

petition may be filed after his death with the same effect as if he were living.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 11, 1874.

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CHAPTER 273.

[Published April 28, 1874.]

*Amended 3/30/76  
by 57 2/76*

AN ACT relating to railroads, express and telegraph companies, in the state of Wisconsin.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. All railroads in the state of Wisconsin are hereby divided into three classes, to be known as Class A, Class B, and Class C. Class A shall include all railroads or parts of railroads in the state of Wisconsin now owned, operated, managed or leased either by the Milwaukee and St. Paul Railway Company, the Chicago and Northwestern Railway Company, or the Western Union Railway Company. Class B shall include all railroads or parts of railroads owned, operated, managed or leased by the Wisconsin Central Railway Company, the Green Bay and Minnesota Railway Company, or the West Wisconsin Railway Company. Class C shall include all other railroads or parts of railroads in said state.

Classification of roads.

Class A.

Class B.

Class C.

SECTION 2. Any individual, company or corporation owning, operating, managing or leasing any railroad or part of a railroad in the several classifications as herein prescribed, shall be limited to a compensation per mile for the transportation of any person with ordinary baggage not exceeding one hundred pounds in weight, as follows: Class A, three cents; class B, three and one-half cents; class C, four cents: *provided*, that no such individual, company or corporation shall charge, demand or receive any greater compensation per mile for the transportation of children of the age of twelve years or under than one-half of the rate above prescribed; *and provided, further*, that the rates for transportation herein prescribed may be reduced as herein after provided.

Limit of compensation.

Class A. Class B. Class C.

Proviso.

SECTION 3. All freights hereafter transported upon any railroad or part of a railroad in this state are hereby

Classification of freight.

divided into four general classes, to be designated as first, second, third and fourth classes, and into seven special classes, to be designated as Class D, E, F, G, H, I and J. Class D shall comprise all grain in car-loads; Class E shall comprise flour in lots of 50 barrels or more, and lime in lots of 24 barrels or more; Class F. shall comprise salt in lots of 60 barrels or more, and cement, water lime and stucco in lots of 24 barrels or more; Class G. shall comprise lumber, lath and shingles in car-loads; Class H shall comprise live stock in car-loads; Class I shall comprise agricultural implements, furniture and wagons; Class J shall comprise coal, brick, sand, stone and heavy fourth-class articles in car loads; and in addition to the several articles in the said special classes, shall be added other articles as, and in the manner hereinafter prescribed, except into Classes D, E, G and H; and all articles not above enumerated are [or] subsequently set into said classes as hereinafter provided, shall be placed in and belong to the four general classes, to be classified by the railroad commissioners hereinafter provided to be appointed, as said articles were classified by the Milwaukee and St. Paul Railway, which classification went into effect on the 15th day of June, 1872.

Limitations of charges.

Class A and B.

Class E.

SECTION 4. No individual, company or corporation, owning, operating, managing or leasing any railroad or part of a railroad designated in section one as class A or B, shall charge for or receive a greater or higher rate for carrying articles named in the several special classes herein designated than is hereinafter provided,—namely, class D, not exceeding six cents per 100 lbs for the first twenty-five miles, and not exceeding four cents per hundred pounds for the second twenty-five miles, and not exceeding two cents per hundred pounds for each additional twenty-five miles or fractional part thereof, unless the fraction shall be less than thirteen miles, in which case the rate shall be one cent for said fractional part, unless the whole distance be over two hundred miles, when no greater rate than one half cent per hundred pounds shall be received for such twenty-five miles over said first mentioned distance. Class E, not exceeding twelve cents per barrel for the first twenty-five miles, and not exceeding eight cents per barrel for the second twenty-five miles, and not exceeding four cents for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the route [rate] shall not exceed two cents per barrel for said fractional part, unless the whole distance be over two hundred miles,

when no greater rate than one cent per barrel shall be charged for such additional twenty-five miles, over said two hundred miles. Class F, not exceeding fifteen cents per barrel for the first twenty-five miles, and not exceeding six cents per barrel for the second twenty-five miles, and not exceeding three and one-half cents per barrel for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half cents per barrel for said fractional part. Class G, not exceeding eight dollars per car load for the first twenty-five miles, and not exceeding five dollars per car load for the second twenty-five miles, and not exceeding two dollars per car load for each additional twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half dollars per car load for such fractional part. Class H, not exceeding ten dollars per car load for the first twenty-five miles, and not exceeding seven dollars per car load for the second twenty-five miles, and four dollars per car load for each additional twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed two dollars per car load for such fractional part. Class I, not exceeding eleven dollars per car load for the first twenty-five miles, and not exceeding six dollars per car load for the second twenty-five miles, and not exceeding three dollars per car load for each additional twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar and fifty cents per car load for such fractional part. Class J, not exceeding eight dollars per car load for the first twenty-five miles, and not exceeding six dollars per car load for the second twenty-five miles, and not exceeding two and one-half dollars per car load for each additional twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar per car load for such fractional part.

SECTION 5. No individual, company or corporation owning, operating, managing or leasing any railroad mentioned in classes A and B, in the first section of this act, shall receive a greater or higher rate for carrying any freight under the four general classes named in the third section of this act, than was charged for carrying freights in said four general classes on said railroad on the first day of June, 1873, and no individ-

Greater or higher rates for classes of freight, forbidden.

How freights to be computed. **ual, company or corporation owning, operating, managing or leasing any railroad mentioned in class C, in the first section of this act, shall receive a greater or higher rate for carrying freight than was received by said individual, company or corporation for carrying such freight on the first day of June, 1873. In computing the rates for carrying any freights according to the provisions of this act, the distance for carrying such freight shall be computed from where it is received, notwithstanding it may pass from one railroad to another.**

Companies charging higher rates shall forfeit all compensation. **SECTION 6. In no instance shall any such individual, company or corporation, lessee or other person charge or receive any greater rate of compensation for carrying freight or passengers than hereinbefore provided, and any individual, company or corporation violating, or in any way evading the provisions of this act shall forfeit all right to recover or receive any compensation whatever for the service rendered wherein such violation is attempted, and every agent of any such corporation, lessee, or other individual operating any railroad within this state who shall refuse to receive for transportation over the road for which he is agent, in the usual way, any of the articles hereinbefore mentioned on account of the compensation hereinbefore prescribed being too low, or receiving any such articles of freight, shall charge or attempt to charge for the transportation of the same, any greater sum than herein fixed, or shall in any manner violate or attempt to violate or evade the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding two hundred dollars for each and every offense, and the injured party shall have a right of action against said agent, or against the railroad company or other persons operating the railroad, or both, in which he shall be entitled to recover three times the amount taken or received from him in excess of the rates prescribed by this act.**

Penalty for refusing to receive or carry freight. **SECTION 7. Justices of the peace shall have concurrent jurisdiction with the circuit court in all prosecutions for violation of this act, with full power and authority to impose fines, and to the same extent as the circuit court, and the defendant shall have the right of appeal as in other cases tried before justices of the peace, and justices of the peace shall also have jurisdiction in all civil cases under this act whenever the amount claimed does not exceed two hundred dollars.**

Justices of the peace, shall have jurisdiction. **SECTION 8. The governor shall, on or before the first day of May, 1874, by and with the consent of the**

Appeals. **Commissioners how appointed, term of office, etc.**

senate, appoint three railroad commissioners, one for a term of one year, one for a term of two years, and one for a term of three years, whose term of office shall commence on the first day of May, and shall each year thereafter, on the first day of May, appoint one railroad commissioner for the term of three years, said railroad commissioners to be confirmed by the senate next convening after said appointment; but no person owning any bonds, stock or property in any railroad or in the employ of any railroad company, or in any way or manner interested in railroads, shall be so appointed.

Ineligible.

SECTION 9. Said railroad commissioners shall have power to administer oaths or affirmations, to send for persons or papers under such regulations as they may prescribe, and shall at any and all times have access to any and all books and papers in any railroad office kept for and used in any railroad office by any railroad company in this state.

Powers of commissioners.

SECTION 10. Said railroad commissioners, in making any examination as contemplated in this act, for the purpose of obtaining information pursuant to this act, shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe. In case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court of any county, upon application of the said commissioners to issue an attachment for such witness and compel such witness to attend before the commissioners and give his testimony upon such matters as shall be lawfully required by such commissioners, and said court shall have power to punish for contempt as in other cases of refusal to obey the process and order of such court.

May issue subpoenas, and compel attendance of witnesses.

SECTION 11. Any person who shall willfully neglect or refuse to obey the process of subpoena issued by said commissioners, and appear and testify as therein required, shall be deemed guilty of a misdemeanor and shall be liable to arraignment and tried [trial] in any court of competent jurisdiction, and on conviction thereof shall be punished for such offense by fine not less than fifty dollars nor more than five hundred dollars; or by imprisonment of not more than thirty days, or both, in the discretion of the court before which such conviction shall be had.

Penalty for neglecting or refusing to obey process of subpoena.

SECTION 12. Said railroad commissioners shall, during the month of January in each year, ascertain and make return to the state treasurer as hereinafter provided. 1st. The actual cost of each railroad in this state up to and including the 31st day of the next

Commissioners to make returns to state treasurer.

Cost of each railroad.

preceding December, and if such railroad shall be partly in and partly out of this state, then the actual cost of so much thereof as is in this state. 2nd. The total gross receipts resulting from the operation of every such railroad during the next preceding year ending on the 31st day of December, or of that part of the same which is in this state. 3. The total net earnings resulting from the operation of any such railroad during the next preceding year, ending on the 31st day of December, or of that part of the same which is in this state. 4th. The total interest-bearing indebtedness of the company owning or operating such railroad, and the amount of interest paid by such company during the next preceding year ending on the 31st day of December, and if any part of such indebtedness has been incurred in consequence of the construction, maintenance, repair, removal or operation of any part of such railroad which is not in this state, or for equipment for such part, such railroad commissioners shall ascertain and determine in such manner as they shall think just and equitable how much of its indebtedness is justly chargeable to that part of said railroad that is in this state, and how much interest shall have been paid by such company during such year ending on the 31st day of the next preceding December, or [on] that part of such indebtedness which is justly chargeable to that part of said railroad that is in this state. The board of commissioners shall prescribe the form and manner in which all reports required from railroad companies under the provisions of this act shall be made, and suitable blanks for that purpose, as by said commissioners directed, shall be provided (*for*) by the secretary of state. The records of said board shall at all times be open to inspection by the governor, secretary of state, attorney general and legislature.

**Gross receipts.**

**Net earnings.**

**Total interest-bearing indebtedness.**

**Prescribe form of report from railroad companies.**

**Blanks provided.**

**Records to be subject to inspection.**

**Power to classify articles of freight.**

**SECTION 13.** Said railroad commissioners shall have power to classify all articles of freight transported on any railroad or parts of railroads, except the articles herein placed in special classes D, E, G and H, placing said articles in either of the general classes herein provided for, or in any of said special classes, except classes D, E, G and H, and are further empowered and authorized to reduce said rates on any of said railroads or parts of railroads, either in general or special classes, when in their judgment, or a majority of them, it can be done without injury to such railroad.

**Actions of commissioners, binding upon**

**SECTION 14.** Any individual, company, or corporation, owning, operating, managing or leasing any of

said railroads or parts of railroads, shall be bound by the decision of such railroad commissioners, or a majority of them, with reference to said rates, and every violation by said individual company or corporation charging a greater or higher rate shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding two hundred dollars for each and every offense, and the injured party shall have a right of action against said individual, railroad company or corporation operating said railroad, in which he shall be entitled to recover three times the amount taken or received from him in excess of the rates prescribed by this act, to be recovered as provided in section seven of this act.

railroad companies, with reference to freights.

Penalty for violation of this act.

Who may have right of action.

SECTION 15. Before entering upon the duties of his office, each of said commissioners shall make and subscribe and file with the secretary of state an affidavit in the following form: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and that I will faithfully discharge the duties of railway commissioner according to the best of my ability; that I am not a stockholder, officer or employe of any railroad or freight company, or in any way interested therein," and shall enter into bonds, with security to be approved by the governor in the sum of twenty thousand dollars, conditioned for the faithful performance of his duty as such commissioner.

Commissioners to subscribe and take oath.

Form of oath.

SECTION 16. Each of said commissioners shall receive for his service not exceeding twenty-five hundred dollars per annum, payable quarterly, and three dollars per day for traveling expenses for each and every day actually traveled in the performance of the duties herein required; he shall be furnished with an office, furniture and stationery and necessary books and maps at the expense of the state. The office of said commissioner shall be kept at Madison, and all sums of money authorized to be paid by this act out of the state treasury only on the order of the governor, provided, that the total sum of money to be expended by said commissioners for office rent, furniture and stationery, shall in no case exceed the total sum of eight hundred dollars per annum.

Compensation

To be furnished with an office.

Office where kept.

SECTION 17. The commissioners shall have the right of passing, in the performance of their duties concerning railroads, on all railways and railway trains in this state free of charge.

Free passes.

SECTION 18. Nothing contained in this act shall be taken as in any manner abridging or controlling the

Rates on through freights.

rates for freight charged by any railroad company in this state for carrying freight which comes from beyond the boundaries of the state, and to be carried across or through the state, but said railroad companies shall possess the same power and right to charge such rates for carrying such freight as they possessed before the passage of this act.

SECTION 19. This act shall take effect and be in force from and after its passage and publication.

Approved March 11, 1874.

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## CHAPTER 274.

[Published March 16, 1874.]

AN ACT for the appointment of commissioners in the matter of the claim of Elias A. Calkins and James K. Proudfit against the state.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :*

**Commissioners** SECTION 1. The secretary of state state treasurer and attorney general are hereby made and constituted a board of commissioners to act in the matter of the final settlement of the claim of Elias A. Calkins and James K. Proudfit against the state.

**Duties of commissioners.** SECTION 2. The said commissioners shall examine and compute the amount of the verdict in the circuit court of Milwaukee county, rendered on the 17th day of November, A. D. 1860, in a case in the supreme court wherein Elias A. Calkins and James K. Proudfit were plaintiffs, and the state of Wisconsin was defendant, with the interest thereon to the date of the examination and award made by them, and they shall deduct therefrom the payment or payments heretofore made on that account, and shall thus ascertain the balance unpaid on such verdict. They shall carefully consider

**Make award.** the evidence of the book printers and book binders on which the verdict in the said case was rendered; and unless they find that said verdict was contrary to such evidence, they shall make award in conformity therewith: *provided*, that they shall also consider the verdict on the "remaining issues" so called in said case, rendered in the circuit court of Milwaukee county on the 26th day of May, A. D. 1868, and if, in their opinion,