

GENERAL STATUTES

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1913

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CHAPTER 28

RAILROADS, WAREHOUSES, AND GRAIN

RAILROAD AND WAREHOUSE COMMISSION

4171. Election, etc.—The general supervision of railroads and express companies doing business as common carriers, and of public warehouses, is vested in a board of three railroad and warehouse commissioners, which shall be known as the "Railroad and Warehouse Commission." At the general election to be held in 1912 there shall be one commissioner elected for a term of four years, and one commissioner for a term of six years and at each biennial election thereafter there shall be one commissioner elected for a term of six years and until their successors qualify. (R. L. § 1953, amended '11 c. 140 § 1)

1911 c. 140 § 4 repeals inconsistent acts, etc.

4172. Vacancies—Vacancies in the commission shall be filled by the governor until the next general election, when a commissioner shall be elected for the unexpired term. (1954)

4173. Qualifications—No person in the employ of any railroad company or grain warehouse company, or who owns stocks, bonds, or other property therein, shall be eligible as a commissioner; nor shall any such commissioner, during his continuance in office, be interested in any such stock, bonds, or other property, or in any contract for the construction, repair, or maintenance of any railroad, or accept any employment, office, or retainer under any such company, or participate in any hearing or proceeding in which he has a pecuniary interest. (1955)

4174. Oath—Bond—Salary—Before entering upon the duties of his office, each commissioner shall take, subscribe and file with the secretary of state an oath as follows:

"I do solemnly swear that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge my duties as a member of the railroad and warehouse commission of the state of Minnesota, according to the best of my ability, and that I am not in the employ of or holding any official relation to, any common carrier or grain warehouseman, nor am I in any manner interested in any stock, bonds, or other property of any such common carrier or warehouseman."

He shall also give a bond to the state, to be approved by the governor, in the sum of twenty thousand dollars, conditional for the faithful performance of his official duties. He shall devote his entire time to the duties of the office. His salary shall be four thousand five hundred dollars per annum, payable in the same manner as that of other state officers. (R. L. § 1956, amended '11 c. 140 § 2)

As to salaries, see § 294.

4174a. Removal—Any such commissioner may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office; but before removal he shall be furnished with a copy of the charges against him, and have an opportunity to be heard in defence. (1957)

4174b. Quorum—A majority of the commission shall constitute a quorum, and the act or decision of a majority shall be deemed the act or decision of the commission. No vacancy in the commission shall impair the authority of the remaining members to exercise all the powers of the commission. (1958)

4175. Secretary—Employés—Standing appropriations—The commission shall appoint a secretary, not a member, and such additional help as may be necessary to carry out the provisions of this chapter, and fix their compensation. The secretary shall also act as registrar. He shall also take, subscribe and file an oath similar to that required of the commissioners, and a like bond, in the sum of ten thousand dollars. All expenses of the commission

and its employés, including all necessary expenses for transportation incurred by the commissioners and their employés, under their order, in making any investigation or performing any other duties in any place except St. Paul, shall be allowed and paid by the state on presentation of itemized vouchers therefor, approved by a member of the commission and the state auditor, and there is hereby annually appropriated for the use and purposes of the commission thirty thousand dollars, or so much thereof as may be necessary. (R. L. § 1959, amended '11 c. 140 § 3)

As to repeal of standing appropriations, see §§ 48, 49.

4176. Attorneys—The attorney general shall be ex officio attorney for the commission. He shall institute and prosecute all actions which the commission shall order brought, and shall render the commissioners all advice, counsel, and assistance necessary for the proper performance of their duties. The county attorney of any county in which an action is pending, prosecuted, or defended by the direction of the commission shall aid in the prosecution or defence thereof until final determination, when requested by the commission. When necessary, the commission may employ additional counsel to assist the attorney general. (1960)

40-353, 358, 42+21.

4177. Procedure and office—The commission shall have an official seal, may from time to time make or amend general rules or orders requisite for the order and regulation of proceedings before it, including forms of notices and service thereof, which shall conform as nearly as may be to those in use in the courts, and shall conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice. Every vote and official act of the commission shall be entered of record, and in its discretion, or upon request of any party interested, its proceedings shall be public. The principal office of the commission shall be in the city of St. Paul, but it may hold sessions elsewhere for the convenience of parties or the public, or to prevent delay or save expense. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties in any part of the state. (1961)

4178. Duties—The commission shall inquire into the management of the business of all carriers and warehousemen subject to their supervision, and shall keep itself informed as to the manner in which the same is conducted, and shall obtain from such carriers and warehousemen all information necessary for the performance of its duties. One of their number shall visit the stations on the lines of each railroad as often as practicable, giving twenty days' notice in the local newspapers of the time and place of each visit, and personally inquire into the management of such railroad business, and at least once each year shall visit every county having a railroad station, and inquire into the management of such railroad business. For this purpose all common carriers and their officers and employees are required to furnish such commissioner with reasonable and proper facilities. Each commissioner, in his official capacity, shall pass free on all railroad trains, and at all suitable times may enter and remain in the cars, offices, or depots of any railroad company; and whenever, in the judgment of the commission, any common carrier fails in any respect to comply with the law, or any repairs are necessary upon its railroad, or any reasonable addition to or change of its stations, station houses, or transfer facilities, or change in the mode of operating its road or conducting its business, will promote the security or convenience of the public, the commission, by a written order, to be served as a summons in civil actions, shall require compliance with such law, or the making of such repairs, additions, or change. In case of disobedience of said order the commission may cause an action to be commenced for the enforcement thereof. (1962)

39-231, 234, 39+150; 44-336, 338, 46+559; 76-469, 473, 79+510; 81-87, 90, 83+465, 50 L. R. A. 667, 83 Am. St. Rep. 366.

4179. Proceedings before commission—How commenced—Proceedings before the commission against any such carrier or public warehouseman shall be instituted by complaint, verified as a pleading in a civil action, stating in

ordinary language the facts constituting the alleged omission or offence. The parties to such proceeding shall be termed, respectively, "complainant" and "respondent." (1963)

4180. Notice to respondent—Upon filing such complaint, if there appear reasonable grounds for investigating such matter, the commission shall issue an order directed to such carrier or warehouseman, requiring him to grant the relief demanded, or show cause by answer within twenty days from the service of such notice why such relief should not be granted. Such order, together with a copy of the complaint, shall forthwith be served upon the respondent. (1964)

4181. Answer—The respondent may file and serve by mail upon the complainant, within twenty days after service of the order, an answer alleging that it has already granted the relief demanded, or setting up any matter of defence. If the answer allege the granting of the relief, the complainant shall within twenty days reply, admitting or denying such allegation. If he fails to reply, or admits the allegation, the proceeding shall be dismissed. (1965)

4182. Hearing—If the matter be not adjusted to the satisfaction of the commission, it shall set a time and place of hearing, and give at least ten days' notice thereof to each party. The parties may appear either in person or by attorney. The commission shall hear evidence and otherwise investigate the matter, and shall make findings of fact upon all matters involved, and such order or recommendation in the premises as may be just. A copy of such findings and order or recommendation shall forthwith be served upon each party. No proceeding shall be dismissed on account of want of pecuniary interest in the complaint. In all proceedings excepting where the reasonableness of rates are under consideration, hearings may be had before one commissioner, who shall decide the matter in controversy and make a report of his decision to the commission. Upon the approval of such report, it shall become the decision of the commission. (R. L. § 1966, amended '07 c. 305 § 1)

4183. Notices and orders—Service—All notices and orders in proceedings before the commission shall be signed by the secretary. Service may be made of all notices, orders, and other papers provided for in this chapter by mail upon any person or firm, or upon the president, general manager, or other proper executive officer of any corporation interested. If any party has appeared by attorney, such service shall be made upon such attorney. (1967)

4184. Witnesses—The commission in any hearing or investigation may require the attendance of witnesses and the production of any books, papers, and records. Witnesses shall receive the same fees and mileage as in civil actions. Disobedience of any subpoena in such proceeding, or contumacy of a witness, may, upon application of the commission, be punished by any district court in the same manner as if the proceeding were pending in such court. (1968)

4185. Complaint that rate is unreasonable—Duty of commission—Upon the verified complaint of any person or of any corporation, private or municipal, that any tariff of rates, fares or charges, or any part thereof, or of any classification is unequal or unreasonable, the commission shall proceed to investigate the matters alleged in such complaint, and for the purposes of such investigation they may require the attendance of witnesses and the production of books, papers and documents. If, upon the hearing, such tariff of rates, fares, or charges, or any part thereof, or of such classification, is found to be unequal or unreasonable, the commission shall make an order stating wherein the same are so unequal or unreasonable, and shall make a tariff of rates, fares, charges and classification which shall be substituted for the tariff so complained of. The tariff so made by the commission shall be deemed prima facie reasonable in all courts and shall be in full force during the pendency of any appeal or other proceedings to review the action of the commission in establishing the same. (1969)

Public dock or wharf in Duluth—See 1911 c. 319, being "An act to authorize the leasing of certain land owned by the state of Minnesota situated in the city of Duluth, for purposes of public docks, wharves and warehouses."

Section 3 provides that the dock or wharf shall be open to all the people, and that the

commission shall have supervision and control over the rates and charges, and the same power as to such rates which the commission exercises under R. L. c. 28.

69-353, 371, 374, 398, 412, 413, 72-713; 80-191, 197, 83-60, 89 Am. St. Rep. 514; 186 U. S. 257, 22 Sup. Ct. 900, 46 L. Ed. 1151.

4186. Complaint by attorney general that rate is unreasonable—Duty of commission—The attorney general may, whenever in his opinion the public interest requires, make complaint to the railroad and warehouse commission charging that any rate, schedule of rates or the entire schedule of rates, or any classification, rule or regulations of any carrier is unjust, unreasonable or discriminatory. The commission shall investigate such complaint in the manner provided for the investigation of complaints made under the provisions of section 1969 of the Revised Laws of 1905 [4185].

The provisions of this act shall apply to proceedings that are now pending as well as those hereafter commenced. ('11 c. 50 § 1)

4187. Investigation without complaint—New rates—Notice—The commission shall also, on its own motion, investigate any matter relating to the management by any carrier or warehouseman of its business, or the reasonableness of any or all rates, schedule of rates, fares, charges, rules, regulations or classifications, whenever in its judgment the public interest requires it. If any such rates, schedule of rates, fares, charges, rules, classification or regulations are found unreasonable or discriminatory, the commission shall find what is reasonable under the circumstances, and may make an entire new schedule and adjustment of any or all rates, schedule of rates, fares, charges, rules, regulations and classifications under consideration in such investigation, and its order shall fix the date when such rates, schedule of rates, fares, charges, rules, regulations and classifications shall go into effect. Before making any order under the provisions of this section, the carrier shall have an opportunity to be heard, upon such notice as the commission shall deem reasonable. The rates established under proceedings instituted under this section shall be in force during the pendency of any appeal or other proceeding to review the action of the commission. (R. L. § 1970, amended '11 c. 87 § 1)

4188. Investigation of movement of live stock—Regulation of speed—The railroad and warehouse commission shall from time to time investigate the practice of the common carriers with respect to the movement of live stock, and if it ascertains at any time that any common carrier is not moving cars of live stock with proper speed, and with due consideration of the rights and conveniences of shippers, then, upon notice to such carrier, the commission shall prescribe for it the speed at which and the conditions under which cars of live stock shall be moved by it within this state. The speed of trains carrying live stock shall not be fixed at less than twelve (12) miles an hour, if consistent with the proper handling of its traffic by any common carrier involved. The commission's order shall specify the time at which it shall go into effect. This act shall apply to wholly intrastate shipments only. ('11 c. 317 § 1)

4189. Same—Penalty for failure to comply—Any railroad company failing to comply with any order of the railroad and warehouse commission made under this act, shall be subject to a penalty of fifty dollars (\$50) for each and every day of such failure to comply with such order, to be recovered in a civil action brought by the attorney general. ('11 c. 317 § 2)

4190. Proceedings involving reasonableness of express rates—Citation—Parties—In any proceedings pending before the railroad and warehouse commission involving the reasonableness of express rates, where the commission deem it necessary to inquire into the reasonableness of the charges of the railroad company for carrying the cars, or the business of said express company over its lines of road, the commission may cite such railroad company to appear and become a party to such proceeding within five (5) days after the service of such citation, and in such proceedings the commission may find the reasonableness of the amount paid by the express company to the railroad company for the service furnished, and the findings of the commission shall be prima facie evidence of the facts found. ('11 c. 86 § 1)

4191. Appeals to district court—Any party to a proceeding before the commission, or any party affected by any order thereof, or the state of Minnesota, by the attorney general, may appeal therefrom to the district court of the county in which the complainants, or a majority of them, reside, or in case none of them reside in the state, or in case the order is made in a proceeding commenced by the commission on its own motion without complaint, to the district court of any county in which the carrier or warehouseman has an office, agent or place of business, at any time within thirty days after service of a copy of such order on the parties of record, as in this chapter provided, by service of a written notice of appeal on said commission, or on its secretary. Upon service of said notice of appeal, said commission, by its secretary, shall forthwith file, with the clerk of said district court to which said appeal is taken, a certified copy of the order appealed from, together with findings of fact on which the same is based. (R. L. § 1971, amended '07 c. 167 § 1)

1907 c. 167 § 3 repeals R. L. § 1982 and all other inconsistent acts, etc. 44-336, 46+559; 60-461, 62+826.

4192. Proceedings on appeal—Orders not appealed from—The person serving such notice of appeal shall, within five days after the service thereof, file the same with proof of service, with the clerk of the court to which such appeal is taken; and thereupon said district court shall have jurisdiction over said appeal, and the same shall be entered upon the records of said district court and shall be tried therein according to the rules relating to the trial of civil actions, so far as the same are applicable. The complainant before the commission, if there was one (otherwise the state of Minnesota), shall be designated as complainant in the district court, and the carrier or warehouseman as defendant. No further pleadings than those filed before the commission shall be necessary. Such findings of fact shall be prima facie evidence of the matters therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be on the appellant. If said court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law. If it shall be determined that the order is unlawful or unreasonable it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the court, upon an examination of said order, and the return made on said appeal, and after giving the respondent notice and opportunity to be heard, shall so direct. If such appeal is not taken, such order shall become final, and it shall thereupon be the duty of the carriers affected to adopt and publish the rates or classifications therein prescribed. And all orders heretofore made, from which no appeal was taken, as provided by law, shall be deemed to have been in full effect for all purposes from the time when the right to appeal from such order expired. When no appeal is taken from an order, as herein provided, the parties affected by such order shall be deemed to have waived the right to have the merits of such controversy reviewed by a court, and there shall be no trial of the merits of re-examination of the facts of any controversy in which such order was made, by any district court to which application may be made for a writ to enforce the same. (R. L. § 1972, amended '07 c. 167 § 2)

69-353, 72+713; 80-191, 83+60, 89 Am. St. Rep. 514. See, also, 60-461, 472, 62+826; 186 U. S. 257, 22 Sup. Ct. 900, 46 L. Ed. 1151; 71-519, 74+893, 40 L. R. A. 389, 70 Am. St. Rep. 358; 80-191, 83+60, 89 Am. St. Rep. 514.

4193. Order on dismissal in certain cases—Procedure—Whenever in any proceeding pending before it relating to or involving the reasonableness of rates, fares, charges or classifications, the commission shall decide that it has not jurisdiction for the reason that the traffic covered by such rates, fares, charges and classifications is interstate commerce, it shall make an order dismissing the proceeding, stating therein the ground of such dismissal, which order may be appealed from in like manner as other appealable orders of said commission. And if in any such proceeding one of the commissioners shall dissent from the order of dismissal, the question of its jurisdiction shall be certified to the district court of a county to which an appeal might be taken,

and thereupon the commission shall notify all parties to the proceeding of such certification, stating the county and date thereof. (1973)

4194. Filing papers—Effect.—When in any such case an appeal is taken or such question certified the commission shall forthwith file with the clerk of the proper district court all papers, pleadings, evidence, and orders in the proceeding, and thereupon such court shall have full jurisdiction to hear and determine the question of the jurisdiction of said commission in reference to the matter appealed from or certified. Such proceeding may be brought on for hearing by either party on ten days' notice, either at a term or in vacation, and shall be heard upon the evidence taken before the commission and such further evidence as may be offered by either party. If the order of the commission is reversed, upon filing a copy of the order of reversal with the commission it shall forthwith proceed to determine the reasonableness of such rates, fares, charges and classification on the merits. (1974)

4195. Failure to obey order or law.—Whenever any such carrier or warehouseman shall fail to obey any law of the state or any order of the commission, the commission or any party interested may, upon verified petition alleging such failure, apply to the district court of the county in which such carrier or warehouseman has a principal office, or into which a line of railroad of such carrier extends, for the enforcement of such law or order or other appropriate relief. The court, upon such notice as it may direct, shall hear such matter as in case of an appeal from an order. On such hearing the findings of fact upon which such order is based shall be prima facie evidence of the matters therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than five hundred dollars for each day's failure to obey any writ, process, or order of the court, in addition to all other penalties or forfeitures provided by law. A temporary mandatory or restraining order may be made in such proceeding, notwithstanding any undetermined issue of fact, upon such terms as to security as the court may direct. (1975)

66-271, 68-1085, 38 L. R. A. 225; 76-469, 475, 79-510.

4196. Trial.—The district courts shall be deemed always open for all civil proceedings under this chapter, and any such proceeding may be brought to trial in any county in the judicial district, and shall take precedence of all other matters except criminal cases. Except when there is a constitutional right to a trial by jury, not expressly waived, all such proceedings shall be tried summarily by the court. (1976)

4197. Incriminating questions.—In any proceeding under this chapter, or under any law relating to common carriers or public warehousemen, the court in its discretion may require a witness to answer any question, although his answer may tend to convict him of a crime, but no person so compelled to answer shall thereafter be liable to any prosecution for such crime. (1977)

4198. Costs and attorney's fees.—In any proceeding in district or supreme court under the provisions of this chapter, or under any law relating to common carriers or public warehousemen, whether by appeal or otherwise, the court may order the payment of such counsel fees and disbursements as it deems just and reasonable. (1978)

4199. Proceedings in name of state.—All actions or proceedings instituted by the railroad and warehouse commission shall be brought in the name of the state, and shall be prosecuted by the attorney general. (1979)

4200. Appeals to supreme court.—Any party to an appeal or other proceeding in district court under the provisions of this chapter may appeal from the final judgment, or from any final order therein, in the same cases and manner as in civil actions. No bond shall be required from the commission, and no such appeal shall stay the operation of such order or judgment unless the district or supreme court shall so direct, and unless the carrier appealing from a judgment or order fixing rates for transportation of persons or property shall give bond in a sum and with sureties approved by a judge of the court ordering the stay, conditioned that the appellant will refund to the per-

son entitled thereto any amount received for such transportation above the amount finally fixed by the court. Any person paying such excessive charges shall have a claim for the excess, whether paid under protest or not, and, unless refunded within thirty days after written demand made after final judgment, may recover the same by action against such carrier, or such carrier and the sureties on such bond. The appeal may be filed in the supreme court before or during any term thereof, and shall be immediately entered on the calendar and heard upon such notice as the court may prescribe. (1980)

4201. Interstate commerce commission—Authority of state commission to institute proceedings—Whenever a resident of this state shall file with the state railroad and warehouse commission a petition directed to the interstate commerce commission of the United States, charging any railroad company or other common carrier doing business in this state, engaged in interstate transportation of freight, with any violation of the interstate commerce act of the United States, setting forth in such petition the facts constituting such violation, said railway commission, if they deem the matter one of public interest, shall file said petition with said interstate commerce commission and thereupon shall appear in said matter in the place of said petitioner and thereafter prosecute the same at the expense of the state. ('05 c. 279 § 1)

4202. Same—Authority to appear in pending matter—Whenever any matter shall be pending before the interstate commerce commission of the United States, between a resident of this state as petitioner, and any railroad company or other common carrier doing business in this state and engaged in interstate transportation of freights, charging such carrier with any violation of said interstate commerce act, upon application of the petitioner in said matter the state railroad and warehouse commission, in case they deem the questions involved in said matter of public interest, may appear therein and be substituted as a party in place of such petitioner and thereafter such matter shall be prosecuted by such commission at the expense of the state in the same manner as though originally begun by it. ('05 c. 279 § 2)

4203. Dangerous crossings—Complaint—Hearing—Upon written complaint authorized by a majority vote of the members of the city or village council of any city or village, or by the board of supervisors of any town, or board of county commissioners of any county in this state, filed with the railroad and warehouse commission, hereafter called the commission, by the chief executive officer of said city or village, or the chairman of board of supervisors or county commissioners, as the case may be, that any railroad crossing with any street in said city or village, or town or county road, is dangerous to life and property, and giving the reasons therefor, the commission shall proceed to investigate the matters contained in said complaint, giving the complainant and the railroad company an opportunity to be heard, at a time and place to be fixed by the commission, after such notice as the commission may deem reasonable. Provided, that at least one public hearing shall be held in the town, county, village or city making such complaint. ('11 c. 243 § 1)

Section 7 repeals 1907 c. 396.

98-380, 108+261, 28 L. R. A. (N. S.) 298, 120 Am. St. Rep. 581; 98-429, 108+269.

Jurisdiction of commission under 1905 c. 280, as amended by 1907 c. 396 (114-293, 131+330).

4204. Same—Report and order—Flagman and safety devices, etc.—The commission shall decide the matter set forth in the complaint and make a report in writing thereof, including the findings of facts, and make such order as it shall deem proper in the premises, and if said commission shall find said crossing to be dangerous, it may require the railroad company complained of to provide flagmen at such crossing, or adopt such safety device as the commission may deem necessary for the proper protection of said crossing, or it may require the removal of any structure, or structures, or embankment, from the right of way of said railroad company; where the railroad has been constructed or the grade thereof lowered after the laying out of the highway and the railroad tracks are seven feet or more below the natural surface of the ground the commission may require the maintenance of an overhead bridge at least eighteen feet wide with suitable approaches

and may also require the complaining city, village, town or county to remove embankments, or structures from streets or town or county roads as, in its opinion, may be reasonable and necessary to properly protect said crossing. ('11 c. 243 § 2, amended '13 c. 294 § 1)

4205. Same—Appeal—Order, how enforced—Any railroad company, or the city, village, town or county making the complaint, may appeal from an order of the commission to the district court of the county in which said crossing is located, and in case of such appeal, the same proceedings shall be had as is now provided by law for an appeal from orders of the commission. All orders of the commission shall be enforced by the attorney general. ('11 c. 243 § 3)

4206. Same—Failure to comply—Penalty—Any railroad company, or any city, village, town or county failing to comply with any order of the commission that is not appealed from, or if appealed from affirmed in whole or in part, shall be liable to a penalty of \$50.00 for each and every day of such non-compliance, to be collected in civil action brought by the attorney general. ('11 c. 243 § 4)

4207. Same—Temporary flagman, etc.—Whenever it shall appear, from any cause, that an unusual number of trains are being operated in, or through any city or village in this state, the commission shall have power, upon complaint made by the city or village council, to compel the installation of a flagman, or flagmen, as the case may be, without a hearing, and such order shall be complied with within five days, provided that such railroad company may remove such flagmen whenever the movements of trains through such city or village assumes normal conditions. ('11 c. 243 § 5)

4208. Same—Charter powers not abridged—That nothing herein contained shall be construed as repealing, abridging, modifying or in any manner affecting the power contained in the charter of any city or village in this state to require railroads to maintain gates, flagmen or safety devices at public highway crossings therein, or any ordinance, now existing or hereafter enacted pursuant to such power. ('11 c. 243 § 6)

4209. Inspection of scales—The railroad and warehouse commission shall have power to enforce reasonable regulations for the weighing of cars and of freight offered for shipment in carload lots. All track scales used by common carriers for the purpose of weighing carload freight shall be under the control and jurisdiction of the commission and subject to inspection, exempt from the jurisdiction of sealers of weights and measures. The entire cost of such supervision and inspection shall be a proper charge against the common carriers interested in or owning the several scales, the same to be paid upon a statement rendered by the commission. All moneys collected shall be credited to the grain inspection fund. ('07 c. 357 § 1)

4210. Sealing devices for scales—Duty of commission—The railroad and warehouse commission, hereafter called the commission, is hereby authorized and directed to inspect all sealing devices made for the purpose of sealing scales known to be on the market, and to officially approve any device considered by the commission to be a proper and safe device to be used in the sealing of scales. ('09 c. 319 § 1)

4211. Same—Sealing device, when required—When directed to do so by the commission, any person or company owning and operating a scale under the jurisdiction of the commission is hereby required to install such scale with some sealing device which has the official approval of the commission. ('09 c. 319 § 2)

4212. Same—Failure to install—Tampering with device—Penalties—Any person or company failing within thirty days after notice to install such sealing device when directed to do so by the commission, shall be subject to a penalty in the sum of one hundred dollars. It shall be a felony for any person to change, break or tamper with, or cause to be changed, broken or tampered with, the sealing device or sealing thereof after the same has been properly installed and inspected by some authorized agent of the commission. ('09 c. 319 § 3)

4213. Track scales—Powers of commission—The railroad and warehouse commission shall have power to order in and require the installation of track

scales used by common carriers at all points in the state where the same are deemed to be necessary, and enforce reasonable regulations for the weighing of cars and of freight.

All track scales used by common carriers for the purpose of weighing carload freight shall be under the control and jurisdiction of the commission and subject to inspection, exempt from the jurisdiction of sealers of weights and measures. The entire cost of such supervision and inspection shall be a proper charge against the common carriers interested in or owning the several scales, the same to be paid upon a statement rendered by the commission. All moneys collected shall be credited to the grain inspection fund. ('11 c. 252, amended '13 c. 129 § 1)

4214. Same—Carrier to move test car—Every carrier shall transport, move, and switch to any track scale in this state free of charge on the application of the commission or its authorized agent, any test car used by the state in testing track scales. ('11 c. 252, amended '13 c. 129 § 2)

4215. Equipment for testing track scales—The railroad and warehouse commission, hereinafter called the commission, is hereby authorized to purchase two test cars, to be used in testing track scales, at a cost of not to exceed five thousand dollars each; also erect on some railroad track in or near Minneapolis, St. Paul, or Minnesota Transfer, where a permanent free site can be procured, a master track scale with a building for the same, to be used in testing and verifying the weights of test cars; scales and building not to cost to exceed seven thousand five hundred dollars. ('13 c. 128 § 1)

Section 2 provides for payment.

4216. Weighing coal—Track scales—Powers of commission—The railroad and warehouse commission shall have power to enforce reasonable regulations for the weighing of cars of coal offered for shipment in carload lots in this state, except coal shipped by any person, company or corporation for their own use or consumption.

All track scales now or hereafter used by common carriers or by shippers of coal for the purpose of weighing carload lots of coal shall be under the control and jurisdiction of and subject to inspection by such commission, and such scales over which the said commission assumes control and jurisdiction, shall be exempt from the jurisdiction of sealers of weights and measures. ('11 c. 326 § 1)

4217. Same—Duty of commission—Such commission shall cause to be weighed all coal shipped in carload lots from any coal dock or coal distributing point in the state of Minnesota, except coal shipped therefrom by any person, company or corporation for their own use or consumption. ('11 c. 326 § 2)

4218. Same—Weigh-masters and weighers—The commission shall appoint such weigh-masters and weighers as may be necessary to carry the provisions of this act into effect. Such weigh-masters and weighers shall each give bond to the state of Minnesota in the sum of five thousand (5,000) dollars, conditioned for the faithful discharge of his duty, and such weigh-master and weighers shall have authority to carry out and perform their duties hereunder, pursuant to such rules and regulations as shall be prescribed by such commission and shall pursuant thereto control and supervise the weighing of all coal herein required to be weighed by such commission. ('11 c. 326 § 3)

4219. Same—Fees—The fees for such weighing shall be fixed by the commission and shall be paid by the person, firm or corporation making such shipment. ('11 c. 326 § 4)

4220. Same—Other sections applicable—All of the provisions of sections numbered 4462-4467, 4469, 4472, 4473, 4475, and all acts and parts of acts amendatory thereof and supplementary thereto, as relating to grain, shall be construed as a part of this act and as relating to coal and coal shipments in carload lots, required to be weighed in accordance with the provisions of this act, so far as applicable hereto. ('11 c. 326 § 5)

4221. Stock scales in stock yards—Powers of commission—The railroad and warehouse commission shall have the power to order in and require the installation and maintenance of stock scales at all stock yards in the state where the same are deemed to be necessary, and to fix the capacity of said scales, which

said scales shall be for the free use of all patrons of such stock yards, shipping live stock from, into or through such stock yards. ('13 c. 252 § 1)

4222. Same—Private scales prohibited—All railroad companies maintaining stock yards at railroad stations within this state shall within ninety (90) days after the passage of this act and thereafter prohibit the installation or maintenance of scales of any kind belonging to any person, corporation or firm other than railroad companies as provided in section one [4221] of this act, and the installation, use and maintenance of such private scales in such stock yards is hereby prohibited. ('13 c. 252 § 2)

4223. Same—Water in stockyards—Powers of commission—The railroad and warehouse commission shall also have power to order the railroad company to furnish water for the use of stock at all stockyards in the state, where the same is deemed to be necessary. ('13 c. 252 § 3)

4224. Same—When applicable—This act shall not apply to any station or any railway company in this state where the question of the installation of a stock scale at the stock yards of such railway company at such station is in litigation upon appeal to the supreme court of the state of Minnesota, until after the final determination of such litigation by said supreme court. ('13 c. 252 § 4)

4225. Commission to fix joint rates—If any carrier required by law to fix joint rates shall fail within reasonable time so to do, or to apportion such rate, or to fix the terms and rates upon which cars may be transferred from one road to another in through shipment of freight, or to provide proper and convenient facilities for the transfer of freight from one road to another, the commission, upon proper notice and opportunity for hearing, shall establish and apportion such rate, and make all proper rules, regulations, and orders in regard to all such matters, subject to the provisions of this chapter. (1981)

As to repeal of this section, see note under following section.

R. L. § 1982 repealed. See note under § 4191.

4226. Joint rates—Commission to make general rules, etc.—Within a reasonable time the railroad and warehouse commission shall make general rules fixing the percentage relation to govern in the making of joint rates between common carriers for the transportation of freight and express in carload and less than carload lots; and shall make all rules necessary to govern the transfer of freight and express between carriers. The commission may change the rules or regulations from time to time to meet different conditions and to promote justice.

No carrier shall be required to deliver to another carrier at a connecting or junction point, freight or express destined to a common point reached by both carriers, unless the commission finds it is necessary in order to obtain reasonable rates and service.

Before making any order as herein provided, the commission shall give such hearing as may be deemed necessary. ('11 c. 313 § 1)

Section 4 repealed, R. L. §§ 1981, 2018 [4225, 4358]. This act is repealed by 1913 c. 344 [4229, 4230], to take effect January 1, 1914.

4227. Same—Carriers to establish—Power of commission—The several carriers in this state shall establish joint rates on all intra-state freight and express transported in carload and less than carload lots, within thirty days after the commission has established rules to govern in the making of joint rates between carriers.

If carriers fail to agree on the division of the joint rate, the commission on the application of any party interested, shall fix such division. ('11 c. 313 § 2)

4228. Same—Penalty for failure—Any carrier failing to comply with any provision of this act or any rule of the commission, shall be subject to a fine of not exceeding one hundred (\$100.00) dollars for each offense. ('11 c. 313 § 3)

4229. Freight over connecting lines to be transferred in certain cases—Joint through rates—Every owner or consignor of freight to be transported by railway from any point within this state to any other point within this state shall have the right to require that the same shall be transported over

two or more connecting lines of railway, to be transferred at the connecting point or points without change of car or cars if in carload lots, and with or without change of car or cars if in less than carload lots, whenever the distance from the place of shipment to destination, both being within this state, is less over two or more connecting lines of railway than it is over a single line of railway, or where the initial line does not reach the place of destination; and it shall be the duty, upon the request of any such owner or consignor of freight, made to the initial company, of such railway companies whose lines so connect, to transport the freight without change of car or cars if the shipment be in carload lot or lots, and with change of car or cars if it be in less than carload lots, from the place of shipment to destination, whenever the distance from the place of shipment to destination, both being within this state, is less than the distance over a single line, or when the initial line does not reach the point of destination, for a reasonable joint through rate. This section shall not apply to interurban railways operated by electricity, except as to freight or cars transported over two or more such interurban railways having similar equipment so as to make it physically practicable to comply with the provisions of this section. ('13 c. 344 § 1)

Section 3 repeals 1911 c. 313 [4226-4228]. By section 4, the act takes effect January 1, 1914.

4230. Same—Powers and duties of commission—Notice and hearing—Schedule of rates—Revising rates—The board of railroad and warehouse commission shall, within ten days after this act takes effect, notify in writing every railway company owning or operating a railway within this state that it will, upon a day named in such notice, which day shall not be more than thirty days after giving said notice, take up for investigation the subject of establishing joint through rates, as herein provided, between the railway lines in this state. It shall also give a similar notice, directed "To whom it may concern," and so publish the same, that it will have general circulation throughout the state. All corporations, partnerships and persons interested in the subject may present themselves at the hearing and be heard, under such rules and regulations as the board may prescribe. At the end of the investigation, which shall be carried on with all due diligence, the said board of railroad and warehouse commission shall make and publish a schedule of joint through railway rates for such traffic and on such routes as in its judgment the fair and reasonable conduct of business requires shall be done by carriage over two or more lines of railway, and will promote the interests of the people of this state. In the making thereof, and in changing, revising or adding to the same, the board shall be governed as nearly as may be by the preceding sections of this chapter, and shall take into consideration, among other things, the rates established for shipments within this state for like distances over single lines, the rates charged by the railway companies operating such connecting lines for joint inter-state shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. In establishing such rates for shipments in less than carload lots, in cases where at the connecting point or points in the line of shipments the connecting railways have not and are not required to have a common station or stopping place for loading or unloading freight, the board shall make such lawful regulations as in its judgment will be fair and just respecting the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. The joint through rates thus established shall be promulgated by mailing a printed copy thereof to each railway company affected thereby and shall go into effect within ten days after they are so promulgated; and from and after that time an official printed schedule thereof shall be prima facie evidence, in all courts of this state, that the rates therein fixed are just and reasonable for the joint transportation of such freight between the points and over the lines described therein. The said board shall deliver a printed copy of said schedule to any person making application therefor. The share of any railway company of any joint through rate shall not be construed to fix the

charge that it may make for transportation for a similar distance over any part of its line for any single rate shipment or the share of any other joint rate. The board, upon such reasonable notice as it may prescribe, may, upon its own motion or upon the application of any person, firm or corporation interested therein, revise, change or add to any joint through rates fixed or promulgated hereunder; and any such revised, changed or added joint rates shall have the same force and effect as the rate or rates originally established. The said board is empowered to authorize upon proper hearing, any railway company whose line connects the point of shipment with the point of destination but requires a longer haul than the joint haul over which a joint rate has been established, to charge the joint rate without affecting the charge upon any other part of its line, except that the charge for a like kind of property must not be greater for a shorter than for a longer distance over its railroad, all of the shorter haul being included within the longer. This section shall apply to interurban railways and their connection with ordinary steam railways. ('13 c. 344 § 2)

4231. Terms of connection with manufactories, etc.—If the owner of any manufactory, warehouse, dock, wharf, mill, coal yard, stone quarry, or brick or lime kiln entitled to connection with any railroad, and the carrier operating such railroad, fail to agree upon the terms for such connection, upon petition of either party, and proper notice to the adverse party, the commission shall fix such terms by proceedings as herein provided in case of complaints to it and subject to appeal as in such cases. (R. L. § 1983, amended '13 c. 367 § 1)

Previously amended by 1913 c. 289.
115-51, 131+859.

4232. Reports to commission—Every carrier subject to supervision of the commission shall annually, on or before Sept. 30, unless additional time be granted, file with the commission a report verified by such carrier, or by its president, vice president, treasurer, comptroller, auditor, or receiver, in such form as the commission may prescribe, covering the year ending June 30th next preceding, and showing in detail the amount of capital stock issued; the amount and manners of payment therefor; the dividends paid; the surplus fund, if any; the number of stockholders; the funded and floating debts, and the interest paid or due thereon; the cost and value of all the carrier's property, franchises and equipments; the number of employes and officers, and the salary of wages paid each class; the amount expended for improvements, how expended, and the character of such improvements; the earning[s] and receipts from each branch of business and from all other sources; the operating and other expenses; the balance of profit or loss; and a complete exhibit of the financial operations of the year, with an annual balance sheet, the amount of land received as grants from the state and from the United States; the amount of such land sold and the average price received per acre; the amount unsold and its average appraised value per acre; information in regard to rates and regulations concerning fares and freights; agreements, arrangements or contracts with express, telegraph, sleeping and dining car companies, fast freight lines, and other common carriers, with copies of such contracts, agreements or arrangements; and such other matters as the commission may require, and the commission may prescribe a uniform system of accounts and the manner of keeping the same, and may designate from time to time to what account any items shall be charged. Any such carrier failing to comply with the provisions of this section, or with any order of the commission made thereunder shall forfeit, for each day's default, one hundred dollars, to be recovered in a civil action in the name of the state. (R. L. § 1984, amended '07 c. 410 § 1)

4233. Accidents and wrecks to be reported to commission—It shall be the duty of every railroad company operating a line of railroad in this state to report all accidents, wrecks or casualties occurring in this state to the railroad and warehouse commission. This is intended to include all accidents, wrecks or casualties occurring in the operation of trains or engines on said line or lines of railway within this state, and all other accidents or casualties

of whatever nature as may be required under rules adopted by the commission. Any reports to the commission herein required shall not be for public inspection. All accidents or wrecks occurring in the operation of trains or engines involving loss of life or personal injury, shall be immediately reported to the commission by telegraph or telephone message, and the company shall forthwith send a written report in detail giving full particulars available in such form as the commission may require. All other accidents, including accidents resulting in personal injury or death, other than train accidents, shall be reported to the commission on the first day of each month, covering the preceding month. ('05 c. 122 § 1, amended '07 c. 290 § 1)

4234. Same—Duty of commission—Biennial report—Whenever any report is made to the commission involving a wreck, accident or casualty, and the commission deems it necessary, it shall forthwith examine into the causes and circumstances of the same, and it shall thereupon be the duty of the commission to order such railroad company to comply with any reasonable requirement prescribed by the commission, calculated to prevent the recurrence of any such wreck, accident or casualty, and it shall be the duty of the commission to report to the legislature biennially a summarized statement of all wrecks, accidents or casualties reported, together with a recommendation of such additional legislation as it deems proper for the greater protection of passengers and employes of railroad companies. ('05 c. 122 § 2, amended '07 c. 290 § 2)

4235. Penalty for violation—Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or shall suffer both such fine and imprisonment in the discretion of the court. ('05 c. 122 § 3)

4236. Reports of commission—The commission shall report to the governor annually on or before December 1, and at other times if required by him, their doings for the preceding year, with such facts, statements, and explanations as will show the actual working of the system of railroad transportation of the state, in its bearings on the business and prosperity of the people, and such suggestions relative thereto as it shall deem proper. It shall also biennially recommend to the governor any amendment of the railroad and warehouse laws which it shall deem desirable, and, when directed by the governor, shall investigate any matter subject to its supervision, and report thereon. All such reports shall be transmitted by the governor to the legislature as soon as practicable. (1985)

4237. Remedies cumulative—Attorney's fees—Nothing in this chapter shall be construed to abridge or limit the duties and liabilities of common carriers or warehousemen, or the remedies now existing at common law or by statute, and the provisions of this chapter are in addition thereto. Any common carrier or warehouseman who shall do or cause to be done any act in this chapter forbidden, or fail to do any act therein enjoined, or who shall aid or abet in any such act or neglect, shall be liable in damages to any person injured thereby; and in any action for such damages the plaintiff, if he recover, shall be allowed by the court a reasonable attorney's fee, to be taxed and allowed in addition to statutory costs. (1986)

4238. Violations of law—Penalty—Any common carrier or warehouseman who shall do, or attempt to do, any act forbidden by this chapter, or shall fail to do anything therein required of him, or shall wilfully suffer or permit any such unlawful act or omission, when no specific penalty is imposed therefor, if a natural person, shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five hundred dollars, nor more than five thousand dollars for the first offence, and not less than five thousand dollars nor more than ten thousand dollars for each subsequent offence; and, if such carrier or warehouseman be a corporation, it shall forfeit to the state for the first offence not less than twenty-five hundred dollars nor more than five thousand dollars, and for each subsequent offence not less than five thousand dollars nor more than ten thousand dollars, to be recovered in a

civil action. All fines and forfeitures collected under the provisions of this chapter shall be paid into the state treasury to the credit of the general revenue fund. (1987)

40-353, 42+21.

4239. Construction of chapter—The provisions of this chapter shall be liberally construed with a view to the public welfare, efficient transportation facilities, and substantial justice between shippers and passengers and common carriers, and the commission shall at all times do everything within the scope of its powers to secure such ends, and to facilitate commerce and the safety, convenience, and comfort of passengers and employees. (1988)

4240. Orders prima facie evidence—In any action or proceeding brought to enforce any order of the commission, or when such order is brought in question in any of the courts of the state, it shall be prima facie evidence of the facts therein stated. (1989)

4241. Physical valuation of railroad properties—Statements—The railroad and warehouse commission, hereinafter called the commission, is hereby authorized, at all times, to keep up the physical valuation of the railroad properties of this state, and to that end all railroad corporations under the supervision of the commission are required to furnish to the commission on December 31st of each year, unless further time be granted by the commission, and at such other times as the commission may require, a detailed statement showing changes in the physical conditions of its properties in this state and the elements of cost entering into such changes in both debits and credits of such property, and the distribution of the debits and credits, whether charged to operating or capital accounts, verified by the president, chief engineer, general auditor or comptroller in such manner and form as the commission may prescribe, covering the year ending June 30th, next preceding. ('09 c. 147 § 1, amended '13 c. 125 § 1)

4242. Same—Powers of commission—The commission shall have the authority to examine all books, contracts, vouchers, receipts and all other papers or documents that it may deem necessary for the purposes of this act. ('13 c. 125 § 2)

4243. Same—Penalty for noncompliance—Any such corporation failing to comply with the provisions of this act or any order of the commission made thereunder, shall forfeit for each day's default, one hundred dollars, to be recovered in a civil action in the name of the state. ('13 c. 125 § 3)

4244. Accounts of railroads—Duties and powers of commission—What shall be shown—It shall be the duty of every railroad doing both intrastate and interstate freight business in this state, to keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling such intrastate business in Minnesota. The railroad and warehouse commission shall have power, and it is hereby made its duty to prescribe the form in which such accounts shall be kept, and it may require such accounts for each operating division of such railroad wholly or partly within this state. In addition to all other information on the subject, such accounts shall show the total cost of operating the through trains, and the total cost of operating the local or distributing trains, on each operating division wholly or partly within this state, during the fiscal year to be fixed by said commission, and also the total number of tons of revenue and non-revenue freight, and the number of said tons of each carried one mile on said through trains and on said local trains respectively, and the number of said tons and ton miles of revenue and non-revenue freight carried on through or local trains, which are exclusively intrastate business. Said accounts shall also show the gross tons and ton miles made by through and local trains on said divisions. ('11 c. 327 § 1)

4245. Same—What accounts shall show—Said accounts shall also show the total revenue and non-revenue train and engine miles, and the total revenue and non-revenue car miles (said non-revenue car miles to be shown loaded and empty separately) produced by such railroad in the state on said operating divisions, and also the number of each of the above train, engine and car mileages produced in handling said through trains and in handling

said local trains, also the total locomotive miles produced in switching on each division, and such further information relating to the income or cost of the intrastate business, as said railroad and warehouse commission may require. Said commission may also require such accounts to be kept with reference to the intrastate passenger business of such carrier, and the train, car and engine mileage incurred in the passenger business in this state as it shall deem necessary. ('11 c. 327 § 2)

4246. Milling in transit—Power of commission to adjust credits, where mill destroyed—Whenever it shall be made to appear to the railroad and warehouse commission that any flouring mill situated at a railroad station in this state, having "milling in transit" railroad rates, has been destroyed by fire or other casualty without the fault of the owner or operator thereof, and that at the time of the destruction of such mill the person, firm or corporation operating the same was entitled to ship the products of said flouring mill to a designated terminal point in this state on "transit" arising out of the prepayment of the through rate to such terminal point on grain billed from some station in this state to such terminal, but delivered at said mill in transit to be ground, and the products thereof forwarded to such original terminal instead of the grain itself, said railroad and warehouse commission may, upon such reasonable notice as it may fix, hear the claims of such transit creditor and transit debtor with reference thereto, and after having found the facts said railroad and warehouse commission may, by order, permit the use of such transit by the owner in payment of the transportation of grain or its products from other flouring mills or elevators on the lines of such railroad to the same terminal point, provided that if the shipment in which such transit shall be used covers a greater distance than that from said destroyed mill to said terminal point, regular rates must be paid for such additional distance, and if the shipment in which it shall be used covers less than such original distance, transit for the original distance shall, nevertheless, be applied thereon. ('11 c. 98 § 1, amended '13 c. 17 § 1)

RAILROADS AND COMMON CARRIERS

4247. Common carriers defined—The term "carrier," as used in this chapter, shall include all common carriers engaged in the transportation of persons or property between places within this state by railroad, or partly by railroad and partly by water, when both are used under a common control, ownership, management, or arrangement for such carriage, without regard to the motive power, whether such carrier owns or operates the line or lines over which such passengers or freight are transported, or carries the same over the lines or in the cars of any other company as an express or transportation company, but shall not include street railways so far as relates to the carriage of persons or property wholly within the limits of any municipality or municipalities. (1990)

A corporation authorized to own and operate suburban street railways held a common carrier (101-132, 112+13).

4248. Railroads, etc., defined—The term "railroad," as used in this chapter, shall include all bridges or ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned, or operated under a lease or other contract; and the term "transportation" shall include all instrumentalities of shipment or carriage. (1991)

4249. Certain sections not applicable to certain railroad companies—That the provisions of sections 2003, 2004, 2006, 2025, 2026, 2027, 2028, 2029, 2030 and 2035 of chapter 28, Revised Laws of Minnesota 1905 [4281, 4282, 4284, 4379, 4380, 4389-4392, 4408] chapter 173 of the General Laws of Minnesota 1909, and chapter 382 of the General Laws of Minnesota 1909, shall not apply to any railroad company operating mainly for the purpose of handling passengers, baggage, express and mail, and operated partly over a privately owned right-of-way and partly over highways, but the said railway companies shall furnish just, reasonable and adequate accommodation and service, and the railroad and warehouse commission of this state is hereby vested

with power and authority to determine, prescribe and enforce such just and reasonable regulations for and of such railway companies. ('11 c. 336 § 1)

For 1909 c. 173, see §§ 4402, 4403. For Laws 1909 c. 382, see §§ 4387, 4388.

4250. Construction of railroads—All steam railroads shall be of the standard gauge of four feet eight and one-half inches, and shall be substantially and safely constructed. (1992)

4251. Interlocking devices—That whenever in the judgment of the railroad and warehouse commission it is necessary for the public safety, said commission may require, at all railroad crossings, junctions and drawbridges in said state, the establishment of interlocking devices, or such other safety appliances as are necessary for the protection and safety of the traveling public. Where two or more railroad companies are interested, the division of the expense of installing, maintaining and operating said interlocking plant or safety device shall be agreed upon by the respective companies required to install the same; in case they cannot agree, then such division shall be determined by the railroad and warehouse commission after a hearing. ('07 c. 276 § 1)

4252. Same—Block signal system—Approval by commission—The commission may require any railroad company on any part of its line or lines operated in this state, to install and operate a "block signal system" or any other device or appliance that in its judgment will best promote the public safety. Whenever any railroad company proposes to install in this state any interlocking plant, block signal system, or other safety appliance, on any part of its system, it shall first submit the plans to the commission for approval and after the same is installed, have the commission inspect same and issue a certificate before the plant is operated. ('07 c. 276 § 2, amended '11 c. 322 § 1)

4253. Same—Penalty for violation—Any railroad company neglecting to comply with any order of the commission made under this act, shall be liable to a penalty of twenty-five dollars for each day such neglect shall continue, to be recovered in a civil action in the name of the state and paid into the general fund of the state treasury. ('07 c. 276 § 3)

4254. Construction of switches—In order to guard against accidental injuries to employees and others, every railroad company shall properly adjust, fill, block, and guard all its frogs, switches, and guard rails. Any such company violating this section, in addition to its liability to any person injured or to his legal representatives, shall forfeit to the state not less than five hundred dollars nor more than two thousand dollars; and such violation shall be deemed a separate offence for each period of thirty days that the same shall continue. (1993)

49-488, 52+133; 58-540, 60+669.

4255. Signs at crossings—Every such company shall maintain, wherever any of its lines crosses a public road, a proper and conspicuous sign indicating such crossing. Any such company failing to comply with any requirement of this section shall forfeit to the town or municipality having charge of such road ten dollars for each day that such failure continues. (1994)

42-247, 44+7, 7 L. R. A. 121; 43-524, 46+74.

4256. Road crossings—Every such company shall construct and maintain in good repair and free from snow or other obstruction, wherever any of its lines shall cross a public road, sufficient crossings, consisting of:

1. Sufficient grades, sixteen feet in width on each side of the center of such road, and of such slope as may be deemed necessary by the officers having charge of the public road;

2. A plank covering of the same width, securely spiked, extending the full length of the ties, the planks not more than one inch apart, the planking not more than two and one-half inches from the rails, and the surface thereof on a level with the top of the rails.

In municipalities such grades and planking shall extend the full width of the street, or of that part thereof graded or used for travel, and like planking shall be placed between all tracks which are not more than fifteen feet apart,

and a suitable sidewalk shall be constructed by said company to connect with and correspond to said walks constructed and installed by the municipality or by owners of abutting property, but cement or concrete construction shall not be required in track space actually occupied by the railroad ties if some substantial and suitable sidewalk material is used in lieu thereof. In case of roads newly established, such crossing shall be constructed within thirty days after the service on the nearest station agent or section foreman of such company of a notice, signed by the proper officer or officers having charge of such road, that such crossing is required. (R. L. § 1995, amended '13 c. 78 § 1).

43-524, 46+74; 55-223, 56+820; 67-213, 69+898; 89-139, 94+439.

4257. Crossings—Change of grade—Every railroad company in this state shall keep well planked and in a safe and passable condition every crossing over any public highway, and when ever any such railroad company shall have changed or raised the grade of its tracks at any such crossing it shall also grade the approaches on each side so as to make the approach and crossing of such tracks safe and easy for teams with loads and other vehicles. ('11 c. 329 § 1)

4258. Same—Where more than one track—Whenever any such railroad companies have more than one track, crossing such highways it shall be unlawful to raise or maintain one such track at a higher grade than the other tracks and shall cause all such tracks to be raised or lowered to about the same level so as not to endanger the safe passage of teams and other vehicles over such tracks at such crossings. ('11 c. 329 § 2)

4259. Same—Penalty for violation—Every railroad company who shall refuse or neglect to comply with the provisions of section two [4258] for the space of thirty days after having been notified in writing by any town or county board so to do, shall be guilty of a violation of this act and shall be subject to a fine of fifty dollars for each day thereafter that such crossing is left in such dangerous and unsafe condition, and each such day shall constitute a separate offense against this act. ('11 c. 329 § 3)

4260. Same—Duty of county attorney—The county attorney of any county shall have power to proceed in court for the collection of such fines together with all costs and disbursements on the part of the town or county making such complaint together with one hundred dollars attorneys fees for each such prosecution. ('11 c. 329 § 4)

4261. Same—Powers of town and county boards—If any railroad company shall refuse or neglect to provide for the grading and planking of any such crossing as provided in section one [4257] of this act, for the space of thirty days after written notice have been given such railroad company by any town or county board, such town board or county board may proceed to cause such grading and planking to be done and charge the cost of same to such railroad company and proceed to collect the same by an action at law together with all costs and disbursements and one hundred dollars attorneys fees. ('11 c. 329 § 5)

4262. Farm crossings—Any such company constructing a railroad so as to leave parts of any farm on different sides of such road shall construct a proper farm crossing at some place convenient for such farm. (1996)

39-8, 38+627; 42-75, 78, 43+785; 76-506, 79+516; 79-398, 82+670, 49 L. R. A. 625; 80-24, 82+1085; 96-202, 104+960.

4263. Fences and cattle guards—Every such company shall build and maintain on each side of all lines of road owned and operated by it, good and substantial fences, and shall build and maintain good and sufficient cattle guards at all road and street crossings and other openings, except at station and depot grounds, and other places which the necessary business of the road or public convenience requires to be open. Whenever the land of any person lying along the right of way of any railroad is enclosed on three sides by a woven wire fence, such railroad company shall erect and maintain a woven wire fence of like character and quality along the said right of way enclosing the remaining side of said land. Provided, that in the building and maintenance of said fences and cattle guards, every such company shall be held to the exercise of ordinary diligence and care and shall be held to such ordinary diligence and care in keeping

such cattle guards free from ice and snow. (R. L. § 1997, amended '07 c. 333; '11 c. 309 § 1)

1. In general—A constitutional exercise of police power (11-515, 392, 88 Am. Dec. 100; 35-503, 29+202; 149 U. S. 364, 13 Sup. Ct. 870, 37 L. Ed. 769). A police regulation; not a regulation of partition fences (26-268, 3+353; 37-103, 33+316; 68-216, 71+20, 37 L. R. A. 591, 64 Am. St. Rep. 472). Object of statute (68-216, 71+20, 37 L. R. A. 591, 64 Am. St. Rep. 472; 95-398, 104+228). No such duty at common law (15-350, 283; 25-328; 95-398, 104+228). Enforced strictly (95-386, 104+234). Applicable to all railroads (26-268, 3+353; 46-250, 48+915). Statutory wire fence sufficient (32-88, 19+392; 96-176, 104+827). Duty to maintain and repair (30-18, 13+921; 30-489, 16+271; 34-281, 25+595; 47-429, 50+474; 101-12, 111+651). Unnecessary under present law for county board to act (25-328). Fencing necessary though cattle guards impracticable (52-276, 53+1129). Meaning of "on each side" (63-37, 65+125, 30 L. R. A. 590, 56 Am. St. Rep. 453). Duty of parallel railroads (84-397, 87+1117, 87 Am. St. Rep. 369). Duty absolute and imperative (80-508, 83+454; 84-397, 87+1117, 87 Am. St. Rep. 369). Duty to keep gates closed (93-428, 101+795). See § 4268).

2. Within municipal limits—Prior to the revision there was no exception as to municipal limits (33-136, 22+179, 53 Am. Rep. 16; 44-275, 46+363; 72-47, 74+898, 80+628; 80-508, 83+454).

3. Implied exceptions—Streets—Depot grounds—There is no duty where there is no right—where a fence would obstruct public streets, highways or grounds (33-136, 22+179, 53 Am. Rep. 16; 42-34, 43+652, 5 L. R. A. 864; 84-397, 87+1117, 87 Am. St. Rep. 369). Exception as to station and depot grounds (33-136, 22+179, 53 Am. Rep. 16; 36-518, 32+783; 37-52, 33+314; 37-103, 33+316; 39-485, 40+613; 41-101, 42+924; 42-480, 44+530). Exception does not necessarily extend to full length of "yards" (80-508, 83+454). Repair shops and yards held within statute (95-386, 104+234; 100-34, 110+98). Possibly switching yards are excepted (80-508, 83+454; 84-397, 87+1117, 87 Am. St. Rep. 369). Public necessity or convenience the limit of the exception (33-136, 22+179, 53 Am. Rep. 16; 36-518, 32+783; 39-485, 40+613; 84-397, 87+1117, 87 Am. St. Rep. 369). Burden on railroad to prove facts giving rise to exception (41-101, 42+924; 72-47, 74+898, 80+628; 80-508, 83+454; 84-397, 87+1117, 87 Am. St. Rep. 369). Mere inconvenience to the company does not create an exception (33-136, 22+179, 53 Am. Rep. 16). Fences must be built to prevent passing through depot grounds to track beyond (36-518, 32+783).

4. Cattle guards—Where necessary (40-91, 41+458). When impracticable duty to fence unaffected (52-276, 53+1129). Unnecessary to keep free from snow and ice (34-57, 24+558, 57 Am. Rep. 36; 42-158, 43+905). Whether necessary to keep free from snow and ice depends on circumstances (115-496, 132+994). Duty to keep in repair (36-296, 30+892).

4264. Liability for failure to fence, etc.—Any such company failing to comply with the requirements of § 4263 shall be liable for all damages resulting therefrom, and for all domestic animals killed or injured by its negligence; and, if it shall fail to pay the actual damages occasioned by such killing or injury within thirty days after such damage occurs, then, in case of recovery therefor by action brought after such thirty days, if in district court the plaintiff shall recover double costs, and if in justice court ten dollars costs. Such company, before the commencement of action, may make tender for such injury, and if the amount recovered, exclusive of interest, shall not exceed the tender, the plaintiff shall recover no costs nor disbursements. (1998)

1. General liability—The general liability is distinct from the special liability for loss or injury of domestic animals (95-398, 104+228; 141 Fed. 25, 72 C. C. A. 513). Liable to abutting landowner for depreciation of property or rental value from failure to fence (35-503, 29+202; 38-215, 36+340; 41-151, 42+788; 46-250, 48+915; 149 U. S. 364, 13 Sup. Ct. 870, 37 L. Ed. 769). Liable for death or injury of child straying on unfenced road (68-216, 71+20, 37 L. R. A. 591, 64 Am. St. Rep. 472; 80-508, 83+454; 84-397, 87+1117, 87 Am. St. Rep. 369). See 96-176, 104+827; 100-34, 110+98). Whether a child would have been turned by a legal fence is a question of fact. Failure to fence prima facie, but not conclusive, evidence of negligence (96-176, 104+827; 139+713).

2. Liability for animals killed or injured—Liable only where injury is the natural and proximate consequence of the neglect to fence (30-74, 14+360; 95-398, 104+228). See 32-88, 19+392; 60-134, 61+1130). Liability extends only to animals killed on right of way. Object of statute. G. S. 1894 § 2695 not applicable (95-398, 104+228). Not liable for injuries by animals passing over unfenced tracks and trespassing on adjoining lands (25-328). Contributory negligence a defence (24-394; 27-111, 6+448; 29-425, 13+673). Liability extends to all domestic animals including estrays. Merely permitting animals to run at large unlawfully does not in itself constitute contributory negligence (26-268, 3+353; 29-425, 13+673; 31-91, 16+537; 55-192, 56+752; 57-26, 58+822). See 42-480, 44+530). No defence that animals were trespassing on land from which they passed to tracks (26-268, 3+353). Acts constituting contributory negligence (29-425, 13+673). Contributory negligence held a question for the jury (27-360, 7+366; 53-122, 54+1061; 55-192, 56+752; 57-26, 58+822; 99-332, 109+600). Animals accidentally escaping from owner (52-276, 53+1129; 53-122, 54+1061). Duty in operating trains where land is not fenced (27-360, 7+366; 96-176, 104+827). Injury resulting from failure to repair (30-18, 13+921; 30-489, 16+271; 34-281, 25+595). Liability extends to all animals that would be turned by a legal fence. Whether sheep and hogs would be turned depends on their size—ordinarily a question for the jury (32-88, 19+392; 34-216, 25+347). Burden of proving plaintiff's contributory negligence on railroad

(24-394; 41-101, 42+924). Condition of road where animals enter controls; not condition where they are killed or injured (41-101, 42+924).

Whether company negligent in failing to maintain fence in repair for jury (102-295, 113+886).

3. Double costs—Constitutional (29-425, 13+673; 34-216, 25+347). Allowable on appeal from justice court (34-216, 25+347). Not allowable when action begins within thirty days (37-52, 33+314). Not applicable to supreme court (72-47, 74+898, 80+628). Cited (27-111, 6+448; 31-91, 16+537; 95-398, 104+228).

4265. Fences—Crossings—Cattle guards—Any such company operating a line of railroad in this state, which has failed or neglected to fence said road and to erect crossings and cattle guards, shall be liable for all damages sustained by any person in consequence of such failure or neglect: Provided, that the measure of damages for failure to construct or maintain such fence shall be as follows: The owner of any land abutting on the line of railway of such company may serve notice on any of its station agents between April 1 and October 1 of any year, requiring the construction of a fence on the line between his land and its right of way. If such company shall not construct the same within forty days after service of such notice, the landowner may recover of the company an amount not exceeding twice the cost of such construction, with costs and reasonable attorney's fee, to be allowed by the court, or he may construct such fence after the expiration of such time, and receive from the company double the cost of construction, with like costs and attorney's fee. Such fence shall be kept in repair by such company in like manner and under like penalties as if built by such company. But failure to serve such notice shall not relieve such company from liability for damages for injuries to persons or domestic animals or other property, resulting from failure to fence its road. (1999)

80-508, 83+454; 95-398, 104+228; 141 Fed. 25, 72 C. C. A. 513.

4266. Fences between railroad and public road—If any such company shall fail to fence its line where the same adjoins a public road or street, or lies so near thereto as to render travel thereon dangerous, the governing body of the town or municipality having charge of such road or street, by notice as in case of abutting landowner, may require such fence to be built; and, in case of failure to build such fence for the time provided in § 4265, such town or municipality shall have the rights and remedies given by said section to such abutting owner. (2000)

4267. Farm crossings and drains—Persons owning lands abutting upon a railroad may construct, at their own expense, crossings under, over, or across such railroad, and drains under and across the same, at such places and in such manner as not to obstruct or impair the use of such railroad, which crossings and drains shall be maintained and kept in repair by the company. Before constructing the same, the owner of the land shall serve on the nearest station agent of the company a notice, stating in detail the work which he desires to perform, and the company may construct such work; but the same shall not be opened for the use of the landowner until he pays the reasonable cost of construction. (2001)

38-491, 38+487; 108-494, 122+452.

4268. Gates at farm crossings—Any such company which shall erect at a farm crossing a gate for the exclusive use of the owner and occupants of such farm, provide a lock for the same, and deliver the key thereof to such owner or occupant, shall not be liable to such owner or occupant for any animal killed or injured by reason of such gate being left open without fault of such company, unless such killing or injury results from the wanton or malicious act of such company or its employees. (2002)

40-91, 41+458; 53-122, 54+1061; 79-398, 82+670, 49 L. R. A. 625; 80-24, 82+1085; 93-428, 101+795.

4269. Ditches and culverts—It shall be the duty of every railroad company or receiver or lessee thereof, operating a line of railroad in the state of Minnesota, to keep clean at all times between the first day of April and the first day of November of each year, all ditches and culverts constructed by them for the drainage of their road-bed or right of way. Provided, that this act shall not apply to ditches and culverts not located upon the right of way of any railroad. ('09 c. 377 § 1)

4270. **Same—Failure to comply—Penalty**—Any such railroad receiver or lessee thereof, failing or neglecting to comply with the provisions of the foregoing section shall forfeit and pay to the state of Minnesota the sum of two hundred dollars for every mile of such ditch which it fails to keep clean during any season. Said amount shall be collected in a civil action brought by the attorney general of the state of Minnesota, or by the county attorney of any county through or into which said railroad extends. ('09 c. 377 § 2)

4271. **Same—Duty of commission**—It shall be the duty of the railroad and warehouse commission to have this law enforced. ('09 c. 377 § 3)

4272. **Clearance between structures and cars, etc.—To what railroads applicable**—That the provisions of this act shall apply to any corporation or receiver thereof or to any person or persons while engaged as common carriers in the transportation by railroad of passengers or property within this state to which the regulative powers of this state extend, except railways operated by the electric trolley system. ('13 c. 307 § 1)

4273. **Same—Distance between structures or obstructions and center line of tracks—Height of overhead obstructions**—That on and after the passage of this act, it shall be unlawful for any common carrier, or any other person, to erect or reconstruct and thereafter maintain on any standard gauge road on its line or on any standard gauge side track used in connection therewith, for use in any traffic mentioned in section one [4272] of this act, any warehouse, coal chute, stock pen, pole, mail crane, stand pipe, hog drencher, or any permanent or fixed structure or obstruction, or in excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any side-track used in connection therewith at a distance less than eight feet measured from the center line of the track, which said structure or obstruction adjoins on standard gauge roads; nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or reconstructed at a less height than twenty-one (21) feet, measured from the top of the track rail. ('13 c. 307 § 2)

4274. **Same—Permit in certain cases**—The railroad and warehouse commission may upon application made, after a thorough investigation, permit any common carrier to which this act applies to erect any overhead or side obstruction at a less distance from the track than herein provided for, when in the judgment of said commission a compliance with the clearance prescribed herein would be impracticable. ('13 c. 307 § 3)

4275. **Same—Distance between tracks**—That on and after the passage of this act it shall be unlawful for any such common carrier to construct any track used for the purpose of moving any cars engaged in the movement of traffic within the regulative power of this state, where the center line of such track is at a distance of less than fourteen feet from the center line of any other parallel track which it adjoins. ('13 c. 307 § 4)

4276. **Same—Tracks for switching or storing**—Section four [4275] of this act shall not be construed as applying to tracks to be used wholly for the purpose of switching or storing cars, but the tracks which are to be used for such purpose shall not be constructed in closer proximity to each other than thirteen (13) feet measured from the center line of any such track to the center line of any parallel track which it adjoins; provided, that the distance between said tracks specified in sections four and five [4275, 4276] of this act may be diminished or closed up a necessary distance for track intersections, turn-outs and switch points. ('13 c. 307 § 5)

4277. **Same—Obstructing space between tracks, etc.—Exceptions**—That on and after the passage of this act it shall be unlawful for any such common carrier to permit the space between such of its tracks as are ordinarily used by yardmen and other employes in the discharge of their duties, to become or remain obstructed by any foreign obstacle that will interfere with the work of said employes or subject said employes to unnecessary hazard. Such space between or beside said tracks as aforesaid, and between the rails of said tracks must be kept in such condition as to permit said employes to pass over or between said tracks or to use the same by day or night and under all weather con-

ditions without unnecessary hazard, provided, however, that wherever any railroad company has already begun work on depressing a portion of its tracks, within the corporate limits of any municipality, whether under contract with such municipality or otherwise, this act shall not apply to any depression of the tracks of such company lying wholly within the corporate limits of such municipality. Provided further, that none of the provisions of this act shall apply to any part of any work or enterprise heretofore begun or under construction, whether under contract between any railroad company and any municipality or otherwise. ('13 c. 307 § 6, amended '13 c. 448 § 1)

4278. Same—Penalties for violation—Duties of attorney general and commission—That any common carrier subject to the provisions of this act violating any of the provisions thereof, shall be liable to a penalty of five hundred dollars (\$500.00) for each and any such violation; and each day that any structure or obstruction is maintained in violation of this act, shall constitute a separate offense, such penalty to be recovered in a suit or suits to be brought in the name of the state of Minnesota by the attorney general or under his direction in any court having jurisdiction thereof in the locality where such a violation shall have been committed, and it shall be the duty of the attorney general under the direction of the state railroad and warehouse commission to bring such suits upon duly verified information being lodged with him by any person of such violation being committed, and it shall also be the duty of said state railroad and warehouse commission to lodge with the attorney general information of any such violation as may come to its knowledge. ('13 c. 307 § 7)

4279. Same—Duty of inspectors of bureau of labor, etc.—It shall be the duty of the railroad inspectors of the bureau of labor, industries and commerce, to report to the railroad and warehouse commission and to the attorney general any violation of the provisions of this act of which they may obtain knowledge. ('13 c. 307 § 8)

4280. Same—Contributory negligence, etc.—That any employé of said common carrier who, while in the performance of his duty and while engaged in any commerce mentioned subject to the regulative power of this act in section one [4272], may be injured or killed by reason of a violation of section six [4277] of this act, or by reason of any structure or obstruction erected or maintained prior to the passage of this act, or in violation of the provisions of this act, in closer proximity to the rails than hereinbefore provided, shall not be deemed to have assumed the risk thereby occasioned or to have been guilty of contributory negligence although the employees continued in the employ of such common carrier after the use of such permanent overhead or side structure or obstruction of any kind or character mentioned in this act shall have been brought to his knowledge; and an exercise of the permission provided for in section 3 [4274] of this act shall be at the sole risk of the carrier. ('13 c. 307 § 9)

4281. Platforms for freight—Every such company shall provide at all stations in villages containing two hundred and fifty inhabitants or more, and at other stations and sidings when required by the commission, immediately alongside of its tracks or side tracks, platforms with approaches at each end, suitable and convenient for loading upon and unloading from its cars heavy machinery and other freight. Such platforms shall be at least twelve feet wide, strongly built, and floored with plank at least three inches thick. The platforms, exclusive of approaches, shall be at least thirty-two feet long, and of the height of the floor of an ordinary box car, and the approaches of such grade that heavily loaded teams can be driven up and down the same. Any such company failing to comply with the provisions of this section shall forfeit to the state not less than five hundred dollars nor more than one thousand dollars for every thirty days that such failure shall continue. (2003)

See § 4249.

4282. Platforms for loading—Whenever required by the commission, every railroad company shall construct and maintain at each station and siding a suitable platform for the purpose of loading grain, live stock and other com-

modities into its cars for shipment. The commission may require the enlargement of any platform so constructed or the construction of additional platforms at any such station or siding, whenever it deems it necessary for said purpose. Every such company which shall fail to construct any such platform within sixty days after the service on it of the order of the commission requiring such construction, shall forfeit to the state twenty-five dollars for each day thereafter that such platform remains unconstructed. (2004)

See § 4249.

4283. Combined railroad and toll bridges—Any such company may construct and maintain at its own expense any of its bridges and the approaches thereto, so as to answer for ordinary travel, and, unless within one mile from a toll bridge previously built by an incorporated bridge company over the same stream, may charge and collect for its use reasonable toll, subject to the approval of the proper county board. Such tolls shall be uniform, and the rates thereof shall be conspicuously posted on or near the toll house. Such company may contract with any person or corporation for the payment of a fixed sum, yearly or otherwise, in lieu of such toll. (2005)

4284. Side tracks to elevators, mills, etc.—Every such company, upon written demand of the owner of any grain warehouse or mill of not less than five thousand (5,000) bushels capacity, adjacent to the right of way of such company and at or near any regular station thereof, shall construct, maintain and operate at its own expense, proper side tracks connecting such warehouse or mill with the tracks of such railroad, and afford the owner thereof proper and reasonable facilities for shipment therefrom. Should additional right of way be required for such side track, the cost and expense of procuring it shall be paid by the owner of said mill or warehouse. Such company shall also construct, maintain and operate side tracks connecting with its road any such grain warehouse, dock, wharf, mill, coal yard, quarry, brick or lime kiln, or manufactory adjacent thereto as shall be required and on such terms as may be fixed by the commission on application of either party. (R. L. § 2006, amended '13 c. 367 § 2)

See § 4249. Previously amended by 1913 c. 289.

115-51, 131+859; 118-491, 137+193.

4285. Charges to be reasonable—All charges made by any such carrier for the transportation of passengers or property, whether over one or more railroads, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be equal and reasonable; and every unequal or unreasonable charge for such service is prohibited. One car load of freight of any kind or class shall be transported at as low a rate per ton, and per ton per mile, as any greater number of car loads of the same kind and class from and to the same points of origination or destination. (2007)

60-461, 62+826; 115-116, 131+1075.

4286. Passengers—Maximum rates—No railroad company owning, operating, or using a line of railroad within, or partly within the state of Minnesota shall charge, collect or receive as compensation for transporting any passenger and his or her ordinary baggage, not exceeding in weight one hundred fifty (150) pounds any sum or amount in excess of the following prices, viz.: For a distance not exceeding five miles, three cents per mile; for all other distances for all companies for gross earnings of whose passenger trains, as reported the railroad and warehouse commission for the year nineteen hundred eleven (1911), equalled or exceeded the sum of one thousand two hundred dollars per mile for each mile of road operated by said company, on which regular passenger service is maintained, as hereinafter provided, two cents per mile, and for all companies whose earnings reported as aforesaid were less than one thousand two hundred dollars per mile of road operated by said company, three cents per mile: Provided, that in the future, whenever the earnings of any company doing business in this state, as reported to the railroad and warehouse commission at the close of any year, shall increase so as to equal or exceed the sum of one thousand two hundred dollars per mile of road operated by said company, then in such case said company shall thereafter, upon the notification of the railroad and warehouse commission, be re-

quired to only receive as compensation for the transportation of any passenger, his or her ordinary baggage, not exceeding in weight one hundred fifty (150) pounds, a rate of only two cents per mile as hereinbefore provided. Provided further, that in computing the passenger earnings per mile of any company the earnings and the mileage of all branch roads owned, leased, controlled or occupied by such company, exclusive of all spurs and branches over which such company does not operate each way daily, except Sunday, at least one passenger train, or mixed train having at least two passenger coaches or one passenger coach and baggage car, shall be included in the computation, and the rate of fare shall be the same on all lines owned, leased, controlled or occupied by such company: Provided further, that no company shall charge, demand or receive any greater compensation per mile for transportation of children of the age of twelve years or under than one-half the rate herein prescribed: Provided further, that any railroad company may charge a minimum fare of five cents for each passenger transported over its road, whenever cars are propelled or moved by motive power other than steam: The provisions of this section shall apply to all railroad companies operating lines of railroad in this state. ('13 c. 536 § 1)

By section 3 the act takes effect January 1, 1914.

This act appears to supersede 1907 c. 97, as amended by 1911 c. 331 [4288, 4289].

4287. Same—Penalty for violation—Any railroad company or any officer, agent or representative thereof, who shall violate any provisions of this act upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars together with the cost of prosecution. Providing further that this act shall in no way repeal, amend, affect or modify the provisions of chapter 493 General Laws of Minnesota for the year 1909 [4319, 4320]. ('13 c. 536 § 2)

4288. Passengers—Maximum rates—No railroad company owning, operating, or using a line of railroad within or partly within the state of Minnesota, regardless of the motive power used, shall charge or collect more than two cents per mile for carrying over its road on any trip wholly within this state, any passenger of twelve years of age or over, together with baggage not exceeding one hundred and fifty pounds in weight; or more than one cent per mile for any such passenger under twelve years of age, together with baggage not exceeding seventy-five pounds in weight: Provided that no railroad company shall be required to carry a passenger any distance for less than five cents. ('07 c. 97 § 1, amended '11 c. 331 § 1)

See note under § 4286.

1907 c. 97 and 1907 c. 232 [4298-4304], and certain orders of the commission reducing rates, held not to violate Const. U. S. art. 1 § 8, as imposing a direct burden on interstate commerce or as conflicting with the federal act to regulate commerce. Held, also, upon the facts proved, that it did not appear that a fair return had been denied to certain companies (but that it did so appear as to another company), and that as to the former a conclusion that the rates were confiscatory was not sustained—reversing and modifying (C. C.) 184 Fed. 765 (Minnesota Rate Cases, 33 Sup. Ct. 729).

Regulation requiring passenger without ticket to pay 10 cents more than regular fare, with right to refundment, held not in conflict with 1907 c. 97 (118-119, 133+462, Ann. Cas. 1913A, 1197).

Cited (118-380, 137+2, 41 L. R. A. [N. S.] 524).

4289. Same—Penalties for violation—Any railroad company, or any officer, agent or representative thereof, who shall violate any provision of this act shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not exceeding five thousand dollars, or by imprisonment in the state prison for a period not exceeding five years, or by both such fine and imprisonment. ('07 c. 97 § 2)

Cited (118-380, 137+2, 41 L. R. A. [N. S.] 524).

4290. Freight rates—Right of carrier in first instance—Uniform classification—All common carriers subject to the laws of this state shall have the right in the first instance to prescribe and publish, as required by law, all classifications and tariffs, rates, and charges, together with rules governing the same, including minimum weights for the transportation of any freight articles between points or stations in the state of Minnesota; this act shall include all terminal and switching charges. There shall be but one classifica-

tion, which shall be uniform on all the railroads in this state, and shall govern in all state commerce. ('05 c. 176 § 1)

Section 9 repeals inconsistent acts, etc.

4291. Same—Notice of change to be posted—In addition to the present requirements for publishing tariffs, rates, charges and classifications, all common carriers in this state shall, whenever any new tariff or classification or any amendment to any tariff or classification is published either by itself or the commission, post in a conspicuous place in every depot where the public would be affected, a notice printed in large, legible type, stating that changes have been made, indicating upon what articles or commodities, and where the new tariff, classification or amendment may be seen. ('05 c. 176 § 2)

4292. Same—Rates not to be changed without order, etc.—The schedule of rates and charges for the transportation of freight and cars, together with the classification of such freights, minimum weights and rules now in effect, and all rates, charges and classifications published by any common carrier after the passage of this act shall be deemed just and reasonable and shall not be changed except upon the order of or by the written consent of the railroad and warehouse commission, hereafter called the commission. The terms of this act shall also apply to all schedules of rates and charges published by two or more common carriers jointly. ('05 c. 176 § 3)

4293. Same—Public property excepted—Nothing in this act shall apply to the carriage, storage or handling by any common carrier, of property free or at reduced rates, for the United States or the state of Minnesota, or for any municipal government or corporation within the state, or for any church, religious society or charitable purpose, or to or from fairs or expositions, or for stock breeding purposes, or for carrying seed grain. ('05 c. 176 § 4)

4294. Same—Application for change—Notice—Hearing—Any common carrier desiring to change or discontinue any published rate, charge or classification, minimum weight or rule governing the same to which it is a party, shall make application to the commission in writing, stating the changes in rules, rates, charges or classifications desired, giving the reasons for such change. Upon receiving such application, the commission shall fix a time and place for hearing, and give such notice to interested parties as it shall deem proper and reasonable, and after hearing all the evidence offered, if the commission find that it is reasonable, fair and just to both shippers and carriers that the change should be allowed as asked for, it shall grant the application; otherwise, it shall deny the same, or may grant the same in a modified form. Passenger rates are not affected by this act. ('05 c. 176 § 5)

4295. Same—Emergency rate—Upon the application of any carrier or carriers to the railroad and warehouse commission, stating that they desire to put in an emergency rate for the protection of the interests of such carrier or shippers, the commission may, before such rate is established and without the notice and hearing required by section five [4294], authorize the restoration of the rates existing at the time of such application and fix the time within which such restoration may be made, and the time so fixed may be extended in the discretion of the commission as the circumstances of the case may require. Nothing in this act shall be held in any way to limit or modify the rights and powers of the commission to investigate, inquire into, prescribe and publish what it may deem to be just and reasonable rates, charges and classifications to govern common carriers in this state. ('05 c. 176 § 6)

4296. Same—Penalty for violation—Any common carrier violating any of the provisions of sections 2 [4291], 3 [4292] and 5 [4294] of this act, shall be subject to a penalty of one hundred dollars for each and every day such violation shall continue, to be recovered in a civil action in the name of the state of Minnesota by the attorney general. ('05 c. 176 § 7)

See § 4311.

4297. Same—Duties and powers of commission—It is hereby made the duty of the commission to keep itself informed as to whether common carriers in this state are granting rebates or in other particulars are failing to comply with the laws of this state. For this purpose power is hereby conferred on the commission or its agent to at any proper time make thorough and full ex-

amination of all books, vouchers, papers and accounts of any and all common carriers of this state. Any officer, agent or employé of any railroad company in charge of such books, vouchers, papers and accounts who shall fail or refuse to submit the same for examination of the commission or its agent, shall be guilty of misdemeanor. The provisions of this section shall in no way interfere with the duties of the public examiner. ('05 c. 176 § 8)

4298. Classification of commodities—For the purposes of this act the commodities hereinunder named are classified as follows: Wheat, flaxseed, broom corn seed, hemp seed, millet seed, popcorn, castor beans, Hungarian seed, buckwheat, buckwheat flour, potato flour, wheat flour, prepared flour and all uncooked grain or cereal products manufactured from wheat, shall constitute class eleven; corn, oats, rye, barley, alfalfa feed, alfalfa meal, bran, brewers' grits, brewers' meal, brewers' refuse (dry), chopped feed other than wheat chops, corn flour, corn meal, cotton seed cake, cotton seed hulls, cotton seed meal, gluten feed; gluten meal, grain screenings, hominy feed, kafir corn, linseed cake, linseed meal, middlings, shorts, sorghum seed, speltz, wild mustard seed, oat groats, rolled' oats, oat dust, oat hulls, oatmeal, rolled rye, rye flour, malt, pearl barley and all uncooked grain or cereal products manufactured from corn, oats, or rye shall constitute class twelve; lumber, lath, shingles, sash doors and blinds shall constitute class thirteen; sheep (when carried in double-decked cars) and cattle shall constitute class fourteen; sheep (when carried in single decked cars) and hogs shall constitute class fifteen; hard coal shall constitute class sixteen; soft coal shall constitute class seventeen. ('07 c. 232 § 1)

See 1909 c. 136 and §§ 4305, 4306.

See note under § 4288. See also (C. C.) 155 Fed. 445.

Cited (105-170, 117+393, 17 L. R. A. [N. S.] 984, 15 Ann. Cas. 961).

4299. Same—Maximum rates—The following are hereby established and declared to be the reasonable maximum rates to be charged by railroad companies as common carriers of property in the state of Minnesota for the transportation, in carload lots, of the commodities belonging to the classes named in section one [4298] of this act, between stations in the state of Minnesota, for the distances named in the following schedule, to-wit:

Distance in miles.	Rate for Commodities in Classification No. 11 in cents per 100 lbs.	Rate for Commodities in Classification No. 12 in cents per 100 lbs.	Rate for Commodities in Classification No. 13 in cents per 100 lbs.	Rate for Commodities in Classification No. 14 in cents per 100 lbs.	Rate for Commodities in Classification No. 15 in cents per 100 lbs.	Rate for Commodities in Classification No. 16 in dollars and cents per ton.	Rate for Commodities in Classification No. 17 in dollars and cents per ton.
5	2.7	2.7	2.7	4.4	4.9	.54	.44
10	3.3	2.8	3.3	5.	5.5	.62	.49
15	3.8	3.4	3.8	5.5	6.3	.63	.51
20	4.4	3.8	4.4	6.3	6.8	.65	.52
25	4.6	4.	5.4	6.7	7.6	.69	.54
30	4.8	4.2	5.6	7.4	8.3	.70	.57
35	5.	4.5	5.8	7.9	9.	.72	.58
40	5.2	4.6	6.	8.6	9.7	.74	.59
45	5.4	4.8	6.3	9.2	10.3	.75	.61
50	5.7	5.	6.5	9.8	11.	.77	.62
55	5.9	5.1	6.8	10.	11.3	.81	.64
60	6.1	5.3	7.	10.2	11.5	.83	.65
65	6.3	5.5	7.4	10.5	11.8	.85	.69
70	6.5	5.8	7.5	10.7	12.	.87	.70
75	6.7	6.	7.7	10.9	12.3	.89	.72
80	7.	6.2	8.1	11.1	12.5	.93	.74
85	7.2	6.3	8.3	11.3	12.7	.95	.75
90	7.4	6.5	8.5	11.5	13.	.97	.77
95	7.6	6.7	8.7	11.8	13.3	.99	.80
100	7.8	7.	9.	12.	13.5	1.01	.82
105	7.9	7.	9.2	12.2	13.7	1.04	.83
110	8.1	7.	9.3	12.4	13.9	1.06	.84
115	8.2	7.2	9.4	12.6	14.3	1.07	.85
120	8.2	7.2	9.4	12.8	14.5	1.08	.86
125	8.3	7.3	9.5	13.	14.7	1.10	.87
130	8.4	7.4	9.6	13.3	14.9	1.11	.88

Distance in miles.	Rate for Commodities in Classification No. 11 in cents per 100 lbs.	Rate for Commodities in Classification No. 12 in cents per 100 lbs.	Rate for Commodities in Classification No. 13 in cents per 100 lbs.	Rate for Commodities in Classification No. 14 in cents per 100 lbs.	Rate for Commodities in Classification No. 15 in cents per 100 lbs.	Rate for Commodities in Classification No. 16 in dollars and cents per ton.	Rate for Commodities in Classification No. 17 in dollars and cents per ton.
135	8.5	7.4	9.8	13.5	15.3	1.12	.92
140	8.5	7.5	9.8	13.7	15.5	1.16	.93
145	8.6	7.6	9.9	13.9	15.7	1.17	.94
150	8.7	7.6	10.	14.2	15.9	1.19	.95
155	8.8	7.7	10.1	14.4	16.2	1.20	.96
160	8.8	7.8	10.1	14.6	16.4	1.22	.98
165	9.	7.9	10.4	14.8	16.7	1.24	1.00
170	9.	7.9	10.4	15.	16.9	1.29	1.01
175	9.1	8.1	10.6	15.3	17.2	1.31	1.05
180	9.1	8.1	10.6	15.5	17.4	1.33	1.07
185	9.3	8.2	10.7	15.7	17.6	1.35	1.09
190	9.4	8.3	10.8	15.9	17.9	1.37	1.10
195	9.5	8.3	10.9	16.1	18.2	1.42	1.12
200	9.6	8.4	11.	16.3	18.4	1.44	1.16
210	9.7	8.5	11.1	16.6	18.6	1.48	1.19
220	9.8	8.6	11.2	16.8	18.8	1.54	1.22
230	9.9	8.7	11.4	17.	19.1	1.58	1.28
240	10.	8.8	11.6	17.2	19.4	1.63	1.31
250	10.2	8.9	11.8	17.4	19.6	1.68	1.34
260	10.3	9.1	11.9	17.6	19.8	1.72	1.37
270	10.5	9.3	12.	17.9	20.2	1.78	1.42
280	10.6	9.4	12.2	18.1	20.4	1.82	1.46
290	10.8	9.5	12.4	18.3	20.6	1.87	1.49
300	10.9	9.6	12.5	18.5	20.8	1.92	1.54
310	11.	9.7	12.6	18.7	21.1	1.94	1.56
320	11.1	9.8	12.8	19.	21.4	1.96	1.57
330	11.2	9.9	12.9	19.2	21.6	1.99	1.59
340	11.3	9.9	13.1	19.4	21.8	2.02	1.60
350	11.4	10.	13.2	19.6	22.1	2.04	1.63
360	11.5	10.1	13.3	19.8	22.3	2.06	1.66
370	11.7	10.2	13.4	20.	22.6	2.08	1.67
380	11.8	10.3	13.5	20.3	22.8	2.11	1.69
390	11.9	10.5	13.6	20.5	23.1	2.13	1.70
400	12.	10.6	13.7	20.7	23.3	2.16	1.72

(’07 c. 232 § 2)

4300. **Same—When distance not given—Weight of carload—**When the exact distance which a commodity is transported is not given in the foregoing schedule, the carrier may charge the rate specified in the said schedule for the next greater distance. In order to constitute a carload, within the meaning of this act, the weight of the commodities in any one car shall be at least as follows: Class eleven and class twelve, twenty-four thousand pounds; class thirteen, twenty thousand pounds; class fourteen, nineteen thousand pounds; class fifteen, fifteen thousand pounds; classes sixteen and seventeen, thirty thousand pounds. (’07 c. 232 § 3)

4301. **Same—Excess rates prohibited—**No railroad company, which is a common carrier of property within the state of Minnesota, shall charge, take or receive any greater sum for carrying within this state, between stations therein, any of the commodities named in this act than the respective amounts set forth and provided in section two [4299] of this act for the respective distances therein named. (’07 c. 232 § 4)

4302. **Same—Powers and duties of commission—**This act shall not in any manner affect the power or authority of the railroad and warehouse commission, except that no duty shall rest upon the railroad and warehouse commission to enforce any rates specifically fixed by this or any other statute of this state. Whenever, in a proceeding regularly pending before the railroad and warehouse commission, it shall be made to appear to the satisfaction of said commission that the rates herein prescribed are unreasonable, it may, by order, fix higher or lower rates for the transportation of any of the commodities herein mentioned over the line of any railroad in this state, and such rates, when so fixed shall supersede the rates herein prescribed upon said

line of railroad, and shall be enforced as prescribed by the law relating to such orders, but until such order shall have been made by said railroad and warehouse commission the rates herein prescribed shall be the exclusive legal maximum rates for the transportation of the commodities herein enumerated between points within this state. ('07 c. 232 § 5)

4303. Same—Duties of railroad companies—Penalties—Every railroad company transacting the business of a common carrier within this state shall adopt and publish and put into effect rates not exceeding the charges specified herein for the transportation by it between stations upon its line of road in this state of the commodities named in this act; and every officer, director, traffic manager or agent or employé of such railroad company, exercising any authority, or being charged with any duty in establishing freight rates for such railroad company, shall cause the adoption, publication and use by such railroad company of rates not exceeding those specified in this act; and any officer, director, or such agent or employé of any such railroad company who violates any of the provisions of this section, or who causes or counsels, advises or assists any such railroad company to violate any of the provisions of this section, shall be guilty of a misdemeanor, and may be prosecuted therefor in any county into which its railroad extends and in which it has a station, and upon conviction thereof be punished by imprisonment in the county jail for a period not exceeding ninety days. ('07 c. 232 § 6)

Repeal—The provisions of this section prescribing penalties were repealed by 1909 c. 136 § 8 (§ 4306).

4304. Same—Existing rates—If, at the time of the taking effect of this act, any railroad is maintaining a rate between any two stations in this state that is less than the rate herein prescribed for the same distance, this act shall not be construed as authorizing the raising of such rate. ('07 c. 232 § 7)

4305. Duties of railroad companies—Penalties—Every railroad company transacting the business of a common carrier within this state shall adopt and publish and put into effect rates not exceeding the charges specified herein for the transportation by it between stations upon its line of road in this state of the commodities named in this act; and every officer, director, traffic manager or agent or employé of such railroad company, exercising any authority or being charged with any duty in establishing freight rates for such railroad company, shall cause the adoption, publication and use by such railroad company of rates not exceeding those specified in this act. ('09 c. 136 § 6)

1909 c. 136 is identical with 1907 c. 232 [4298-4304], except that the above section omits the provisions contained in section 6 of the earlier act [4303] prescribing penalties for the violation thereof, and adds the following section:

4306. Same—Continuation of prior act—This act is intended to operate as a continuation of chapter 232 of the Laws of 1907 [4298-4304], and not as a repeal thereof, except that the provisions of said chapter 232 contained in section six [4303] thereof, prescribing penalties, for the violation thereof, are hereby repealed. ('09 c. 136 § 8)

See note under preceding section. See, also, § 4311.

4307. Failure to adopt rates—Duty of attorney general—Duty of carrier—Reports—Whenever any common carrier doing business in this state shall fail or refuse to adopt and put into effect any rates prescribed by the statute, or any rates prescribed by an order of the railroad and warehouse commission after the time for appeal from such order has expired, and such rates have by the terms of such law or order become effective, it shall be the duty of the attorney general to forthwith commence appropriate proceedings for and in the name of the state for the enforcement of the law or the order prescribing such rates, in the district court of Ramsey county or in the district court of any county in which such common carrier has an agent or station, or in which its said business is carried on, and during the pendency of such proceedings—or during the pendency of any proceedings instituted in any court having jurisdiction by or on behalf of such common carrier to resist the enforcement of such law or such order, it shall be the duty of every such common carrier to keep a correct account of every charge made by it for any

service to which such rates apply in excess of the rates so prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged under such rates, the date of the transaction, the stations between which the business was carried, and the names and addresses of the consignor and consignee. Every such common carrier shall on or before the tenth day of each month report such information in full, covering the business of the preceding month, to the railroad and warehouse commission, and said commission shall carefully preserve such information in its office. ('09 c. 195 § 1)

4308. Same—Carrier to pay to commission excess rates—Within sixty days after such judicial proceedings, brought to enforce or to resist the enforcement of such rates, are ended by the entry of final judgment therein—unless by such judgment said rates are found to be unlawful—every such common carrier shall pay to said railroad and warehouse commission, for the benefit of the parties entitled thereto, all sums so charged and collected by it on the business to which such rates apply, in excess of the rates so prescribed, with lawful interest thereon from the date when each item thereof was received, and it shall thereupon be the duty of said railroad and warehouse commission to pay such money with said interest to the person, firm or corporation by or for whom the same was paid to such common carrier, and for the purposes of this act the person holding the original receipted freight bill showing the payment thereof to such common carrier shall be taken to be the persons entitled to so receive such money. ('09 c. 195 § 2)

4309. Same—Failure to pay excess rates—Duty of commission and attorney general—Claims—Unclaimed amounts—If any common carrier affected by such rates shall fail or refuse to pay to the railroad and warehouse commission within the time aforesaid all moneys so collected by it in excess of the amount lawfully collectible under the rates so prescribed, or to file with the said commission within said time the written release of his claim signed by the person entitled to such restitution, it shall be the duty of the railroad and warehouse commission to report such default of such common carrier to the attorney general, who shall thereupon bring an action in the name of the state of Minnesota for the benefit of the parties having paid such overcharges, to recover the same from such common carrier, and it shall have the exclusive right to sue for and collect such money of said common carrier and in such action, in addition to the aggregate amount of such excess charges and interest, the court shall allow ten per cent thereof additional as a penalty. All persons entitled to any part of such money shall file their claims therefor within one year from the time when the litigation involving the validity of said rates is ended. And all amounts paid to or recovered by the railroad and warehouse commission, not so claimed, shall be paid into the state treasury to the credit of the general revenue fund. ('09 c. 195 § 3)

4310. Same—Failure of carrier to keep accounts, etc.—Penalty—Every common carrier and the officers and agents thereof whose duty it is to make collections of any such rates and keep the accounts, thereof, who shall wilfully fail or neglect to keep such accounts as are herein provided for, or who shall make any intentional false account, entry or report in reference thereto, or who shall fail to make the reports herein provided to be made to said railroad and warehouse commission, shall be guilty of a misdemeanor. ('09 c. 195 § 4)

4311. Same—Certain provisions repealed—All provisions of law prescribing any other procedure for the enforcement of any rate or schedule of rates that have been heretofore or may be hereafter prescribed, either by act of the legislature or by any order of the railroad and warehouse commission, applying to the intrastate business of any common carrier doing business in this state, or prescribing any penalty for the failure of any common carriers to put any such rates into effect, are hereby repealed, but the court in which proceedings for the enforcement of such rates may be pending may impose penalties for disobedience to its orders made in such proceeding as for contempt. ('09 c. 195 § 5)

See § 4306.

4312. **Same—When to take effect**—This act shall take effect and be in force from and after its passage, and shall apply after ten days from the date of its passage to all rates heretofore prescribed in this state, which have not been put into effect. ('09 c. 195 § 6)

4313. **Refundment of excess freight, baggage and express charges**—All charges for freight, baggage or express that are collected by a common carrier over what it is entitled to receive under the lawful tariff or classification, shall be refunded by said carrier within sixty (60) days after the payment of the same. Provided, that when such overcharge is due to a difference in weight a claim may be filed as provided in section 2 [4314]. ('11 c. 306 § 1)

4314. **Same—Claims, when adjusted and paid—How presented**—Every claim against a common carrier doing business in this state, for an overcharge due to difference in weight, or for loss, damage or injury to property while in its possession, shall be adjusted and paid within sixty (60) days in case of shipment wholly within the state, and within ninety (90) days in case of shipment from without this state, or from a point in this state to a point in another state, after the filing of such claims with the agent of said carrier at the point of the origin, or of the destination of such shipment, or with the claims department of such carrier. No such claim shall be filed until after the arrival of a shipment, or of some part thereof at the point of destination, or until after the lapse of a reasonable time for the arrival thereof. For the purpose of this act, a claim, when filed shall consist of (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant, and (d) original invoice or certified copy when necessary. True copies of any of said documents may be used, and in case of absence, an explanation must be attached. The carrier shall acknowledge the filing of a claim, or any letter, papers or documents purporting to be such, within ten days after receipt, and if the claim so filed does not comply with the above requirements, the carrier shall so inform the claimant and advise him of what may be required to complete the claim. ('11 c. 306 § 2)

4315. **Same—In what amount liable**—In every case such carrier shall be liable for the amount of such overcharge and for such loss, damage or injury to property, together with interest thereon from the date of the filing of the claim therefor until the payment thereof. ('11 c. 306 § 3)

4316. **Same—Penalty for failure—Fraudulent claims**—Failure to adjust and tender or pay such overcharge or claim within the periods herein prescribed shall subject such common carrier so failing, to a penalty of twenty-five (\$25.00) dollars for each and every such failure, to be recovered by the claimant in the action or proceeding brought to collect such claim or overcharge, in any court in the state. Unless such claimant recovers in such action the full amount claimed by him, no penalty shall be recovered, but only the actual amount of the loss, injury or damage to property or amount of the overcharge, with interest. And if, in such action, a special issue of fraud is raised and such claim is found to be fraudulent, the claimant shall pay to the carrier the penalty of twenty-five (\$25.00) dollars, to be recovered along with the costs. In an action brought under the provisions of this law, if the carrier can show that it made a tender of the amount claimed, with interest, and a penalty of five (\$5.00) dollars, within five days after a demand that is made at any time after the expiration of the time specified in sections 1 and 2 [4313, 4314], then it shall only be subject to the penalty of five (\$5.00) dollars, to be recovered along with the costs. ('11 c. 306 § 4)

4317. **Same—Remedy cumulative**—The remedy herein provided is cumulative, and shall not deprive the claimant of any other right of action provided by statute or by the common law. ('11 c. 306 § 5)

4318. **Same—When to take effect**—This act shall take effect from and after the 1st day of May, A. D. 1911, and it shall not apply to shipments made prior thereto. ('11 c. 306 § 6)

4319. **Charges for transporting national guard, etc.**—That whenever it shall be necessary for any or all of the officers or men of the Minnesota national guard or the Minnesota naval militia or reserve to travel upon any

railroad in the state under orders from competent authority to perform military duty, such railroads shall furnish transportation at the rate of one cent per mile for the whole distance to be traveled upon such railroad or railroads within the limits of this state, for each officer or enlisted man so carried including the usual amount of baggage; and all station or ticket agents or conductors shall sell first class tickets or furnish first class passage at the rate named, upon being notified that such officer or officers or enlisted men are traveling upon military duty. Such notification must be issued by the adjutant general, and may be by telegraph or by filing a copy of the order issued by the adjutant general for such transportation with the station or ticket agent or conductor. This rate shall apply to officers or men traveling under orders, either single or in companies, so that whenever one or more members of the guard shall present an order for transportation issued by the adjutant general, it shall be honored by the ticket agent or by the conductor and received in lieu of fare, and when presented by the railroad companies to the adjutant general, shall be audited to be paid at once at the fixed rate. ('09 c. 493 § 1)

In an action to compel defendant, railway company, to carry a member of the national guard at the rate and under the terms specified in this act, defendant having waived the defense that the rate is inadequate, held, that it did not appear that the act contravenes either the federal or the state constitution (118-380, 137+2, 41 L. R. A. [N. S.] 524).

4320. Same—Refusal to transport, etc.—Penalties—Any railroad agent or officer thereof, or any person whose duty it is to transport or carry passengers or baggage thereon, who shall willfully refuse to transport or furnish the means for transporting any of the troops of this state and their said baggage, when ordered out by the governor, on the terms prescribed by this act, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be fined in the sum of not less than fifty dollars nor more than five hundred dollars for each offense. And any railroad company who shall refuse to transport said troops and baggage as aforesaid, or refuse to permit its agents or employes to transport the same or furnish means of transporting them, shall be liable to the state of Minnesota in a penal sum of five hundred dollars for each violation of the law, to be recovered in a civil action in the name of the state of Minnesota, and to be prosecuted by the attorney general or county attorney of the proper county. Should any county attorney, upon proper complaint made and verified, neglect, decline or refuse to prosecute any person or persons violating the provisions of said act, any court, judge or justice of the peace having jurisdiction of the offense may appoint an attorney-at-law to conduct said prosecution, who shall receive a fee of not less than ten nor more than fifty dollars in each case where conviction shall be had, said fee to be fixed by the court and taxed as costs in said action; but in no event shall the county be liable for said fee. ('09 c. 493 § 2)

118-380, 137+2, 41 L. R. A. (N. S.) 524.

4321. Common-law liability not to be limited—The liability of common carriers at common law with reference to property in their custody shall not be limited by contract or otherwise, except as stated in their published classification schedules. Such liability must include absolute responsibility for the acts of their agents in reference to such property. (2008)

65-168, 68+4.

Validity of contract for interstate shipment determined by federal statute (111-123, 126+627).

4322. Bills of lading—Order bill defined—That whenever any common carrier, railroad or transportation company (hereinafter termed carrier) shall issue a bill of lading for the transportation of property from one place to another within this state, or between places one of which is within this state, which bill shall be, or purport to be, drawn to the order of the shipper or other specified person, or which shall contain any statement or representation that the property described therein is, or may be deliverable upon the order of any person therein mentioned, such bill shall be known as an "Order Bill of Lading" and shall conform to the following requirements:

(a) In connection with the name of the person to whose order the prop-

erty is deliverable, the words "Order of" shall prominently appear in print on the face of the bill, thus "Consigned to order of"

(b) The bill shall be printed on yellow paper, 8½ inches wide by 11 inches long.

(c) It shall contain on its face the following provision: "The surrender of this original order bill of lading properly indorsed shall be required before delivery of the property."

(d) It shall not contain the words "not negotiable" or words of similar import. If such words are placed on an order bill of lading, they shall be void and of no effect.

(e) Nothing herein shall be construed to prohibit the insertion in an order bill of lading of other terms or conditions not inconsistent with the provisions of this act; but it shall be unlawful to insert in such bill any terms or conditions contrary to, or inconsistent with, such provisions and it shall be unlawful for any carrier to insert in such bill any term or condition limiting the liability of such carrier for actual loss. ('09 c. 414 § 1)

Section 9 repeals inconsistent acts, etc.

See § 4495.

4323. Same—Straight bill defined—Whenever a bill of lading is issued by a carrier for the transportation of property from one place to another within this state, or between places one of which is within this state, in which the property described therein is stated to be consigned or deliverable to a specified person, without any statement or representation that such property is consigned or deliverable to the order of any person therein named. Such bill shall be known as a "straight bill of lading," and shall contain the following requirements:

(a) The bill shall be printed on white paper 8½ inches wide by 11 inches long.

(b) The bill shall have prominently stamped upon its face the words "not negotiable."

(c) Nothing herein shall be construed to prohibit the insertion in a straight bill of lading of other terms or conditions not inconsistent with the provisions of this act; but it shall be unlawful to insert in such bill any terms or conditions contrary to or inconsistent with such provisions. ('09 c. 414 § 2)

4324. Same—Penalty for violation—Every carrier, or officer, agent or servant of a carrier, who shall knowingly violate any of the requirements stated in subdivisions (a), (b), (c), (d), or (e) of section 1 [4322] and in subdivisions (a), (b) or (c) of section 2 [4323] shall be guilty of a misdemeanor and punishable by fine of not more than one thousand dollars or imprisonment not more than one year, or both. ('09 c. 414 § 3)

4325. Same—Issue of false bill or unmarked duplicate unlawful—It shall be unlawful for any carrier, or for any officer, agent or servant of a carrier, to issue an order bill of lading or a straight bill of lading, as defined by this act, until the whole of the property as described therein shall have been actually received and is at the time under the actual control of such carrier, to be transported or to issue a second or duplicate order bill of lading or straight bill of lading for the same property, in whole or in part, for which a former bill of lading has been issued and remains outstanding and uncanceled, without prominently marking across the face of the same the word "duplicate." ('09 c. 414 § 4)

4326. Same—Penalty and civil liability for violation—Every carrier, or officer, agent or servant of a carrier, who knowingly violates the provisions of section 4 [4325] of this act and every person who negotiates or transfers for value a bill of lading known by him to have been issued in violation of said section 4 [4325] shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both. And every carrier who himself, or by his officer, agent or servant authorized to issue bills of lading, issues a false or duplicate bill of lading in violation of the provisions of section 4 [4325] of this act, shall be estopped, as against all and every person or per-

sons injured thereby who shall acquire any such false or duplicate bill of lading in good faith and for value, to deny the receipt of the property as described therein, or to assert that a former bill of lading has been issued and remains unstanding and uncanceled for the same property, as the case may be; and such issuing carrier shall be liable to any and every such person for all damages, immediate or consequential, which he or they may have sustained because of reliance upon such bill, whether the person or persons guilty of issuing or negotiating such bill shall have been convicted under this section or not. ('09 c. 414 § 5)

4327. Same—Penalty upon shipper without title—Every person who receives from a carrier and fraudulently negotiates for value an order or straight bill of lading representing property to which he had no, or an encumbered title, at the time of the negotiation of such bill, shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both. Provided, however, that it shall be a full and complete defense to any prosecution under this act that any person, corporation or copartnership accused has complied with the requirements of any law of the United States hereafter enacted by the congress of the United States relating to uniform bills of lading. ('09 c. 414 § 6)

4328. Same—Surrender of order bill—It shall be unlawful for any carrier, or officer, agent or servant of a carrier, to deliver the property described in an order bill of lading without requiring surrender and making cancellation of such bill, or in case of partial delivery, indorsing thereon a statement of the property delivered; provided, that in lieu of such delivery, it shall be lawful for the carrier, or his officer, agent or servant in his behalf, to take from the person to whom such property is delivered a good, sufficient and valid bond in the sum double the value of the property, conditioned that such person shall, within a reasonable time thereafter, deliver to the carrier the original order bill of lading issued for said property or shall pay the value of said property to the carrier upon demand, and upon the execution and delivery of said bond as aforesaid, it shall be lawful for the carrier, or his officer, agent or servant, to deliver the goods to the person claiming title thereto, without requiring the immediate surrender of said order bill of lading. Every carrier, or officer, agent or servant of a carrier, who knowingly violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both. And every carrier who by himself, or by officer, agent or servant authorized to deliver goods upon surrender of an order bill of lading, violates the provisions of this section, shall be estopped as against all and every person or persons injured thereby who shall acquire in good faith and for value any such order bill of lading, from asserting that the property as described therein, has been delivered: and such delivering carrier shall be liable to any and every such person for all damages, immediate or consequential, which he or they may have sustained because of reliance upon such bill, whether the person or persons violating this section have been convicted of such violation or not. Provided, that the provisions of this section shall not apply where the property is replevied or removed from the possession of the carrier by operation of law; or has been lawfully sold to satisfy the carrier's lien; or in case of sale or disposition of perishable, hazardous or unclaimed goods in accordance with law or the terms of the bill of lading. ('09 c. 414 § 7)

4329. Same—Alteration—Any material alteration, addition or erasure in or to an order bill of lading or a straight bill of lading, fraudulent or otherwise, shall be without effect and in the hands of a bona fide holder for value, not a party to the alteration thereof, such bill shall be valid and may be enforced according to its original tenor. Provided, however, that an alteration, addition or erasure in or to any such bill of lading with signature thereto indorsed thereon, by the issuing carrier, or his officer, agent or servant in his behalf, and with the consent of the holder thereof, shall be valid and effective. ('09 c. 414 § 8)

4330. Receipts and bills of lading—Liability of carrier issuing for loss, etc., caused by connecting carriers—That any common carrier, railroad or transportation company receiving property for transportation from any point in this state to any other point in this state, shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it or by any common carrier, railroad or transportation company to which such property may be delivered, or over whose line or lines such property may pass, and no contract, receipt, rule or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; provided, that nothing in this act shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law. ('13 c. 315 § 1)

4331. Same—Remedy over of carrier issuing—That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage or injury shall have been sustained the amount of such loss, damage or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof. ('13 c. 315 § 2)

4332. Preferences forbidden—It shall be unlawful for any common carrier to make or give any unequal or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular description of traffic in any respect whatsoever; or to subject any particular person, company, firm, corporation or locality or any particular description of traffic, to any unequal or unreasonable prejudice in any respect whatsoever. (2009)

50-371, 52+962; 55-8, 56+248; 79-188, 199, 81+835, 47 L. R. A. 532; 119-302, 138+284.

4333. Certain preferences allowed—Nothing in this chapter shall prevent the carriage, storage, or handling of property free, or at reduced rates, for the United States, the state, or for any municipal corporation thereof, or for charitable purposes, or for exhibition at fairs or expositions, or of stock for breeding purposes; or the issuance of mileage, excursion or commutation passenger tickets at rates equal for all; or giving such reduced rates to ministers of religion, sisters of charity, missionaries, students of any educational, or inmates of any charitable, institution; nor the free transportation of passengers when allowed by law. (2010)

4334. Rebates, etc., forbidden—Penalty—It shall be unlawful for any common carrier in this state, by any special rate, rebate, drawback, or other device to directly or indirectly charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered in the transportation of any property within this state than its regular established schedule of rates and charges for like and contemporaneous service for any other person or for the public generally; and it shall be unlawful for any such common carrier directly or indirectly to offer or give any shipper in connection with, or as an inducement or reward for receiving any property for transportation from any such shipper, any gift, gratuity or free pass whereby any passenger or freight shall thereafter be transported over the lines of such common carrier free, or at any rate less than that offered to the public, and in either such case such common carrier shall be deemed guilty of unjust discrimination and shall be punished by a fine not exceeding five thousand dollars. And any person who shall knowingly either for himself or for any firm or corporation directly or indirectly receive from any common carrier any such reduction of rate, rebate, gratuity or other favor as is herein declared to be an unjust discrimination by such common carrier shall be guilty of a misdemeanor. ('05 c. 177 § 1)

4335. Free passes, etc., forbidden—Exceptions—Giving of passes by railroads, etc., prohibited. From and after Jan. 1st, 1908, it shall be unlawful for any person, association, co-partnership, or corporation, or any representative thereof, to offer, give, or in any manner furnish to any person, either for himself or another, any free pass or frank, or any special privilege or reduction in rate withheld from any other person for the traveling accommodation or transportation of any person or property, or the transmission of any message or com-

munication except to persons included within the classes hereinafter designated and limited, and it shall also be unlawful for any person or persons, not included within the classes hereinafter excepted or limited to solicit or receive, either for himself or another from any person, association, co-partnership or corporation, or use in any manner or for any purpose any free pass or frank or special privilege withheld from any person for the traveling accommodation or transportation of any person or property or the transmission of any message or communication; provided, however, that nothing contained in this act shall be construed to prohibit or to make unlawful the issuing or giving of any such free ticket, free pass, or free transportation to any person or persons within the classes hereinafter excepted or limited or the acceptance or use of the same by persons within such classes, that is to say, officers, bona fide agents, surgeons, physicians, attorneys and employes of such railroad or other companies or persons affected by this act, and dependent members of their families, the duly elected representatives of railroad labor organizations, children under twelve (12) years of age, ministers of religion, secretaries of Young Men's Christian Associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons, and such persons when transported by charitable societies or hospitals or by public charity, and necessary agents employed in such transportation, inmates of national homes or state homes for disabled volunteer soldiers, inmates of soldiers' and sailors' homes, including those entering and returning from such homes, and boards of managers of such homes, postoffice inspectors, custom inspectors and immigration inspectors; witnesses of said railroad companies attending any legal investigation in which said company is interested; officials and linemen of telegraph and telephone companies; ex-employes retired from service on account of age or because of disability sustained while in the service of said railroad company, and the dependent members of their families, or the widows or dependent children of employes killed while in the service of such railroad company; necessary care-takers of live-stock, poultry, vegetables and fruit, including transportation to and from the point of delivery, employes on sleeping and express cars, railway mail service employes, newsboys on trains, baggage agents and persons injured in wrecks and physicians and nurses attending them; provided that one trip pass for a discharged employe and his family may be issued for use within thirty (30) days of such discharge;

Provided, further, that the provisions of this act shall not be construed to prohibit and make unlawful the interchange of passes, and express and other franks for the officers, bona fide agents, surgeons, physicians, attorneys and employes and the dependent members of their families, of any person or company affected by this act from doing any of the things prohibited hereby free, with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation.

Provided, further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange of passenger transportation and message service between such railroad companies and telegraph companies, and provided further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange between railroad, express, telegraph and telephone companies of the transportation of persons and property, and the transmission of messages.

Provided, further, that no free transportation shall be issued or given to any person when such person is a member of, employed by or in any way connected with any political committee or a candidate for or incumbent of any office or position under the constitution and laws of this state, except as herein provided and except that any railroad company may issue free passes to its employes while occupying office or position other than judicial, under a municipality or public school district, or while acting under appointment as a notary public in this state. ('07 c. 449 § 1, amended '13 c. 92 § 1)

Cited (118-380, 137+2, 41 L. R. A. [N. S.] 524).

4336. Same—Free transportation for commission—The railroad and warehouse commission and their secretary shall have the right to free transportation in the performance of their duties on all railroads and railroad trains, in this

state, and their experts or other agents whose service they may require shall likewise be transported free of charge. ('07 c. 449 § 2)

Cited (118-380, 137+2, 41 L. R. A. [N. S.] 524).

4337. Same—Penalty for violation—Any person, corporation or company or any officer or agent of such corporation or company violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one hundred dollars or by imprisonment in the county jail for a period not exceeding ninety days. ('07 c. 449 § 3)

Cited (118-380, 137+2, 41 L. R. A. [N. S.] 524).

4338. Free transportation of highway material, etc.—It shall be lawful for any railroad or transportation company, operating in this state, to transport, handle or store free, or at reduced rates, for the United States, the state, or for any municipal corporation thereof, any stone, stone dust, gravel, sand, or any other material to be used in building, improving or repairing public highways, by any of the said entities or corporations herein mentioned. ('11 c. 192 § 1)

4339. Street railways in cities—Reduced rates for transportation of members of police and fire departments—It shall be lawful for any railway company operating a street railway in any city of this state to enter into a contract with the head or chief officer of the police and fire departments of such city for the transportation over the lines of said street railway company within such city of any member or officer of the said police and fire departments, or either of the same, at a yearly, monthly or other specified term rate less than that made to other persons for transportation over the said lines, said rate to be mutually agreed upon between the said railway company and such officers. Said contract shall be in writing and approved by the mayor of such city and shall be filed with the board of railway and warehouse commissioners of the state of Minnesota for public examination and such contract shall be effective and operative according to the provisions therein contained, during the time or term therein specified and it shall be lawful for any such street railway company to fulfill the terms of said contract or agreement, and to carry and transport the said members or officers of said fire or police departments over its said street railway lines without other payment than as provided in said contract, and it shall likewise be lawful for any member or officer of any such police or fire department entering into any such contract to ride and accept transportation over the lines of said street railway company in pursuance of the terms of said contract and without further or other payment than as herein required.

Provided, that such contract shall not provide for the carrying or transportation of any member or officer of such police and fire departments or either of the same except when the said member or officer is wearing full official uniform. ('13 c. 539 § 1)

4340. Same—How construed—This law shall not be construed as constituting any discrimination, special privilege or reduction in rate in contravention of the provisions of chapter four hundred forty-nine (449) of the General Laws of Minnesota for 1907 [4335-4337]. ('13 c. 539 § 2)

4341. Pooling forbidden—No such carrier shall enter into any agreement or combination with any other carrier for the division or pooling of the business of different and competing carriers, or to divide the aggregate or net proceeds of the earnings of such carriers, or any part thereof, and any such agreement or combination shall be deemed a separate offence for each day of its continuance. (2011)

4342. Public schedule of rates—Every such company shall keep at every station or depot of its road, convenient for and open to public inspection, schedules printed in large type, showing all classifications, rates, fares and charges for transportation of freight and passengers in force at the time upon its road. Such schedule shall plainly state the places between which persons and property will be carried, shall show the classification of freight, a distance tariff, a table of distances between stations, and shall state, and shall state, separately, the terminal charges, and any rules or regulations in any way affecting the aggregate of such rates, fares and charges. And every such

company shall keep posted in a conspicuous place, at every such station, accessible to shippers, notice that such schedules are so kept thereat. (R. L. § 2012, amended '07 c. 377 § 1)

4343. Change in schedule—No change in the classification shall be made, and no change shall be made in the rates, fares, and charges, which have been established and published as aforesaid, by any common carrier, in compliance with § 4342, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedules then in force, and the time when the changed schedules will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. And no change shall be made in any schedule of rates or schedule of joint rates which has been in effect for sixty days, so as to raise the rates for transportation of grain, lumber, coal, or live stock, either by change of rates or of classification, except upon the written order of the commission allowing such change, made upon hearing and such notice to shippers as the commission shall direct. Any company violating any provision of this section shall forfeit to the state one hundred dollars for each day such violation shall continue. (2013)

4344. Schedules to be filed—Every railroad company shall file with the commission copies of such schedules, and shall promptly notify the commission of all proposed changes therein. Every such company shall also file with the commission copies of all its traffic agreements or arrangements with other carriers. Copies of all joint schedules of rates, fares, or classifications shall also be filed with the commission and be made public in the same manner as hereinbefore provided for the publication of tariffs. (2014)

4345. Unlawful charges—No such carrier shall charge, demand, collect, or receive for any service a greater or less sum than that fixed in its published schedules. (2015)

4346. Switching charges—There shall be but one terminal charge for switching or transferring any car within any one municipality. If it is necessary that any car in such transfer pass over the tracks of more than one railroad within such limits, the company first so transferring such car shall receive the entire charge therefor, and shall be liable to each company doing subsequent switching thereof for its just share of such charge, subject to the rules adopted by the commission. Any disagreement as to such division shall be finally determined by the commission. (2016)

4347. Long and short haul—No carrier shall charge or receive any greater compensation for the transportation of passengers, or of like kind or class and quantity of property, for a shorter than for a longer distance over the same line, the shorter being included within the longer distance; but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance; but upon application to the commission such carrier, in special cases, after investigation by the commission may be authorized to charge less for longer than for shorter distances, for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated carriers may be relieved from the operation of this section. No carrier shall charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure, or to the same point of arrival; but this shall not be construed so as to authorize any carrier to charge as high a rate per ton per mile for a longer as for a shorter distance. (2017)

4348. Unjust discrimination in freight rates prohibited—If any railway corporation shall charge, collect or receive for the transportation of freight of any description upon its railroad for any distance within this state, a greater amount of freight, toll or compensation than is at the same time charged, collected or received for the transportation of like quantity of freight of the same class over a greater distance of the same railway; or if it shall charge, collect or receive at any point upon its road a higher rate of freight,

toll or compensation for receiving, handling or delivering freight of the same class and quantity than it shall at the same time charge, collect or receive at any other point upon the same line of railway; or if it shall charge, collect or receive for the transportation of any freight of any description over its railway a greater amount as freight, toll or compensation than shall at the same time be charged, collected or received by it for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or if it shall charge, collect or receive from any person a higher or greater amount of freight, toll or compensation than it shall at the same time charge, collect or receive from any other person for receiving, handling or delivering freight, of the same class and like quantity at the same point upon its railway; or if it shall charge, collect or receive from any person for the transportation of any freight upon its railway a higher or greater rate of freight, 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 over equal distance of the same railway; or if it shall charge, collect or receive from any person for the use and transportation of any railway car or cars upon its railroad for any distance, a greater amount of freight, toll or compensation than is at the same time charged, collected or received from any other person for the use and transportation of any railway car of the same class or number, for a like purpose, being transported over a greater distance of the same railway; or if it shall charge, collect or receive from any person for the use and transportation of any railway car or cars upon its railway a higher or greater compensation in the aggregate than it shall, at the same time, charge, collect or receive from any other person for the use and transportation of any railway car or cars of the same class for a like purpose, being transported from the same original point, over an equal distance of the same railway, such railway corporation shall be deemed guilty of unjust discrimination which is hereby prohibited and declared to be unlawful, and all such are hereby declared to be discriminating, unjust and unreasonable rates, charges, collections and receipts, and all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, draw-back or other shift or evasion, shall be received as prima facie evidence of the violation of the provisions of this act, and it shall not be sufficient excuse or justification thereof on the part of said railway corporation that the station or point at which it shall charge, collect or receive less compensation in the aggregate for the transportation of such freight or for the use and transportation of such railway car the greater distance than for the shorter distance, is a station or point at which there exists competition with another railway or other transportation lines provided, however, where two or more railroads run into a city or village, one having a shorter mileage than the other from a given point the railroad and warehouse commission may permit the railroad or railroads having the longer mileage to meet the rate made by the shortest line at such city or village. ('13 c. 90 § 1)

4349. Same—Other evidence not excluded—Application to all railways—The provisions of this act shall not be construed so as to exclude other evidence than as herein provided, tending to show any unjust discrimination in freight rates and the provisions thereof shall apply to any railway, the branches thereof, and any road or roads which any railway corporation has a right, license or permission to use, operate or control within this state. ('13 c. 90 § 2)

4350. Same—Rates per 100 pounds, per ton, per car, etc., in like class, to be the same in proportion—No such railway company shall charge, collect, demand or receive more for transporting a car of freight than it at the same time charges, collects, demands or receives per car for several cars of a like class of freight over the same railway, for the same distance; nor charge, collect, demand or receive more for transporting a ton of freight than it charges, collects, demands or receives per ton for several tons of freight under a carload of a like class over the same railway for the same distance; nor charge, collect, demand or receive more for transporting a hundred pounds

of freight than it charges, collects, demands or receives per hundred for several hundred pounds of freight, under a ton, of a like class, over the same railway, for the same distance; and all such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, draw-back, or other shift or evasion, shall be received as *prima facie* evidence of the violation of the provisions of this act. ('13 c. 90 § 3)

4351. Same—Application of act—Terms defined—The provisions of this act shall apply to the transportation of property wholly within this state and shall apply to all railroad corporations and common carriers engaged in this state in the transportation of property by railroad therein and to the shipment of property made from any point within the state to any other point within the state over or upon any railroad therein. The term railroad and railway, as used in this chapter, shall include all bridges and ferries used or operated in connection with any railroad and also all the roads in use by any corporation, receiver, trustee, or other person operating a railroad whether owned or operated under contract, agreement, lease or otherwise; and the term transportation shall include all instrumentalities of shipment or carriages, and the term railway corporation shall mean all corporations, companies or individuals, owning or operating any railroad in whole or in part in this state; and the provisions of this chapter shall apply to all persons, firms and companies and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon any line of railway in this state, street railways excepted, the same as to railroad corporations herein mentioned. Provided, that nothing in this act shall apply to the carriage, storage or handling of property free or at reduced rates for the United States, for this state, for municipal governments therein, or for charitable purposes or to and from fairs and expositions held under the authority of county or state or municipality therein for exhibition thereat. ('13 c. 90 § 4)

4352. Same—Powers of commission not abridged, etc.—Nothing in this act contained shall be construed as limiting or abridging the powers now vested by law in the board of railroad and warehouse commissioners of the state of Minnesota, except that the said board of railroad and warehouse commissioners shall not have power to promulgate any rule or establish any rate or rates in conflict with or in violation of the provisions of this act, and nothing in this act shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions thereof are in addition to such remedies. ('13 c. 90 § 5)

4353. Same—Commission to make schedule of reasonable maximum rates for each railroad—The board of railroad and warehouse commission of this state is hereby empowered and directed to make for each of the railroad corporations doing business in this state, as soon as practicable, a schedule of reasonable maximum rates of charges for the transportation of freight and cars on each of said railroads and said power to make schedules shall include the classification of such rates and it shall be the duty of said commission to make such classification and said schedules so made by said commission shall, in all suits brought against any such railroad corporation wherein is in any way involved the charges of any such railroad corporation for the transportation of any freight or cars or unjust discrimination in relation thereto, be deemed and taken in all the courts of this state as *prima facie* evidence that the rates therein fixed are reasonable and just maximum rates of charges. ('13 c. 90 § 6)

4354. Same—Classification of railroads as to gross earnings—The board of railroad and warehouse commission shall have and are hereby given and vested with power and it shall be their duty to classify all railroads in this state according to the gross amount of their several annual earnings, within this state, per mile for the preceding year as follows:

"Class A shall include those whose gross annual earnings per mile shall be four thousand dollars (\$4,000.00) or more."

"Class B shall include those whose gross annual earnings per mile shall

be three thousand dollars (\$3,000.00) or any sum in excess thereof less than four thousand dollars (\$4,000.00)."

"Class C shall include those whose gross annual earnings per mile shall be less than three thousand dollars (\$3,000.00) and shall have power to and may fix a higher maximum charge by the railroad corporations included in class C than those included in class B and a higher maximum charge by the railroad corporations included in class B than those included in class A." ('13 c. 90 § 7)

4355. Same—Shipment over two or more lines—Reasonable rates—When shipments of freight to be transported between different points within the state are required by two or more railway companies operating connecting lines, such railway company shall transport the same at reasonable through rates not greater than the maximum rates allowed by law and shall at all times give the same facilities and accommodations to local or state traffic as they give to interstate traffic over their lines of road. ('13 c. 90 § 8)

4356. Same—Penalty for violation—Any person or corporation guilty of violating any of the provisions of this act shall upon conviction thereof be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00) for the first offense and for each subsequent offense not less than five thousand dollars (\$5,000.00) nor more than ten thousand dollars (\$10,000.00) and shall pay in addition to said fine so imposed the costs of prosecution. ('13 c. 90 § 9)

4357. Same—Prosecution, in what counties—Duty of county attorney, etc.—Any prosecution under this act may be instituted in any county of this state through or into which the line of any railway so offending against the provisions of this act may extend, and it shall be and hereby is made the duty of the county attorney of any such county to appear therein and conduct such prosecution, and if so requested by said county attorney, the attorney general of the state of Minnesota shall assist in the prosecution thereof. ('13 c. 90 § 10)

4358. Joint rates—Upon the demand of any person interested, any railroad companies shall establish reasonable joint through rates between points on their respective lines within this state. No such company shall be required to send its cars over the line of another company when its own lines or connections reach the point to be reached on such other road, but the charge for transportation between any two points shall not exceed the established through joint rate between such points. (2018)

As to repeal of this section, see note under § 4226.

4359. Transfer facilities—When required by the railroad and warehouse commission, after notice and where it is reasonably practicable, all such railroad companies at all points of intersection and crossing of different railroads and at any place where two railroads are not more than one half mile apart and at all terminals, shall provide ample and equal facilities by track connection, use of each others tracks, passenger and freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded and other necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks. They shall not discriminate in their charges, rates or service between such connecting lines or on freight or passengers coming over or transferred from them. No carrier shall be required to furnish to another carrier its tracks, warehouses, depots, equipment or terminal facilities without reasonable compensation. Carriers shall be entitled to reasonable compensation for service performed over transfer tracks, and this act shall apply where actions and proceedings are now pending. (R. L. § 2019, amended '07 c. 27; '13 c. 429 § 1)

71-519, 74-893, 40 L. R. A. 389, 70 Am. St. Rep. 358; 88-448, 93-112; 40-353, 42-21; 179 U. S. 287, 21 Sup. Ct. 115, 45 L. Ed. 194. See 92-374, 378, 100-95.

4360. Adjustment of costs of transfer—Each such company shall pay its proportionate share for the building and maintenance of tracks and switches necessary for such transfer facilities. If such companies cannot agree upon

such proportion, either company may apply to the commission to determine the same. (2020)

4361. Transfer of car-load shipments—Freight in car-load lots shall be transferred without unloading from the cars containing the same, unless such unloading and reloading shall be done without charge to the shipper or receiver, under such contract arrangements as the connecting companies may make, or under rules prescribed by the commission. (2021)

92-20, 23, 99+365, 64 L. R. A. 624, 104 Am. St. Rep. 659, 2 Ann. Cas. 347.

4362. Smaller shipments—Less than car-load lots shall be transferred at cost, and the charge for such transfer shall be included in the joint rate. All railroad companies shall give the same facilities to local or state as to interstate traffic. (2022)

4363. Railroads and street railways in connection—Any railroad or railway corporation in this state may make such contracts for the carriage of passengers, express and freight, with any street railway company operating local street railways within this state as will enable and permit the operation of railroads and street railways in connection with each other, or in such manner as shall be deemed most beneficial to their and public interests. Provided, that before any railroad or railway shall operate upon any street railway in any city, and before any street railway in any city shall haul or transport over its lines in such city any car, equipment or motive power of any railroad or railway the contract shall be approved by a vote of not less than three-fourths of all the members of the common council or other legislative body of such city and a copy thereof filed with the clerk or recorder of such city, and that the cars, equipment and motive power used by the said railroad shall be substantially similar to the cars, equipment and motive power used by the street railways contracted with, and such railroad shall, while operating upon street railway tracks, comply with the ordinances and laws applicable to such street railways. Any such railroad companies may grant by lease or contract to street railways the right to use railroad tracks for the operation of street railway cars thereon. ('09 c. 482 § 1)

Section 2 repeals inconsistent acts, etc.

4364. Division of cars among applicants—Whenever any railroad company shall be unable to furnish enough cars at any station or side track to supply all persons demanding them for the shipment of freight, such cars as the company can furnish shall be divided among the applicants equally until each shipper has received at least one car, after which the balance shall be divided ratably in proportion to the amount of daily receipts of grain or other freight to each shipper, or to the total amount of grain offered at such station or side track. (2023)

4365. Duty to furnish cars—Application—Reasonable time—Penalty—It shall be the duty of any railroad company to furnish suitable car or cars to every and all persons, without discrimination, who may apply therefor in good faith for the transportation of any and all kinds of freight and to receive and transport such freight with all reasonable dispatch, and to provide and keep suitable facilities for the receiving and handling of same at any station or public switch on the line of its road, and also to receive and transport in like manner the empty or loaded cars furnished by any connecting road, to be delivered at any station or stations on the line of its road, to be loaded or discharged, or reloaded and returned to the road so connected; and for compensation it shall not demand or receive any greater sum than is accepted by it from any other connecting railroad for a like service. When the owner, manager or shipper of any freight of any kind shall make application in writing to any superintendent, agent, or other person in charge of transportation of any railroad company, at any point that cars are desired in or upon which to ship any freight, it shall be the duty of such railroad company to supply the number of cars so required at the point indicated in the application within a reasonable time thereafter, not to exceed forty-eight hours at terminal points and seventy-two hours at intermediate points, from the receipt of such application, Sundays and legal holidays excepted, and shall supply such cars to the person or persons so applying therefor in the order in which such ap-

plications are made, without giving preference to any person; provided, that if the application be for more than three cars, the railroad company may have one additional day in which to supply each additional car so ordered. Said application for cars shall be in writing, stating the number of cars wanted; the time and place desired, and said application shall state the character of freight and its final destination. To facilitate the making of the application in writing, every railroad company doing business in this state shall provide suitable blanks for that purpose to be kept at all freight offices; and it shall be the duty of every such railroad company, upon the request of the applicant, to furnish him a duplicate of such application. When cars are applied for under the provisions of this chapter, if they are not furnished within the time herein stated, the railroad company so failing to furnish them shall forfeit to the party or parties so applying for them the sum of one dollar per day for each car failed to be furnished, to be recovered in any court of competent jurisdiction, together with all damages such applicant may have sustained. ('07 c. 23 § 1)

Congress has so taken possession of the subject of delivery of railroad cars for interstate commerce under Act June 29, 1906, as to invalidate, when applied to cars demanded for interstate commerce, provisions of 1907 c. 23 requiring railroad companies to furnish freight cars on demand under penalty (226 U. S. 426, 33 Sup. Ct. 174, 57 L. Ed. —, reversing 110-25, 124+819, 19 Ann. Cas. 1088).

Voluntary contract between carrier and shipper as to furnishing cars need not be in writing (112-112, 127+436. See, also, 114-531, 131+1135).

The act does not diminish common-law rights, but gives additional rights to shippers (117-495, 136+295).

4366. Same—Loaded cars, when removed—Penalty—Any railroad company mentioned in section 1 [4365] of this act, upon receipt of notice from a shipper that one or more cars have been loaded by such shipper and are ready for delivery to such company at the place of loading thereof, to be carried on the road of such company towards the destination thereof, shall remove such car or cars from such loading point and forward the same towards destination within twenty-four hours after receiving such notice, Sunday and legal holidays excepted; and for every delay of twenty-four hours or fraction thereof after the expiration of the period therein allowed for the removal thereof, such railroad company shall forfeit to such shipper the sum of one dollar for each and every car, not so removed within the period herein provided, together with all damages he may have sustained by failure so to remove. ('07 c. 23 § 2)

4367. Same—Duty of connecting railroad—Penalty—Any railroad company mentioned in section 1 [4365] of this act which shall receive from a connecting railroad company one or more cars of freight consigned to any point on or beyond its line, shall within twenty-four hours after such car or cars are offered to it, or are placed on its transfer or other track, forward said car or cars over its railroad toward destination; and for every delay of twenty-four hours or fraction thereof on the part of said railroad company in forwarding said car or cars beyond said allowed period of twenty-four hours, said railroad company shall forfeit to the party injured by such delay the sum of one dollar for each and every car so received and not forwarded upon its line within the time above allowed together with all damages he may have sustained. ('07 c. 23 § 3)

4368. Same—Starting car—Average speed—Penalty—When any railroad company in this state shall have received from any shipper or from a connecting railroad, for shipment over its railroad one or more cars of freight, it shall be the duty of such company receiving such car or cars of freight within twenty-four hours thereafter to start the same forward from the place of shipment toward the place of destination, and after being started forward, such car or cars of freight shall be continued in transit toward the destination thereof at a rate of not less than an average speed of fifty miles per day of twenty-four hours; and upon the failure of such railroad company to transport such car or cars at the speed herein indicated such railroad company shall forfeit to the consignee thereof one dollar for each and every car for each twenty-four hours or fraction thereof consumed in the transportation of said car or cars in excess of the time herein prescribed; and, in as-

certaining the time consumed in the shipment of such car or cars, the time shall begin to run twenty-four hours after the date of the bill of lading or receipt given for said car or cars by said railroad company, which bill of lading or receipt shall be received by the courts of this state as prima facie evidence of the time when said car or cars were received by such company. ('07 c. 23 § 4)

4369. Same—Delivery to consignee—Penalty—It shall be the duty of every railroad company mentioned in section 1 [4365] of this act, to deliver at the usual place of unloading by the consignee all cars of freight hauled by it for delivery to said consignee within forty-eight hours, Sundays and legal holidays excepted, after the same shall have reached its point of destination; and for each and every delay of twenty-four hours or fraction thereof in not so delivering the same after the expiration of the time herein prescribed, said railroad company shall forfeit the sum of one dollar for each and every car not so delivered within the time herein allowed. ('07 c. 23 § 5)

4370. Same—Time for loading—Penalty—It shall be the duty of any shipper in compliance with whose request any railroad company mentioned in section 1 [4365] of this act, has placed one or more cars at the usual loading point of said shipper, to fully complete the loading thereof, ready for re-delivery to said railroad company within forty-eight hours after the same shall have been placed at such loading point, Sundays and legal holidays excepted, which full period for loading is allowed the shipper free from demurrage charges; and for every twenty-four hours or fraction thereof of delay beyond said period in so loading said car or cars such shipper shall become indebted, and on demand shall pay, to said railroad company the sum of one dollar for each and every car so placed and not loaded and ready for re-delivery within the time allowed herein. ('07 c. 23 § 6)

4371. Same—Time for unloading—Penalty—It shall be the duty of the consignee of each and every car delivered by any railroad company mentioned in section 1 [4365], of this act, at the usual place of unloading by the consignee to fully unload such car or cars within 72 hours for bituminous coal, bulk lime, fruit, or vegetables, or lumber shipments, and 48 hours for other shipments, from the time the same shall be placed at the usual unloading point of the consignee, which full periods are allowed the consignee for unloading free from demurrage charges; and for each and every delay of 24 hours or fraction thereof, on the part of the consignee in unloading such car or cars beyond the said above periods respectively, the consignee shall become indebted, and on demand shall pay, to the railroad company delivering such car or cars, the sum of one dollar for each and every car not so unloaded within the time herein prescribed. ('07 c. 23 § 7)

4372. Same—Bill of lading—Evidence—Penalty—For all shipments of freight in carload lots on the railroads mentioned in section 1 [4365], of this act, proper bills of lading showing the date of delivery to such railroad company, the weights and the marks and numbers of each car so shipped, shall be issued by the railroad company and delivered to the shipper at the time of receiving such car or cars; which bill of lading when offered by any party in any cause pending in any court in this state, shall be received and admitted in evidence by such court as prima facie evidence of the time when delivery of such car or cars was made by the consignor to such railroad company and of the weights and the contents thereof when so delivered to such company, and such railroad company shall be subject to a penalty of one hundred dollars for its neglect or refusal to furnish such shippers such bill of lading for each car so received by it. ('07 c. 23 § 8)

4373. Same—Notice of arrival—Railroad companies shall within twenty-four hours after arrival of any car or cars give notice to the consignee of the arrival of such car or cars, together with the amount of freight charges due thereon. The notice as referred to in this act, may be either actual or constructive. When the consignee or agent is personally served with notice of arrival of car or cars at or before 6 p. m. of any day, free time shall begin at 7 a. m. of the day after such notice shall have been given. Constructive no-

tice consists of posting notice by mail to consignee. When this method of notice is adopted there shall be 24 hours additional free time. ('07 c. 23 § 9)

4374. Same—Damages not offset by demurrage—Live stock—The payment by said railroad company of demurrage provided in this act, shall in no way invalidate or offset any claim any shipper or consignee may have or make for damages occasioned by delay on the part of such railroad company, or other cause, but shall be a further remedy and in addition to any already existing. Nor shall anything herein contained be held to lessen the duties of any common carrier in the shipment of live stock or other perishable property. ('07 c. 23 § 10)

Cited (117-495, 136+295).

4375. Same—Strikes, accidents, etc.—The period during which the movement of freight or furnishing cars is suspended on account of strikes, public calamities, accident, or any cause not within the power of the railroad company to prevent, or during which the loading or unloading of freight by shipper or consignee is delayed by reason of inclement weather which would make loading or unloading impracticable, or any cause not in the power of said shipper or consignee to prevent, shall be added to the free time allowed in this act and counted as additional free time. ('07 c. 23 § 11)

4376. Same—Reports to commission—It shall be the duty of every railroad company operating within the state of Minnesota to make at the end of each month a sworn detailed report of all penalties paid and collected as demurrage during the previous month, showing therein to whom paid or from whom received; this report shall be filed with the railroad and warehouse commission. ('07 c. 23 § 12)

4377. Same—Actions—Attorney's fee—When suit is brought to collect any of the damages, forfeitures or demurrage charges, provided for in this act, said suit may be brought in any court in this state having jurisdiction of the subject matter and parties under the then existing cause; and if the plaintiff therein recover judgment such plaintiff shall also recover a reasonable attorney's fee for bringing such suit, to be taxed as costs in other cases and paid as other costs by defendant in such suit. ('07 c. 23 § 13)

4378. Empty cars kept closed—To prevent the spread of noxious weeds, every such company shall keep the doors of all empty freight cars closed during transit on any of its lines in this state. Every such company violating the provisions of this section shall forfeit to the state not less than ten dollars nor more than twenty-five dollars for each offence. (2024)

4379. Transportation of live stock—Every such company shall furnish, at proper points designated by it, suitable cars for the transportation of live stock of all kinds, and shall transport the same at a rate not to exceed the highest rate charged by such company for any kind of stock in such car. Stock of different kinds shall be carried in the same car, at the option of the shipper, and at his expense for properly partitioning the car. Any such company failing to comply with any provision of this section shall forfeit to the party aggrieved not less than one hundred dollars nor more than five hundred dollars. (2025)

See § 4249.

85-337, 88+1001.

4380. Transportation of shippers, etc.—Every such company receiving for shipment live stock by the car load shall without additional charge transport, going and returning, in a caboose, or other suitable car, with the first such car load, one person to care for such stock, and one person in addition for each four additional car loads shipped at the same time. Any company failing to comply with the provisions of this section shall be liable to the shipper for all damages sustained by him by reason of such failure, and any judgment recovered for such damages shall include a reasonable attorney's fee. (R. L. § 2026, amended '09 c. 380 § 1)

See § 4249.

4381. Live stock arriving at terminal—Time for delivery at stockyards and unloading—That all live stock arriving at any terminal over any line of railroad in this state, which is billed to any stockyard within fifteen miles of said terminal where live stock is bought, sold or transferred, shall be delivered to such stockyard within six (6) hours after its arrival at such terminal

unless prevented by an act of God; of which time any terminal railroad whose principal business is transferring live stock from terminal interchange points to stockyards for unloading shall be allowed not more than three (3) hours time of the said six (6) hours after the live stock has been delivered to it in which to deliver said live stock to the stockyards chutes. ('13 c. 411 § 1)

4382. Same—Penalty for violation—That any carrier or carriers failing to comply with the provisions of this act, shall forfeit and pay to the state of Minnesota, the sum of fifty dollars (\$50.00) for each such failure, to be recovered in a civil action brought by the attorney general. If two or more carriers are involved in the movement of such live stock, they may be joined in one action and judgment recovered against them all, unless any such carrier shall establish to the court that the cause of such failure was not its fault. The proof by the state that such stock was not delivered in time, shall be prima facie evidence that all the carriers were liable. ('13 c. 411 § 2)

4383. Same—Intrastate shipments—This act shall apply only to intrastate shipments. ('13 c. 411 § 3)

4384. Damage to live stock—Notice of claim—In any action hereafter brought in any court of this state against one or more common carriers by any owner, shipper or consignee of any shipment of live stock hereafter made, to recover damages for loss of or injury to any such live stock in transit, wherein the answer of the defendant or defendants shall set up the defense that the shipper, owner or consignee of said live stock failed or neglected to make or give written or verbal notice or claim of any kind or form to any agent of any carrier or to any carrier which may have participated in the transportation of said live stock, within any specified or particular time less than four months after the happening of such loss, injury or damage, as provided by the terms of any shipping contract, bill of lading or other agreement relating to such shipment, it shall be a sufficient compliance with any such requirement or stipulation in any such shipping contract, bill of lading, or other agreement, that a written notice or claim for such loss, injury or damage was made or given by such shipper, consignee or owner to any general or acting freight agent, claim agent or ticket agent of any one of said carriers within sixty days after the happening of said loss, injury or damage. ('09 c. 467 § 1)

4385. Shipment of cream—The shipment of cream for a distance of more than sixty-five (65) miles, over any railroad line in this state, except when such shipment is made in a refrigerator car, which car shall be kept at all times effectively iced and in a thoroughly sanitary condition, unless said cream shall have previously undergone an effective process of pasteurization, is hereby prohibited. ('13 c. 433 § 1)

4386. Same—Penalty for violation—False statements, etc.—Any agent or any railroad company who shall ship or receive for shipment any cream except as provided in section 1 [4385] of this act, or any person who shall make any false statement or make or offer any certificate containing any false statement or make or offer any certificate containing any false statement in regard to the pasteurization of cream with the intent to secure shipment of said cream, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifteen (15) dollars nor more than seventy-five (75) dollars, and the shipment of each lot of cream prohibited by section 1 [4385] of this act shall constitute a separate offense. ('13 c. 433 § 2)

4387. Caboose cars—It shall be unlawful for any person, corporation or company operating any railroad in the state of Minnesota, to require or permit the use of any caboose cars unless said caboose cars shall be at least twenty-four feet in length, exclusive of platforms, and shall be provided with a door at each end thereof and with suitable water closets, cupolas, platforms, guard rails, grab irons and steps for the safety of persons in alighting or getting on said caboose cars and said caboose cars shall be equipped with at least two four-wheeled trucks. ('09 c. 382 § 1)

See § 4249.

4388. Same—Penalties for violation—Any person, corporation or company operating any railroad in the state of Minnesota violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be liable for a penalty of not less than ten dollars nor more than fifty dollars for each offense, and the use of any one caboose car prohibited in section 1 [4387] of this act shall constitute a separate offense for every day or part of a day so used, and such penalty shall be recovered in a suit brought in the name of the state of Minnesota in any court having jurisdiction thereof, in any county in or through which such line of railroad may run, by the attorney general of the state or under his direction, or by the county attorney in any county in or through which such line of railroad may be operated. All fines and penalties recovered by the state under this act shall be paid into the treasury of the state of Minnesota. ('09 c. 382 § 2)

See § 4249.

4389. Time allowed for loading produce—Every such company shall allow a shipper thirty-six hours, exclusive of Sundays, without additional charge, in which to load any car ordered for the shipment of grain or other farm produce. (2027)

See § 4249.

4390. Depots and waiting rooms—Every such railroad company shall provide and maintain at all villages and cities upon its lines, depots with suitable waiting rooms for passengers and rooms for storage of freight. In places of four hundred inhabitants or more, such depots shall have separate waiting rooms for men and women, of sufficient size to accommodate all passengers stopping thereat, and not less than fifteen by eighteen feet in size and ten feet in height, properly and comfortably furnished, heated, lighted and ventilated, and in such condition open for the reception of passengers for at least one-half hour before and after the arrival of each passenger train. (R. L. § 2028, amended '07 c. 54 § 1)

1907 c. 54 § 1 repeals inconsistent acts, etc.

See § 4249.

87-195, 91+465; 193 U. S. 53, 24 Sup. Ct. 396, 48 L. Ed. 614; 118-491, 137+193.

4391. Certain depots to be kept open—When the annual business from outgoing and incoming traffic at any station amounts to eight thousand dollars or more, such company shall keep an agent at such station during the business hours of each business day; and no station shall be abandoned, nor the depot removed, nor an agent withdrawn therefrom without the written consent of the commission. The commission may by written order authorize the withdrawal of such agent at stations where the business is periodical, during such time as there is no business thereat, or the abandonment of any station where the business from outgoing and incoming traffic is less than fifteen hundred dollars for any consecutive three months. (2029)

See § 4249.

4392. Penalty—Any company failing to comply with any of the provisions of §§ 4390, 4391 shall forfeit to the state for each such violation not less than five hundred dollars nor more than one thousand dollars; and each period of thirty days that any such failure shall continue shall be deemed to constitute a separate offence. (2030)

See § 4249.

4393. Toilet rooms at stations, etc.—The railroad and warehouse commission of this state is hereby authorized and empowered, on complaint duly made, to order that all railroad companies operating within the state of Minnesota shall provide or cause to be provided suitable toilet rooms in, or immediately adjacent to, every railroad station waiting room located on its lines in this state, and they are hereby required to maintain and keep said toilet rooms in a good sanitary condition. Provided, in case there is no water and sewerage system in towns where railroad station waiting rooms are located, which extends to a point not more than three hundred feet distant from such station waiting rooms; then, and in such case, said railroad companies shall provide and maintain, in good sanitary condition, within a reasonable

and convenient distance of said station waiting rooms, a suitable closet or privy. ('05 c. 208 § 1, amended '13 c. 495 § 1)

4394. **Same—Penalty for violation**—Any railroad company maintaining waiting rooms at their stations in this state, who shall fail to comply with the provisions of section 1 [4393], of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding one hundred dollars and costs of prosecution. ('05 c. 208 § 2)

4395. **Same—Power of commission**—The railroad and warehouse commission of the state shall have power to enforce the provisions of this act. ('05 c. 208 § 3)

4396. **Stations—Name of city or village**—Every railway company, telegraph company, express company or other company or corporation doing business as a common carrier which now has or shall hereafter have or maintain any station in any city or village within the state of Minnesota shall publish in its printed matter published for the public, and use as the name of such station only, the name of the city or village in which such station is located or by which such city or village is or may be incorporated. ('05 c. 252 § 1)

4397. **Same—Exceptions**—Every such railway company, telegraph company, express company or other common carrier is hereby prohibited from using or continuing to use within the state of Minnesota a different name for its station from that of the city or village within which such station is located or which is in use by the local government postoffice, unless there is some village or postoffice on the same division of any railroad in this state the name of which is so similar as to be confusing in the dispatch of train orders. ('05 c. 252 § 2)

4398. **Same—Penalty for violation**—Any such railway company, telegraph company, express company or other common carrier failing to comply with the provisions of this act shall forfeit to the city or village where such station is located the sum of one hundred dollars for each day that such failure shall continue. Provided, that before any such company shall be deemed to be in default the council of the city or village within which such station is located, shall notify such company to change the name of such station to the same name as that of such city or village within sixty days after the service of such notice upon such company. ('05 c. 252 § 3)

4399. **Trains to stop at stations**—All trains carrying passengers, except through and limited trains not advertised for local business, shall stop at the depot in each city and village, and at other stations at which such train is advertised to stop, a sufficient time, not less than one minute, to safely discharge and receive passengers. (2031)

57-385, 59-487, 24 L. R. A. 502 (affirmed, 166 U. S. 427, 17 Sup. Ct. 627, 41 L. Ed. 1064); 67-18, 69-632.

4400. **Time of arrival of passenger trains—Bulletin**—That every corporation, company or person operating a railroad within this state, shall, immediately after the taking effect of this act, cause to be placed in a conspicuous place in each passenger depot of such company, located at any station in this state at which there is a telegraph office, a blackboard of suitable size, upon which such company or person shall cause to be written, at least twenty minutes before the schedule time for the arrival of each passenger train stopping upon such route at such station, the number of the train, the time each train is due and the fact whether such train is on schedule time or not, and if late, how much. But nothing in this act shall be so construed as to compel a railroad company to post the train number, schedule time, and lateness of such trains as arrive or depart from such stations aforesaid when there is not a telegraph operator regularly on duty at the schedule time of the arrival of such train. Provided also that any passenger train not more than ten minutes late shall be deemed to be on time as to the operation of this act. ('05 c. 287 § 1)

Section 3 repeals inconsistent acts, etc.

4401. **Same—Penalty for violation**—For each willful violation of the provisions of this act in failing to report or in making a false report, such cor-

poration, company or person, so neglecting or so refusing to comply with the provisions of this act, shall forfeit and pay the sum of twenty-five dollars, together with all taxable costs, to be recovered in a civil action to be prosecuted by the prosecuting attorney of the county in which the neglect or refusal occurs, in the name of the state of Minnesota, which shall be paid over to the county in which such proceedings are had, and shall be a part of the road and bridge fund. ('05 c. 287 § 2)

4402. Telegraph or telephone operator at depot—Every railroad company operating within this state shall keep at its depot in any city or village of over 500 inhabitants, a competent telegraph or telephone operator who shall be on duty for [at] least one-half hour before the scheduled time of arrival of any train receiving or discharging passengers at such depot. Such telegraph or telephone operator shall obtain and communicate upon request of any person, information as to the time of arrival of any delayed train. ('09 c. 173 § 1)

See § 4249.

4403. Same—Duty of commission—It shall be the duty of the railway and warehouse commission to enforce the provisions of this act. ('09 c. 173 § 2)

4404. New roads—Notice to commission—Filing of maps, etc.—Every railroad company having constructed any railroad by way of branch or extension or otherwise, before opening the same to public use, shall notify the commission that the same is finished and in a safe condition for operation, and shall file with said commission a map and profile thereof with table of grades, curvatures and mileage, and a statement of other characteristics of such road and an itemized statement showing the actual cost thereof; all of the foregoing to be in such form as the commission shall prescribe and to be attested by the oath of the president or other managing officer, and the chief engineer of the company.

Before the new line is operated as a public road, the commission shall inspect the same or cause it to be inspected and furnish the company with a certificate showing the compliance with the foregoing conditions, that the road has been inspected and found to be in safe condition for operation.

Provided, however, that whenever it is found desirable to operate any portion of any new railroad built or any new branch or extension, or otherwise, before completion of the same, the commission may on application authorize the operation of such portion thereof pending the completion of the entire road under such terms and conditions as the commission may impose in the interests of the public. (R. L. § 2032, amended '07 c. 260; '13 c. 126 § 1)

4405. Same—Penalty for noncompliance—Any such carrier failing to comply with the provisions of this act, or with any order of the commission made thereunder, shall forfeit for each day's default, one hundred dollars to be recovered in a civil action in the name of the state. ('13 c. 126 § 2)

4406. Stopping trains at crossings—Every company operating a railroad shall cause all trains on such railroad to come to a full stop not less than ten nor more than sixty rods before reaching any railroad junction or crossing at grade, unless such stoppage is rendered unnecessary by an interlocking plant or other device approved by the written order of the commission, or by the court upon appeal. Any company violating any of the provisions of this section shall forfeit not less than twenty dollars nor more than one hundred dollars, to be recovered in a civil action before any justice of the peace of the county in which such violation occurs, upon the complaint of any person, one-half to go to the complainant, and one-half to the school fund of the county. (2033)

67-18, 69+632; 85-387, 88+994; 100-361, 111+388, 9 L. R. A. (N. S.) 1113.

What are "junctions" (176 Fed. 237, 100 C. C. A. 41, 20. Ann. Cas. 1200).

4407. Transfer of passengers—Trains shall stop at all junctions and railroad crossings where transfer of passengers is required as at stations; and, as far as can reasonably be done, companies shall so adjust their time-tables as to facilitate such transfer. In case trains on intersecting roads are due at any such junction or crossing at practically the same time, within two minutes of

each other, the train first arriving shall wait for the other train five minutes, unless it is known that such train cannot arrive within said time. Any superintendent, engineer, conductor, or other officer or employee of any railroad company who shall violate any of the provisions of this section, or cause a violation thereof, shall be guilty of a gross misdemeanor. (2034)

4408. Toilet rooms in cars—Every such company shall provide, in all cars and cabooses used for carrying passengers or other persons not employees of such company, suitable toilet rooms for the use of such persons. Any such company failing to comply with the provisions of this section shall forfeit to the state one hundred dollars for each day that such default shall continue. (2035)

See § 4249.

4409. Fire extinguishers and tools—Every such company shall keep, at each end of each passenger and sleeping car run or operated by it, fire extinguishers of good and approved construction, in good condition for use, and in a safe and convenient position, and in each car two saws and two axes, one of each to be kept inside and one outside of the car, in convenient places for use in case of accident. Any company violating any provision of this section shall forfeit to the state not more than one thousand dollars, and any officer, agent, or employee of such company who shall be responsible for such violation shall be guilty of a gross misdemeanor, and punished by a fine of not more than one thousand dollars. (2036)

4410. Prevention of fire—Every company operating a railroad shall use upon each locomotive engine a good and efficient spark arrester, which the master mechanic shall cause to be examined each time before leaving roundhouse, and the master mechanic and the employee making such examination shall be held responsible for the good condition of the same, but without relieving the company from its responsibility hereunder.

Every such company shall keep its right of way clear of combustible materials, except ties and other materials necessary for the maintenance and operation of the road, from April 15 to December 1.

No company shall permit any of its employees to leave a deposit of fire, live coals or ashes in the immediate vicinity of wood land or lands liable to be overrun by fire, and every engineer, conductor or trainman discovering fire adjacent to the track shall report the same promptly at the first telegraph or telephone station reached by him.

In dry seasons every such company shall give its employees particular instructions for the prevention and extinguishment of fires, and shall cause warning placards furnished by the forestry commissioner to be conspicuously posted at every station in the vicinity of forest and grass lands, and, when a fire occurs near the line of its road, shall concentrate such help and adopt such measures as shall be available for its extinguishment.

In dry seasons every such company shall employ at least one patrolman for each mile of its road through lands liable to be overrun by fire to discover and extinguish fires occurring near the line of the road, by which is meant a distance within which a fire could usually be set by sparks from a passing locomotive.

Any company violating any provision of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than fifty dollars and not exceeding one hundred dollars and costs of prosecution for each offense, and any railroad employee violating the same shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail not exceeding ninety days. (R. L. § 2037, amended '09 c. 182; '11 c. 9 § 1)

114-375, 131+462, 34 L. R. A. (N. S.) 586.

4411. Automatic couplers on freight cars—That on and after the first day of July nineteen hundred and eight it shall be unlawful for any railway company or common carrier in moving freight between points in the state to haul or permit to be hauled or used on its line any car not equipped with couplers coupling automatically by impact and which can be uncoupled without the

necessity of men going between the ends of the cars. ('07 c. 202, amended '09 c. 488 § 1)

4412. Grab irons—That on and after the first day of July nineteen hundred and eight it shall be unlawful for any railway company or common carrier in moving freight between points in the state to use any car that is not provided with secure grab irons or hand holds in the ends and sides of each car for the greater security to men in coupling and uncoupling cars. ('07 c. 202, amended '09 c. 488 § 2)

4413. Train brake system—That it shall be unlawful for any railroad doing business in the state of Minnesota to use on this line any locomotive in the moving of its trains not equipped with power, driving wheel, brakes and appliances of operating the train brake system or to run any train over its road that has not 75% of the cars in such train equipped with power or train brakes and having the brakes used and operated by the engineer of the locomotive drawing such train, and all power brake cars in such train shall be associated together and have their brakes used and operated. Provided, that this section shall not apply to the handling of trains or cars in yard service, or to a local train while engaged in performing switching service. ('07 c. 202, amended '09 c. 488 § 3)

4414. Draw bars—That it shall be unlawful for any railroad doing business in the state of Minnesota to use any locomotive, tender, car or similar vehicle used in the movement of state traffic, that is not provided with draw bars of standard height, to wit, standard gauge cars 34½ in., narrow gauge cars 26 in. measured perpendicularly from the level of the tops of the rails to the center of the draw bars; the maximum variation from such standard heights between draw bars of empty and loaded cars shall be 3 inches. ('07 c. 202, amended '09 c. 488 § 4)

4415. Same—Passenger traffic—That the provisions of sections 1 [4411], 3 [4413], and 4 [4414] of this act shall also apply to locomotives, cars and trains used in passenger traffic in the state of Minnesota, in so far as the same are applicable to the vehicles used in passenger train traffic. ('07 c. 202, amended '09 c. 488 § 5)

4416. Same—Cars from connecting lines—That any such common carrier may refuse to receive from connecting lines or from any shipper any car not equipped in accordance with the foregoing sections of this act. ('07 c. 202, amended '09 c. 488 § 6)

4417. Same—Assumption of risk—Contributory negligence—That any employé of any such common carrier who may be killed or injured by any locomotive, tender, car, similar vehicle, or train, in use contrary to the provisions of this act, shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, tender, car, similar vehicle, or train has been brought to his knowledge, nor shall such employé be held to have contributed to his injury in any case where the carrier shall have violated any provision of this act, when such violation contributed to the death or injury of such employé. ('07 c. 202, amended '09 c. 488 § 7)

4418. Same—Powers of commission—The railroad and warehouse commission of Minnesota may from time to time after full hearing and for good cause shown, increase the minimum percentage of cars in a train required to be operated by power or train brakes, and a failure to comply with any requirement of said commission shall be subject to a like penalty as a failure to comply with any requirement of this act. The said railroad and warehouse commission of Minnesota is hereby authorized to grant to any common carrier subject to this act, upon full hearing and for good cause shown, a reasonable extension of time in which to comply with the provisions of this act; provided, that in no case shall such extension or extensions in the aggregate, exceed the period of eighteen months from and after the approval of this act. ('07 c. 202, amended '09 c. 488 § 8)

4419. Same—Penalty for violation—That every railroad or the receiver thereof, using or permitting to be used on its line or to be hauled on its line, any locomotive, tender, car or similar vehicle or train in violation of any of

the provisions of this act shall be liable to the state of Minnesota for a penalty of one hundred dollars for each offense and such penalties shall be recovered in a suit brought in the name of the state of Minnesota, in any court having jurisdiction thereof, in any county in or through which such line of railroad may run, by the attorney general of the state or under his direction, or by the county attorney in any county in or through which such line of railroad may be operated. All fines and penalties recovered by this state under this act shall be paid into the treasury of the state of Minnesota. Provided, that nothing in this act contained shall apply to locomotives, tenders, cars or similar vehicles or trains when the height of the draw bars on such locomotives, tenders, cars, similar vehicles or trains does not exceed twenty-five inches in height or any of which are in actual use in interstate commerce. ('07 c. 202, amended '09 c. 488 § 9)

4420. Same—Duty of commission—It shall be the duty of the railroad and warehouse commission to have this law enforced. ('07 c. 202, amended '09 c. 488 § 10)

4421. Headlights on certain locomotives—Every person, company, corporation or receiver thereof operating any railroad in the state of Minnesota, is hereby required to equip, maintain and use upon every locomotive operated in road service in this state, an electric or other headlight of at least fifteen hundred (1,500) candle power, measured without the aid of a reflector; Provided, however, that this candle power shall not apply to locomotive engines regularly used on branch lines less than twenty-five miles long and logging roads not over sixty miles long in switching cars or trains and provided further that every person, company, corporation or receiver thereof, subject to the provisions of this act, is hereby required to equip, maintain and use upon every locomotive engine regularly used in switching cars or trains, a headlight of at least fifty (50) candle power measured without the aid of a reflector; and provided further, that this act shall not apply to locomotive engines used exclusively between sun up and sun down, nor when being taken to or returned from repair shops when ordered in for repairs. ('13 c. 93 § 1)

4422. Same—Penalty for violation—Fines—Any person, company, corporation or receiver thereof operating any railroad in the state of Minnesota violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be liable for a penalty of not less than twenty-five dollars nor more than one hundred dollars for each offense, and the use of any one locomotive engine prohibited in section 1 [4421] of this act shall constitute a separate offense for every day or part of a day so used, and such penalty shall be recovered in a suit brought in the name of the state of Minnesota in any court having jurisdiction thereof, in any county in or through which such line of railroad may run, by the attorney general of the state or under his direction, or by the county attorney in any county in or through which such line of railroad may be operated.

All fines and penalties recovered by the state under this act shall be paid into the treasury of the state of Minnesota. ('13 c. 93 § 2)

4423. Abandonment of road—No company operating any line of railroad in the state of Minnesota shall abandon the same or any portion thereof, nor shall it abandon any siding, sidetrack, spur or other railway track of any kind which has once been opened and used for business, nor shall it close for traffic thereon except as provided in section 4424 as the same is hereinafter amended. Any company violating any provision of this section shall forfeit to the state not less than two hundred dollars nor more than one thousand dollars for each day such violation continues. (R. L. § 2038, amended '07 c. 261 § 1)

70-105, 112, 72+835. See 89-363, 95+297.

4424. Procedure for abandonment—Any such company desiring to abandon or close for traffic any portion of its line, siding, sidetrack, spur or other railway track, shall first make application to the commission in writing. Before passing upon such application the commission shall fix a time and place for hearing and require such notice thereof to be given as it deems reasona-

ble. Upon the hearing, the commission shall ascertain the facts and make findings thereon, and if such facts satisfy the commission that the proposed abandonment or closing for traffic will not result in substantial injury to the public, they may allow the same, otherwise, it shall be denied, or, if the facts warrant it, the application may be granted in a modified form. (R. L. § 2039, amended '07 c. 261 § 2)

Cited (118-193, 137+193).

4425. Action against company—Whenever any such railway company has abandoned, taken up, or ceased to operate, or has closed for traffic any portion of its line for thirty days without having complied with the requirements of § 4424, any town, municipality, corporation or individual which has issued bonds or given promissory notes or other thing of value to such railway company as an inducement or aid to or in the construction of the line ceased to be operated or closed for traffic as aforesaid, may recover the same, or the value thereof, in an action against said company in the district court of any county wherein such road or any portion thereof has been abandoned or closed for traffic, or the operation of which has ceased as aforesaid. The foregoing provisions shall not apply to logging or ore roads constructed and used exclusively for logging or mining purposes, nor shall it apply to any railroad which is not a common carrier. (R. L. § 2040, amended '07 c. 261 § 3)

Cited (118-491, 137+193).

4426. Fire caused by engine—Insurable interest—Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by the locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it and may procure insurance thereon in its own behalf for its protection against such damages. (R. L. § 2041, amended '09 c. 378 § 1)

1909 c. 378 § 2 repeals inconsistent acts, etc.

The statute merely makes the fact of the fire being scattered or thrown from railroad cars and engines prima facie evidence of negligence. The existence of such negligence is still the issue to be presented by the complaint and tried by the jury. The statute simply relieves plaintiff of the initiative in proof of negligence. It does not relieve him of any proof save that of negligence. The presumption of negligence does not arise and defendant need not introduce evidence to rebut it until plaintiff has made out a case for the jury on the issue of the cause of the fire (29-12, 11+122; 32-526, 21+732; 35-361, 29+6; 63-66, 65+93; 65-112, 67+794; 117-434, 136+275; [C. C.] 22 Fed. 811). Plaintiff's case must rest upon something more than mere speculation or conjecture (83-370, 86+451; cf. 117-434, 136+275). Evidence to rebut presumption must be as broad as the presumption and must satisfactorily rebut every negligent act or omission which might, under the circumstances of the case, reasonably or naturally have caused the fire (29-12, 11+122; 35-170, 28+215; 43-334, 45+608; 45-481, 48+22. See, also, 97-467, 107+548, 5 L. R. A. [N. S.] 99). Presumption is overcome by satisfactory proof that the engine was properly constructed and managed and in suitable repair (43-319, 45+611; 145 Fed. 577, 75 C. C. A. 591. See 40-60, 41+301; 63-233, 65+443). Whether presumption is overcome is ordinarily a question for the jury (29-12, 11+122; 32-526, 21+732; 35-170, 28+215; 97-467, 107+548, 5 L. R. A. [N. S.] 99). Presumption held not overcome (29-12, 11+122; 29-58, 11+146; 31-57, 16+488; 32-526, 21+732; 33-359, 23+536; 35-170, 28+215; 36-452, 32+176; 39-413, 40+270, 12 Am. St. Rep. 659; 40-60, 41+301; 43-334, 45+608; 43-427, 45+719; 43-519, 45+1132; 45-17, 47+260; 45-481, 48+22; 46-260, 48+1117; 53-104, 59+978; 62-207, 64+392; 62-243, 64+562; 63-233, 65+443; 117-434, 136+275. See, prior to statute, 21-60). Presumption held overcome (43-319, 45+611). No presumption that right of way was in unsafe condition (36-522, 32+751).

Not unconstitutional, as arbitrary class legislation (186 Fed. 139, 29 C. C. A. 612).

Cited (119-181, 137+970).

4427. Negligence of fellow servant—Every company owning or operating, as a common carrier or otherwise, a railroad, shall be liable for all damages sustained within this state by any agent or servant thereof, without contributory negligence on his part, by reason of the negligence of any other servant thereof, and no contract, nor any rule or regulation of such company, shall impair or limit such liability. But this section shall not be so construed as to render any railroad company liable for damages sustained by any such agent

or servant while engaged in the construction of a new road, or any part thereof, not open to public travel or use. (2042)

1. To what servants applicable—Not applicable to all servants of railroads (40-249, 41+974). Applicable only to those who are exposed to the peculiar hazards incident to the use and operation of railroads (43-222, 45+156, 8 L. R. A. 419; 45-355, 47+1068, 11 L. R. A. 271; 93-63, 100+681; 104+1079; 136 Fed. 147, 69 C. C. A. 145). Not necessary that employment of servant injured and of servant causing injury should be of same kind (44-17, 46+149). Held applicable to sectionman run over by passing train (44-17, 46+149); to sectionman pushed off a hand-car (45-355, 47+1068, 11 L. R. A. 271; 110-325, 132+316); to laborer injured when boarding a construction train (48-46, 50+930); to sectionman against whom a hand-car was thrown by a passing train (53-341, 55+137); to wiper in roundhouse hit by wire cable (60-319, 62+386); to wiper in roundhouse injured by moving engine (63-137, 65+260); to one required to step from platform to top of moving freight cars (63-203, 65+269); to sectionman repairing tracks injured by falling rail (65-69, 67+804); to brakeman coupling cars (85-447, 89+68, 69 L. R. A. 887; 93-497, 101+1134, 102+1134); to brakeman boarding train (86-77, 90+122); to brakeman injured by negligence of engineer (163 Fed. 827, 91 C. C. A. 390); to sectionman injured in removing hand-car from tracks (86-152, 90+381; 57 Fed. 1037, 6 C. C. A. 681); to engineer of locomotive (93-63, 100+681); to sectionman hit by stone thrown from moving engine (93-339, 101+504); to fireman on engine (42-68, 43+783); to a car cleaner ([C. C.] 70 Fed. 15). Held not applicable to helper of boiler-maker in railroad shop (40-249, 41+974); to one repairing railroad bridge (43-222, 45+156, 8 L. R. A. 419); to one loading railroad iron from ground to flatcar (47-9, 49+302); to one working in railroad repair shops (69-524, 72+805); to one working about a steam shovel (70-474, 73+409; 79-245, 82+576; 104+1079); to one employed in removing lumber of trestle work (80-27, 82+1086, 51 L. R. A. 532); to sectionmen pushed off hand-car (138+1027). Held question for jury whether servant was subjected to railroad hazards (74-432, 77+240; 83-385, 86+413; 100-131, 110+433).

Removing merchandise from wrecked cars may embrace railroad hazard (108-94, 121+607, 22 L. R. A. [N. S.] 968).

2. Who liable—Statute applicable to a railroad company operating a line composed of the lines or tracks of several different companies (48-46, 50+930); to a private logging railroad (85-447, 89+68. See [C. C.] 113 Fed. 382; 136 Fed. 147, 69 C. C. A. 145); to contractors operating a railroad in repairing the road (86-77, 90+122); to private mining railroad (93-63, 100+681; 93-497, 101+1134, 102+1134; 114-299, 131+334; 163 Fed. 827, 91 C. C. A. 390. See 136 Fed. 147, 69 C. C. A. 145); to a receiver (63-137, 65+260). Not applicable to street railways (61-435, 63+1099, 29 L. R. A. 208, 52 Am. St. Rep. 608; 65-387, 67+1006. See 48-391, 51+125).

Railroad company is liable to its servants for negligence of employes of a union depot company, whose duty it is to operate switches and direct movement of trains out of yards (102-81, 112+875, 13 L. R. A. [N. S.] 1196).

Liability of railway company and brewing company jointly operating yards and locomotives (112-38, 127+433).

3. Proviso as to new roads—42-68, 43+783; 48-46, 50+930; 93-63, 100+681; 199 U. S. 593, 26 S. Ct. 159, 50 L. Ed. 322.

4. Contributory negligence—Statute does not change rule that burden of proving contributory negligence is on defendant (48-391, 51+125).

5. Constitutionality—The equal protection of the laws is not denied by construing the exception as only exempting incomplete railroads, and therefore as not excepting an accident on a narrow-gauge track on which dump-gauge cars were run by a mining company for the purpose of stripping its mine (199 U. S. 593, 26 Sup. Ct. 159, 50 L. Ed. 322).

4428. License for ticket agents—Every corporation, common carrier, firm, or person, operating any line of railroad, steamboat line, or steamboat, shall furnish to each of its authorized ticket agents a certificate of agency duly signed by or on behalf of such carrier, and, in case of a corporation, attested by its corporate seal. Upon presentation of such certificate and payment of a license fee of three dollars, the secretary of state shall issue to such agent a license to sell transportation tickets for such carrier. Such certificate and license shall be kept conspicuously posted in the office of such agent, and no person not so licensed shall sell any ticket or other evidence of right to passenger transportation. It is hereby made the duty of every corporation, common carrier, firm, or person operating any line of railroad, steamboat line or steamboat, on or before the first day of January, July of each year, to file with the secretary of state, a duly authenticated list of its ticket agents in this state. Any person not so licensed who shall sell, barter, or otherwise transfer any such ticket or other evidence of right to passenger transportation or any part thereof, shall be guilty of a gross misdemeanor. Provided, however, that the provisions of this act shall not apply to persons, firms or corporations operating street railways, electric railroads or power boats in connection therewith. (R. L. § 2043, amended '09 c. 143 § 1)

57-345, 59+317, 24 L. R. A. 498.

4429. Redemption of unused tickets—Every such carrier shall redeem, upon presentation to any of its authorized ticket agents, any passenger ticket, coupon, or mileage book, unused in whole or in part, and which has not by its terms expired, and shall pay therefor a pro rata share of the price at which such ticket was sold, or, if wholly unused, the entire purchase price. Any such carrier violating the provisions of this section shall forfeit to the state not to exceed five hundred dollars. (2044)

57-345, 59+317, 24 L. R. A. 498.

1893 c. 66 did not violate state or federal constitution (97-173, 106+907).

4430. Mileage books—All passenger mileage tickets or books hereafter issued by railroad companies operating lines in this state, except interchangeable mileage now in use, shall be good until used, and shall be transferable by delivery and good for travel in the hands of the holder thereof between stations in Minnesota. ('05 c. 221 § 1)

4431. Same—Company not liable, when—Railroad companies accepting such mileage tickets shall not be liable to the owner of such ticket in case they are used by persons not legally entitled to use the same. ('05 c. 221 § 2)

4432. Same—Members of family, etc.—Penalty—Upon presentation of any mileage book having coupons attached thereto entitling the holder thereof upon complying with the conditions thereof to travel thereon, issued by any railroad corporation operating a railroad in this state, to a conductor on any train, on any line of railroad owned or operated by said railroad corporation, the holder thereof or any member of his family, shall be entitled to travel for a number of miles equal to the number of coupons detached by such conductor. Such mileage book shall entitle the holder thereof to the same rights and privileges in respect to the transportation of person and property to which the highest class ticket issued by such corporation would entitle him. Such mileage books shall be good until all coupons attached thereto have been used. Any railroad corporation which shall refuse to accept any such mileage book for transportation as provided by this section, or in violation hereof, shall forfeit fifty dollars (\$50.00), to be recovered by the party to whom such refusal is made; but no action can be maintained therefor unless commenced within one year after the cause of action has accrued. Provided, that nothing herein contained shall be construed as repealing the provisions of chapter 221, General Laws of 1905 [4430, 4431]. ('13 c. 151 § 1)

4433. Application of preceding provisions—All the provisions of this chapter regarding the construction, maintenance, and operation of railroads, and the duties and liabilities of railroad companies, shall apply to any firm or person operating a railroad, whether as owner, lessee, trustee, receiver, or otherwise, and the term "company," wherever used in this chapter, shall be construed to include any such firm or person when such construction is not inconsistent with the context. (2045)

4434. Collection of forfeitures—All forfeitures provided by this chapter shall be collected by civil action in the name of the state, and the attorney general and the county attorney of any county in which the cause of action arises shall prosecute such action. (2046)

STORAGE AND SHIPMENT OF GRAIN

TERMINAL WAREHOUSES.

4435. Defined—All elevators or warehouses located within the switching limits of St. Paul, Minneapolis and Duluth, and other points in the state which are now, or may hereafter be designated as terminal points in which grain is received for storage in bulk, and that of different owners mixed together or so stored that the identity of the different lots or parcels is not preserved, shall be public warehouses known as "terminal warehouses." (R. L. § 2047, amended '13 c. 153 § 1)

38-95, 35+718; 92-374, 378, 100+95; 180 U. S. 452, 21 Sup. Ct. 423, 45 L. Ed. 619.

4436. License—All public warehouses shall be annually licensed by and be under the supervision and subject to the inspection of the commission. Written application under oath shall be made to the commission for license, specifying

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the kind of warehouse, its location, the name of the person, firm, or corporation operating the same, and of each member of the firm or officer of the corporation. The license fee shall be two dollars. Such license may be revoked by the commission for violation of law or of any rule or regulation by it prescribed, upon notice and hearing. A license may be refused to any warehouseman whose license has been revoked within the preceding year. (2048)

4437. Storage and inspection—Warehouseman's duties—Receipts—Every such warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain in suitable condition for storage, tendered him in the usual course of business, without discrimination of any kind. All grain shall be inspected on receipt and stored with other grain of the same grade. A warehouse receipt in the following form shall be issued:

STUB RECORD.

..... Elevator Co.
 Warehouse Receipt No.
 Minn., 190.....
 The Elevator Company has received in store in this
 elevator known as situated at
 Minnesota, for storage from
 owner, bushels of which has been
 duly inspected by a duly authorized inspector of grain appointed by the
 state railroad and warehouse commission of Minnesota, and has been
 graded by said inspector as No., and is that grade. Said
 grain, or an equal amount of grain of the same kind and grade is deliv-
 erable upon the return of this receipt properly indorsed by the owner
 above named and the payment of all lawful charges; in case of grain
 stored separately in a special bin, at the request of the owner or con-
 signee, the identity of such grain will be preserved while in store and
 said grain will be delivered as such separate lot or parcel, in accordance
 with law, upon surrender of the receipt. Loss by fire, heating or the
 elements is at owner's risk.
 The Elevator Company conducts said ele-
 vator as a public terminal warehouse and receives and stores therein grain
 of others for hire.
 bushels grade
 By

Countersigned by Secretary.

Receipt No.				Initial....	Car No....	Bushels...
Received in store from 190...						
Bush. lbs. grade.....						
Car No....	Bushels...	Car No....	Bushels...			

The receipts shall be consecutively numbered and delivered to the owner immediately upon receipt of each lot or parcel of grain, giving the true and correct grade and weight thereof. The manner of receipt of such grain shall be stated in the receipt, with the number and distinctive mark of each car, and the name of each barge or other vessel. The failure to issue such receipt as directed or the issuance of any warehouse receipt differing in form or lan-

guage from that prescribed shall be a misdemeanor. (R. L. § 2049, amended '07 c. 303 § 1)

See § 4514 et seq.

Receipts (78-379, 81+204, 543; 78-475, 81+526; 79-94, 81+750, 48 L. R. A. 92; 89-98, 94+218, 99 Am. St. Rep. 549; 91-346, 98+96).

4438. Sale, etc., of stored grain forbidden—No such warehouseman shall sell or otherwise dispose of or deliver out of store any such grain without the express authority of its owner and the return of the storage receipt, except as herein provided, nor mix together grain of different grades in store, nor select grain of different qualities, but of the same grade, for storage or delivery, nor in any way tamper with grain of others while in his possession or custody, with the purpose of securing any profit to himself or any other person, or attempt to deliver grain of one grade for that of another. Any person violating any provision of this section shall be punished by a fine of not more than one thousand dollars or imprisonment in the state prison for not more than five years, or both. (2050)

See § 4521 et seq., § 4536 et seq.

59-151, 60+1087; 77-128, 79+656.

4439. Delivery of grain—Upon return of the receipt to the proper warehouseman, properly indorsed, and upon payment or tender of all advances and legal charges, grain of the grade and quantity named therein shall be delivered to the holder of such receipt within twenty-four hours after facilities for receiving the same have been provided. If such warehouseman shall fail so to deliver it, he shall be liable to the owner in damages at the rate of one cent a bushel for each day's delay, unless he shall deliver the property to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. If upon such demand and tender the warehouseman shall fail so to deliver such grain, the person entitled thereto may recover the same by action; and such warehouseman shall also be guilty of larceny. (2051)

27-521, 527, 8+758; 37-464, 35+268; 41-116, 42+855; 77-128, 134, 79+656.

4440. Bond—Every person applying for a license for a terminal warehouse at Minneapolis, St. Paul, or Duluth, shall file with the commission a bond to the state in a penal sum to be fixed by such commission, not less than fifty thousand dollars, conditioned for the faithful discharge of his duties as such warehouseman, and full compliance with all the laws of the state and rules of the commission relative thereto. If such warehouseman apply for a license for more than one warehouse in the same county, but one bond need be given. (R. L. § 2052, amended '09 c. 82 § 1)

1909 c. 82 § 2 repeals inconsistent acts, etc.

4441. Special bins—At the request of the owner or consignee, such warehouseman shall subject to the rules made by the commission, store any grain of the same owner or consignee, in separate bins, which grain shall then bear the name of the owner or consignee. The warehouseman shall issue to the owner or consignee, distinguishing whether owner or consignee, a warehouse receipt or receipts for all or any part of such grain. Every such receipt shall give the name of the owner or consignee and state the amount, kind and grade of grain for which the receipt is issued, and that the grain of such owner or consignee is stored separately from the grain of any other owner or consignee. The warehouseman shall, on presentation and surrender of the warehouse receipt bearing the proper endorsement of the person to whom it was issued, deliver to the person surrendering the receipt such amounts of the same grain as may be demanded and on the same grade as called for by the receipt. The warehouseman at the request of the owner or consignee may clean, dry, mix, or otherwise improve the condition or value of such grain, and it shall be delivered separately from the grain of any other owner or consignee upon the order of the owner or consignee, as called for by the warehouse receipts issued therefor and endorsed by such owner or consignee. (R. L. § 2053, amended '09 c. 82 § 1)

4442. Inspection—All grain received at a terminal warehouse shall be inspected and graded by a state inspector, and reinspected in like manner upon delivery from such warehouse. The charges for such inspections shall be paid

by the warehouseman and added to the storage, and the chief inspector may recover such charges from the warehouseman. (2054)

4443. Rules to be prescribed by commission—The commission shall make such rules as may be necessary in regard to the receipt, care, and delivery of grain, the issuance, cancellation, division, and consolidation of warehouse receipts, and such other matters relative to the management of the business of terminal warehouses as it shall deem proper. (2055)

4444. Statements and reports to commission, etc.—Every terminal warehouseman shall post conspicuously in his business office, on or before Tuesday morning of each week, a statement of the amount of grain of each kind and grade in store in his warehouse at the close of business on the preceding Saturday and render a like statement, verified by him or his bookkeeper having personal knowledge of the facts, to the warehouse registrar of the commission. He shall also make a daily statement to said registrar of the amount of each kind and grade of such grain received in store in his warehouse the preceding day; the amount shipped or delivered, and the warehouse receipt cancelled on such delivery, stating the number of each receipt and the amount, kind and grade of grain shipped or delivered thereon; the amount, kind and grade of grain delivered for which no warehouse receipt was issued and how and when the same was received, the aggregate of such reported cancellations and delivery of unreceipted grain corresponding in amount, grade and kind with the shipments and deliveries reported; and shall also at the same time report the receipts cancelled upon issue of new ones, with the number of each such receipt cancelled and that issued in its place. He shall also furnish the registrar any further information regarding receipts issued or cancelled necessary for correct record of all such receipts and of grain received and delivered and shall make a further verified statement to the commission of the condition and management of any terminal warehouse under his control, at such times and in such form as the commission may require.

Every such warehouseman shall on or before the fifteenth (15) day of September in each year render such commission on blanks or forms prepared by it an itemized and verified report of all business transacted by him as a public warehouseman during the year beginning September 1st of the preceding year and ending August 31st of the current year. Such report shall state the grade, gross weight and dockage of all grain of various kinds in his warehouse at the beginning of the year, the grade, gross weight and dockage of all grain received, the grade, gross weight and dockage of all grain shipped or delivered from such warehouse and the grade, gross weight and dockage of all grain remaining in the warehouse at the end of the year, and such report shall particularly specify and account for any overage or shortage in any kind of grain accruing during the year. Such report shall also state the weight basis upon which all such grain has been received and the weight basis on which the same has been shipped or delivered. The commission may also require special reports from such warehousemen at such times as the commission may deem expedient. The commission may cause every such warehouse and the business thereof and the mode of conducting the same to be inspected by one or more of its members, or by its authorized agent, whenever deemed proper, and the property, books, records, accounts, papers and proceedings of every such warehouseman shall at all times during business hours be subject to such inspection.

It is hereby made the duty of the secretary of the commission to act as warehouse registrar in accordance with the spirit and intent of this chapter. (R. L. § 2056, amended '13 c. 533 § 1)

4445. Schedule of rates—Maximum charges—Every such warehouseman shall annually, during the first week in September, publish in some newspaper—daily if there be one—published in the place where his warehouse is situated, a schedule of storage rates for the ensuing year, which shall not be increased during such year, and no discrimination in rates shall be made by any such warehouseman. The charge for receiving, handling, storing, and delivering grain at such warehouse shall not exceed one and one-half cents per bushel for the first fifteen days or part thereof, one-half cent for each fifteen days or part thereof

thereafter, or four cents for continuous storage from November 15 to May 15 next succeeding. (2057)

4446. Examination—Every person having an interest in any grain stored in any such warehouse, and every state grain inspector, shall have the right to examine at all times during ordinary business hours any grain so stored, and all parts of such warehouse; and every such warehouseman, his agents and servants, shall furnish proper facilities for such examination. (2058)

4447. Control and inspection of scales—All scales in such terminal warehouses, or used for weighing grain in railroad yards at terminal points, shall be under the control of the state weighmasters and subject to inspection by them, exempt from the jurisdiction of sealers of weights and measures. They shall be inspected at the request of any person interested in any grain weighed or to be weighed thereon. If found incorrect, the cost of inspection shall be paid by the owner thereof; otherwise by the person requesting inspection. No scales found incorrect shall be used until re-examined and found correct. (2059)

4448. Boards of grain inspection—The boards heretofore known as the boards of appeals for the inspection of grain at Minneapolis and at Duluth shall hereafter be known as "the Minneapolis Grain Inspection Board" and "the Duluth Grain Inspection Board," respectively. Each board shall consist of three members appointed by the governor, who shall have the same qualification as grain inspectors, and not more than two of whom shall be of the same political party. Their term of office shall be for three years from August 1st succeeding their appointment, and until their successors qualify, except as hereinafter provided. At the expiration of the terms of the present members, on or before August 1st, 1909, the governor shall appoint one member of each of the above named boards to serve for one year, one member of each board to serve for two years and one member of each board to serve for three years. The governor may remove any member and fill any vacancy for the unexpired term. Members of either board shall have a right to act at either Duluth or Minneapolis. (R. L. § 2060, amended by '09 c. 158 § 1)

4449. Official title of boards—That the official titles of the two boards now known as "the Minneapolis Grain Inspection Board" at Minneapolis, and "the Duluth Grain Inspection Board" at Duluth, shall be and the same are hereby changed to the board of grain appeals at Minneapolis and the board of grain appeals at Duluth. ('11 c. 72 § 1)

Section 3 repeals inconsistent acts, etc.

4450. Same—Concurrent jurisdiction—Each of said boards of grain appeals shall have concurrent jurisdiction over all grain appeal cases brought before them and the decisions rendered by either board shall be final and conclusive as against all parties. ('11 c. 72 § 2)

4451. Bond—Before entering on the duties of his office, each member of such boards shall give bond to the state, with sureties to be approved by the governor, in the sum of five thousand dollars, conditioned for the faithful discharge of the duties of his office. No surety on any such bond shall be interested in or connected with any grain, warehouse or commission business, firm, or corporation. (2061)

4452. Minnesota grades—The two boards, or a majority of the six members thereof, shall meet annually in joint session on or before September fifteenth, and establish the grades of all grain subject to state inspection, to be known as "Minnesota Grades." Such grades, and the tests thereof, shall be published daily for one week in a newspaper in each of the cities of Minneapolis and Duluth, and all grain received at any public warehouse shall be graded accordingly. Such grades shall not be changed before the next annual meeting without the concurrence of at least five members of such boards. Each of said boards shall determine the grade and dockage, if any of all grain in all cases where appeals from the decisions of the chief deputy inspectors have been taken and for such purpose they may request fresh samples of such grain to be furnished direct to the board having the case under consideration. They shall also render assistance and advice to the chief inspector of grain so as to enable him to instruct the deputy in-

spectors of grain under his jurisdiction in accordance with the decisions and the work of the board. (R. L. § 2062, amended '11 c. 84 § 1)

4453. Duties of boards—Each of such boards shall recommend to such commission the discharge of any inspector deemed by them incompetent or otherwise unfit, and make such other reports and recommendations as they deem advisable. (2063)

4454. Salaries—The salaries of the members of such boards shall be fixed by the commission and approved by the governor, and such salaries and all their necessary expenses shall be paid out of the grain inspection fund on the order of the commission. (2064)

4455. Chief inspector—Such commission shall appoint a chief inspector, whose term of office shall be for two years, unless sooner removed by the commission. Such inspector shall give bond to the state in the sum of ten thousand dollars, with sureties to be approved by the commission, conditioned for the faithful and impartial discharge of the duties of his office according to law and the rules and regulations prescribed by the commission, and the payment of all damages sustained by any person, caused by his failure to perform such duties. (2065)

4456. Deputy inspectors—The chief inspector, with the approval of the commission, shall appoint such number of deputies as may be required. One such deputy in each of the cities of St. Paul, Minneapolis, and Duluth shall be styled "chief deputy." Each deputy inspector shall give bond as required of the chief inspector, but in the sum of five thousand dollars. They shall be under the control and supervision of the chief inspector, and may be removed by him. (2066)

4457. Standard samples—The chief inspector shall furnish standard samples of grain of each Minnesota grade to any grain warehouseman in the state, upon request and payment of the actual cost thereof. (2067)

4458. Duty of inspectors—Such inspectors shall inspect and grade all grain received at or shipped from any terminal warehouse in car-load or boat-load lots, and give a certificate of the inspection to the person entitled thereto. Their decisions shall be conclusive as to the grade and dockage of such grain, and the certificate shall be evidence thereof, unless changed upon re-inspection or appeal. (2068)

4459. Appeals—Any owner, consignee or shipper of grain, or any warehouseman, who is dissatisfied with the inspection of grain by any chief or deputy inspector, may appeal from his decision to the nearest grain inspection board by filing notice of such appeal with the chief deputy inspector and paying a fee, to be fixed by the commission, which shall be refunded if the appeal is sustained. Such deputy inspector shall forthwith transmit the notice to said board of appeals. The decision of said board, fixing the grade of such grain shall be final. (R. L. § 2069, amended '07 c. 55 § 1)

4460. Withholding grain from store—The owner or consignee of grain consigned to a terminal warehouse may have the same withheld from storage and delivered to him or his order by giving notice to the carrier in possession thereof, and to the warehouseman to whom such grain was consigned, and paying all charges that may be a lien thereon. Such grain shall be removed within twenty-four hours after the car or boat containing the same is placed in a proper and convenient place for unloading. If the grain be delivered contrary to such notice, such warehouseman, and the carrier so delivering the same, shall be jointly and severally liable to the owner for double its value. (2070)

4461. Unauthorized storage forbidden—No contract, agreement, understanding, or combination shall be entered into between any public warehouseman and any common carrier or other person for the delivery of any grain at any public warehouse contrary to the direction of the owner, nor shall any grain be so delivered or received. (2071)

4462. Weighmasters and weighers—The commission shall appoint at each terminal point a state weighmaster and such weighers as may be necessary, who shall have the control of the weighing of all grain subject to state

inspection, except when otherwise ordered by the party shipping the same. Every such weighmaster and weigher shall give bond to the state in the sum of five thousand dollars, conditioned for the faithful discharge of his duty. (2072)

Cited (119-467, 138+674).

4463. Weighmasters' records and certificates—All weighmasters and weighers shall keep such records as may be prescribed by the commission, and shall furnish to any person for whom weighing is done a certificate under his hand, showing the amount of each weight, the number and initial letter or other distinctive mark of each car weighed, place and date of weighing, and contents of car. Such certificate shall be prima facie evidence of the facts therein certified. (2073)

75-308, 77+973, 43 L. R. A. 843, 74 Am. St. Rep. 484.

4464. Fees for inspection and weighing—The fees for inspection and weighing shall be fixed by the commission, and shall be a lien upon the grain. If the grain is in transit, such fees shall be paid by the carrier and treated as advance charges, and, if received for storage, by the warehouseman, and added to the storage charges. All moneys so collected, and all fines and penalties for violation of any provision of this subdivision, shall be paid into the state treasury, and known as the "Grain Inspection Fund," and paid out only on order of the commission and auditor's warrant. All interest received from deposits of said moneys shall be credited on the first of each month to such fund, and notice of the amount of such interest shall be sent to the chief inspector. (2074)

4465. Qualifications of inspectors and weighmasters—No member of a board of appeals, chief or deputy inspector, weighmaster, or weigher shall during his term of service be in any way interested in the handling, storing, shipping, purchasing or selling of grain, or any of its products, nor in the employment of any person or corporation engaged therein, nor shall he be a member of any board of trade or organization of like character. (2075)

4466. Filing of bonds and suits thereon—All bonds required by this subdivision shall be filed with the secretary of state, and suit may be brought thereon by any person injured by the misconduct of the principal. (2076)

4467. Removal of inspectors and weighmasters—Upon written complaint filed with the commission, charging any inspector, deputy inspector, weighmaster, or weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the commission shall investigate such charge, and, if it be sustained, shall remove such officer. (2077)

4468. Penalties—Personating inspector—Any person not duly appointed and qualified, who shall assume to act as a state inspector or deputy inspector of grain; shall be guilty of a misdemeanor and be punished by a fine of not less than fifty dollars nor more than one hundred dollars. (2078)

4469. Misconduct of inspectors and weighmasters—Any inspector or deputy inspector, weighmaster or weigher, who shall knowingly or carelessly inspect or weigh any grain improperly, or give any false certificate of inspection or weight, or accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence, or attempt to influence, any such officer in the performance of his official duty, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment. (2079)

4470. Certificates not issued under state authority—Use of certain words prohibited—Any person who is not connected with the state weighing department is hereby prohibited from using the term "weighmaster," "state weighmaster," any representation of the seal of the state, or any other words or device calculated or tending to indicate that the certificate or receipt is issued under state authority, or to otherwise deceive or mislead the public or any person interested, when issuing certificates or receipts purporting to show

the weight of grain, hay or straw; provided, that where weighing is done under the authority of the charter or an ordinance of any city or village, or under the auspices of any incorporated chamber of commerce, board of trade or exchange, any certificate or receipt issued therefor shall on its face plainly show its source and the signature of the person signing the same shall be followed by a designation plainly showing the capacity in which the said signer is acting, and the term "weighmaster" may be a part of such designation. Provided, further, that every such certificate or receipt issued by anyone other than the duly authorized representatives of the state weighing department, shall have plainly stamped or printed across its face in red ink in letters not less than one-quarter of an inch high, the words, "This Certificate is Not Issued Under State Authority." ('07 c. 78 § 1)

4471. Same—Penalty for violation—Any person found guilty of violating section 1 [4470] of this act shall be guilty of a misdemeanor. ('07 c. 78 § 2)

4472. Obstructing weighmaster—Any person or corporation who shall obstruct any state weighmaster or weigher in the performance of his official duties, by preventing his proper access to the scales used in the weighing of grain or otherwise, shall forfeit to the state one hundred dollars for each offence. (2080)

4473. Standing appropriation—All moneys which shall come into the state treasury on account of the grain inspection fund, or so much thereof as may be necessary, are hereby annually appropriated to the payment of the salaries, fees, and expenses provided in this subdivision, to be disbursed on the order of the commission. The commission shall fix the salaries of inspectors, weighers, and all other employees of the state grain department and prescribe the time and manner of payment thereof. (2081)

As to repeal of standing appropriations, see §§ 48, 49.

4474. Inspectors to examine cars—The chief inspector of grain, and any deputies, or officials, serving under him, before opening the doors of any cars containing grain, upon their arrival at any of the several places designated by law as terminal points in this state, for the purposes of inspecting the same, shall first ascertain the condition of such cars and determine whether any leakages have occurred while said cars were in transit; also whether or not the doors are properly secured and sealed, making a record of such facts in all cases and recording the same in a proper book to be kept for the purpose. After such examination shall have been duly made and recorded and the inspection of such grain has been made, the said officials of the state grain inspection department, above mentioned, shall securely close and reseal such doors as have been opened by them, using a special seal of the said state grain inspection department for the purpose. A record of all original seals broken by said officials and the time when broken; also a record of all state seals substituted therefor and the time when such state seals were substituted, together with a full description of said seals, with their numbers, shall be made by the said officials. (2082)

4475. Police protection—All railroad companies, warehousemen and millers operating at the terminal points of this state shall furnish ample and sufficient police protection at all of their several terminal yards and on their terminal tracks to securely protect all cars containing grain, while the same are in their possession, shall prohibit and restrain all unauthorized persons, whether under the guise of samplers, sweepers, or under any other pretext whatever, from entering or loitering in or about their respective railroad yards or tracks and from entering any cars of grain under their control, or removing grain therefrom, and shall employ and detail such number of watchmen as may be necessary for the purpose of carrying out the provisions of the within section. Any failure to comply with the provisions of this section, and § 4474, shall be deemed a misdemeanor. (2083)

LOCAL WAREHOUSES

4476. Defined—All elevators and warehouses in which grain is received, stored, shipped, or handled, situated on the right of way of any railroad company, or adjacent thereto to be used in connection with its line of railway at

any station or siding other than Minneapolis, St. Paul and Duluth, shall be public warehouses, known as local warehouses, and shall be under the supervision and subject to the inspection of the commission. (2084)

77-128, 133, 79+656; 77-223, 79+962; 89-98, 119, 94+218, 99 Am. St. Rep. 549; 180 U. S. 452, 21 Sup. Ct. 423, 45 L. Ed. 619.

4477. License—All such elevators and warehouses shall be licensed annually by the commission. Application for license must be made before transacting warehouse business. Every license issued shall expire on August 31 following. The fees shall be one dollar for each license issued. The fees so collected shall be paid into the state treasury and credited to the state grain inspection fund. Such license shall be revoked by the commission for cause upon notice and hearing. (R. L. § 2085, amended '11 c. 180 § 1)

4478. Commission may determine when to be open—The railroad and warehouse commission, after hearing, may determine when it is necessary for any person operating a local warehouse to keep the same open for business in order to properly serve the public. ('07 c. 73 § 1)

4479. Same—Failure to keep open—Penalty—Any person operating such local warehouse who shall fail to keep the house open for business during the time fixed by the commission, after receiving written notice of the same, shall be deemed guilty of a misdemeanor. ('07 c. 73 § 2)

4480. State inspection and weighing—The commission, upon proper application for state inspection or weighing of grain by any person interested at any other point than St. Paul, Minneapolis or Duluth, may furnish such service, if it is deemed expedient: Provided, such person first agrees to pay all costs of the service. Rules governing state inspection and weighing at other terminals shall apply at such points. (2086)

4481. Storage—Duties of warehouseman—Receipts—Every public warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain in a suitable condition for storage tendered him in the usual course of business without discrimination of any kind. A warehouse receipt shall be issued to the party delivering the grain, which shall state the place and date when the grain was received, the name and residence of the owner of the grain, the kind and grade of the grain, the gross weight, dockage and net weight of the grain as per Minnesota standard weight, and in addition thereto such receipt shall contain, either on its face or reverse side, the following specific warehouse and storage contract: "This grain is received, insured and stored under the following conditions: The maximum charges for receiving, insuring, handling, storing fifteen days and delivering grain is two cents per bushel. Storage after the first fifteen days, one-half cent per bushel for each fifteen days or part thereof, for the first three months; after that one-half cent per bushel for each thirty days or part thereof. If grain is cleaned at owner's request, one-half cent per bushel. This grain has been received and stored with grain of the same lawful grade. Upon the return of this receipt and payment or tender of stated lawful charges accrued up to the time of said return of this receipt, the above amount, kind and grade of grain will be delivered within the time prescribed by law to the person above named, or his order, either from this warehouse, or if the owner so desires, in quantities not less than a carload on track at any terminal point upon the same line of railway within this state, designated by said owner, where state inspection and weighing is in force, the grade and weight thereof to be determined by state inspection and weighing as provided by law." Attached to the receipt shall be a stub record stating number and date of receipt and the gross weight, dockage and net weight; such stub record to remain in the possession of the warehouseman for inspection by the commission or interested parties. The receipts shall be consecutively numbered and delivered to the owner immediately upon receipt of each lot or parcel of grain giving the true and correct grade and weight thereof. Any provision or agreement in such receipt not contained in the aforesaid specific warehouse and storage contract shall be void. The failure to issue such receipt as directed, or the issuance of slips, memoranda or any other form of receipt embracing a different warehouse or storage contract, shall be deemed a mis-

demeanor, and no such slip, memoranda, or other form of receipt shall be admissible in evidence in any civil action. (R. L. § 2087, amended '07 c. 230 § 1; '09 c. 384 § 1)

1909 c. 384 § 3 repeals inconsistent acts, etc.

See 1905 c. 302.

As to warehouse receipts, see § 4515 et seq. 91-346, 98+96.

4482. Purchase by warehouseman—Receipt—There may be printed on such storage receipts a receipt to be executed in case such storage receipt is purchased by such warehouseman, such receipt to be executed in the presence of the owner of such storage receipt and signed by him, and the warehouseman shall also record such purchase as to the total amount paid and the amount paid per bushel on the stub record of his storage receipt book. Such receipt shall be in substantially the following language and form:

Received from Elevator Company dollars and storage, in full payment for the grain represented by this storage receipt. Gross price cents, storage..... cents, net price cents. All blank spaces in this receipt were filled in before the same was signed by me, and I hereby certify that I am the owner of the grain for which this receipt was issued and that there are no liens, chattel mortgages or other claims against the grain represented by this receipt.

Signed
Owner.

Date 19....

Provided, that nothing in this section contained shall be construed to affect in any manner the conditions of the storage contract specified in section 1 [4481] of this act. ('07 c. 230 § 2, amended '09 c. 384 § 2)

As to warehouse receipts, see § 4515 et seq.

4483. Delivery of grain—On the return and surrender of any receipts and payment of lawful charges, the grain represented therein shall be immediately deliverable to the owner, or his order, and shall not be subject to any further charge for storage after demand for delivery shall have been made and facilities for receiving and shipping the same have been provided. If not delivered within twenty-four hours after such demand, the warehouseman shall be liable to the owner in damages not exceeding one cent a bushel for each day's delay unless he shall deliver to different owners in the order demanded as rapidly as it can be done by ordinary diligence. In case that terminal delivery of grain is demanded, the warehouseman shall forthwith issue and deliver to the owner or his order a surrender receipt, such receipt to state the date, name of owner, the grade, gross weight, dockage and net weight of the grain represented by such receipt, making such grain deliverable in its net amount at any terminal market in the state designated by the owner of said receipts on the same line of railroad, such grain to be subject to the usual freight, inspection, weighing and switching charges when it arrives at the terminal so designated, the freight to be computed on the basis of the gross weight of the grain represented by such surrender receipt. The owner of the receipts may at his option order a car in which the grain covered by his surrender receipt is to be transported, and in such case the grain shall be delivered immediately when the car so ordered is placed at the warehouse. (R. L. § 2088, amended '09 c. 69 § 1)

79-416, 82+678.

4484. Records and warehouse receipts—Every local warehouseman shall keep in proper books a record of all grain received, stored, or shipped, stating the weight, grade, dockage for dirt or other cause, and the name of the owner. Every warehouse receipt issued by him shall state that delivery to the owner is to be made at the place of original storage, or, at the option of the owner, in quantities not less than a car load on track on the same line or railway at any terminal point in the state to be designated by the owner. (2089)

4485. Certificates of shipment—If the owner elects a delivery on track at a terminal point, the warehouseman shall give him a certificate in evidence of the surrender of the original warehouse receipts and his right to such ship-

ment, which shall state on its face the date and place of issue, the name of the consignor, consignee and destination, and specify the kind of grain, and grade and net quantity, exclusive of dockage, to which the owner is entitled. Such grain shall be subject only to the freight and other lawful charges accruing up to the time of delivery at terminal point. No actual delivery shall be deemed to have been made until the grade and quantity of the grain called for in the certificate as determined by the inspection and weighing has been established. (2090)

4486. Grain—Standard bushel—No person purchasing, selling or storing grain in any public local warehouse in this state, as the same is now or may be hereafter defined by law, shall use any other measure for such grain than the standard bushel, and no other number of pounds shall be used or called a bushel than the number of pounds provided by law as the standard weight of the kind of grain in question. ('07 c. 252 § 1)

By section 4, R. L. § 2098 is repealed.

1907 c. 252 cited (107-506, 121+395).

4487. Same—Pooling prohibited—It shall be unlawful for any person, firm or corporation engaged in the buying, selling or handling of grain in any public local warehouse in this state, or for the local agent in charge of such warehouse, or any other agent of the person, firm or corporation, operating the same, to enter into any contract, agreement, combination or understanding, with any other person, firm or corporation, owning or operating any other public local warehouse at any railway station, their agent or agents, whereby the amount of grain to be received or handled by said warehouses, at such station, shall be equalized or pooled between said warehouses, or whereby the profits or earnings derived from said warehouses shall be divided or pooled, or apportioned in any manner, or whereby the price to be paid for any kind of grain at such station shall be fixed or in any manner affected, and each day of the continuance of any such agreement, contract or understanding shall constitute a separate offense. ('07 c. 252 § 2)

Cited (107-506, 121+395).

See note under § 8973.

4488. Same—Penalty for violation—Revocation of license—Any person, firm, or corporation, or any officer or agent of any person, firm or corporation, who shall violate the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars or more than one hundred dollars, and by imprisonment in the county jail for not less than thirty days, or more than three months. The railroad and warehouse commission of this state shall have the power, and it shall be their duty, whenever they find, after a hearing, that the provisions of this act have been violated by any person holding a license to conduct a public warehouse in this state, to revoke and annul such license, and in such case no new license shall be granted to the person whose license is so revoked nor to any one either directly or indirectly engaged with him in said business, for the period of one year. ('07 c. 252 § 3)

4489. Reports to commission—Every such warehouseman shall on or before the fifteenth day of July in each year render such commission on blanks or forms prepared by it an itemized and verified report of all business transacted by him as a public warehouseman during the year beginning July 1st of the preceding year and ending June 30th of the current year. Such report shall state the grade, gross weight and dockage of all grain of various kinds in his warehouse at the beginning of the year, the grade, gross weight and dockage of all grain received, the grade, gross weight and dockage of all grain shipped or delivered from such warehouse, and the grade, gross weight and dockage of all grain remaining in the warehouse at the end of the year, and such report shall particularly specify and account for any overage or shortage in any kind of grain accruing during the year. Such report shall also state the weight basis upon which all such grain has been received, and the weight basis on which the same has been shipped or delivered. The commission may also require special reports from such warehousemen at such times as the commission may deem expedient. The commis-

sion may cause every such warehouse and the business thereof and the mode of conducting the same to be inspected by one or more of its members or by its authorized agent whenever deemed proper, and the property, books, records, accounts, papers and proceedings of every such warehouseman shall at all times during business hours be subject to such inspection. The expense incurred by the commission in carrying out the provisions of this section shall be paid out of the state grain inspection fund. (R. L. § 2091, amended '07 c. 112; '11 c. 258 § 1)

MISCELLANEOUS PROVISIONS

4490. Delivery for storage a bailment—The delivery of grain to any warehouseman for storage, although it be mingled with that of others, or shipped or removed from the original place of storage, shall be deemed a bailment, and not a sale. (2092)

33-111, 121, 22+244; 34-149, 157, 24+699; 40-182, 41+971; 41-116, 42+855; 43-33, 44+673, 7 L. R. A. 529, 19 Am. St. Rep. 209; 44-471, 47+152; 63-314, 65+631; 77-128, 79+656; 79-94, 81+750, 48 L. R. A. 92; 89-98, 119, 94+218, 99 Am. St. Rep. 549.

Wheat in storage not taxable to warehouseman (101-192, 112+68, 1142).

Thresher's lien not lost by depositing grain in elevator (112-482, 123+1118).

4491. Carriers' receipts—Every common carrier transporting grain shall give the shipper, on request, a receipt for the number of pounds of grain received from him, and shall deliver such quantity to the consignee or proper connecting carrier, less loss from transportation, not to exceed sixty pounds to each car. (2093)

4492. Penalties—Such carrier shall forfeit to the state, for each refusal to give such receipt, not less than ten dollars nor more than fifty dollars, and for each failure to deliver the proper quantity of grain, not less than fifty dollars nor more than one hundred dollars. (2094)

4493. Elevator charges, when forbidden—No railroad company shall charge or collect elevator or other charges for handling grain or for the use of any elevator, when such grain is loaded by the shipper and not passed through an elevator, or make any distinction in charges of any kind against a person shipping grain otherwise than through an elevator. (2095)

4494. Unlicensed warehouses—Any person or corporation operating such warehouse without license shall forfeit to the state, for each day's operation, fifty dollars, and such operation may be enjoined upon complaint of the commission. (2096)

4495. Warehouse receipts, and bills of lading, etc., transferred by indorsement—Warehouse receipts and bills of lading for property in transit, unless the words "Not negotiable" are plainly written or stamped on the face thereof, may be transferred by indorsement, and such indorsement shall transfer to the indorsee the title to the property and all rights of the indorser in respect thereto. (2097)

R. L. § 2098 repealed. See note under § 4486.

As to bills of lading, see §§ 4322-4331. As to warehouse receipts, see § 4551 et seq.

27-521, 528, 8+758; 44-224, 236, 46+342, 560, 9 L. R. A. 263, 20 Am. St. Rep. 566; 55-107, 56+582; 64-245, 66+988, 58 Am. St. Rep. 530; 78-379, 384, 81+204, 543; 83-498, 86+772, 85 Am. St. Rep. 466; 109-238, 123+921; 111-452, 127+448.

Bill of lading, on which was stamped, "Not negotiable, unless delivery is to be made to the consignee or order," was exempt from G. S. 1894, § 7649 (102-147, 112+1030, 1049).

4496. Overloading grain cars—Every railway company shall place painted lines inside of each of its cars used for the carriage of grain, indicating the height to which the various kinds of grain can be loaded therein, and no car shall be loaded with any kind of grain above its appropriate line. The person loading any such car shall state in the bill of lading, prior to its being signed by the agent of the railway company, that the car is loaded to or below such line, and such agent, before signing the bill, shall verify such statement. The bill of lading so signed shall be prima facie evidence of the loading, and no charges for loading in excess of the quantity so limited shall lie against such car. No railway company that fails to equip any car as aforesaid shall collect any charges for the transportation of grain in said car above the regular tariff rates for carload lots. Every person who shall load any car above the appropriate line, and every agent of any railway company who

shall refuse to sign any such bill of lading, shall be guilty of a misdemeanor and punished by a fine of not less than ten dollars nor more than twenty-five dollars. (2099)

4497. General supervision by commission—Rules—The commission shall exercise general supervision over the grain interests of the state, and of the handling, inspection, weighing, and storage of grain, and of the management of public warehouses, shall investigate all complaints of fraud or injustice in the grain trade, and may fix the charges of public warehousemen, and shall make all proper rules and regulations for carrying out and enforcing the provisions of this chapter, and of all laws of the state relating to such subjects. The commission may also furnish inspection and weighing service to private terminal warehouses on such terms as it shall deem proper. (2100)

4498. Shipper to affix tags—Every shipper of grain shall fasten upon the inside of each car shipped by him a card giving the number and initials or other distinctive mark of such car, the date of shipment, and the exact weight of the grain in such car, as claimed by the shipper. If he fail so to do, the official weight shall be prima facie evidence of the quantity of grain shipped in such car. (2101)

4499. Breaking seals—Any person who, without legal authority, shall break or remove any seal upon any car loaded with grain, or otherwise break or enter such car, shall be guilty of a misdemeanor. (2102)

4500. Violation of provisions of this subdivision—Any person who shall violate any of the provisions of this subdivision, where no specific penalty is prescribed, shall be guilty of a gross misdemeanor, and punished by a fine of not less than fifty dollars nor more than five hundred dollars. Any corporation which shall violate any such provision shall forfeit to the state, for each violation, not less than fifty dollars nor more than five hundred dollars. (2103)

4501. Grain includes flax seed—The term "grain" wherever used in this subdivision shall be held to include flax seed. (2104)

79-94, 81+750, 48 L. R. A. 92.

4502. Warehouse receipts—Numbering—All warehouse receipts for grain issued by the same warehouse shall be consecutively numbered, and no two receipts bearing the same number shall be issued from the same warehouse during any one year, except in case of a lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original, and shall be plainly marked on its face "Duplicate." (2105)

4503. Inspection and weighmaster's certificates—Every elevator company, corporation, co-partnership, association or individual, operating any elevator, building or place in this state for the purchase, storage or deposit of any grain or other farm commodity, shall be entitled to receive from, and shall demand of, the officer whose duty it is to issue the same, the official certificate of inspection in duplicate, together with the weighmaster's certificate in duplicate for any grain or other farm commodity shipped from any such elevator, building or place and inspected and weighed as provided by the laws of this state. ('09 c. 344 § 1)

4504. Same—Duplicate to be delivered to buyer, etc.—Within ten days from the delivery of any such certificate as provided in section one [4503] of this act, the company, corporation, co-partnership, association or individual receiving the same shall deliver to the local buyer at the place where such grain or other farm commodity is purchased, stored or deposited, one of said duplicate certificates and the same shall be retained by such local buyer in his office or place of business for thirty days thereafter and be subject to examination by any person or persons desiring to inspect same. ('09 c. 344 § 2)

4505. Same—Failure to deliver—Penalty—Any company, corporation, co-partnership, association or individual mentioned in section one [4503] of this act, who shall fail to deliver any certificate mentioned in this act within the time and as provided in section 2 [4504] of this act, shall be guilty of a misdemeanor, and the weight and grade of the grain or other farm commodity, as shown by the records of the local buyer, shall be taken as a basis of set-

tlement between the local buyer of any such grain or farm commodity and the company, corporation, co-partnership, association or individual failing to deliver said certificate. ('09 c. 344 § 3)

ELEVATOR SITES

4506. Use of right of way for warehouse—Any person shall have the right to use, as a site for a public warehouse, a proper portion of the right of way of any railroad, within the outside switches at any station or siding, upon the payment of reasonable compensation. (2106)

63-70, 73, 65+136, 30 L. R. A. 534; 65-515, 68+208, 33 L. R. A. 427.

A railway company, being under no legal obligations to grant privilege of building elevator upon right of way, may grant privilege by contract on conditions (98-22, 107+742, 116 Am. St. Rep. 336).

4507. Application—Whoever wishes to exercise such right may make written application to the person or company operating such railroad for such site, describing it, stating the size and capacity of the proposed warehouse, the station or siding at which it is to be built, the time for which such site is desired, and the amount of compensation the applicant is willing to pay. (2107)

4508. Acceptance or rejection of offer—Within ten days after the receipt of such application, the operator of such railroad shall notify the applicant in writing of his acceptance or rejection of the compensation offered. If he fail so to do, he shall be deemed to have accepted the same. Upon acceptance and payment or tender of the compensation, the applicant shall thereupon be entitled to the site described. (2108)

4509. Proceedings on rejection—If the offer be rejected, and the parties fail to agree on compensation, the applicant may present to and file in the district court of the county a verified petition, setting forth the making of the application, with a copy thereof, the compensation offered, its rejection, and the failure of the parties to agree. The court shall thereupon by order fix a time and place for hearing such petition, not more than thirty days from its presentation. Such order shall be served as a summons in said court is served, at least twenty days before the time set for such hearing, which service shall give the court jurisdiction of both person and property. (2109)

65-515, 68+208, 33 L. R. A. 427.

4510. Trial—If such hearing be set at a time other than a term of court where a petit jury is in attendance, the court, unless a jury be waived, shall order the selection of twenty-four jurors from the list returned by the county board in the manner provided for drawing jurors for a general term of such court, and the case shall be tried as other civil actions, and the compensation to be paid shall be assessed, both as a gross sum and an annual rental. The respondent shall elect either to receive the gross sum or the annual rental, and, if he fail to elect, the petitioner may do so, and judgment shall be entered accordingly. (2110)

4511. Appeal—Either party may appeal as from a judgment in a civil action within thirty days from the entry of judgment; but such appeal shall not stay the right of the petitioner to use the site designated, if the petitioner shall give bond with sureties approved by the court, in double the gross sum or annual rental fixed by the judgment, conditioned to pay such sum or rental, and abide and satisfy any judgment the supreme court may render in the premises. (2111)

4512. Costs—If the amount fixed by the final judgment be more than that offered in the application, the respondent shall recover costs and disbursements as in a civil action; otherwise, the petitioner. (2112)

4513. Abandonment—If the compensation, as finally fixed or agreed upon, be not paid within thirty days after the amount is finally settled, or if the applicant shall not begin the erection of such warehouse within two months, and complete the same and open it for business as a public warehouse within five months, after designation of the site, the application shall be deemed abandoned. (2113)

WAREHOUSE RECEIPTS

PART I. THE ISSUE OF WAREHOUSE RECEIPTS

4514. Persons who may issue receipts—Warehouse receipts may be issued by any warehouseman. ('13 c. 161 § 1)

4515. Form of receipts—Essential terms—Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms:

- (a) The location of the warehouse where the goods are stored,
- (b) The date of issue of the receipt,
- (c) The consecutive number of the receipt,
- (d) A statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order.
- (e) The rate of storage charges,
- (f) A description of the goods or of the packages containing them,
- (g) The signature of the warehouseman, which may be made by his authorized agent,
- (h) If the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership, and

(i) In the case of a negotiable receipt, a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.

A warehouseman shall be liable to any person injured thereby, for all damage caused by the omission from a negotiable receipt of any of the terms herein required. ('13 c. 161 § 2)

4516. Form of receipts—What terms may be inserted—A warehouseman may insert in a receipt, issued by him, any other terms and conditions, provided that such terms and conditions shall not:

- (a) Be contrary to the provisions of this act.
- (b) In any wise impair his obligation to exercise that degree of care in the safe-keeping of the goods entrusted to him which a reasonably careful man would exercise in regard to similar goods of his own. ('13 c. 161 § 3)

4517. Definition of non-negotiable receipt—A receipt in which it is stated that the goods received will be delivered to the depositor, or to any other specified person, is a non-negotiable receipt. ('13 c. 161 § 4)

4518. Definition of negotiable receipt—A receipt in which it is stated that the goods received will be delivered to the bearer, or to the order of any person named in such receipt is a negotiable receipt.

No provision shall be inserted in a negotiable receipt that it is non-negotiable. Such provision, if inserted, shall be void. ('13 c. 161 § 5)

4519. Duplicate receipts must be so marked—When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt, except the one first issued. A warehouseman shall be liable for all damage caused by his failure so to do to any one who purchased the subsequent receipt for value supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt. ('13 c. 161 § 6)

4520. Failure to mark "not negotiable"—A non-negotiable receipt shall have plainly placed upon its face by the warehouseman issuing it "non-negotiable," or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value supposing it to be negotiable, may, at his option, treat such receipt as imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable.

This section shall not apply, however, to letters, memoranda, or written acknowledgments of an informal character. ('13 c. 161 § 7)

PART II. OBLIGATIONS AND RIGHTS OF WAREHOUSEMEN UPON THEIR RECEIPTS

4521. Obligation of warehouseman to deliver—A warehouseman, in the absence of some lawful excuse provided by this act, is bound to deliver the goods upon a written demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with:

- (a) An offer to satisfy the warehouseman's lien,
- (b) An offer to surrender the receipt if negotiable, with such indorsements as would be necessary for the negotiation of the receipt, and
- (c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

In case the warehouseman refuses or fails to deliver the goods in compliance with a written demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal. ('13 c. 161 § 8)

4522. Justification of warehouseman in delivering—A warehouseman is justified in delivering the goods, subject to the provisions of the three following sections, to one who is:

- (a) The person lawfully entitled to the possession of the goods, or his agent,
- (b) A person who is either himself entitled to delivery by the terms of a non-negotiable receipt issued for the goods, or who has written authority from the person so entitled either indorsed upon the receipt or written upon another paper, or
- (c) A person in possession of a negotiable receipt by the terms of which the goods are deliverable to him or order or to bearer, or which has been endorsed to him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate indorsee. ('13 c. 161 § 9)

4523. Warehouseman's liability for misdelivery—Where a warehouseman delivers the goods to one who is not in fact lawfully entitled to the possession of them, the warehouseman shall be liable as for conversion to all having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section and though he delivered the goods as authorized by said subdivisions he shall be so liable, if prior to such delivery he had either

- (a) Been requested, by or on behalf of the person lawfully entitled to a right of property or possession in the goods, not to make such delivery, or
- (b) Had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods. ('13 c. 161 § 10)

4524. Negotiable receipts must be cancelled when goods delivered—Except as provided in section 36 [4549], where a warehouseman delivers goods for which he had issued a negotiable receipt, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the receipt, he shall be liable to any one who purchases for value in good faith such receipt, for failure to deliver the goods to him, whether such purchaser acquired title to the receipt before or after the delivery of the goods by the warehouseman. ('13 c. 161 § 11)

4525. Negotiable receipts must be canceled or marked when part of goods delivered—Except as provided in section 36 [4549], where a warehouseman delivers part of the goods for which he had issued a negotiable receipt and fails either to take up and cancel such receipt, or to place plainly upon it a statement of what goods or packages have been delivered he shall be liable, to any one who purchases for value in good faith such receipt, for failure to deliver all the goods specified in the receipt, whether such purchaser acquired title to the receipt before or after the delivery of any portion of the goods by the warehouseman. ('13 c. 161 § 12)

4526. Altered receipts—The alteration of a receipt shall not excuse the warehouseman who issued it from any liability if such alteration was

- (a) Immaterial,
- (b) Authorized, or
- (c) Made without fraudulent intent.

If the alteration was authorized, the warehouseman shall be liable according to the terms of the receipt as altered. If the alteration was unauthorized, but made without fraudulent intent, the warehouseman shall be liable according to the terms of the receipt, as they were before alteration.

Material and fraudulent alteration of a receipt shall not excuse the warehouseman who issued it from liability to deliver, according to the terms of the receipt as originally issued, the goods for which it was issued, but shall excuse him from any other liability to the person who made the alteration and to any person who took with notice of the alteration. Any purchaser of the receipt for value without notice of the alteration shall acquire the same rights against the warehouseman which such purchaser would have acquired if the receipt had not been altered at the time of the purchase. ('13 c. 161 § 13)

4527. Lost or destroyed receipts—Where a negotiable receipt has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient sureties to be approved by the court to protect the warehouseman from any liability or expense, which he or any person injured by such delivery may incur by reason of the original receipt remaining outstanding. The court may also in its discretion order the payment of the warehouseman's reasonable costs and counsel fees.

The delivery of the goods under an order of the court as provided in this section, shall not relieve the warehouseman from liability to a person to whom the negotiable receipt has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods. ('13 c. 161 § 14)

4528. Effect of duplicate receipts—A receipt upon the face of which the word "duplicate" is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability. ('13 c. 161 § 15)

4529. Warehouseman cannot set up title in himself—No title or right to the possession of the goods, on the part of the warehouseman, unless such title or right is derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt. ('13 c. 161 § 16)

4530. Interpleader of adverse claimants—If more than one person claims the title or possession of the goods, the warehouseman may, either as a defense to an action brought against him for non-delivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead. ('13 c. 161 § 17)

4531. Warehouseman has reasonable time to determine validity of claims—If some one other than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead. ('13 c. 161 § 18)

4532. Adverse title is no defense except as above provided—Except as provided in the two preceding sections and in sections 9 and 36 [4522, 4549], no right or title of a third person shall be a defense to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt. ('13 c. 161 § 19)

4533. Liability for non-existence or misdescription of goods—A warehouseman shall be liable to the holder of a receipt for damages caused by the non-existence of the goods or by the failure of the goods to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that the packages containing the goods are said to contain goods of a certain kind, or by words of like purport, such statements, if true, shall not make liable the warehouseman issuing the receipt, although the goods are not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor. ('13 c. 161 § 20)

4534. Liability for care of goods—A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful owner of similar goods would exercise, but he shall not be liable, in the absence of an agreement to the contrary, for any loss or injury to the goods which could not have been avoided by the exercise of such care. ('13 c. 161 § 21)

4535. Goods must be kept separate—Except as provided in the following section, a warehouseman shall keep the goods so far separate from goods of other depositors, and from other goods of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and re-delivery of the goods deposited. ('13 c. 161 § 22)

4536. Fungible goods may be commingled, if warehouseman authorized—If authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade. In such case the various depositors of the mingled goods shall own the entire mass in common and each depositor shall be entitled to such portion thereof as the amount deposited by him bears to the whole. ('13 c. 161 § 23)

4537. Liability of warehouseman to depositors of commingled goods—The warehouseman shall be severally liable to each depositor for the care and re-delivery of his share of such mass to the same extent and under the same circumstances as if the goods had been kept separate. ('13 c. 161 § 24)

4538. Attachment or levy upon goods for which a negotiable receipt has been issued—If goods are delivered to a warehouseman by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for them, they can not thereafter, while in the possession of the warehouseman, be attached by garnishment or otherwise, or be levied upon under an execution, unless the receipt be first surrendered to the warehouseman, or its negotiation enjoined. The warehouseman shall in no case be compelled to deliver up the actual possession of the goods until the receipt is surrendered to him or impounded by the court. ('13 c. 161 § 25)

4539. Creditors' remedies to reach negotiable receipts—A creditor whose debtor is the owner of a negotiable receipt shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such receipt or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which can not readily be attached or levied upon by ordinary legal process. ('13 c. 161 § 26)

4540. What claims are included in the warehouseman's lien—Subject to the provisions of section 30 [4543], a warehouseman shall have a lien on goods deposited or on the proceeds thereof in his hands, for all lawful charges for storage and preservation of the goods; also for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing, cooperating and other charges and expenses in relation to such goods; also for all reasonable charges and expenses for notice, and advertisements of sale, and for sale of the goods where default has been made in satisfying the warehouseman's lien. ('13 c. 161 § 27)

4541. Against what property the lien may be enforced—Subject to the provisions of section 30 [4543], a warehouseman's lien may be enforced:

(a) Against all goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is asserted; and

(b) Against all goods belonging to others which have been deposited at any time by the person who is liable as debtor for the claims in regard to which the lien is asserted if such person had been so entrusted with the possession of the goods that a pledge of the same by him at the time of the deposit to one who took the goods in good faith for value would have been valid. ('13 c. 161 § 28)

4542. How the lien may be lost—A warehouseman loses his lien upon goods:

(a) By surrendering possession thereof, or

(b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this act. ('13 c. 161 § 29)

4543. Negotiable receipt must state charges for which lien is claimed—If a negotiable receipt is issued for goods, the warehouseman shall have no lien thereon, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. In such case there shall be a lien for the charges enumerated so far as they are within the terms of section 27 [4540], although the amount of the charges so enumerated is not stated in the receipt. ('13 c. 161 § 30)

4544. Warehouseman need not deliver until lien is satisfied—A warehouseman having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied. ('13 c. 161 § 31)

4545. Warehouseman's lien does not preclude other remedies—Whether a warehouseman has or has not a lien upon the goods, he is entitled to all remedies allowed by law to a creditor against his debtor, for the collection from the depositor of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay. ('13 c. 161 § 32)

4546. Satisfaction of lien by sale—A warehouseman's lien for a claim which has become due may be satisfied as follows:

The warehouseman shall give a written notice to the person on whose account the goods are held, and to any other person known by the warehouseman to claim an interest in the goods. Such notice shall be given by delivery in person or by registered letter addressed to the last known place of business or abode of the person to be notified. The notice shall contain:

(a) An itemized statement of the warehouseman's claim, showing the sum due at the time of the notice and the date or dates when it became due,

(b) A brief description of the goods against which the lien exists,

(c) A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination, according to the due course of post, if the notice is sent by mail, and

(d) A statement that unless the claim is paid within the time specified the goods will be advertised for sale and sold by auction at a specified time and place.

In accordance with the terms of a notice so given, a sale of the goods by auction may be had to satisfy any valid claim of the warehouseman for which he has a lien on the goods. The sale shall be had in the place where the lien was acquired, or, if such place is manifestly unsuitable for the purpose, at the nearest suitable place. After the time for the payment of the claim specified in the notice to the depositor has elapsed, an advertisement of the sale, describing the goods to be sold, and stating the name of the owner or person on whose account the goods are held, and the time and place of the sale, shall be published once a week for two consecutive weeks in a newspaper published in the place where such sale is to be held. The sale shall not be held less than fifteen days from the time of the first publication. If there is no newspaper published in such place, the advertisement

shall be posted at least ten days before such sale in not less than six conspicuous places therein.

From the proceeds of such sale the warehouseman shall satisfy his lien, including the reasonable charges of notice, advertisement, and sale. The balance, if any, of such proceeds shall be held by the warehouseman, and delivered on demand to the person to whom he would have been bound to deliver or justified in delivering the goods.

At any time before the goods are so sold any person claiming a right of property or possession therein may pay the warehouseman the amount necessary to satisfy his lien and to pay the reasonable expenses and liabilities incurred in serving notices and advertising and preparing for the sale up to the time of such payment. The warehouseman shall deliver the goods to the person making such payment if he is a person entitled, under the provisions of this act, to the possession of the goods on payment of charges thereon. Otherwise the warehouseman shall retain possession of the goods according to the terms of the original contract of deposit.

(e) The warehouseman, his representatives or assigns, may fairly and in good faith purchase any property sold under the provisions of this act, provided that the sale is conducted by the sheriff or his deputy, or by any constable of the county where such sale is made. ('13 c. 161 § 33)

4547. Perishable and hazardous goods—If goods are of a perishable nature, or by keeping will deteriorate greatly in value, or by their odor, leakage, inflammability, or explosive nature, will be liable to injure other property, the warehouseman may give such notice to the owner, or to the person in whose name the goods are stored, as is reasonable and possible under the circumstances, to satisfy the lien upon such goods, and to remove them from the warehouse, and in the event of the failure of such person to satisfy the lien and to remove the goods within the time so specified, the warehouseman may sell the goods at public or private sale without advertising. If the warehouseman after a reasonable effort is unable to sell such goods, he may dispose of them in any lawful manner, and shall incur no liability by reason thereof.

The proceeds of any sale made under the terms of this section shall be disposed of in the same way as the proceeds of sales made under the terms of the preceding section. ('13 c. 161 § 34)

4548. Other methods of enforcing liens—The remedy for enforcing a lien herein provided does not preclude any other remedies allowed by law for the enforcement of a lien against personal property nor bar the right to recover so much of the warehouseman's claim as shall not be paid by the proceeds of the sale of the property. ('13 c. 161 § 35)

4549. Effect of sale—After goods have been lawfully sold to satisfy a warehouseman's lien, or have been lawfully sold or disposed of because of their perishable or hazardous nature, the warehouseman shall not thereafter be liable for failure to deliver the goods to the depositor, or owner of the goods, or to a holder of the receipt given for the goods when they were deposited, even if such receipt be negotiable. ('13 c. 161 § 36)

PART III. NEGOTIATION AND TRANSFER OF RECEIPTS

4550. Negotiation of negotiable receipts by delivery—A negotiable receipt may be negotiated by delivery:

(a) Where, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the bearer, or

(b) Where, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the receipt has indorsed it in blank or to bearer.

Where, by the terms of a negotiable receipt, the goods are deliverable to bearer or where a negotiable receipt has been indorsed in blank or to bearer, any holder may indorse the same to himself or to any other specified person, and in such case the receipt shall thereafter be negotiated only by the indorsement of such indorsee. ('13 c. 161 § 37)

4551. Negotiation of negotiable receipts by indorsement—A negotiable receipt may be negotiated by the indorsement of the person to whose order

the goods are, by the terms of the receipt, deliverable. Such indorsement may be in blank, to bearer or to a specified person. If indorsed to a specified person, it may be again negotiated by the indorsement of such person in blank, to bearer or to another specified person. Subsequent negotiation may be made in like manner. ('13 c. 161 § 38)

4552. Transfer of receipts—A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee.

A non-negotiable receipt cannot be negotiated, and the indorsement of such receipt gives the transferee no additional right. ('13 c. 161 § 39)

4553. Who may negotiate a receipt—A negotiable receipt may be negotiated:

(a) By the owner thereof; or

(b) By any person to whom the possession or custody of the receipt has been entrusted by the owner, if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of the person to whom the possession or custody of the receipt has been entrusted, or if at the time of such entrusting the receipt is in such form that it may be negotiated by delivery. ('13 c. 161 § 40)

4554. Rights of person to whom a receipt has been negotiated—A person to whom a negotiable receipt has been duly negotiated acquires thereby:

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value, and

(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him. ('13 c. 161 § 41)

4555. Rights of person to whom a receipt has been transferred—A person to whom a receipt has been transferred but not negotiated, acquires thereby, as against the transferor, the title of the goods, subject to the terms of any agreement with the transferor.

If the receipt is non-negotiable such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt.

Prior to the notification of the warehouseman by the transferor or transferee of a non-negotiable receipt, the title of the transferee to the goods and the right to acquire the obligation of the warehouseman may be defeated by the levy of an attachment or execution upon the goods by a creditor of the transferor, or by a notification to the warehouseman by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor. ('13 c. 161 § 42)

4556. Transfer of negotiable receipt without indorsement—Where a negotiable receipt is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the receipt, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. ('13 c. 161 § 43)

4557. Warranties on sale of receipt—A person who for value negotiates or transfers a receipt by indorsement or delivery, including one who assigns for value a claim secured by a receipt, unless a contrary intention appears, warrants:

(a) That the receipt is genuine,

(b) That he has a legal right to negotiate or transfer it,

(c) That he has knowledge of no fact which would impair the validity or worth of the receipt, and

(d) That he has a right to transfer the title to the goods and that the goods are merchantable or fit for a particular purpose whenever such war-

ranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby. ('13 c. 161 § 44)

4558. Indorser not a guarantor—The indorsement of a receipt shall not make the indorser liable for any failure on the part of the warehouseman or previous indorsers of the receipt to fulfil their respective obligations. ('13 c. 161 § 45)

4559. No warranty implied from accepting payment of a debt—A mortgagee, pledgee or holder for security of a receipt who in good faith demands or receives payment of the debt for which such receipt is security, whether from a party to a draft drawn for such debt or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such receipt or the quantity or quality of the goods therein described. ('13 c. 161 § 46)

4560. When negotiation not impaired by fraud, mistake, or duress—The validity of the negotiation of a receipt is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was induced by fraud, mistake, or duress to entrust the possession or custody of the receipt to such person, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor, without notice of the breach of duty, or fraud, mistake or duress. ('13 c. 161 § 47)

4561. Subsequent negotiation—Where a person having sold, mortgaged, or pledged goods which are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged, or pledged the negotiable receipt representing such goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, mortgage or pledge, shall have the same effect as if the first purchaser of the goods or receipt had expressly authorized the subsequent negotiation. ('13 c. 161 § 48)

4562. Negotiation defeats vendor's lien—Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such receipt has been negotiated, whether such negotiation be prior or subsequent to the notification to the warehouseman who issued such receipt of the seller's claim to a lien or right of stoppage in transitu. Nor shall the warehouseman be obliged to deliver or justified in delivering the goods to an unpaid seller unless the receipt is first surrendered for cancellation. ('13 c. 161 § 49)

PART IV. CRIMINAL OFFENSES

4563. Issue of receipt for goods not received—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his actual control at the time of issuing such receipt, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars or by both. ('13 c. 161 § 50)

4564. Issue of receipt containing false statement—A warehouseman, or any officer, agent or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. ('13 c. 161 § 51)

4565. Issue of duplicate receipts not so marked—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "duplicate" except in the case of a lost or destroyed receipt after proceedings as provided for in section 14 [4527], shall be guilty of a crime, and upon conviction

tion shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both. ('13 c. 161 § 52)

4566. Issue for warehouseman's goods of receipts which do not state that fact—Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents, or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. ('13 c. 161 § 53)

4567. Delivery of goods without obtaining negotiable receipt—A warehouseman, or any officer, agent, or servant of a warehouseman who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections 14 and 36 [4527, 4549], be found guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. ('13 c. 161 § 54)

4568. Negotiation of receipt for mortgaged goods—Any person who deposits goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. ('13 c. 161 § 55)

PART V. INTERPRETATION

4569. Cases not provided for in act—In any case not provided for in this act, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern. ('13 c. 161 § 56)

4570. Interpretation shall give effect to purpose of uniformity—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. ('13 c. 161 § 57)

4571. Definitions—(1) In this act, unless the context or subject matter otherwise requires:

“Action” includes counter claim, set-off, and suit in equity.

“Delivery” means voluntary transfer of possession from one person to another.

“Fungible goods” means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

“Goods” means chattels or merchandise in storage, or which has been or is about to be stored.

“Holder” of a receipt means a person who has both actual possession of such receipt and a right of property therein.

“Order” means an order by indorsement on the receipt.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Receipt” means a warehouse receipt.

“Value” is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction thereof or as security therefor.

"Warehouseman" means a person lawfully engaged in the business of storing goods for profit.

(2) A thing is done "in good faith" within the meaning of this act, when it is in fact done honestly, whether it be done negligently or not. ('13 c. 161 § 58)

4572. **Act does not apply to existing receipts**—The provisions of this act do not apply to receipts made and delivered prior to the taking effect of this act. ('13 c. 161 § 59)

4573. **Inconsistent legislation repealed**—All acts or parts of acts inconsistent with this act are hereby repealed. ('13 c. 161 § 60)

4574. **Time when the act takes effect**—This act shall take effect on the first day of January, one thousand nine hundred and fourteen. ('13 c. 161 § 61)

4575. **Name of act**—This act may be cited as the uniform warehouse receipts act. ('13 c. 161 § 62)

PUBLIC HAY TRACKS

4576. **Terminal points**—Terminal points as designated by this act shall mean the cities of St. Paul, Minneapolis, Duluth and South St. Paul. ('05 c. 196 § 1)

By section 23 all acts or parts of acts, general or special, inconsistent with the provisions of the act, are repealed.

4577. **Public hay tracks**—The railroad and warehouse commission, hereinafter designated "the commission," shall designate at convenient places, on the several lines of railway entering terminal points in this state, tracks to be known as public hay tracks. The different railway companies either separately or jointly are hereby required to provide suitable tracks to meet the requirements of this act. Such public hay tracks may be established on each individual line of railway, or they may be so established as to serve for two or more railways. ('05 c. 196 § 2)

4578. **Hay and straw—Delivery at tracks**—All hay and straw shipped to terminal points unless otherwise directed by the consignor shall, by the common carrier transporting the same, be brought to and delivered at one or another of such public hay tracks, for the purpose of being weighed and inspected as hereinafter provided. ('05 c. 196 § 3)

4579. **Weighing and inspection—Duties of carrier as to certain cars—Penalty**—All hay and straw so received shall be weighed and inspected by duly appointed weighers and inspectors of hay and straw under such rules and regulations as the commission shall establish.

All carriers shall return, free of switching charge for weighing empty, all cars not reconsigned that have been weighed loaded with hay or straw, to the scale on which the same was weighed, or some other scale under the charge of the state, used for weighing hay and straw. Weight on reconsigned cars may be had by the use of the weight of the loaded car and the marked stencilled weight on the car. Any carrier failing to comply with any of the provisions of this act shall be subjected to a penalty of twenty-five dollars (\$25.00) to be recovered by the aggrieved shipper. ('05 c. 196 § 4, amended '11 c. 186 § 1)

1911 c. 186 § 2 repeals inconsistent acts, etc.

4580. **Carrier to maintain scales—Powers of commission—State weighmasters—Cost of inspecting scales**—It shall be the duty of all common carriers transporting hay to such terminal points to construct and maintain at such public hay tracks as may be established by the commission, suitable track scales of such size and capacity as the commission shall direct. If in its judgment it is necessary, the commission may order that such track scales be housed in such a manner as to insure accuracy. All scales at such hay tracks shall be under the control of state weighmasters and subject to inspection by them, exempt from the jurisdiction of sealers of weights and measures. They shall be inspected at the request of any person interested in any hay or straw to be weighed thereon. If found incorrect the cost of

inspection shall be paid by the owner thereof; otherwise by the person requesting inspection. No scales found incorrect shall be used until re-examined and found correct. Provided that nothing in this act shall be so construed as to prevent the use of such scales by the owner for the purpose of weighing any other commodities in carload lots. ('05 c. 196 § 5)

4581. Weighers and inspectors—Chief inspector of grain—Appeals—Re-inspecting and final review—The commission shall appoint a suitable number of persons to perform such weighing and inspecting of hay and straw. Such weighers and inspectors shall be under the immediate supervision of the chief inspector of grain. In case of dissatisfaction of any interested person with the official acts of any inspector re-inspecting may be had upon application to the aforesaid chief inspector of grain or either of his chief deputies. A final appeal from the decision of said chief inspector of grain or his deputy inspectors may be made to the board of final review, to be provided for by the commission under the rules it shall establish. The decision of such board of review shall be final, provided the commission may provide suitable rules for the cancellation of any certificate of inspection issued upon original inspection; re-inspecting or upon final review when it appears that owing to the manner in which cars of hay or straw were loaded it was impossible for the inspector to obtain a fair sample. ('05 c. 196 § 6)

4582. Rules and regulations—The commission shall adopt all necessary rules and regulations for the weighing and inspecting of hay and straw at such terminal points. ('05 c. 196 § 7)

4583. Weighers and inspectors—Obstructing performance—Penalty—Oath—Bond—In case any person or railway corporation or any of their agents or employees shall refuse or prevent the aforesaid weighers and inspectors of hay and straw from having free access to their scales and tracks in the regular performance of their duties as such weighers or inspectors of hay and straw, they shall forfeit to the state of Minnesota the sum of one hundred dollars for each offense, such penalty or forfeiture to be paid to the state treasurer for the benefit of the hay inspection fund hereinafter created, and shall also be required to pay all costs of prosecution. All weighers and inspectors of hay and straw shall take an oath of office the same as required of deputy grain inspectors, and shall give a bond to the state of Minnesota in the penal sum of five thousand dollars with good and sufficient sureties to be approved by the commission, and conditioned in like manner as the commission require from the chief-inspector of grain. The bonds given by such weighers and inspectors of hay and straw shall be filed in the office of the secretary of state and suit may be brought upon said bond, or bonds, in any court having jurisdiction thereof for the use of the person so injured. ('05 c. 196 § 8)

4584. Removal—The chief inspector of grain shall have the power to remove any of said weighers or inspectors of hay and straw at pleasure. ('05 c. 196 § 9)

4585. Charges—Compensation—Such weighers and inspectors of hay and straw shall be governed in the performance of their duties by such rules and regulations as may be provided by the commission; the commission shall have power to fix the rate of charges for the weighing and inspecting of hay and straw and the manner in which the same shall be collected, which charges shall be regulated in such manner as will in the judgment of the commission produce sufficient revenue to meet the necessary expenses of the weighing and inspecting service, and no more; the commission shall fix the amount of compensation to be paid to the weighers and inspectors of hay and straw and prescribe the time and manner of payment thereof, which compensation shall be paid out of a hay inspection fund, hereinafter created, on the order of the commission. ('05 c. 196 § 10)

4586. Disqualifications—No weigher nor inspector of hay or straw nor any of the sureties on their bond, or bonds as the case may be, shall during his term of service be in any way interested in the handling, storing, shipping, purchasing or selling of hay or straw, or any of their products, nor in

the employment of any person or corporation engaged therein, nor shall they be members of any board of trade or organization of like character. ('05 c. 196 § 11)

4587. Grounds for removal—Upon complaint in writing of any person to the commission, supported by reasonable and satisfactory proof that any weigher or inspector of hay and straw has violated any of the rules prescribed for his government, or has been guilty of any improper official act, or has been found inefficient or incompetent for the duties of this position, such person shall be by the commission immediately removed from office. ('05 c. 196 § 12)

4588. Impersonating weigher or inspector—Penalty—Any person not duly appointed and qualified, who shall assume to act as a weigher or inspector of hay and straw, shall be guilty of a misdemeanor and be punished by a fine of not less than fifty nor more than one hundred dollars. ('05 c. 196 § 13)

4589. Neglect of duty, etc.—Penalty—Any duly authorized weigher or inspector of hay and straw who shall be guilty of any neglect of duty or who shall knowingly or carelessly weigh or inspect any hay or straw improperly, or who shall accept any money or other consideration, directly or indirectly, for any neglect of duty or any improper performance of duty as such weigher or inspector of hay and straw, or any person who shall improperly influence or attempt to influence any weigher or inspector of hay and straw in the performance of his duties as such weigher or inspector, as the case may be, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars or shall be imprisoned in the county jail not less than thirty (30) days nor more than one year, or both, in the discretion of the court. ('05 c. 196 § 14)

4590. Charges a lien—Advance charges—Hay inspection fund—The charges for the weighing and inspecting of hay and straw shall be and constitute a lien on the hay and straw so weighed or inspected, and whenever such hay and straw is in transit the said charges shall be considered as advance charges, to be paid by the common carrier in whose possession the same is at the time of weighing or inspecting. All money so collected, and all fines and penalties for violation of any of the provisions of this act, shall be paid into the state treasury and shall be known as the hay inspection fund, and paid out only on order of the commission and auditor's warrant. All interest received from deposits of said moneys shall be credited on the first of each month to such fund and notice of the amount of such interest shall be sent to the chief inspector. ('05 c. 196 § 15)

4591. Duty of inspectors—Certificate—Such inspectors shall inspect all hay and straw shipped to any such public hay tracks and give a certificate of the inspecting to the person entitled thereto. Their decisions shall be conclusive as to the grade of such hay or straw, and the certificate shall be evidence thereof, unless changed upon reinspecting or appeal, in which case the final certificate shall be conclusive. ('05 c. 196 § 16)

4592. Reinspection—Appeal—In case any owner, consignee or shipper of hay and straw shall be aggrieved by the decision of such inspectors of hay and straw, said owner, consignee or shipper may ask for a reinspecting of said hay and straw from the chief inspector of grain or his chief deputies; provided that a final appeal from the decision of said chief inspector of grain or his chief deputies may be had to the board of final review provided for in section 6 [4581] of this act, and a decision by a majority of such final board of review shall be final, and the commission is hereby authorized to make all necessary rules governing such reinspecting or appeal, provided that the party asking for such reinspecting shall pay to the chief inspector of grain or his chief deputies a sum not to exceed five dollars per case before such case be entertained, which sum shall be refunded in case such case is sustained. ('05 c. 196 § 17)

4593. Duty of weighers—Record—All weighers of hay and straw provided for by this act shall be required to make true weights under the pen-

alties hereinbefore provided, and in addition thereto shall keep a correct record of all weighing done by them at the hay tracks where they are stationed, in which record shall be entered an accurate account of all hay, straw or other property weighed, or the weighing of which was supervised by them or their assistants, giving the amount of each weight, the number of the car or cars weighed, if any, the initial letter of said car or cars weighed, where weighed, date of weighing and contents of car. ('05 c. 196 § 18)

4594. Certificates—Evidence—Said weighers and inspectors of hay and straw shall give upon request of any person interested certificates under their hand and seal showing the amount of each weight, or if inspected, the grade, number of car or cars weighed or inspected, if any, the initial of said car or cars, hay yard where weighed or inspected, date of weighing or inspecting and contents of car, provided that such certificate of weights shall be admitted in all actions either at law or in equity as prima facie evidence of the facts therein contained, but the effect of such evidence may be rebutted by other competent testimony. ('05 c. 196 § 19)

4595. Minnesota grades—Publication—The commission shall before the first day of July in each year establish a grade for all kinds of hay and straw bought, handled or delivered at any public hay yard at terminal points in this state, which grade so established shall be known as "Minnesota grades" of hay and straw, and the grades so established shall be published in some daily newspaper at each of said terminal points each day for the space of one week. ('05 c. 196 § 20)

4596. Duties of commission—It shall be the duty of the commission to assume and exercise a constant supervision over the hay and straw interests of this state; to supervise the handling, weighing, inspecting and storage of hay and straw; to establish all necessary rules and regulations for the weighing, grading, inspecting and reinspecting of hay and straw, and for the management of all public hay tracks at terminal points in this state as far as such rules and regulations may be necessary to enforce the provisions of this act, or any law in this state in regard to the same; to investigate all complaints of fraud or oppression in the hay and straw trade, and to correct the same as far as may be in their power, ('05 c. 196 § 21)

4597. Sale by sample—Nothing in this act shall be so construed as to prevent any person from selling hay or straw by sample, regardless of grade. ('05 c. 196 § 22)

COMMISSION MERCHANTS

4598. Definition—License—Bond—For the purpose of this subdivision, a commission merchant is a person who may receive for sale, for account of the consignor, any agricultural products or farm produce. No person shall sell, or receive or solicit shipments of such commodities for sale, without first obtaining a license from the railroad and warehouse commission to carry on the business of a commission merchant and executing and filing with the secretary of state a bond to the state for the benefit of such consignors; if the license authorizes the sale of grain the bond shall be not less than four thousand dollars (\$4000). If the license only authorizes the sale of products other than grain, the bond shall be not less than two thousand dollars (\$2,000). In either case the railroad and warehouse commission may at any time require such an additional amount of bond as it may deem necessary to protect the consignor. (R. L. § 2114, amended '13 c. 432 § 1)

1913 c. 432 § 5 repeals 1905 c. 126 and 1913 c. 228.
77-483, 80-633, 778, 46 L. R. A. 442, 77 Am. St. Rep. 681; 94-225, 102-697, 69 L. R. A. 667.

4599. Application for license—Conditions of bonds—Separate licenses, etc.—The application for license shall be in writing, state the commodities for which license to sell is wanted, also the cities or other locations in the state where applicant intends to do business, and give the business address of the applicant and the estimated volume of business to be done monthly. If he desires a license which shall authorize him to sell grain, the bond shall be conditioned that he report to all persons consigning grain to him, and pay

to them the proceeds of its sale, less charges and actual disbursements; otherwise the bond shall be conditioned for the faithful performance of his duties as commission merchant. Separate licenses and bonds shall be required for each location at which business is to be conducted and said licenses shall be kept posted in the office of the persons so licensed. All licenses shall expire May 31st of each year. The fee for each license shall be two dollars (\$2.00). Such license may be revoked by the commission for cause, upon notice and hearing. (R. L. § 2115, amended '13 c. 432 § 2)

4600. Commission may require confidential statements—For the purpose of fixing or changing the amount of a bond the commission shall require statements of his business from the licensee, and, if he fail to render such statements or to furnish any new bond required, the commission may revoke his license. All such statements shall be for the exclusive information of the commissioners, unless they shall be required for use in court, in which case the commissioners shall produce them. (2116)

4601. Statement to consignor—Whenever a licensee sells any grain he shall render a true statement in writing to the consignor within twenty-four (24) hours of the amount sold, price received, name and address of purchaser, and the day, hour, and minute of the sale, and shall forward vouchers for all charges and expenses. Whenever consignments of commodities other than grain are sold, the licensee shall render a true statement in writing to the consignor under such reasonable rules as may be prescribed by the railroad and warehouse commission. (R. L. § 2117, amended '13 c. 432 § 3)

94-225, 102+697, 69 L. R. A. 667.

4602. Complaint—Investigation—Report—Whenever a consignor of a commodity other than grain, after demand therefor, shall have received no remittance or report of its sale, or shall be dissatisfied with the remittance, sale, or report, he may complain in writing, under oath, to the commission, who shall investigate the matter complained of. In making the investigation the commission may compel the licensee to produce all information, books, records and memoranda concerning the matter, and they shall give the complainant a written report of the investigation. This report shall be prima facie evidence of the matters therein contained. (2118)

4603. Action on bond—If any licensee shall fail to account for any consignment of any of the commodities mentioned in this subdivision, or to pay to the consignor moneys due on such consignment, the consignor or his agent, within ninety days of the date of shipment, may file with the commission an affidavit setting forth the matters complained of. Thereupon such consignor, within a year after the cause of action accrues, may bring an action upon the bond of the licensee, and recover the amount due him on account of such consignment. If such licensee has become liable to more than one consignor, and the amount of his bond be insufficient to pay the entire liability, the consignors shall be compensated in proportion to their several claims. (2119)

4604. Violations—Penalty, etc.—Any person, persons, firm or corporation engaged in selling any property as herein specified, who fails or neglects to comply with any of the provisions of this act, or any of the rules of the commission therein provided for, shall be guilty of a misdemeanor and on conviction thereof in any court having competent jurisdiction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and the railroad and warehouse commission is hereby authorized, either upon such conviction or upon its own findings, after investigation, if the facts warrant it, to cancel the license of any person, persons, firm or corporation, guilty of any violation of law or conduct prejudicial to the interest of those making consignments for sale, to such person, persons, firm or corporation. Where a license has been cancelled, the railroad and warehouse commission may refuse to issue any license to such person, persons, firm or corporation for a term of one year."

Whenever requested to do so by any interested shipper, the railroad and warehouse commission shall have power to investigate any sale or transaction carried

on by any person, persons, firm or corporation licensed under this act, and for that purpose shall have the right to examine the books and accounts of any licensed commission merchant which in any manner relate to such sale or transaction. Any licensed commission merchant or any agent in charge of such books or accounts who shall fail or refuse to submit such books or accounts for the examination of said railroad and warehouse commission, shall be guilty of a misdemeanor. (R. L. § 2120, amended '13 c. 432 § 4)

94-225, 102+697, 69 L. R. A. 667.

PACKING HOUSE CERTIFICATES

4605. Certificates on products—Every person engaged in the slaughter of cattle, sheep or hogs, and dealing in the products thereof, who owns or controls the building wherein such business is conducted or such commodities stored, may issue warehouse certificates for any of the commodities actually in store, and may sell, assign, transfer, pledge, or encumber the same to the amount described therein. Such certificate shall contain the name and address of the person issuing it, the location of the warehouse, the date of issue, the quantity of each commodity, and its brand or mark of identification, if any, and be signed by the person issuing the same. (2121)

4606. Interest in warehouse—Certified copy—Before issuing any such certificate, he shall file with the register of deeds of the county where the warehouse is located a written declaration, stating his name and residence, that he intends controlling a warehouse for the storage and sale of such commodities, a correct description of the warehouse, its location, and the name of any other person in any way interested therein. It shall be signed, acknowledged, and recorded in a book kept for that purpose, and a certified copy thereof shall be filed with the clerk of the city, village, or town wherein such business is conducted, and be kept in the same manner as chattel mortgages are required to be filed and kept, and the party making the declaration shall be indexed as the vendor, and the public as the vendee. (2122)

4607. Statement printed on back—Every such certificate issued shall have printed on the back thereof a statement that the party issuing it has complied with the law, and shall give the book, page, and place where the record of such declaration may be found, and the day of filing. Such certificate, when so issued and delivered, shall transfer to the holder the title to the commodities therein described, shall be assignable by indorsement, and thereupon shall be prima facie evidence of title to such commodities in the indorsee. It shall be registered by the party issuing the same in a book kept for that purpose, which shall show the date, number, and name of party to whom issued, the kind and quantity of the commodities, and any brands or marks thereon, and be open to inspection by any person holding any outstanding certificate in force, his agent or attorney; and when the commodity specified therein has been delivered, or it has in any other manner become inoperative, that fact, with the date of such delivery or other termination of liability, shall be entered in the register in connection with the entry of its issuance. (2123)

4608. Property in warehouse—No person shall issue such warehouse certificate unless the property therein described is actually in the warehouse; and it shall remain there until otherwise ordered by the holder of the certificate, subject to the conditions of the contract between the warehouseman and the person to whom such certificate was issued, or his assigns, as to the time of its remaining therein; and no second certificate shall be issued for the same property or any part thereof while the first is outstanding and in force, nor shall the property be sold, encumbered, shipped, transferred, or removed by the warehouseman without the written consent of the certificate holder. (2124)

4609. Damages for injury—Any person injured by any violations of §§ 4607, 4608 may recover the actual damages sustained, and, if the violation was wilful, in addition thereto exemplary damages not exceeding double the actual damages, which shall be found by special verdict. (2125)

4610. Penalties—Every person who shall wilfully alter or destroy any register of such certificates; or issue any receipt of certificates without entering

and preserving in such book the registered memorandum; or shall knowingly issue any such certificates when the commodities therein described are not in the warehouse; or who, with intent to defraud, shall issue a second or other certificate for which a former valid certificate is outstanding; or who shall, under such circumstances, sell, incumber, ship, transfer, or remove from the warehouse any such certified property, or knowingly permit the same to be done, without the written consent of the certificate holder; or who knowingly receives, or helps to remove, any such property; shall be guilty of a felony, and punished by imprisonment in the state prison for not more than five years, or by a fine of not more than ten thousand dollars. (2126)

CHAPTER 28A

DEPARTMENT OF WEIGHTS AND MEASURES¹

4611. Department created—Jurisdiction of railroad and warehouse commission—There is hereby created a department to be known as the department of "weights and measures," hereafter referred to as the department, and it shall be under the jurisdiction of the railroad and warehouse commission, hereafter referred to as the commission, which shall have supervision and control over all weights, weighing devices and measures in the state. ('11 c. 156 § 1)

Act construed and held not unconstitutional as interference with freedom of contract. Nor does it violate Const. art. 4 § 27 (118-128, 136+565).

4612. Commissioner of weights and measures—Deputies and employees—The commission shall appoint a commissioner of weights and measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter, and fix their compensation. The commissioner of weights and measures and the deputies shall give a bond in a sum to be fixed and approved by the commission. The commission shall provide for such examinations as it may deem necessary to determine the qualifications and fitness of appointees. ('11 c. 156 § 2)

118-128, 136+565.

4613. Rules and regulations—The commission shall prescribe and adopt such rules and regulations as it may deem necessary to carry out the provisions of this chapter, and it may change, modify or amend any or all rules whenever deemed necessary, and the rules so made shall have the force and effect of law. ('11 c. 156 § 3)

4614. Duties and powers of department—Standard of weights and measures—The department shall take charge of, keep and maintain in good order the standard of weights and measures of the state and submit them to the bureau of standards of Washington, D. C., for certification when it is deemed necessary; and shall keep a seal so formed as to impress the letters "MINN" and the date of sealing upon the weights and measures that are sealed; it shall test, correct and seal, when found to be accurate, at least once every year and as much oftener as may be necessary, all the copies of the standards used throughout the state for the purpose of testing the weighing or measuring apparatus used in the state, and keep a record thereof; it shall have general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold or in use in the state; and shall, upon the written request of any person, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state; it shall keep a complete record of the standards, balances and all testing and sealing apparatus owned by the state, and shall annually during the first fifteen (15) days of January, make a report of its actions to the governor of the state. ('11 c. 156 § 4)

4615. Inspecting, testing, sealing—Incorrect weights, measures, etc.—The department or any of its employees shall have power to inspect and test all weights, scales, beams and measures of every kind, instruments and mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments for measurement that are kept, offered or exposed

¹ It is suggested that §§ 5783, 5789, 5801-5804, post, under the chapter on Weights and Measures, were repealed by this chapter. See repealing clause, § 2643, post.