloading, handling or transporting freights, all such discriminating acts, 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 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 a justification of such unjust discriminations on the part of such railroad corporation that the railway station or point at which it shall have charged, collected or received the same or less rates of toll or compensation 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 there 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 or 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,

Applicable to all
railroads and
branches within
this state.

license or permission to use, operate or control wholly or in part in this state. *Provided, however,* That nothing herein contained shall be so construed as to prevent railroad corporations from issuing commutation, excursion or one thousand mile tickets as the same are now issued by such corporations.

And provided further, that nothing herein contained shall be construed to prevent any such railroad corporation from charging and collecting such a terminal charge for the receiving, handling, shipping and delivering of any freight to be transported, or which has been transported over a less portion of its line than the whole thereof, as may be fixed and prescribed by the board of railroad commissioners, in the schedule made as aforesaid. The said terminal charge not to exceed forty cents per ton on all kinds of grain and products of grain, lumber, coal, salt and wood, and also provided that nothing in this act shall be construed to prevent any railroad corporation from transporting any kind of agricultural products, grain, flour or coal, shipped from any point in any state south or west of this state, to any point within this state, at uniform rates, less than the established local rates between points within this state, nor to prevent any railroad corporation from transporting lumber from any point within this state, at uniform rates, consigned and to be transported in good faith to a point without this state, not less than twenty-five miles from the line of the state by said line of railroad at less than the established local rates between points within this state.

Rate of terminal charge.

SEC. 10. It shall be the duty of any such railroad corporation, when within their power to do so, to furnish suitable cars to any and all persons for the transportation of any and all kinds of freight when requested so to do, and to receive freight of any and all kinds and to transport the same with all reasonable dispatch, and to provide suitable facilities for receiving and handling the same at any depot, station or junction, on the line of its railroad.

To receive and transport all kinds of freight.

SEC. 11. At all points and places in this state, where two or more lines of railway intersect or terminate, the railroad corporations respectively owning or operating such lines, shall cause suitable junctions of all lines to be made and established, within six months after the passage of this act, so that cars can be transferred with facility from any one to any other of such intersecting or terminating lines. Any such junction hereafter made, or

At crossings of two or more lines suitable junctions to be maintained for transfers.

which has been heretofore made, shall be perpetually maintained for the purpose of such transfer of cars; and the expense of establishing and maintaining the same shall be borne by the owners or operators of the several lines so joined on equitable terms, and in case of disagreement between any such roads, as to such equitable terms, then on such terms as may be determined by the board of railroad commissioners

In case of two or more terminal lines intersect, to maintain and construct suitable switches, platforms, &c.

Transfers from one line to the other to be made without unnecessary delay.

SEC. 12. At all points and places within this state, where two or more lines of railway intersect or terminate, the railroad corporations respectively owning or operating such lines shall, within six months after the passage of this act, construct and maintain suitable switches, platforms and sidings, by which property laden on cars upon any one of such intersecting or terminating lines, may be transferred directly and with facility to cars upon any other of such intersecting or terminating lines. And when any property transported over any one of such intersecting or terminating lines, is consigned to any point upon any other of such intersecting or terminating lines, it shall be the duty of the operator of the former of such lines, to deliver, without unnecessary delay, all such property, and of the operator of the latter of such lines thereupon to receive the same, directly on board the cars of such latter line, and for that purpose it shall be the duty of the operators of such lines, at the request of either of them, or of the shipper or consignee of such property, to place the cars from which such property is to be discharged, and the cars upon which the same is to be laden, directly along side of each other, at some proper place, upon suitable switches or sidings, established for that purpose as hereinbefore provided, and to furnish suitable facilities for the transportation of freight from the one line to the other. And it shall be the duty of any person, copartnership, association, company or corporation, owning or operating any line of railway within this state, to haul over such line, any freight or platform car or cars, whether laden or unladen, belonging to any other person, copartnership, company, association or corporation, which may be offered for such haulage, to and from such points upon such line, as the parties offering such car or cars for haulage may desire. And any such car or cars so offered for haulage, shall be forwarded by the operator of such line, to the place of the destination thereof upon such line, and delivered to the con-

signee thereof, or to the operator of any connecting line of railway over which the same are to pass, without any unreasonable or unnecessary delay.

SEC. 13. Any person, copartnership, association, company or corporation, owning or operating any elevator, warehouse, lumber yard, coal yard, wood yard, mill or manufactory, located on or near any railroad in this state, shall have the right to construct a track for the passage of cars from the same to any proper point for such purpose, upon such line of railroad, and to make proper connection with such line, so that the cars may be with facility passed from such track to such line and from such line to such track; and shall have the right at all proper times, and in a proper manner, to pass cars, which have been hauled over such line, to and from said track and line, as the case may be. And the railroad company shall be required to deliver upon such side track, cars, or car loads consigned thereto, and to and from the same, cars or car loads for transportation, at the same rates charged by the corporation to and from any other depot or side track in the same town, village, city or locality. For the purpose of making and maintaining such track and connection, the party making the same shall pay the owner or operator of such line of railway, in the form of an annual rent, such compensation as such privilege may be reasonably worth, (to be fixed by said board of railroad commissioners where parties cannot agree) which may be demanded for the period of one year in advance; and shall in no case cause delay to any train on such road or unreasonable detention to cars for the purpose of such side track; such track and connection shall be and remain under the supervision and control of the owner or operator of such line of railway, so far as may be necessary to prevent any danger or inconvenience in the operation of the train.

Owners of warehouses, &c., authorized to build side tracks or connecting tracks.

Owners of warehouses, &c., to compensate railroad for use of track.

SEC. 14. The term "car load," contained in this act shall be deemed and taken to mean twenty thousand pounds. The term "railroad corporation," contained in this act, shall be deemed and taken to mean all corporations, companies, individuals or associations of individuals now owning or operating, or which may hereafter own or operate any railroad in 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

Defines certain terms.

as common carriers on any of the lines of railroads in this state, (street railways excepted) the same as the corporations hereinbefore mentioned.

How suits may be brought for violation.

SEC. 15. If any such railroad corporation shall, in violation of any of the provisions of this act, ask, take, demand, charge, collect or receive of any person or corporation an unreasonable amount or sum of money for the transportation of any passengers, goods, merchandise or property, or for receiving, handling or delivering freights, or shall make any unjust discrimination against any person or corporation, or any town, village or city, or shall violate any of the provisions of this act, the person, or corporation, or town, village or city so offended against, may, for each offense, recover of such railroad corporation in a civil action, in any court having jurisdiction of the amount claimed, three times the amount of the damages sustained by the party aggrieved, together with the costs and a reasonable attorney's fee, to be fixed by the court when the same is heard on appeal or otherwise, and taxed as a part of the costs of the case.

Penalty for violation.

SEC. 16. Any such railroad corporation guilty of extortion or of 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, or of violating any of the provisions of this act, shall, upon conviction thereof, be fined in any sum not less than one thousand dollars for the first offense, and for the second and each subsequent offense not less than two thousand dollars nor more than five thousand dollars; *Provided*, That in all cases under this act, either party shall have the right of trial by jury.

How fines to be recovered.

SEC. 17. The fines mentioned in the last preceding section may be recovered in a civil action in the name of the state of Minnesota, and there may be several causes of action joined in the same complaint, as to extortion and unjust discrimination, and as to passenger and freight rates, and rates for the use and transportation of railroad cars, and for receiving, handling or delivering freights, or for the violation of any other of the provisions of this act. *Provided*, That in all cases under the provisions of this act, a preponderance of evidence in favor of the state shall be sufficient to authorize a verdict and judgment for the state. Whenever final judgment for the recovery of any penalty prescribed by this act shall be rendered against any railroad corporation, it shall be the

duty of the board of railroad commissioners to institute proceedings, in the nature of *quo warranto*, against such railroad corporations, for the purpose of procuring by adjudication the vacation of its charter and extinguishment of its franchise, and the judge before whom such proceedings shall be instituted, may upon sufficient cause shown, and where it shall appear that the defendant is violating the provisions of this act, pending any action under the provisions of this act, appoint one or more receivers for any such railroad corporation, during the pendency of such action, with such powers and under such restrictions as may be deemed just and equitable.

When receiver may be appointed.

SEC. 18. In all cases arising under the provisions of this act, the rules of evidence and practice shall be the same as in other civil actions, except as in this act otherwise provided. Amendments may be granted to the pleadings and all the proceedings, as in other civil cases. And appeals shall be granted to either party from a justice court to the district court, and from the district court to the supreme court in like manner and upon like terms as in other civil actions; *Provided, however,* That the state shall not be required to give a bond or other security upon any such appeal. The remedies hereby given shall be regarded as cumulative to the remedies now given by law against railroad corporations, and this act shall not be construed as repealing the common law giving such remedies. Actions commenced under its provisions shall have precedence over all other business in the courts of this state, except criminal business.

Rules of practice.

Right of appeal.

SEC. 19. Any person, being a resident of this state, and feeling himself aggrieved on account of the violation of any of the provisions of this act, may make complaint in writing and under oath to the board of railroad commissioners, stating in concise terms the main facts constituting such violation, and if in the opinion of such board, the facts there stated require action on their part it shall be their duty to inquire into the same, and if they deem proper to require the attorney general or the proper county attorney, to institute suit against such railroad corporation, to recover the fines and penalties prescribed by this act.

Grievances to be filed with board of commissioners

SEC. 20. All fines recovered under this act shall be paid into the state treasury and applied to the general expenses of the state government.

Disposition of fines recovered.

SEC. 21. The railroad commissioners whenever they

May employ as-
stant counsel.

shall deem it necessary may employ counsel to assist in conducting any such action on behalf of the state, and the reasonable expenses of the same shall be paid by the state.

Dismissal.

SEC. 22. No action commenced on behalf of the state, under the provisions of this act,^c shall be dismissed unless the reason therefor shall be stated on the record.

Applicable to
employees and
agents.

SEC. 23. The provisions of this act shall apply to the employees and agents of any such railroad corporation, as well as to such railroad corporation itself, and any employee or agent of any such railroad corporation, who shall knowingly violate any of the provisions of this act, or who shall knowingly aid or assist any such railroad corporation in the violation of any of the provisions of this act, shall be personally liable to the party aggrieved and to the state, in the same manner and to the same extent as such railroad corporation is by this act made liable, and separate actions may be commenced at the same time and for the same violations of this act, against any such railroad corporation and employee or agent thereof, and prosecuted to judgment and final execution.

Repeal of former
act.

SEC. 24. So much of chapter 22 of the general laws of one thousand eight hundred and seventy-one, as creates the office of railroad commissioner, is hereby repealed, and the board of railroad commissioners created by this act shall possess all the powers and perform all the duties of such railroad commissioner prescribed in said act, except so far as the same have been changed by the provisions of this act.

Repeal of former
act.

SEC. 25. An act of the legislature of this state entitled "An act to regulate the carrying of freight and passengers on all railroads in this state," approved March sixth, eighteen hundred and seventy-one, is hereby repealed; but said repeal to take effect and be in force on the first day of August, Anno Domini eighteen hundred and seventy-four, but said repeal shall not affect or repeal any actions or proceedings, or rights of actions already accrued, growing out of or founded upon said act.

When act to take
effect.

SEC. 26. This act shall take effect and be in force sixty days after its passage, except that the provisions thereof in reference to the appointment of commissioners and defining their duties shall take effect and be in force from and after its passage.

Approved March 6, 1874.