

PUBLIC UTILITIES ACT
OF CALIFORNIA.

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C. A. Miller

1912

Public Utilities Act of California

Introduction by President of Commission
Biographies of Commissioners
The Act and its Relations to the Public
Valuation of Public Utilities
Leading Railroad and Public Service Commissions
Constitutional Amendment No. 50
Constitutional Amendment No. 6
Constitutional Amendment No. 47
Public Utilities Election Act
Public Utilities Act
Rules of Practice and Procedure of Commission

COMPILED BY
EUGENE R. HALLETT, MANAGER
LOUIS SLOSS & CO., Investment Securities
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1912

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Preface.

The passage of the "Public Utilities Act", which went into effect March 23rd, 1912, marked the beginning of a new era in the progress and development of the public service corporation in California. We have attempted to make this little book the genesis of public service commission history in this State. The introduction by President Eshelman outlines the attitude of the Commission toward the corporations under its jurisdiction. The chapter devoted to "The Act and Its Relation to the Public", by Commissioner Thelan, who is also attorney for the Commission, outlines some of the things which the Commission expects to accomplish in bringing about cheaper and better service for the public. The views of these two men, who have perhaps been the most instrumental in placing this Act on the statute books, are of particular interest as indicating the future policy of the Commission.

The fundamental element in determining the cost of service is physical valuation of property. Through the courtesy of the local manager of one of the largest engineering corporations in the United States, we are enabled to include a chapter showing the thoroughness and exactness of such a valuation when the work is done by modern, scientific methods. This firm is now making complete physical valuations of the properties of the Spring Valley Water Co., Pacific Gas & Electric Co., Pacific Light and Power Corporation, San Joaquin Light and Power Corporation, and a number of other public service corporations in California and elsewhere. As the securities of these corporations held in California amount in value to millions of dollars, we considered the methods used in ascertaining the physical valuations of their properties would be of much interest to the readers of this book.

We devote a chapter to Commissioner Thelan's report entitled "Leading Railroad and Public Service Commissions of the United States", as it was largely upon the information contained in this report and the recommendations which accompanied it that the Act

was drawn. The discussions therein not only show the trend of public service commission legislation in the various States, but also the theory on which much of this legislation is based.

For convenience as a book of reference, the "Public Utilities Act" has been carefully annotated and indexed, and the important sections relating to the issuance of securities have been set in black-face type. The volume has been compiled for distribution by the Statistical Department of LOUIS SLOSS & Co. in an endeavor to provide a work of interest to the busy corporation official and the student of public service corporation legislation as well, and to further disseminate among investors, both institutional and private, a larger knowledge of the fundamental principles underlying this recent legislation and by so doing to develop a keener appreciation of the added elements of safety and strength back of the stocks and bonds of California public service corporations which come under the jurisdiction of this Act.

EUGENE R. HALLETT.

March 25th, 1912.

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Railroad Commission State of California.

COMMISSIONERS

J. M. Eshleman, President

H. D. Loveland

Alex Gordon

E. O. Edgerton

Max Thelen, Attorney

Charles R. Detrick	-	-	-	Secretary
H. H. Sanborn	-	-	-	Rate Expert
R. A. Thompson	-	-	-	Chief Engineer
H. C. Hazzard	-	-	-	Service Expert
L. R. Reynolds	-	-	-	Auditor
Paul Sinsheimer	-	-	-	Stock and Bond Expert

Introduction.

BY

JOHN M. ESHLEMAN,

President of the Railroad Commission of the
State of California.

In a little more than a year, California has made more fundamental changes in its laws affecting public utilities than have been brought about in most states in a quarter of a century. These changes must necessarily be of interest to the dealers in securities. I am optimistic enough to believe that to the dealers in legitimate securities, they will be of inestimable benefit. A bond is to all intents and purposes a mortgage. It constitutes a lien upon certain property. It is to the interest of those who hold liens on property to know that the property is ample to secure their lien. While the bringing about of this result is not the prime object of regulation of public utilities, yet it is one of the necessary results. The interests of the public and the corporation in this regard are the same. Too often in the past liens have been created upon corporate property through bond issues and the money realized from such bonds diverted from the legitimate needs of the corporation, to make large profits for the promoter and the corporation official, who makes use of the corporation to amass for themselves private fortunes. The public becomes interested because it is from the public that the interest on the bonds and the money necessary to retire them at maturity must be collected through the medium of rates. The proceeds from bonds, then become in effect a trust fund which should be utilized in the production of a property which will adequately furnish the service which the public has a right to demand at reasonable rates.

Therefore, although a menace to those who desire to profit at the public expense, yet the Public Utilities Act, as it now stands upon the Statute Books of California, is to be the best interest of the financier, who must advance capital, the corporation, who should utilize it, and the people at large, who must ultimately repay it.

March 23, 1912.

Biographies of Commissioners

John Morton Eshleman

John Morton Eshleman (Republican) was born at Villa Ridge, Illinois, June 14, 1876, and came to California March 2, 1896. He worked in a railroad camp of the Southern Pacific Company, during which time he studied to prepare himself for admission to the University, entering the University of California in 1898. In 1902 he took his A. B. with highest honors and in 1903 the degree of Master of Arts. He was admitted to the bar and appointed deputy state labor commissioner under Governor Pardee and Commissioner W. V. Stafford. He represented the 52nd District (Berkeley) in the 37th session of the legislature. He was appointed, under District Attorney (now Superior Judge) Everett J. Brown, deputy district attorney of Alameda County, but was compelled by his health to remove to the Imperial Valley. On the formation of Imperial County, August, 1907, Mr. Eshleman was elected its first district attorney, serving out his term. In November, 1910, he was elected railroad commissioner from the third district and chosen as president of the Commission in January, 1911.

Alexander Gordon

Alexander Gordon (Republican), was born in Hants County, Nova Scotia, October 16, 1846. He received a common school education and was brought up on a farm. In 1869 he moved to California, settling in San Joaquin County, where he engaged in the sheep raising industry. In 1875 he moved to Fresno and began the growing of raisins on a large scale. Since 1901 he has made his residence in Sacramento, where he became the vice president and director of the Sacramento Bank. From 1903 to 1907 he served as member of Auditing Board to Commission of Public Works. From 1907 to 1911 he served as member of Consulting River Board, Department of Engineering. Elected member of Railroad Commission November 8, 1910, from the First District.

Harvey D. Loveland

Harvey D. Loveland (Republican) was born in New York in 1853 and received his education in the schools of that State. For nine years he taught school in New York and Kansas, to which latter State he moved in 1876, where he read law and was admitted to the bar in 1881, but after practicing for a few years engaged in mercantile affairs, to which he has since given his attention. He became a resident of San Francisco in 1887. For several years he was connected with two of the largest mercantile institutions on the coast. He has always taken a lively interest in public affairs; was for six years president of the Pacific Coast Jobbers' and Manufacturers' Association; has also recently retired from the presidency of the Transmississippi Commercial Congress. As traffic director and later as president of the Pacific Coast Jobbers' and Manufacturers' Association, he assisted in accumulating the evidence and prosecuting the suits before the Interstate Commerce Commission in defense of the jobbing interests of the coast in what are known as the St. Louis Case, the State Toll Case, the Spokane Case, and others. He is vice-president of the International Mercantile and Bond Company, and president of the Merchants and Manufacturers' Securities Company. Mr. Loveland is also prominent in Masonic circles and is Past Grand Commander of the Grand Commandery of Knights Templar of California. He was a member of Governor Pardee's staff and is paymaster general of Governor Gillett's staff, with the rank of Colonel. He was appointed Railroad Commissioner for the Second District by Governor J. N. Gillett November 23, 1907, to succeed Andrew M. Wilson, resigned. He was elected a member of the Railroad Commission November 8, 1910, from the Second District.

Edwin O. Edgerton

Born in Yreka, California, January 8th, 1876. Educated in the common schools and University of Southern California. Admitted to the bar in 1898. Practiced law eleven years in Los Angeles, California. Became secretary of Municipal League March, 1909. Appointed member of the State Railroad Commission March 13th, 1912.

Max Thelen

Born in Nebraska 1880. Came to San Diego County, California, in 1888. Graduated from National City, San Diego County, public schools and High School. Worked five years on ranch. Entered University of California August, 1900; graduated May, 1904. Harvard Law School 1904 to 1906. In office of Olney & Olney, attorneys-at-law, San Francisco, November, 1906 to May 1907. Assistant attorney and then attorney for Western Pacific Railway Company from May 1907 to April 1911. Attorney California State Railroad Commission April 1911 to date. Appointed member Railroad Commission March 13th, 1912. First secretary and organizer Berkeley Lincoln-Roosevelt Republican Club. Vice-president City Club of Berkeley. Member Commonwealth Club of San Francisco, University of California Club, and American Society International Law. Lecturer International Law University of California. Joint author with John M. Eshleman of Public Utilities Act.

The Public Utilities Act and Its Relation to the Public.

BY

MAX THELEN,

Commissioner and Attorney,

of the Railroad Commission of the State of California.

The Railroad Commission of California was created by the Constitution of 1879. For more than thirty years its jurisdiction was confined to "railroad and other transportation companies," and as to these companies the Commission had power only to fix rates and to prescribe a uniform system of accounts. Finally, in March, 1911, the legislature submitted to the people of this state three constitutional amendments, the purpose of which was to remove certain obstacles in the Constitution to the Commission's effective jurisdiction over railroad and other transportation companies and to authorize the legislature to confer upon the Commission broad powers of regulation and control over the other public utilities of the state as well. The Railroad Commission, anticipating the adoption of the constitutional amendments by the people on October 10, 1911, sent the writer, during the summer of 1911, to visit the leading railroad and public service commissions of the country. The writer made a careful study of the actual working of some twelve of the leading commissions of the country and of the statutes under which they operate, and on his return drafted, together with President John M. Eshleman of the Commission, the new Public Utilities Act. The widest possible publicity was given to the bill after the first draft had been prepared, and the public utilities affected were given every opportunity, both at public hearings and by correspondence, to present fully their objections to the bill, and over fifty of the leading public service corporations of the state availed themselves, through their representatives, of the opportunity so given. The bill was introduced in the Senate, at the extraordinary session of the legislature of 1911, by Hon. Lester G. Burnett on November 28, 1911, and in the Assembly on the same day by Hon. W. A. Sutherland.

It passed the Assembly on December 12, 1911, by the vote of 68 to 1, and the Senate on December 16, 1911, by the vote of 23 to 0, was signed by Governor Johnson on December 23, 1911, and became effective on March 23, 1912.

The Act will be discussed under the following heads: (1) the Railroad Commission; (2) duties of public utilities; (3) powers and duties of the Railroad Commission; (4) procedure before the Railroad Commission; (5) procedure before the courts; (6) effect of the Act on existing powers of incorporated cities and towns; and (7) organization of the Commission for its work.

1. THE RAILROAD COMMISSION.

The reorganized Railroad Commission consists of five members—President John M. Eshleman, H. D. Loveland, Alex Gordon, Edwin O. Edgerton, and Max Thelen, who is also attorney for the Commission. The terms of these commissioners will expire on January 1, 1915. The Governor will thereupon appoint one commissioner to serve until January 1, 1917, two to serve until January 1, 1919, and two to serve until January 1, 1921. The terms thereafter will be six years. The salary of the commissioners is \$6,000 per annum. Each commissioner, when designated by the Commission, has power to hold any investigation, hearing or inquiry, but the order of a commissioner must be approved by the Commission before it becomes effective. It follows that all the commissioners may hold separate hearings at the same time. In this way, the capacity of the Commission for work has been greatly augmented. The office of the Commission is in San Francisco, but hearings are held in such parts of the state as best subserve the convenience of all parties affected.

The Railroad Commission is given power to regulate and control all the public utilities of the state, except that the incorporated cities and towns of the state, including the city and county of San Francisco, retain the powers over public utilities which they had on March 23, 1912, with the privilege, however, of voting those powers into the Railroad Commission. Public Utilities are defined to include the corporations or persons which own, control, operate or manage railroads; street railroads; express companies; sleeping, dining, fruit and other car companies; vessels regularly

engaged in transportation over regular routes between points within this state; pipe lines; gas plants; electric plants; telephone lines; telegraph lines; water systems; public wharves; and warehouses used in connection with the transportation of property by a common carrier or vessel, or the loading or unloading of the same.

The name Railroad Commission is preserved for the reason that this is the name given by the Constitution to the body upon which the legislature is authorized to confer these additional powers.

2. DUTIES OF PUBLIC UTILITIES.

All charges made by public utilities must be just and reasonable. Their service, instrumentalities, equipment and facilities shall be such as will promote the safety, health, comfort and convenience of their patrons, employees and the public. Their rules and regulations must be just and reasonable. They must file with the Commission schedules or tariffs showing their rates, fares and charges and can change the same only on 30 days' notice unless a lesser time is authorized by the Commission. No increase in rates, fares or charges may be made without the permission of the Commission after a showing justifying the increase. No free or reduced rate transportation or service may be given except as specifically authorized by the Act. Preferences and discriminations are made unlawful. Common carriers are forbidden to charge more for transportation for a shorter than for a longer distance over the same line or route in the same direction except after securing the permission of the Commission: a similar provision is made applicable to telephone and telegraph corporations. Railroad corporations must in proper cases provide on their own property such connections, spurs and tracks as may be necessary to accommodate the needs of shippers. Street railroads under the control of the Commission may not charge more than five cents for a continuous ride in the same general direction within the limits of any city or town except on a showing before the Commission that the greater charge is justified. All public utilities must furnish the information concerning their business which may be required by the Commission and permit free access to their records to the representatives of the Commission and comply fully with all orders and directions of the Commission.

3. POWERS AND DUTIES OF COMMISSION.

The Railroad Commission is given very wide powers over the public utilities of the state. The Commission is given power, among others—

- (a) To fix all rates, fares, charges and classifications.
- (b) To establish through routes and joint rates, fares and charges.
- (c) To investigate all interstate rates, fares and charges affecting this state and to apply to the Interstate Commerce Commission or to any court of competent jurisdiction for relief.
- (d) To prescribe just, reasonable, safe and proper service, equipment, facilities and methods.
- (e) To prescribe additions, extensions, repairs and improvements.
- (f) To direct that additional cars or trains be operated and that trains stop with greater frequency and at proper places.
- (g) To direct connections, in proper cases between the tracks of railroad or street railroad corporations.
- (h) To direct, in proper cases, that switch connections and spurs be installed.
- (i) To direct that physical connections and joint rates over two or more telephone or telegraph lines be established in specified cases.
- (j) To direct the use, in proper cases, by one public utility of a part of the property of another utility, on, over or under any street or highway.
- (k) To direct the installation of safety appliances and other devices to safeguard the health and safety of employees, patrons and the public.
- (l) To regulate crossings of railroad tracks and streets or highways in specified cases.

(m) To investigate the cause of accidents and to take steps to prevent their recurrence.

(n) To provide demurrage rules, and rules for the collection and delivery of express packages and telephone and telegraph messages.

(o) To fix standards, classifications, measurements and practices of gas, electrical and water corporations.

(p) To ascertain the value of the property of every public utility.

(q) To establish uniform systems of accounts for each class of public utility.

(r) To permit or refuse to permit new street railroad, gas, electrical, telephone or water corporations to enter a field already served by an existing corporation of like kind.

(s) To permit or refuse to permit corporations mentioned in (r) to exercise rights under new franchises or permits.

(t) To regulate transfers of the property used in the public service of public utilities, except express corporations, wharfingers and warehousemen, and the acquisition by one public utility of stock in another utility.

(u) To regulate and control the issues of stocks, bonds and other evidences of indebtedness of all public utilities within the state.

4. PROCEDURE BEFORE RAILROAD COMMISSION.

Any person or corporation, chamber of commerce, board of trade, or any civic, commercial, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation may by petition in writing, filed with the Commission, complain of any act done or omitted to be done by any public utility in violation, or claimed to be in violation, of any provision of the act or any order or rule of the Commission. Public utilities have the same right to complain. Hearings and investigations may also be held by the Commission on its own initiative. The Commission has adopted Rules of Practice and Procedure specifying

in detail the steps necessary to be taken by parties desiring to file formal complaints or applications with the Commission. These rules provide a procedure which enables the Commission to get at the heart of a controversy or application simply and speedily, without regard to the technical rules of evidence or procedure. A copy of these rules may be secured by any citizen upon application to the Commission. Hearings are held before the Commission sitting en banc or before a commissioner designated for that purpose. After the hearing, the Commission files its decision, which goes into effect within twenty days unless otherwise specified in the order.

5. PROCEDURE IN THE COURTS.

The provisions concerning procedure on appeals in the courts from orders of the Commission have been drawn with considerable care for the purpose of securing a procedure which should be simple and expeditious and should properly protect the Commission and the public. No cause of action may arise in any court out of any order or decision of the Commission except to a person or corporation which shall first have asked the Commission for a rehearing. The Commission, if it finds that it has made an error, can thus modify its decision before litigation in the courts results. If the rehearing is denied, or if after a rehearing the Commission reaffirms its order, any party feeling aggrieved may go directly to the state supreme court for a review of the question whether the Commission acted within its authority in making its order or decision. On the hearing before the supreme court, no new evidence may be introduced, but the matter must be disposed of on the evidence presented to the Commission. In this way the public utilities will be compelled, as they should be, to present their evidence before the Commission, instead of holding it back and then going to the courts and presenting great masses of new and additional evidence which the Commission did not have before it when it rendered its decision. The findings and conclusions of the Commission on questions of fact are made final, thus preventing the great abuse of a complete re-trial in the courts of a case on its facts. If the court suspends the order or decision of the Commission, pending the hearing on the review, the party petitioning for the review must file a bond to protect the parties injuriously affected by the delay

in the enforcement of the Commission's order, and if the Commission's order reduced rates or fares, the supreme court must direct the public utility affected to pay into court or into some bank or trust company paying interest all rates or fares collected by it in excess of the rates or fares prescribed in the Commission's order. If the Commission ultimately wins, all excess rates and fares so collected and deposited must be paid back by the public utility to the persons or corporations who were compelled to pay the same. It is hoped that the procedure thus provided will tend to prevent the long drawn-out court proceedings and the reliance on technicalities to which public utilities have largely resorted in other states to tie the hands of the state, acting through its railroad or public service commission.

The Act prescribes adequate penalties for its violation by public utilities, their officers and employees and by other corporations and persons.

6. EFFECT OF ACT ON POWERS OF INCORPORATED CITIES AND TOWNS.

Although the language of the Public Utilities Act conferring powers upon the Commission is very general in its terms, the Act, following the provisions of Section 23 of Article XII of the Constitution of the state, as amended on October 10, 1911, specifically provides that nothing therein contained shall affect the powers over public utilities vested in any city and county or incorporated city or town at the time the Act should go into effect, which was March 23, 1912. The result of this provision is that the city and county of San Francisco and the incorporated cities and towns of the state retain such powers of control as were vested in them on that day until they vote them into the Commission if they so desire. The most important of these powers are the power to fix rates and fares, a power which most, if not all, of our incorporated cities and towns have as to many public utilities, and the power to regulate the service, equipment, facilities and extensions of public utilities, a power which some of our cities have secured by their freeholders' charters or otherwise. The question as to what powers are vested in the Commission and what powers in the

municipality must be answered separately as to each municipality and will depend on the constitutional, statutory and charter provisions applicable to each such municipality.

Section 23 of Article XII of the Constitution of this state also provides that the legislature shall establish the election machinery by which the incorporated cities and towns of the state may, if they so desire, confer their powers as to any or all classes of public utilities upon the Commission. The extraordinary session of the legislature accordingly passed a companion act to the Public Utilities Act, referred to as the Hewitt Election Act, introduced in the Senate by the Hon. Leslie R. Hewitt, passed by the legislature, approved by Governor Johnson on January 2, 1912, and effective on March 23, 1912. The Hewitt Act provides that an election for this purpose may be called in any city and county, or incorporated city or town, by the legislative body thereof either on its own initiative by a three-fifths vote of its members or in pursuance of a petition signed by 10 per cent of the qualified electors and filed with the clerk of the legislative body. A majority of the votes cast on any proposition submitted at the election is sufficient to confer upon the Commission power over the public utility affected by that proposition. If the city or town has voted its powers as to any class of public utilities into the Railroad Commission, it may thereafter by a similar vote reinvest itself with such power.

The Commission has no power over municipally owned plants. The same Section 23 of Article XII of the Constitution, under which the legislature acted in passing the Public Utilities Act, in defining the corporations and persons to be affected, uses the words "every private corporation," thereby excluding by inference a municipal or other public corporation.

7. ORGANIZATION OF COMMISSION FOR ITS WORK.

In order to be able to handle the great amount of business which it will be called upon to perform under the Public Utilities Act, the Commission has organized its work thoroughly and systematically. It has provided the following six departments: (1) office; (2) legal; (3) rate; (4) engineering; (5) statistics and accounts; and (6) service. The office department consists of the secretary

and his staff and will perform the administrative work of the Commission. The legal department will represent the Commission in court, advise the Commission and each commissioner on all questions of law, supervise all formal proceedings before the Commission and have particular responsibility as to applications for permission to issue stocks, bonds or other securities. The rate department will handle all matters affecting the rates of all public utilities. The engineering department will perform the Commission's engineering work as to all public utilities and its service work as to railroad and other transportation companies and water corporations. The department of statistics and accounts will work out a system of accounting for each class of public utilities, wherever feasible, will edit the annual and other reports of public utilities to the Commission, and will furnish the necessary information from the records of the public utilities in cases of rate fixing, approvals of stock and bond issues and kindred matters. The service department will have supervision over the quantity, quality and safety of the service rendered to the public by gas, electrical, telephone and telegraph corporations and wharfingers and warehousemen. Each department will have its work properly subdivided so as to secure as far as possible men peculiarly fitted to handle each kind of work which the Commission will be called upon to perform, to the end that the Commission's business may be disposed of promptly and efficiently.

The problem of placing the relation between the public utilities and the people on a basis which shall be fair and reasonable and just is the greatest problem which faces this state to-day. It is an economic problem and affects directly the comfort and prosperity and happiness of every man, woman and child in this state. The framers of the Public Utilities Act hope and believe that the administration of that Act will prove of tremendous benefit to the people of this state, while at the same time winning for the public utilities a measure of confidence on the part of the traveling and consuming and investing public which they otherwise could not possibly have won. The writer trusts that the administration of this Act will conduce materially to the end desired by all good citizens—the happiness and prosperity of this great state and of all her people.

Valuation of Public Utilities

The valuation of public utilities is a complex task that involves the determination of the fair market value of the property owned and operated by the utility. This process is essential for the equitable distribution of the utility's assets and liabilities, particularly in the event of a liquidation or reorganization. The valuation process typically involves the identification of the utility's assets, including its physical infrastructure, such as power lines, gas pipelines, and water mains, as well as its intangible assets, such as its franchise rights and its customer base. The value of these assets is then determined by comparing them to the market value of similar assets, taking into account the unique characteristics of the utility's property and the specific circumstances of the valuation. The valuation process is often a subject of dispute, as the utility's management and the liquidators may have different views on the value of the utility's assets. The liquidators may argue that the utility's assets are worth less than the management claims, while the management may argue that the utility's assets are worth more. The court, in such cases, will typically rely on the expert testimony of the valuation experts to determine the fair market value of the utility's assets. The valuation of public utilities is a critical component of the liquidation process, and it is essential that the valuation be conducted in a fair and equitable manner. The liquidators must ensure that the valuation process is transparent and that the utility's assets are valued at their true market value. This will ensure that the utility's assets are distributed to the creditors in a fair and equitable manner, and that the liquidators are able to satisfy the claims of the creditors in full. The valuation of public utilities is a complex task that requires the expertise of valuation experts and the oversight of the court. The liquidators must ensure that the valuation process is conducted in a fair and equitable manner, and that the utility's assets are valued at their true market value. This will ensure that the utility's assets are distributed to the creditors in a fair and equitable manner, and that the liquidators are able to satisfy the claims of the creditors in full.

Valuation of Public Utilities.

BY HENRY A. LARDNER,

Manager of San Francisco Office, J. G. White & Co., Inc.

The unmistakable trend of the times is toward the regulation and control of all public service or utility corporations by the creation of State Commissions endowed with broad powers, and the broadening for that purpose of the powers of those older commissions created primarily for the regulation of common carriers.

As the regulation of a public utility usually begins with an investigation of the cost and the fairness of its charges for service, and as these have or should have a definite relation to the value of the investment or physical property, it follows that before the equity, or otherwise, of rates can be established, it becomes necessary to determine beyond question the fair value of the property or plant of the company under investigation.

This, together with the limitation by the Commissions, both as regards the class and amount of securities which a public service corporation may issue, and the increasing demand of financial institutions for more detailed information regarding the corporations in which they are interested, has resulted in the development of an entirely new branch of engineering, viz., the detailed valuation of corporate assets.

Before the institution of public utility commissions, the necessity of knowing in detail a corporation's actual assets and their value was not realized to anything like the present extent, and without this incentive it is safe to say that a large majority of corporations neglected to obtain this valuable information. Since this data may now be called for by the Commissions, the public utility corporations have awakened to a need of these valuations, which they at first were disposed to look upon as a burdensome and unnecessary expense, but which on the contrary they are actually finding of the greatest value to themselves in making a comprehensive analysis of their own affairs.

The making of a competent physical valuation is a very considerable undertaking, and to arrive at the full and ultimate value of the property, it must be made in great detail. To do this and to have the work accomplished with expediency and economy, a valuation organization must include the necessary executive and engineering experience to properly direct the field and office staff.

As in construction engineering, so also, in appraisal engineering are the best results only obtained by such engineers having in their employ specialists in each branch of the many which go to make up the large public service corporations of to-day, as an appraisal such as is now demanded by many of the financial institutions and the Commissions in order to meet all requirements and justify the outlay involved, necessitates, not only an intimate and thorough knowledge of the construction entering into the properties being valued, but a thorough and intimate knowledge of their operation and management as well. Only by such a combination can full justice be done, and much of hidden value be discovered and properly tabulated.

In arriving at the value of a property two general methods may be followed. First, in the event of the Company's records and books having been carefully kept, these should give, with a fair degree of accuracy, what has been expended in the actual construction, which plus certain charges which most companies frequently fail to take into account, should represent the original cost.

This method, when applied alone, however, is open to objection, as aside from the fact that a company's books seldom contain all the information required, a field check is in nearly every case necessary in order to verify the records or to ascertain what changes, additions or deductions have been made since the date of original construction. Furthermore, the fundamental basis recognized by both the Courts and Public Service Commissions on which the value is to be arrived at is the Cost of Reproduction; that is, the cost of reproducing the property as it actually is at the time of the appraisal. Therefore, while the cost as ascertained from the books may be of historic interest and of assistance in settling many of the complex questions which naturally arise in work of this character, it is by no means conclusive.

The second and most universally accepted method is to determine the value by an actual field inventory and inspection of the property.

This field inventory method involves (1) the preparation of a complete inventory of all the property of the company; (2) a study of the local conditions affecting the cost of all work, the age and condition of each part of the construction, machinery or plant; (3) the determination of fair unit prices, and the application of such prices to the verified inventory; (4) study and allowance of overhead charges.

By the combination of the detailed inventory, unit prices, and the proper overhead charges, the value of the physical property is derived, and if desired, these results may be tabulated and segregated so as to indicate the location of the company's property in any desired geographical or physical division, and its use for the generation, the distribution, or other functions of its products.

The first and most important step in the valuation of an enterprise is the inventory and valuation of the physical property.

The proper direction of the field parties is of great importance, and detailed reports covering their progress, the amount of work done, and conditions as found should be forwarded to the office at the end of each day's work; also such requests for additional data, maps or plans as may be required not only for the work upon which they are immediately occupied, but for that in prospect within the immediate future, say from five to six days.

The best results are obtained by splitting the staff into different groups or divisions, each group of engineers being in charge of a field chief, these latter being under the direction of and reporting to the manager of the department having the appraisal work in charge.

The progress of the parties in the field as well as, of course, the office staff, must be carefully followed in order not only to have the work done properly, but that there may be no duplication or lost motion, and that the client may receive full value for his expenditures.

The field notes which should show as far as may be necessary, the actual details and design, form a complete and valuable record, which, aside from their purpose of arriving at the value of the property, often prove of great future value.

Field Inventory
Method

Inventory &
Valuation of Property

Field Notes

The preparation of the Cost Data and Unit Prices, is a feature of the appraisal which demands and should receive the most careful consideration, involving as it does the cost of all material entering into the construction, labor prices, from day labor to the engineering and executive organization, freight rates, hauling, warehousing, etc. In every case prices should be prepared to cover the construction at the place where the inventory is taken. This necessitates the applying of the unit prices covering the article, and if any distance from the market, freight or team allowance, or both, as the case may be, plus storage, purchasing, handling, etc., together with such elements as may enter into each case.

Prior to the preparation of the unit prices, however, a study of the situation should be made by the chiefs of departments, they checking all field notes, and making a careful survey of the various factors involved for the purpose of arriving at the proper charges covering the construction of such work as may have been done under other than normal conditions, such as heavy hauling in mountainous or difficult countries, inaccessibility to railroads, etc., and proper provision made for costs to the company of work which could not be avoided at the time of construction without denying to the public the benefits of the service until such time when the construction might have been carried out under more favorable conditions.

The cost arrived at should not necessarily be based on doing all the work at any one time, but due consideration should be given to the manner in which the work was actually done, and if it extended over a term of years, the proper allowance made therefor.

In view of the many stages and developments through which the large plants have passed with resultant frequent reconstruction, every endeavor should be made to obtain as intimate and correct knowledge of the construction and development of the business as is possible to secure, as only in this way can full justice be done to the work for which the engineers have been employed.

Records should be investigated, and insofar as possible, such data as may be secured, either verbally or by means of such records, used in making such deductions as may be necessary in order to arrive at the proper conclusions. These investigations will not only

Preparation of
unit prices.

serve the purpose of bringing to light certain facts in regard to the construction of the plant in use at the time of the inventory, but will also enable the engineer to understand and show what portions of the properties, owing to the advance of the art, or other causes, are not in use or have had to be abandoned.

In every valuation it is necessary to bear in mind and to consider that improvements, methods, and inventions have revolutionized utility service, often necessitating, at great expense, the substitution of new apparatus before the old had run its useful life.

This latter is brought out for the purpose of fixing in the mind of the engineer the necessity for a proper allowance for depreciation covering other features than simple wear and tear, as for instance, obsolescence, inadequacy, etc. Every company must of necessity protect itself against all these different phases of depreciation.

A thorough understanding of depreciation and its proper application to the various elements is essential as otherwise a grave injustice may be done to the company not only in the application of depreciation on the construction work done, but also in the provision which may be required out of earnings for future depreciation. This in itself requires careful thought and study of the various elements entering into the construction of a public service enterprise, and a thorough understanding of the history, use and condition of the various component parts in order to determine the rates of depreciation to be applied and provided for, as well as the method by which these results are to be obtained.

Depreciation

In addition to the value of the property as obtained by a careful inventory of its different component parts, there are, of course, other values which attach thereto, sometimes called intangible, but which, as a matter of fact, are quite as tangible as those pertaining to the physical property and which must be carefully considered and included in the valuation.

*Intangible
Property.*

In arriving at the cost to reproduce an operating property it is necessary to divide the time from the inception of the project to the present condition of the business into three distinct periods, as follows:—

*Cost of
Reproduction*

Organization Period, or the period from the inception of the project to the time when the necessary financial arrangements are completed, franchises and permits secured and everything in readiness for actual construction. This period involves the study and application of such allowances as may be proper for promotion expenses, legal services, preliminary engineering, surveys, reports, incorporation expenses, printing and engraving, discounts on securities, etc.

Construction Period: This period covers the time between the end of the promotion or organization period and the completion of the construction and final tests and necessitates a close study on the ground of all plans, methods of construction, classes and quality of materials used, methods employed, cost of various materials, labor, freight, hauling, engineering, in short, the cost of the labor and materials necessary to reproduce a structure after the plans are made, the materials purchased and the organization completed, and includes in the cost of the material the actual cost delivered to the job and in the cost of the labor such men and superintendence as may be directly chargeable to the work.

There should then be added, usually in the form of a percentage, certain other expenses generally known as "overhead charges", the amount of which varies with the nature of the construction. These "overhead charges" cover such disbursements as may have been made for Administration, which covers salaries and office expenses of General Office, Purchasing, Accounting, Legal, etc. Interest on money used in the construction from the time of its acquisition to the time the property is ready for operation, less any interest received on money deposited during the construction period. Taxes, such as State, County, Municipal, and other taxes on property acquired to the actual beginning of operation; Liability Insurance, such as employees' hospital and medical expenses, adjustment of claims, final adjustment, etc., or where this is covered by insurance, such premiums as may be paid to Liability Companies. Engineering and Engineering Supervision, such as salaries and expenses of engineers and staff, preparation of plans and specifications, field engineering records and progress reports, superintendents, inspectors and general foremen, tests, trial runs and outside inspection, etc.

Contingencies, which covers unforeseen expense due to delays, strikes, floods, quicksand, uncertain foundations, loss and breakage, change of plans, loss by fire, etc. Omissions from inventory, due to incomplete records, inability to inspect on account of construction being submerged or buried, as well as property entirely overlooked. Tools and Plant, which covers tools lost, worn out or broken, maintenance and repair of tools, and wear and tear on construction plant, where these are not included in the itemized cost.

Business Development Period: This period covers the cost to the company of developing its business to the point where it is an earning property with an income sufficient to cover the necessary interest on its investment, cost of operation, taxes, depreciation, etc. There are various methods of arriving at the cost of this development period, some of which have had the recognition of the Courts and Public Service Commissions.

Considering that this valuation work may be the basis for sale, issuance of securities, or regulation of rates, the work should be done in such a manner, both on the detailed inventory and the assembling and pricing of data, as to comply with the demands of the financial interests and the public service commissions, and to inspire them with confidence that the appraisal has been thoroughly and fairly made, and that the methods employed and the values derived have been proper and justifiable.

It is also necessary and of importance that the field inventory, pricing and assembling of data be done in such a manner that each step may, if necessary, be easily verified, as it is frequently the case that the engineers who have made the original appraisal, although having the subject and the value well in mind, are not always available when some question arises, necessitating a segregation or analysis of certain quantities or prices. An inventory and appraisal in order to answer the purposes for which it is intended should not only show the values of the component parts and their totals, but should be made in such a way that the items making up these totals can be easily identified and checked.

There is no doubt that impartial appraisals of properties will in future be looked upon as of as much importance and necessity as

Value of
Appraisals

stock taking, or an audit of the company's books, as only in this way can a company arrive at a thorough knowledge of its condition.

It frequently happens that appraisals give the officials of a company an added insight into its affairs, and disclose conditions not before dreamed of, and often prove conclusively that the company is not obtaining a proper return on portions of its investment.

It is the experience of appraisal engineers that corporations undertaking physical valuations have greatly enlarged their ideas as to the utility of these statistics, and frequently during their preparation have called for ramifications in form with many possible uses in view, far beyond the original ideas; Furthermore, the field notes, records, drawings and tabulations collected by the appraisers form the basis of a complete and detailed record of the company's affairs from a physical standpoint and are of inestimable value. This is particularly true when the proper records have not been kept during the construction or operation of a property, or where such records have been lost or destroyed.

It has developed that with an organization trained in the making of detailed valuations, the cost of doing the work is remarkably low in view of the great value which has been found to attach to the data collected and compiled.

As the time is approaching when all public service corporations will of necessity be valued either for rate making, the issuance of securities, or both, and as such valuations cannot with fairness to the companies, and to carry conviction, be hurriedly or superficially prepared, it would seem the part of wisdom to anticipate this requirement. A valuation once properly prepared can, at relatively small clerical and engineering expense, be so kept up to date as to at any time show the true physical assets of the company and successfully pass the scrutiny of Commissions and the Company's financial sponsors.

Leading Railroad and Public Service Commissions.

By MAX THELEN.

Railroad Commissioner and Attorney for the Railroad Commission of the State of California.

To the Honorable the Railroad Commission of the State of California.

GENTLEMEN: On June 26, 1911, your Commission adopted a resolution directing me to visit the leading railroad and public service commissions of the country and the Interstate Commerce Commission, for the purpose of investigating "the powers and workings of said commissions, the steps which they may be taking to secure the physical valuations of the properties of the public utilities over which they have control, and proceedings in the matter of establishing express and other rates and office organization, and the litigation in which they may be involved, so that this Commission may be better able to advance and safeguard its similar work within the State of California," and to present to your Commission a report in writing of the results of my investigation. Acting under these instructions, I left San Francisco on July 3, 1911, and visited the railroad or public service commissions of Oregon, Washington, Nebraska, Minnesota, Wisconsin, New York, Massachusetts, Maryland, Georgia, Texas and Oklahoma, and the Interstate Commerce Commission, returning to my duties here on August 22, 1911.

I talked with nearly all the commissioners and department heads for the purpose of ascertaining the work being done by each commission and its respective departments. I also bore in mind the necessity of passing a statute in this State after the adoption of the constitutional amendments affecting your Commission, and

Investigation of the systems of other Commissions.

Commissions visited.

Legal questions particularly investigated. made inquiries from all the commissions concerning the working of their particular statutes and the amendments, if any, which have recently been adopted, or which the respective commissioners might have to suggest. I present herewith my report, by states, in the order in which I visited them.

Oregon.

I.

INTRODUCTION.

Jurisdiction modeled after Wisconsin statute. The Railroad Commission of Oregon was created by Act of February 18, 1907. The Commission exercises control over all railroad, union depot, terminal, car, oil, tank line, sleeping-car, freight, freight line and express companies, except street and other railroad companies lying entirely within the limits of a city. The act is modeled largely on the Wisconsin statute, and follows it as to procedure on appeal from the orders of the Commission and control of rates, service, facilities and equipment.

Oregon has no stock and bond law and no public convenience and necessity or indeterminate permit law. A proposed public utilities law, passed by the legislature of 1911, and signed by the Governor, was held up by a referendum and will not be voted upon until November, 1912.

II.

ORGANIZATION AND OFFICE SYSTEM.

Commissioners elected. *Devote entire time to work.* *The Commission.*—The commissioners are Clyde B. Aitchison, Chairman, a lawyer; Thomas K. Campbell, a lumberman; Senator Frank J. Miller, a foundryman and labor leader. The term of office is four years and the salary \$4,000.00 per year. Two of the commissioners are elected from the two congressional districts of the state and the third at large. The statute provides that no commissioner shall pursue any other business or vocation. Mr. Aitchison tells me that this provision is observed. The statute also provides that each commissioner "shall devote his entire time to the

duties of his office." Oswald West, the present Governor of Oregon, made his record as a member of the Railroad Commission and was elected while such commissioner. Mr. Aitchison was formerly clerk of the Tax Commission, then secretary of the old Board of Railroad Commissioners, then appointed by Governor Chamberlain in 1907, and then elected by the people, and has been chairman of the board since January, 1911.

Employees.—The Commission employs a secretary at a salary of \$2,000.00 per year; a rate expert at a salary of \$2,000.00 per year; an engineer at a salary of \$2,000.00 per year; an assistant engineer at a salary of \$1,500.00 per year, and a stenographer at a salary of \$1,200.00 per year. The Commission also at times calls in a consulting engineer, particularly for inspection purposes. The consulting engineer is paid only for such time as he devotes to the work. Mr. Aitchison showed me a quarterly bill for such engineer amounting to \$170.00. *Employee's salaries.*

Office System.—The secretary uses a decimal filing system. This system will be discussed more in detail in connection with the Public Service Commission of the Second District of New York. Rates in effect are filed in cases with pockets, both numbered. Rates which have been superseded are pasted into scrapbooks about four inches thick with leather backs and then stored. Both the effective and the superseded rates are indexed by a card system. In the case of commodities, this is a triple index, being arranged as to (1) issuing railroad with its filing number, (2) Commission's filing number, (3) commodity. *Statistical files.*

The library is well kept up and contains an almost complete set of state railroad commission reports. It also contains a large number of stockholders' reports of the different railroad companies. The Commission has secured practically a complete set of these reports, in so far as the railroads of Oregon are concerned.

III.

PHYSICAL VALUATION.

The Commission is now engaged in ascertaining the value of the railroad properties within the State. No findings have been

*Method of
ascertaining
physical valuation.*

made as to any particular railroad, but the work is being carried on as to all of them. A formal notice was prepared and addressed to each railroad, reciting that pursuant to the provisions of the statute, the Commission would, on a day certain, proceed to investigate to ascertain the matters specified in the statute; that the investigation would be continued from time to time and from place to place as might be found desirable; and that the railroads would be entitled to appear and be heard and to have process to compel the attendance of witnesses. The railroads thereupon appeared and all of them, with the exception of the Southern Pacific Company, have furnished data concerning both the original cost of construction and the present cost of reproduction. A form of return, practically identical with that prescribed by the Interstate Commerce Commission in its classification of expenditures for road and equipment, was prepared by the Commission and sent to each of the railroads. The information requested has been furnished on these forms by all of the railroads, except the Harriman lines, which used slightly different forms. Upon receipt of the information required, a hearing is had. A large portion of the testimony is generally devoted to the question as to the relative sum necessary to be paid by the railroad companies for right of way in excess of its real value. The Oregon Commission seems to follow in this respect the Minnesota Commission, which established a multiple of three as to country land, and about one and twenty-five hundredths as to city terminal property. The results of these investigations will be published in the annual report, but not in as much detail as the Washington findings, and will be used, but only in conjunction with other elements, in fixing rates.

Multiple used.

*Work of
Engineer.*

I examined in detail the work now being done by Engineer W. H. Earl of the Commission along these lines. Mr. Earl has examined the original records, such as profiles, vouchers, and contracts to be found in the railroad offices, and in this way has secured complete data concerning the original cost of construction of most of these lines. For some of the lines, he has worked out in detail the cost of reproduction, according to unit prices. He has worked out carefully a series of unit prices for the different kinds of material used in railroad construction. His results were secured by ascertaining the price actually paid in a large number of cases,

and striking an average. Chairman Aitchison of the Commission considers the work which the Commission has done in this matter to be of very considerable merit. Mr. Earl has found the quantities as submitted by Mr. Pope of the Harriman lines to be generally about correct, but points out the necessity of scrutinizing with the greatest of care the last items on the list of expenditures, such as freight for men and materials, legal expenses, equipment, interest and commissions. These last items alone raised the valuation submitted for one of the Harriman lines from about \$29,000,000 to about \$40,000,000.

IV.

PUBLIC UTILITIES.

As already stated, the act of the legislature of 1911, making the Railroad Commission the Public Utilities Commission of Oregon and raising the salaries of the commissioners from \$4,000.00 to \$5,000.00 a year, has been held up by a referendum. The opposition came from citizens of Portland who had prepared an amendment to their city charter providing for a City Public Service Commission. After the referendum had been invoked, the Portland measure was defeated at a city election. The result is that one measure for control has been defeated and the other is held up.

Chairman Aitchison condemns strongly the provisions of Senate Constitutional Amendment No. 47 to be voted on in this state on October 10, 1911, providing that incorporated cities and towns may retain the powers which they now have with respect to public utilities. He is strongly of the opinion that all the powers with reference to public utilities ought to rest in the state board.

*Commissioner
condemns
Amendment
No. 47.*

V.

RATE MAKING.

Chairman Aitchison is of the opinion that the cost of reproduction basis for rate fixing purposes is fraught with very serious dangers. He feels that rates fixed on that basis are likely to become inordinately high, particularly if in ascertaining the cost of reproduction, the right of way and terminal grounds of the railway

*Discussion of
methods used as
basis for rate
making.*

companies are valued as of the present time. He thinks that it is not fair to the public to establish a rate on the value of real property immensely enhanced by the growth of population of adjacent territory. He states that rates based on 7 per cent of the cost of reproducing the Pennsylvania railroad system to-day would be absolutely prohibitive. He is of the opinion that a state commission, in fixing rates, must consider all the other matters suggested in the case of *Smyth vs. Ames*, 169 U. S. 464, such as the original cost, market value of stocks and bonds, density of traffic, density of population, etc. I find that all the western commissions are very much exercised over the cost of reproduction as the basis for fixing rates, particularly when the cost of reproduction includes the unearned increment. This fear has been very much accentuated by the decision of Judge Sanborn in the Minnesota rate case, in which case the value of the railroads as found by the Master was, according to one of the Wisconsin commissioners, at least 50 per cent in excess of the value as shown by the evidence.

VI.

EXPRESS RATES.

*Wells, Fargo &
Co. obeys
Commission's
order to reduce
rate.*

I went through the Commission's file in case number 121, being an investigation instituted February 15, 1910, into the rates of Wells-Fargo & Company on property taking merchandise and general special rates or multiples thereof. The Commission made its order July 12, 1910, reducing somewhat the rates in effect. On rehearing, the Commission modified its final order by reducing somewhat the reductions contemplated. The express company thereupon complied with the order. I find that Oregon and Montana are probably the only states in which Wells-Fargo & Company has complied with orders of state commissions reducing express rates. In Iowa, Illinois, Indiana, Missouri and Oklahoma, the express companies have secured injunctions against the respective commissions. In the last two states, the Commissions have been tied up in this way for over two years.

I read the transcript of the testimony in the Oregon case and looked through the exhibits, and have made notes thereon.

VII.

LITIGATION.

On July 3, 1911, the day before I reached Portland, Judge Bean, sitting in the Federal Circuit Court, sustained the demurrer of the defendant railway commissioners in the case of *Southern Pacific Company vs. Campbell*, in which case the complainant had secured an injunction, restraining the enforcement of an order of the Commission reducing class rates in the Willamette Valley. Judge Bean in his opinion points out the necessity of showing the specific facts which are relied upon to make out a case of confiscation of property. On the question of interference with interstate commerce, he reaffirms the decision in the case of *Oregon Railway and Navigation Company vs. Campbell*, 173 Fed. 957; 177 Fed. 318; 180 Fed. 253. In this latter case, Judge Wolverton reached a decision on the question of interference with interstate commerce directly at variance with the decision of Judge Sanborn in the Minnesota Rate Case. The Oregon case and the Minnesota case together with the Arkansas case will be heard before the Supreme Court of the United States at the October term.

Decision at variance with that in Minnesota rate case.

In the Portland Railway, Light and Power Company case an appeal has been taken to the United States Supreme Court from an order of the Commission reducing suburban fares out of Portland. In this case a state judge granted an injunction which is still in effect. The railway company is supposed to issue to each passenger a receipt for excess fare paid, the receipt to entitle the holder to a refund in case the order of the commission is ultimately sustained. Mr. Aitchison is of the opinion that in cases in which the Commission's order as to rates is enjoined by the corporations, the mere giving of a bond furnishes but little relief.

VIII.

GRADE CROSSINGS.

The Oregon Commission has power under section 28 of the statute to compel the installation of safety devices at crossings of railroad and highways but no power to compel a separation of grades. The commission in its report for 1910 points to the great

Commission recommends abolishment of grade crossings.

expense which is being incurred by most of the eastern states in order to abolish grade crossings and recommends a statute like that of Washington prohibiting the future construction of grade crossings except in cases where upon investigation by the railroad commission it has been found practicable to establish such a grade crossing. The legislature of 1911 failed to pass such a law for the reason that the people of the West do not seem as yet to realize the very great importance of the question of the abolition of grading crossings. Mr. Aitchison, however, is of the opinion that the next legislature will pass the desired statute.

IX.

COMPLAINTS TO INTERSTATE COMMERCE COMMISSION.

*Commission
co-operates with
Interstate
Commerce
Commission*

Section 47 of the Railroad Commission Act makes it the duty of the Commission to investigate interstate freight rates affecting Oregon and to request of the railroads such changes as the Commission may consider necessary and thereafter, if the changes are not made, to apply by petition to the Interstate Commerce Commission for relief. The statute also provides that the railroads must file with the Commission all freight tariffs relating to interstate traffic. Mr. Aitchison considers this matter of complaint before the Interstate Commerce Commission on the part of the state commission to be of considerable importance. His Commission is now taking up with the Interstate Commerce Commission the matter of Interstate wool rates, affecting shipments from eastern Oregon. The Commission does not take up with the Interstate Commerce Commission matters of a merely individual or local interest, as is done by the Oklahoma Commission, but confines its work along these lines to rates affecting a considerable traffic within the state.

X.

CAR FOR TRACK SCALE TESTS.

*Special car
transported free
by railroads.*

The matter of the correctness of track scales seems to be of considerable importance in both Oregon and Washington. The legislatures of both states in 1911 provided for the joint purchase

by the two railway commissions of a car for the purpose of testing track scales, and for the transportation of such car free by the railroads.

XI.

LONG AND SHORT HAUL CLAUSE.

While there is no long and short haul clause in the Constitution of Oregon or in the Railroad Commission Act, the Supreme Court of Oregon has held that the provisions of the statute against undue discrimination are equivalent to such a clause. The legislature of 1911 accordingly granted the Commission power to authorize departures from this prohibition. *Discrimination prohibited by statute.*

When application is made for permission to deviate from the long and short haul clause, the Commission notifies the municipalities and commercial bodies along the line of the railroad in the territory affected. In only one case has the Commission granted the desired permission.

XII.

CO-OPERATION.

Chairman Aitchison suggests that it would be well to form a Pacific Coast Railway Commissioners' Association, to consist of the commissioners of Oregon, Washington, California, and Nevada, and to hold frequent conferences concerning matters which are of interest to all the Commissions. This suggestion is particularly valuable, in view of the fact that in Washington and Nevada the legislatures of 1911 conferred upon the state railroad commissions the power to regulate public utilities, while in Oregon such statute has been passed and will go into effect at least by November of next year. California, in entering upon her problem of regulating public utilities, can doubtlessly secure very material assistance from these other states. All these four states are likewise interested in the valuation of the Harriman lines, and should, if possible, take concerted action in this matter. *Pacific Coast Railway Commissioners Association suggested.*

Washington.

I.

INTRODUCTION.

Jurisdiction.

The Public Service Commission of Washington was created by statute of 1911 to take the place of the former railroad commission, which was established in 1905. The Railroad Commission's powers were enlarged so that the present Public Service Commission has jurisdiction over railroad, street railroad, steamboat, express, car, sleeping car, freight, freight line, gas, electric, telephone, telegraph, water, wharfinger, and warehouse companies, except municipally owned plants. The statute is carefully worked out, containing first a general introduction, then provisions concerning the duties of each separate class or utility subject to the control of the Commission, then provisions prescribing the powers of the Public Service Commission as to all these companies, then provisions concerning procedure before the Commission and the courts, and finally provisions concerning construction and repeal and a saving clause.

II.

ORGANIZATION AND OFFICE SYSTEM.

Commissioners appointed.

Devote whole time to work.

The Commission.—The commissioners are H. A. Fairchild, chairman, a lawyer of unusual ability; J. C. Lawrence; and Jesse Jones, a labor leader. The term of office is six years, with intervals of two years between expirations, and the salary of the commissioners is \$5,000.00 per year. The commissioners are appointed by the governor. The statute contains a provision to the effect that no commissioner shall engage in any occupation or business inconsistent with his duties as commissioner. The commissioners all reside in Olympia, the state capital, and the Commission is in session practically all the time. To my mind, one of the principal reasons for the undoubted efficiency of this Commission is the fact that the members, in addition to being well qualified, are on the job all the time. The business of the Commission is conducted promptly and efficiently. While I was in Olympia, several matters came up concerning new rates which the railroads desired to put into effect.

The chairman of the Commission promptly telephoned to the railroad authorities in Seattle, found out exactly what was wanted, and settled the matter then and there.

Employees.—The employees of the Commission are F. M. Larned, secretary, at a salary of \$3,000.00 per year; O. O. Calderhead, rate expert, at a salary of \$3,000.00; Harry L. Gray, engineer, at a salary of \$3,000.00; an inspector of safety appliances, at a salary of \$3,000.00; a telephone expert, at a salary of \$3,000.00; an accountant, at a salary of \$1,800.00; and about sixteen other employees, of whom about six are stenographers and ten employees of the engineer.

Salaries of employees.

Office System.—The office is divided into different departments, the secretary being at the head of the administrative department, the engineer at the head of the engineering department, and the rate expert at the head of the rate department.

Departments.

III.

PHYSICAL VALUATION.

By far the most important work which has been performed by the Washington Commission has been the valuation of the railroads of the state. Section 92 of the Act of 1911, being an amendment of a similar provision in the earlier statute, provides that it shall be the duty of the Commission to ascertain the numerous items specified in the statute relating to the value of the railroads of the state and to hold a hearing thereafter to ascertain these matters, upon notice to the company, and then to make its findings, with the right of review on the part of the corporations. I read the entire first volume of the transcript of the testimony on the investigation into the value of the Great Northern and other railroads. The proceedings were conducted like court proceedings. Chairman Fairchild presided and ruled on the admissibility of evidence. The Commission, through the Assistant Attorney General, put Engineer Gillett and the other employees of the engineering department on the stand and through them introduced their tabulations concerning the cost of construction of the railroads, land values, and so on. Rate Expert Calderhead was then put on to testify as to rates, movement of traffic, cost of operation and similar matters. After the railroads

Methods of investigation to ascertain physical valuation.

had presented their case, the findings were prepared. As these findings are by far the most complete of their kind in the country, I wish to refer here to the nature of the findings in the Northern Pacific case. The Commission there made findings on the following facts:

*Facts on which
Commission
made findings as
to physical
valuation.*

1. Financial history of the railroad in Washington, with dates of construction of the main and all branch lines, and the financial history of the subsidiary corporations.
2. Original cost of main and all branch lines.
3. Cost of improvements and betterments.
4. Amount allowable for discount, general expenses and interest during construction.
5. Amount of depreciation of the various structures (Gillett's tables).
6. Original cost and cost of reproduction of all equipment.
7. Cost of reproduction of all rights of way and terminal grounds.
8. Property owned by railroad, but not used for operation.
9. Character of country traversed.
10. Density of population and traffic.
11. Sources from which capital was derived; total bonded indebtedness; market value of stock and bonds over a period of several years.
12. Total tonnage of freight carried in Washington for three years, with percentage of each commodity, divided as to state and interstate, with the average haul of each and the average haul within the state of the interstate haul.
13. Total number of passengers carried in Washington for three years, with passenger miles; average distance, state and interstate; and revenue.
14. Express, mail, and other transportation revenues.
15. Operating divisions.

16. Number of employees and their wages.
17. Total present cash market value (\$110,208,450).
18. Cost of operation, divided into freight and passenger.
19. Average cost per ton for moving freight; cost per ton for moving each of the more important commodities.
20. Freight operating expenses, divided into state and interstate.
21. Passenger operating expenses, divided into state and interstate.
22. Method of apportioning revenues; total for state and interstate for three years.
23. Taxes for three years.
24. Gross earnings and expenses (probable) for year ending June 30, 1909.
25. Rates on most important state commodities.
26. Total value of property devoted to state business (\$45,-226,464.50).

These findings show the most thorough and painstaking work on the part both of the engineering and rate departments of the commission. Mr. Calderhead, the rate expert, is not merely thoroughly acquainted with rate matters, but seems also to be an able statistician and accountant. Most state commissions of the first rank have separate rate and statistical departments.

IV.

ENGINEERING DEPARTMENT.

I spent several hours in consultation with Engineer Henry L. Gray, investigating the manner in which the work of his department is conducted. In order to ascertain the original cost of construction of the railroad properties in the state of Washington, the employees of the Commission went to the original records of the railway companies and took off from them the quantities and prices. The engineering department never takes the railroads' figures. The department checks over the data furnished by the railway companies

*Investigations of
original records.*

by going to the final estimates and other data, both in the office of the chief engineer and of the auditor. Men are also sent out into the field, in order to check up quantities and amounts. The estimates furnished by the railway companies are generally fairly correct as to quantities; but Mr. Gray has found it very necessary to scrutinize such items as can not be checked over from the books of the company, such as engineering expenses, legal expenses, discount, interest and freight. Mr. Gray prepares his reports concerning the different companies in very readable and attractive form. These reports generally contain information concerning the organization and financial history of the railroad, its physical features, its general balance sheet, original cost of construction with all details, the cost of reproduction with all details, and the amount of depreciation. The work is done in a scholarly and thorough manner, with considerable attention to special features of the various companies.

Engineers reports.

Physical valuation of Telephone Companies. Mr. Gray has prepared complete reports as to the physical valuation and other data of the telephone companies of Spokane and Seattle. The Commission will soon issue orders in the matter of telephone rates.

Valuations constantly revised. As already stated, the work of valuing the railroad properties has been completed. The engineering department goes to the records of the railroad companies from time to time in order to keep this valuation up to date. Within a few years a new estimate as to the cost of reproduction will have to be made, for the reason that the price of labor and materials is constantly increasing.

Mr. Gray employs some eight to ten men, who are at present largely engaged in ascertaining the value of some of the utilities, particularly telephone and electric light companies.

V.

COURT PROCEDURE.

Review of Commission's orders and findings. Chairman Fairchild tells me that in his judgment the two most important provisions of the Washington statute are those dealing with review of the commission's orders and review of their findings as to valuations. Section 86 of the statute provides for a review of the orders and the findings of the commission, the application to be made to the superior court of the county in which the proceeding

was initiated. The pendency of any review shall not of itself stay or suspend the operation of the order of the Commission, but the Superior Court may, in its discretion, restrain or suspend the operation of the order. No order restraining or suspending an order of the commission shall be made except upon notice to the commission and after hearing, and if a supersedeas is granted, the order granting the same must contain a specific finding based upon evidence submitted to the court making the order and identified by reference thereto, to the effect that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage. In case the order of the Commission is suspended, the company must give a bond for the payment of such sums as may ultimately be found to have been paid by the public in excess of the rates specified in the order of the Commission. An appeal thereafter lies to the Supreme Court. The Washington statute does not contain the provisions to be found in the Oklahoma Constitution, to the effect that the appealing company must keep books showing the name of every person who pays a rate in excess of that specified in the commission's order, his address, and the amount of the excess.

Chairman Fairchild considers the Washington plan superior to that of Wisconsin, where the procedure is one to set aside the order of the Commission. If new evidence is introduced in court in Wisconsin, it is certified by the court to the Commission, and the Commission must then pass again on the whole matter before the court renders its final decision.

Chairman Fairchild was particularly enthusiastic over the provisions of section 92 of the statute, providing for a court review of the findings of the commission as to physical valuation, with a provision that the findings of the Commission as filed or corrected by the courts shall be conclusive evidence in any other proceedings of the facts stated in the findings as of the date therein specified. In the grain case, in which the Washington Commission made a cut of \$750,000.00 annually in grain rates, the Commission introduced a certified copy of its prior findings as to the valuation of the railroads affected, and thus covered that part of its case in a minute or two. The evidence being conclusive on that point, the railroad companies could not make out a case of confiscation of property, and consequently did not appeal from the decision of the commission.

Washington plan compared with Wisconsin plan.

Effect of making findings of Commission conclusive evidence in Court.

Mr. Fairchild points out that the Minnesota Commission expended over \$50,000.00 in securing the valuation of its railroad properties (about the same amount as Washington), and that when its rate orders were attacked, the Commission had to go into the entire matter again before the Master, with the result that the railways were enabled to introduce a mass of additional evidence which swamped the Master and resulted in an excessively high valuation, besides necessitating a very large amount of time in its presentation.

VI.

SERVICE AND FACILITIES.

Commission provides for comfort of public. The Washington statute gives to the Commission adequate powers over matters such as service, equipment and facilities over which the California Commission does not at present have jurisdiction. The Washington Commission has inspected each of the two hundred railway stations in the state and has made a large number of orders requiring additions or betterments in station buildings and improvements in facilities. Appeals were taken in some twenty-five of these cases. The Supreme Court of Washington has generally sustained the Commission's orders. The Commission employs an inspector of safety appliances and also an inspector of scales for weighing hay and grain. Mr. Gray, the engineer in charge of physical valuation, is also doing considerable work in the matter of inspecting facilities and equipment.

VII.

PUBLIC UTILITIES.

New work of Commission. When I visited the Commission in July of this year, the Commission was just entering upon its duties with regard to the regulation and control of public utilities. The statute conferring these powers upon the Commission was approved in March of this year. The Commission had not at that time marked out its work in this connection, but was beginning to receive complaints concerning telephone rates and water rates. The Commission was also having some little difficulty with reference to steamship companies, particularly as to whether or not it would be necessary for them to file tariffs with the Commission.

VIII.

RATE FIXING.

The Washington Commission, although it has done pre-eminently able work in the matter of ascertaining the physical valuation of railroad properties, has, nevertheless, been careful, in fixing rates, to consider all the elements specified in the case of *Smyth vs. Ames*, including original cost, present cost of reproduction, density of traffic, density of population, and the market value of stocks and bonds. Chairman Fairchild points out that neither the original cost of construction nor the present cost of reproduction are necessarily the proper basis for rate fixing purposes. He referred to two railroads, one of them in a densely populated valley and the other in a sparsely settled timber country. It might well be that the original cost of construction, and even the present cost of reproduction, are the same, or nearly the same, in these two cases; nevertheless, it would be absurd to say that these two railroad properties have the same value, either for rate fixing or for any other purpose. Chairman Fairchild considers the Puget Sound Electric Railway case to represent the most advanced work of the Commission. It is the first case in which the Commission shows in its findings percentage depreciation and the cost of reproduction less depreciation so as to ascertain present value. The Commission in this case followed Engineer Gillett's method of ascertaining average life of different kinds of equipment, salvage value, and percentage depreciation to be charged off each year. The order of the Commission in this case was sustained by the Superior Court on November 14, 1910, but the case has been appealed to the State Supreme Court.

Elements considered in rate making.

Discussion of their relations.

IX.

RESULTS ATTAINED BY THE COMMISSION.

In addition to the Commission's work in connection with the valuation of its railroads, it has, among other things, accomplished the following work:

- Washington Commission has established joint rates.* 1. It has established joint rates on commodities from eastern Oregon to Portland, lower than the sum of the locals, thus effecting a reduction in rates amounting to about \$100,000 annually.
- reduced express rates.* 2. It has reduced express rates on fruit and vegetables about 20 per cent, but has made no general investigation into express rates. Commissioner Jones told me that the Commission felt that it would be very necessary to make such investigation shortly.
- general distance tariff.* 3. It has prescribed a general distance tariff, thereby making a reduction of about \$75,000.00 in rates annually.
- joint rates on wheat.* 4. It has established a joint rate on wheat from Oregon Railway and Navigation Company points in eastern Oregon to Puget Sound points, but the Commission's order in this case has been enjoined in the federal courts.
- connecting tracks.* 5. It has ordered the installation of connecting tracks wherever one railroad intersects or terminates at or near another. The railway companies have appealed this case from the State Supreme Court to the United States Supreme Court.
- better stations.* 6. It has inspected every railroad station in the state, as already pointed out, and has made some 200 orders requiring additional station facilities.
- twelve per cent reduction on grain rates.* 7. It has made a reduction of 12 per cent on grain rates of the Northern Pacific, thereby effecting a reduction in rates of \$750,000 annually.
- reduced passenger rates.* 8. It has reduced passenger rates on the Puget Sound Electric Railway. This case has been appealed.
- less grade crossings.* 9. It has denied the right to install grade crossings in some 100 cases.
10. It has requested that the legislature give to it the power to abolish existing grade crossings.
- investigation of telephone properties.* 11. It has engaged a telephone expert and has made a careful investigation into the value of the telephone properties within the state, and is now seeking to ascertain whether it can order in a measured rate as against the present flat rate.

Nebraska

I.

INTRODUCTION.

The State Railway Commission of Nebraska was created by amendment to the Constitution adopted on November 6, 1906. The legislature of 1907 thereafter adopted a comprehensive railway commission act. The Commission succeeded a board of transportation which did little or nothing. The statute of 1907 was amended in 1911 with reference to the method of review of the decision of the commission. Appeals must now be taken directly to the state supreme court and the evidence presented before the Commission can alone be considered. *Appeals.*

The Nebraska Commission has power to fix the rates and to regulate the service of railroads, express, car, sleeping car, freight, freight line, telephone and telegraph companies. The Commission has jurisdiction over all railways, including steam, interurban, and street. The legislature of 1911 placed irrigation companies under the control of the Commission. *Powers.*

The matter of bringing all public utilities, such as gas, light, heat, power and water companies, under the control of the Commission, has been discussed during the last two sessions of the legislature but no action has been taken. Under the stock and bond law, however, the Commission regulates the issues of stocks and bonds of all public service corporations, including gas, light, heat, power, and water companies. *Public Utilities not controlled. Stock and Bond Issues.*

II.

ORGANIZATION AND OFFICE SYSTEM.

The Commission.—The commissioners are Dr. H. J. Winnett, a retired physician, chairman; Henry T. Clarke, Jr., an attorney; and W. J. Furse, also an attorney. The commissioners are selected for six year terms with intervals of two years. They receive a salary of \$3,000.00 per annum and devote their entire time to the duties of their office. *Commissioners elected.*

A regular meeting is held every week and special meetings at other times during the week. Chairman Winnett disapproves strongly of the election of commissioners.

Salaries of employees.

Employees.—The employees of the Commission are Clark Perkins, secretary, at a salary of \$2,400.00; U. G. Powell, rate expert at a salary of \$2,400.00; L. E. Wettling, an accountant; E. C. Hurd, engineer in charge of physical valuation; a reporter; about four employees of the rate expert; three stenographers in the secretary's office; and some eleven persons employed by the engineer in making physical valuations.

Statistical Department.

Office System.—Secretary Clark Perkins showed me his office for detail. His largest correspondence is in connection with informal complaints. These are filed in card board folders which have endorsed thereon the necessary data to show the nature and disposition of the case, and may be reached through a triple card index. One index refers to the complainant's name; another to the name of the city; and the third to the defendant's name. The same index covers formal complaints as well. Formal cases are filed in flexible card board envelopes and the exhibits are filed in boxes in the vault. Applications for approval of changes in rates, stock and bond issues and other matters are all filed together in envelopes similar to those used for informal complaints and are indexed separately. The next largest class of correspondence is with the telephone companies, of which there are over six hundred in Nebraska. Mr. Perkins has a separate file for each of these companies. All other correspondence is treated as miscellaneous and is filed alphabetically, except correspondence with other commissions, which is separately filed. Mr. Perkins has in his desk two books, one for informal complaints and the other for applications. As each complaint and application comes in, a number is assigned to it in these books.

After the board meetings, the secretary himself dictates the entire minutes. He then pastes them into a book from which they are later copied into the regular minute book, after having been corrected and approved. The original minute memorandum book is preserved.

III.

STOCK AND BOND LAW.

House Bill No. 578, Laws of 1909, gives the Commission authority to pass on all proposed stock, bond and note issues of all public service corporations incorporated or hereafter incorporated under or by virtue of the laws of Nebraska, said bonds, stocks and notes to be issued only for the "acquisition of property, the construction, completion, extension or improvement of facilities, the improvement or maintenance of service, or the discharge or refunding of obligations."

Commission passes on proposed security issues.

While the language of the statute is limited to Nebraska corporations, all public service corporations doing business in the state submit their proposed stock and bond issues for the Commission's approval, so as to remove clouds on the issue and give additional stability thereto. The Missouri Pacific Railway Company, for instance, recently secured the Commission's approval of a twenty million dollar bond issue.

foreign corporations submit security issues for approval.

Applications for approval are made on blanks furnished by the Commission, showing in detail assets, liabilities and purposes of issue. The largest number of these applications have come in from telephone companies. The Commission usually approves the applications as a matter of form and enters an order approving the issue, specifying the purposes for which the proceeds may be used and directing that the corporation render to it on blanks furnished by the Commission an account of all moneys received from the sale of the stocks and bonds and of the purposes for which the money was actually expended. I consider the control of stocks and bonds and other securities to be one of the absolutely essential duties of a railroad or public service commission, and shall discuss the matter in greater detail in connection with the work of the Wisconsin, New York, and Texas Commissions.

Applications.

IV.

TELEPHONE COMPANIES.

*Information
required of
telephone
companies.*

The Commission has prescribed a set of forms to be filled out by telephone companies, showing exchange rates, toll rates and added service to connecting exchanges, and has also prescribed a system of accounting, reference to which will be found in the published reports. A large number of so-called farmers' telephone companies exist in the state.

V.

ELECTRIC STREET RAILWAYS.

*Street railways
give trouble.*

The Commission has control over these railways and has had more trouble with them than with any other kind of corporation. The cities of Omaha and Lincoln are the only cities in Nebraska having such companies. The case of *City of Havelock vs. The Lincoln Traction Company*, 1910 Nebraska Railway Commission Reports, page 98, took up a very considerable amount of the Commission's time.

VI.

RATE LITIGATION.

*The rate
legislature results
in much
litigation.*

The legislature of 1907, at the time of enacting the present Railroad Commission law, also passed statutes (1) reducing express rates 25 per cent; (2) establishing a maximum 2 cent passenger fare; and (3) establishing commodity freight rates. Each of these statutes was attacked in the courts. The Railway Commission secured from the State Supreme Court a decision upholding the cut in express rates. The United States Express Company has recently appealed the case to the United States Supreme Court.

The passenger and commodity freight rate cases were removed by the railroad companies from the state to the federal courts, which courts issued restraining orders under which the railways have continued to charge their former rates. These cases are good illustrations of the length of time appeals from orders of railway commissions may remain in the courts. They were brought in 1907

and have not yet been tried. Rate Expert Powell has spent a very considerable amount of labor in preparing the state's exhibits in these cases. They are prepared on the cost accounting theory. Mr. Powell has made segregation of passenger train and freight train operating expenses as to each of the accounts prescribed by the Interstate Commerce Commission. He and the entire Nebraska Commission are of the opinion that the recent decision rendered by Judge Sanborn in the Minnesota rate case is unfair to the state in the matter of the segregation of state from interstate operating expenses. Mr. Powell seems to be a rate expert of very unusual ability.

Cost accounting theory.

Because of the passenger and commodity freight rate cases, the Commission has been unable to issue any further orders reducing passenger or freight rates. The rate department made a very thorough investigation into class rates and issued a tentative order continuing first class rates as established, but establishing the spread on a fixed basis. In order to secure the necessary data for the order, rate expert Powell employed a force of thirty girls, who copied data from each intrastate waybill issued by the Rock Island and Union Pacific during the months of July and October, 1908, and January and April, 1909. Mr. Powell showed me the bound volumes, of which there must have been about thirty, containing this information, by stations. The record as to each waybill shows both the compensation which the railroad companies received and that which they would have received had the order gone into effect. This work cost the Commission some \$5,000.00. The Commission did not finally put the order into effect, for the reason that it feared that such action would prejudice the cases already pending in the federal courts.

Methods of securing information.

The experience of the Nebraska Commission and of other commissions, such as Oklahoma, shows that if the railway companies can once get a number of important rate cases into the courts, the hands of the Commissions are very largely tied, not merely as to the subject-matter of these cases but also as to all other rate matters. There is always the fear that reductions in other rates, while these are pending in the courts, will create in the minds of the federal judges an impression that the Commission is a radical commission which is making excessive reductions in rates.

Policy discussed.

VII.

MONTHLY REPORTS FROM RAILROADS.

*Detailed reports
of business kept
at each railroad
station.*

The Commission receives from each railroad of the state for each month a report on printed forms prescribed by the Commission, showing for each station the following information as to interstate business, both that which is shipped from and received at each station—cars of wheat; cars of corn; cars of grain products; cars of live stock; other car loads; pounds L. C. L.; pounds C. L.; revenue L. C. L.; revenue C. L.; passenger ticket sales. The same information is also given as to intrastate business, and the amount thereof is then appropriated to the state of Nebraska on a mileage basis. This information is important as showing the amount of business done at each station, particularly if a question arises as to the adequacy of station buildings and facilities at any particular point.

VIII.

ANNUAL REPORTS.

*Interstate
Commerce
Commission
form used
as basis.*

Section 9 of the Nebraska Act prescribes a large number of facts which must be shown in the annual report. In order to secure the necessary facts from the railroads, the Nebraska Commission uses the Interstate Commerce Commission form as a basis. In addition to the information required therein, Mr. Powell has forced the railroads to furnish the total number of passengers and revenue and the total volume of freight and revenue moving; (a) entirely within the state; (b) originating within and moving out; (c) originating without and moving into; (d) moving entirely through without originating or terminating within. A large number of commissions, following the example of Nebraska, use the Interstate Commerce Commission form of railroad reports as a basis, and then add certain requirements.

IX.

FORM OF ACCOUNTS.

The Nebraska Commission has prescribed no form of accounts, except for telephone companies. Mr. Powell said that the Commission had not done so for the reason that if any controversy arises, the Commission will have to go into the company's books anyway. In this respect Nebraska differs very materially from some of the best commissions in the country, such as those of Wisconsin and New York, which have prescribed systems of accounts for practically all the railroads and public utilities and which lay great stress on this feature of their work, and have established extensive and efficient statistical and accounting departments.

No special form of accounts required.

X.

PHYSICAL VALUATION.

A statute approved April 5, 1909, provides that it shall be the duty of the state railway commission to ascertain the physical valuation of each railroad, railway, telegraph, express, telephone, and stock yard company within the state, and that it shall make findings as to the total value of each railroad, etc., the number of miles of railroad and the average value of line or track. The statute also prescribes some nine designated elements, the sum of which shall constitute the physical valuation. These elements are, not in all respects identical with those which are prescribed by the Interstate Commerce Commission. The statute shows the danger of having the legislature go into the details of a question which is still largely in a formative stage. It would have been far wiser, in my judgment, to have provided simply that the Commission should ascertain the value of the properties of the companies specified. The Commission could then go ahead and secure light from every possible source and be guided by the court decisions which are appearing from time to time on this question.

Methods used to ascertain physical valuation.

Nine designated elements considered in physical valuation.

Acting under this statute, a force of some twelve men, under Engineer E. C. Hurd, has been at work since 1909. The Commission prepared forms on which data was to be written by the railway companies and secured from them complete profiles,

Field work of engineers.

station plats, drawings, and designs. This data has now been furnished by all of the railroads except the Union Pacific and the Burlington. The Commission's engineers check over the quantities from the profiles which are furnished, but do no actual checking of quantities in the field. They also ride over the line to check up certain physical features, such as stations and other buildings, crossings, telegraph poles, fences, rails, general character of the land, and character and importance of towns.

*Valuation of
railroad lands.*

The valuation of the lands was found to be the most difficult task. The greatest point of controversy between the railroad commissions and the railroads in all the states is the question as to how the right of way and terminal grounds of the railroad companies shall be valued. The Nebraska Commission first sent out post cards to the leading bankers, public men and farmers of the different counties, asking their opinion as to the value of land of different designated kinds in their counties. Abstract companies were then paid 10 cents apiece for reports as to sales of land within a year or two in the vicinity of the right of way. A general inspection was then made of the right of way to ascertain whether it was better or poorer than the general run of land in the neighborhood. Inspection was also made to determine how much more a railroad would have to pay above the value of surrounding land by reason of the cutting up of farms and damages to property not taken. Minnesota found an average multiple of three and applied that multiple. Nebraska applied different multiples as conditions varied, ranging from one and twenty-five hundredths in cities to over three in the country, but averaging two and six-tenths in the country. This question as to whether any multiple should be used, and if so what multiple, is one of the most important questions in connection with securing a physical valuation.

*Methods of
appraisalment.*

*Depreciation of
equipment.*

Probably the best work which has been done by the Nebraska engineering department has been its work on the depreciation of equipment. To ascertain the depreciation of freight cars, the engineer went to the railroad car accounting records and looked over some fifteen thousand cars of various kinds to find out when they were discarded or rebuilt or wrecked or put into work train service, and then drew a curve showing the results of his tabulation,

and thus ascertained the average length of life of each type of car. Similar work was performed with reference to passenger train cars, engines, work equipment, rails and ties.

The engineer found the items returned by the railroads in accounts 1 to 33 of the Interstate Commerce Commission to be about right, but found it necessary to make very material reductions in the accounts covering general expenses, legal expenses, transportation of materials, equipment, interest and commissions.

After receiving the report of its engineer, the Commission notifies the owners of the property and sets a time not less than thirty days nor more than sixty days, for appearance by the owner, at which time he may show cause why the valuation as found by the Commission should be altered. The state contains no provision as to the effect of the Commission's findings nor as to the purpose for which the valuations are to be used.

The findings of the Commission with reference to the valuation of the first of the railway companies simply recite, in accordance with the provisions of the statute, that on July 1, 1910, the value of the road was a certain sum, its mileage so and so much and its value per mile so and so much.

XI.

ATTITUDE TOWARD PHYSICAL VALUATION.

The Nebraska Commission regards the cost of reproduction of railroads, as a basis for fixing rates, somewhat in a light of a hot potato, especially since Judge Sanborn in the Minnesota case held that the railroads are entitled to a 7 per cent return on the extremely high cost of reproduction found in that case, ignoring the other elements suggested in *Smyth vs. Ames*. The commissioners, when I asked them what they were going to do with the valuation when they ascertained it, said that they did not know. Because of Judge Sanborn's decision and of the uncertainty as to what test the United States Supreme Court may ultimately establish as the proper basis of fixing rates, the Nebraska Commission seems to assume a half-hearted attitude towards the entire question of physical valuation.

*Owner may
protest valuation.*

*Attitude of
Commissioners
defined.*

XII.

NEW PROCEDURE ON APPEAL.

Evidence taken before the Commission alone considered in appeal.

The legislature of 1911 amended section 7 of the Railway Commission Act by providing that proceedings to reverse, vacate or modify orders of the state Commission shall be brought directly in the Supreme Court of the state; that the evidence taken before the Commission shall alone be considered; that the time of appeal shall be limited to three months and that no order shall be held up without the filing of a supersedeas bond to be first approved by the Commission. These provisions are in line with those contained in the most recent statutes, except that they are not as complete or as far-reaching as those now obtaining in Washington, Wisconsin and Oklahoma.

Commissioner Clarke told me that in his opinion there is no doubt, as the constitution of Nebraska now stands, that these provisions are valid. The first test of these provisions will probably be made in connection with an order of the Commission directing the erection of a brick station building at Wayne. A request by the railroad for a certified copy of the proceedings before the Commission in this matter came in while I was visiting the Commission.

XIII.

CHANGES IN SCHEDULES.

Commission must approve rate schedules.

The statute provides that the carriers shall file with the Commission all their schedules of rates in effect on January 1, 1907 (this being before the date of the statute), and that thereafter no rate shall be changed, either raised or lowered, without the Commission's consent. Dr. Winnett thinks that this is a salutary provision and that it tends to produce stability of rates. The Commission approves reductions almost as a matter of course, but almost always holds a hearing in cases of a contemplated increase.

Minnesota.

I.

INTRODUCTION.

The Railroad and Warehouse Commission of Minnesota was created by act of 1899. The Commission has jurisdiction over all railroads except street railways (in so far as relates to the carriage of persons and property wholly within the limits of a municipality) and also over all express companies and public warehouses, including commission houses and grain elevators. The Commission does not have control over public utilities. A proposition to extend the jurisdiction of the commission over such utilities was presented to the last legislature but was defeated by the rural telephone companies, who objected to the clause giving to the Commission power to order in physical connections between telephone companies. Commissioner Elmquist was of the opinion that a public utilities statute containing the telephone physical connections clause would be passed by the next session of the legislature.

Minnesota does not have a stock and bond law nor a public convenience and necessity law. The work of the Commission is limited to the fixing of rates and the regulation of service of railroads and express companies and public warehouses, as above indicated.

II.

ORGANIZATION AND OFFICE SYSTEM.

The Commission.—The commissioners are Judge Ira B. Mills, chairman, Charles F. Staples, and Charles E. Elmquist. Judge Mills is a lawyer and has been a member of the Commission for more than ten years. Mr. Staples is a farmer, a man of considerable dignity and apparently much ability, and has also served more than ten years. Mr. Elmquist is a younger man, a lawyer, energetic and apparently well posted, and has been a member of the Commission about four years.

*Commissioners
elected.*

The commissioners are elected for a term of six years, and receive a salary of \$4,500.00 per annum. They devote their entire time to the duties of the office, and are in the office every week day, except when one of them is out on an inspection tour. Commissioner Elmquist was strongly opposed to a board of five members for the reason that three can do much better executive work.

*Personnel of
Commission.*

Employees.—The employees of the Commission are A. C. Clausen, secretary, who attends largely to the warehouse business of the commission and prepares a part of the annual report; Thomas Yapp, assistant secretary, who attends to the details of the railroad and express work of the Commission and is an active and capable man; D. J. Jurgensen, engineer in charge of physical valuation; one rate clerk (but no rate expert); two clerks and three stenographers. The act of April 13, 1911, appropriates the sum of \$30,000.00 for the annual expenses of the Commission. This does not include the amount of money expended in the Minnesota rate case.

*Orders
informal.*

Office System.—But little attention is paid by the Commission to the matter of office system. No minutes are kept. Orders are prepared informally and sent out by letter. Most of the business of the Commission is done informally in the office. Schedules of rates are filed by railroads and are indexed in a book. Mr. Yapp prefers a book to a card system by reason of its greater permanency.

III.

EXPRESS INVESTIGATION.

*Investigation of
Wells, Fargo
& Co. express
rates.*

I went quite thoroughly into the investigation which the Minnesota Commission has been conducting into the express rates of Wells-Fargo & Company. The Commission was told by Wells-Fargo & Company that they could not secure the information which they desired except by sending a force of men to the New York office of the express company. The Commission, accordingly, sent a number of men to New York, where they spent something over a year in going over all the waybills covering a period of two months. Mr. Yapp showed me the books—about nine feet of them—into which the transcript of the records of the Express Company in New York was made. These books contain spaces for the names

of the places of origin and destination of each package affecting Minnesota business, and also columns for the different rates; thus, a, b, c, d, e, 10, 15, etc., up to and including 100, and separate books for the special rates on poultry, milk, laundry, beer, and a few other commodities. There are also separate books for interstate, intrastate, intra-interstate, and inter-intrastate shipments. The books also show the revenue derived, the number of transactions and number of packages and, in the case of the interstate business, the amount of the revenue chargeable to Minnesota. This amount is ascertained on the "rate-prorate" basis; *i. e.*, the rate from the outside point to the Minnesota gateway through which it passes is to the rate from the Minnesota gateway to the Minnesota point, as the earnings received by the express company are to the amount of earnings assigned to Minnesota. The receipts from money orders, custom house brokerage, and similar items were taken off for the whole system, and a proportion of them was then allocated to Minnesota.

The Minnesota employees went through some nine million waybills in New York City to ascertain those affecting Minnesota business, and found some 125,000 for the month of August, 1909, and 225,000 for the month of December, 1909. Wells-Fargo & Company likewise had a force of men examining the same waybills. Mr. Yapp told me that this work had cost the Minnesota Commission some \$30,000.00. It is the most thorough work which has been done in this country in the matter of express investigations.

The testimony concerning the express end of the business had all been presented when I was in St. Paul, and I read over the entire transcript. The express company presented no evidence. I have no doubt whatsoever that the express company is simply waiting to tie the hands of the Commission in the courts. The Minnesota Commission is also examining the railroad end of the express business, and will take testimony as to this matter before finally deciding the case. I examined carefully all the exhibits introduced by the state, for the purpose of using this information in our own express investigation.

The results secured by the Minnesota Commission showed that the express company was making a profit of some 18 or 19 per cent

Express company presented no evidence.

Result of express rate investigation.

on that part of its property which could fairly be chargeable to its state business, and some 74 per cent on that part of its Minnesota property which is chargeable to the interstate business.

IV.

MINNESOTA RATE CASE.

*Most famous
rate case.*

*Decision
disregarded
every question
except cost of
reproduction.*

*Great difference
between original
cost and present
assigned
valuation
discussed.*

The legislature of 1907 passed a 2 cent maximum passenger fare law and a maximum commodity freight law. The passenger rates went into effect, and the freight rates were about to go into effect when stockholders of the railroads affected secured an injunction from the federal courts. The matter was thereafter referred to Commissioner Otis as referee. After taking some twenty volumes of testimony and going into the entire matter of valuation of the Minnesota railroads *de novo*, regardless of the finding of the Minnesota Commission therein, Commissioner Otis rendered a report which was affirmed by Judge Sanborn in the now famous Minnesota rate decision. Judge Sanborn disregarded every basis of rate fixing except that of the cost of reproduction of the property and found a cost in this case, which, according to the general consensus of opinion, is at least 50 per cent in excess of the cost as shown by the evidence in the case. He also found an interference by the proposed state rates with interstate commerce.

The Minnesota Commission, as well as the other Northern and Middle Western Commissions which I visited, are very much exercised over the Minnesota rate case. I had a talk with Judge O'Brien, who is handling the case for the state before the United States Supreme Court. He told me that the motions to hear the Oregon, Missouri, and Arkansas cases contemporaneously with the Minnesota case at the October term had been granted. Judge O'Brien pointed out the enormous variance between the original cost and the present assigned value of the railroad properties involved in the case. He regards the four hundred foot strip of right of way acquired from the government as a franchise on which the railroad is not entitled to a return. He also denies the right of the railroads to multiply the present market value of the land by a multiple to represent the increased cost of securing the same. Judge O'Brien thought that he saw a preconcerted plot on

the part of the railroads to urge on a number of the state commissions to adopt the cost of reproduction as the basis of rate fixing.

The Minnesota commissioners pointed out to me that as to more than half of the railroads of the state, the value of the stock and bonds is greater than the Commission's estimate as to the value of the properties, but is less than the cost of reproduction as returned by the railway companies. To meet the decision in the Minnesota rate case, the legislature of 1909 passed a statute providing that whenever a common carrier resists the enforcement of an order of the Commission prescribing rates, it shall be the duty of such carrier to keep an account of every charge made by it for any service to which such rates apply, showing in each case the name and address of the consignor and consignee, the date of the transaction, the stations between which the business was carried, and the amount actually charged, and that which would have been charged under the rates prescribed by the Commission. A report containing these matters must be made to the Commission every month. Within sixty days after the final determination of the proceedings, the carrier must pay to the Railroad and Warehouse Commission, for the benefit of the parties entitled thereto, all sums collected by it in excess of the rates finally prescribed by the court, with interest, and the Commission thereupon pays out these moneys to the parties entitled thereto. All amounts not claimed are paid by the Commission into the state treasury for the benefit of the general revenue fund. Under this statute, the railroads involved in the Minnesota rate case are now keeping books and making returns to the Commission.

Value of securities compared to value of properties.

In concluding this subject, I would say that the Minnesota Commission is even more exercised over the decision with reference to the rate fixing basis than over that part of the decision which refers to interference with interstate commerce.

V.

FEDERAL COURTS.

One of the greatest difficulties facing certain of the state commissions in districts in which the federal judges seem to be unfriendly, is the facility with which the corporations can secure

Efforts to hamper Commission.

*Litigation
should be
tried in
State courts
first.*

from such judges restraining orders and temporary injunctions tying the hands of the Commission for several years, until the cases are determined. However carefully a statute may prescribe the procedure in cases on appeal from the orders of the Commission, the federal courts are not bound by such provisions and proceed according to their own rules. Chairman Mills, while chairman of the committee on legislation of the National Association of Railway Commissioners, accordingly presented, and the association adopted, a resolution to be adopted by the different state legislatures, calling upon their representatives in congress to pass a statute providing that litigation affecting state railway and public service commissions should be carried through the state courts first before being taken into the federal courts. The Minnesota legislature passed such a resolution, but no other state has done so.

VI.

CHANGES IN RATES.

*Changes must
be approved by
Commission.*

Changes in rates become effective on ten days' notice, but only if approved by the Commission. Mr. Yapp thinks it a wise provision to have the Commission approve every change in rates. He considers this method a very desirable one for the reason that the Commission in this way secures a whip handle.

Reductions in rates are allowed as a matter of course, but if they affect common points Mr. Yapp generally telephones to the other companies affected and asks them if they wish to put in the same rate. This is done in a spirit of fairness to prevent one railroad from securing an advantage over others by means of "midnight tariffs."

VII.

GRADE CROSSINGS.

*Commissioner
recommends
abolishment
of grade
crossings.*

The statutes of Minnesota do not give authority to the state Commission to prescribe a separation of grade crossings. Mr. Yapp told me that these matters were taken care of by the city authorities and that no authority to order a separation of grades

exists as to those portions of the state which are outside of city limits. He thinks it well to handle the problem while it is in its infancy, as proposed in California.

VIII.

PHYSICAL VALUATION.

I had a long talk with Engineer Jurgensen with reference to the work of the Commission in ascertaining the value of the railroads of Minnesota. This work took about three years. The Commission employed some two to fifty men, with an average of about sixteen to eighteen. During the first year, but little was accomplished. It was found impossible to ascertain the original cost of construction. The railroad companies furnished to the commission information concerning the present value of their systems. The chief work of the engineering department of the Commission consisted in checking over these returns. To ascertain the value of the rights of way of the railroads, abstracts of sales in the vicinity were taken from the records. A total of about 1,500,000 sales were examined by the Commission in reaching its conclusions. Considerable difficulty was encountered on the question as to how to estimate the cost of reproduction. The railroads contend that this means the cost of acquiring the lands as of to-day and that they are entitled to multiply the present real value of adjacent lands by some multiple such as the figure three in order to ascertain the present cost of reproduction. The Commission denies the right to use such a multiple. The Commission accordingly prepared valuations on both theories.

Enormous amount of work in ascertaining physical valuation of railroads.

None of the railroads made returns as to the present value of their properties. Their returns were simply as to the cost of reproduction. It is impossible for the Commission, by reason of the age of the railroads, to ascertain the original cost, otherwise it certainly would have done so.

Railroads simply report cost of reproduction.

The statutes of 1909, chapter 147, provide that the Commission shall at all times keep up the physical valuations of the railroads of the state. Under this statute the engineer sends out each year forms for additions and betterments and deductions.

IX.

FORM OF ACCOUNTS.

Railroad accounts must show detailed data. Chapter 327 of the Laws of 1911 makes it the duty of every railroad to keep its accounts in such form as to show the total revenue and the total operating expenses connected both with local and through traffic, the number of tons of freight carried one mile both on local and through trains and the total car, engine and other mileage of both interstate and intrastate freight. The Commission is now engaged in working out the form of these accounts. There is no doubt in my mind that this statute is the direct result of the decision in the Minnesota rate case and that its purpose is to force the railroad companies to keep their accounts at all times in such condition as to enable the state commission to secure readily the information necessary in case any of its orders fixing rates are attacked.

X.

SERVICE AND FACILITIES.

Service matters quickly settled. Considerably over three-fourths of the present work of the Commission deals with matters affecting service and facilities. About 95 per cent of these matters are settled informally by drawing them to the attention of the railway company affected. This experience of the Minnesota Commission emphasizes the necessity of giving the State Railroad Commission control over these matters in addition to the control of rates.

XI.

INTERSTATE COMMERCE.

Commission represents people before Interstate Commerce Commission. The Commission takes up with the railroads a large number of matters affecting interstate commerce and settles most of them informally. In this way, the Commission performs a great service for the citizens of Minnesota. If the matter is one of public importance, the state Commission files the petition with the Interstate Commerce Commission, appears as party complainant and conducts the litigation at the expense of the state.

XII.

ACCIDENT REPORTS.

Whenever an accident occurs in connection with railroad operation, the railroad company at once telephones or telegraphs to the Commission; then follows a preliminary accident report and later a final report. These reports are kept in a large file arranged consecutively by numbers. An index kept in a large book shows the name of the town or city, the name of the person, the date of telegraphic or telephonic report, the date of the second and third reports and the number of the case. These reports are entered by railroads and are arranged alphabetically.

Accidents must be reported at once.

XIII.

LITIGATION.

The legislature of Minnesota in its sessions for 1905, 1907, 1909 and 1911, passed a large number of special acts affecting the Commission. Nearly all of these acts deal with matters of detail as to which, in my judgment, it would have been wiser to have given general powers to the Commission. For instance, special acts were passed to provide that railroads must use the same names for stations as the names of the cities within which the stations are located; that the time of the arrival of passenger trains must be bulletined; that the commission shall have jurisdiction over track scales; that the commission shall have authority to keep up physical valuations from year to year; that railway companies shall clean ditches and culverts along roadbeds, etc. The difficulty which Minnesota has had with these matters would seem to show the wisdom of giving to the Commission general powers by statute over all matters affecting the rates and service of the public service corporations affected. The Commission can then work out the details in such manner as experience may show to be wise.

Discussion of advisability of granting general powers to Commission.

WISCONSIN.

I.

INTRODUCTION.

Jurisdiction. The Railroad Commission of Wisconsin was created by statute of 1905, and is largely the work of the then Governor, Robert M. La Follette. Before that time, the state had a railroad commissioner, whose chief function was to publish the reports transmitted by the carriers. In 1907, the legislature also passed a public utilities law conferring upon the state railroad commission authority over public utilities. Both these statutes were amended in 1909 and 1911. Under the railroad commission statute, the Commission has jurisdiction over commercial, street and interurban railways, express companies, telegraph companies and common carriers. Under the public utilities law, it acquired additional jurisdiction over telephone, heat, light, water and power companies, including those owned or operated by municipalities.

Wisconsin has a stock and bond law enacted in 1907 and materially amended in 1911; a public convenience and necessity law enacted in 1907; and an indeterminate permit law providing indeterminate franchises and for purchase by municipalities, enacted in 1907 and materially amended in 1911.

II.

ORGANIZATION AND OFFICE SYSTEM.

Qualifications of Commissioners. *The Commission.*—The commissioners are John H. Roemer, chairman, Halford Erickson and David Harlowe. The statute provides that one of the commissioners shall have a general knowledge of railroad law and that each of the others shall have a general understanding of matters relating to railroad transportation. Mr. Roemer within the last year took the place of Professor B. H. Meyer, who was recently appointed to the Interstate Commerce Commission. Mr. Roemer is an attorney and performs all the legal work of the Commission. Mr. Erickson was formerly a railroad auditor and is an economist and statistician of very exceptional ability. He seems to secure the data for most of the rate

decisions of the Commission, and has worked out carefully a plan for the segregation of operating expenses between freight and passenger traffic. He is also practically the head of the department of statistics and accounts, one of the most important departments of the Commission. Mr. Harlowe was recently appointed on the resignation of Professor Meyer. He was traffic manager of one of the large Milwaukee commercial firms.

The commissioners are appointed by the Governor for periods of six years and receive a salary of \$5,000.00. All of them devote their entire time to the work of the Commission. Mr. Roemer tells me that he often works into the night and I am confident Mr. Erickson does the same. In my opinion the splendid work of the Wisconsin Commission is largely due to the ability of the commissioners and to their close personal attention to the work. A spirit of scholarly accuracy and thoroughness pervades the entire work of the Commission. The Commission takes no short cuts and makes very few guesses. Every problem is worked out with great care and no decisions are rendered until the Commission has all the facts at its disposal. In my judgment, the thorough and scholarly spirit of the work is largely the result of the intimate relation which exists between the Commission and the professors and alumni of the State University.

*Commissioners
appointed.*

Employees.—The Commission divides its work into three departments (1) administrative; (2) engineering; (3) statistical and accounting.

Departments.

The administrative department, besides the commissioners, consists of J. M. Winterbotham, the secretary, who receives a salary of \$2,500.00 per year; a clerk for each commissioner, to work up law points and digest testimony; and about a half dozen stenographers and reporters.

The engineering department is headed by Professor Pence, professor of railway engineering in the University of Wisconsin. The work of this department is subdivided into the work of physical valuation, and service and field inspection. To perform the work of physical valuation, Professor Pence has men who are especially qualified to value real estate, railroad properties, gas and electrical plants, water works, telephone plants, etc. Professor Burgess of the Department of Mechanics, of the State University, is advisor

in the work of service and field inspection. This work also is subdivided, Mr. Cadby having charge of gas, electric and telephone inspection, Professor Mack of the water plants, etc.

Statistical Department. The statistical and accounting department is headed by Mr. Edwin Gruhl, who has immediate charge of the statistics and accounts of the public utilities, while Mr. Schneider has charge of similar work in connection with railway and express work. Mr. Hogan and one assistant have charge of railway and express tariffs. Some five or six men in the department are occupied all the time with matters in controversy before the Commission and special problem work.

Duties of Secretary. *Office System.* The secretary receives and distributes all mail. All letters when answered are returned to him and he sends out the answers in the name of the Commission by himself as secretary. All formal and informal complaints are separately numbered and filed both as to railroad cases and public utility cases. A separate file is also kept for all applications, such as for leave to issue stock and bonds and to build extensions. An alphabetical file is also kept.

III.

PROCEDURE ON APPEAL.

New evidence may be introduced into Court. The Wisconsin Railway and Public Utilities acts both provide for an action in the Circuit Court of Dane County to set aside the orders of the Commission. If any new evidence is presented, the court must certify the case back to the Commission, which then reviews its order in the light of the new evidence, and thereafter returns its findings to the court. An appeal directly to the Supreme Court was not provided for, because of a constitutional difficulty involving a question whether an appeal would lie directly to the Supreme Court from an administrative board. The legislature of 1911 passed an amendment to the Railway and Public Utilities acts providing for notice to stockholders and bondholders, by publication, in case of the acquisition of a public utility by a municipality, so that they might have their day before the Commission. Mr. Roemer is of the opinion, under the Prentiss case, 211 U. S. 210, that if the state statute provides the procedure for an appeal, with power on the part of the court to revise the

rate, that procedure must be followed before the case can go into the federal courts. Mr. Roemer prefers the Wisconsin procedure to the right of review provided by the Washington statute, for the reason that he doubts the applicability of a writ of review to a case in which the Commission is authorized to consider evidence extraneous to the record. This objection has not prevailed in other states, such as New York, Nebraska, and Oklahoma, in which the remedy is review, and in which no point has ever been raised to the effect that this is not the proper remedy. The New York Commission, however, is careful to put into the record all the evidence, so far as possible, which was in any way considered by it. Mr. Roemer states that the practical effect of the Wisconsin procedure is to force the corporations to apply for a rehearing before the Commission—this rehearing being granted as a matter of course.

IV.

RATE FIXING.

The rate fixing basis of the Wisconsin Commission, as explained to me by Chairman Roemer and Commissioner Erickson, is the cost of reproduction of the properties affected, subtracting depreciation and adding an amount for going concern value. In determining the present value, the Commission disregards density of traffic, density of population, and market value of stocks and bonds. In response to a suggestion that the Oregon, Nebraska, and Minnesota commissions were very much concerned over the physical valuation basis for rate fixing and to the possibility of an unreasonable increase in rates resulting from increase in land values, Chairman Roemer said that he could not see the justice of permitting an increase in land values to owners adjacent to a railroad and denying the railroad a return on its own increased value. He admitted, however, that a real problem arises from the great increase in the value of terminal property and also that a limit will have to be placed on rates based on increasing land value. Very few of the Commissions seem to have thought as far as this, and none of them to have reached a solution. Chairman Roemer believes that a railroad or utility is entitled to a rate of six per cent on its market value, this being usually sufficient for five per cent interest on its bonds and seven per cent on its capital stock.

Elements used in fixing rates.

Discussion of methods of ascertaining physical valuation.

*Rate multiple
2 1-2.*

The rate multiple hitherto used by the Wisconsin Commission has been two and a half. Commissioner Erickson has serious doubts as to whether any amount ought to be allowed over the value of the adjoining property. He seems to differ from Chairman Roemer as to whether a railroad should be entitled to a return on rights of way granted by federal or state governments, Mr. Roemer being of the opinion that a return should not be allowed, while Mr. Erickson favors a return to make up for the first lean years of operation. The Commission never allows a return on franchise values except to the extent that a railroad or utility actually paid for the franchise.

*The Buell
case.*

Formal case No. 32, known as the Buell case, shows clearly the rate-making theory of the Commission, and is probably the most important case which the Commission has decided. The bases there laid down were followed by the Federal Post Office authorities when they asked for information from the railway companies as to revenue and cost of operation of all kinds of passenger train business, including particularly the mail business.

V.

STOCK AND BOND LAW.

*Issues of
securities must
be approved by
Commission.*

Chapter 576 of the Laws of 1907 provides for the approval of the Commission before any public service corporation can issue stock, stock certificates, bonds, notes, or other evidences of indebtedness, payable not less than one year from date. This statute gave the Commission no discretion as to approval and no power to impose conditions, nor did it specify the purpose for which the money was to be used. I understand that these matters were all remedied and the powers of the Commission materially enlarged by an act of the legislature of 1911, adopted just before I reached Madison.

*Foreign
corporations
come under the
law.*

Foreign corporations owning railroads and utilities in Wisconsin consider themselves bound by the law. The general law of Wisconsin has for some time provided for a fee to be paid on an increase of capital stock, but has never contained a provision for a fee on an issue of bonds. Another act of the legislature of 1911 accordingly provides

that upon an approval of a bond issue by the Railway Commission, the corporation affected must pay a fee of \$1.00 on \$1,000.00; if this statute had been in effect in 1910, the fees derived from it would have paid the entire expenses of the Commission. The imposition of such a fee is fair, for the reason that the approval of the governmental authorities to a bond issue generally results in a raise of a point or two in the sale price of the bonds. It will be well to bear this point in mind, in framing the new California statute.

VI.

INDETERMINATE PERMITS.

Chapter 578 of the Laws of 1907 provides for indeterminate permits for street railways, and sections 74 and 86 of the Public Utilities Act of 1907 provide a similar permit for heat, light, water, and power companies in municipalities. An indeterminate permit is a permit running without limit as to time and having attached thereto the following two conditions:

Indeterminate permit defined.

1. If any public service corporation within a municipality has complied with the requirements of the statute as to the surrender of existing permits or franchises and has thereupon secured by operation of the statute an indeterminate permit, no license, permit or franchise shall be granted to any similar concern within the same municipality unless the Commission finds that public convenience and necessity require such second public utility.

Competition regulated.

2. The corporation, by acquiring such indeterminate permit, consents to the purchase of its plant by the municipality in which it operates, at a price to be fixed by the Railroad Commission, with the right of appeal to the courts on the question of the price.

Consent to municipal purchase required.

Chairman Roemer considers these provisions concerning indeterminate permits as the very foundation stone of the regulation of street railroads and other public utilities in Wisconsin. The period within which the corporations might bring themselves within the terms of the statute was extended to January 1, 1911, but only 25 per cent of the public service corporations availed themselves of the privilege. The legislature of 1911 finally took the bull by the horns

Only 25% of corporations avail themselves of privilege.

*Advantages of
indeterminate
permit.*

and provided that *all* permits, franchises and licenses theretofore granted by any public authority were by that act amended so as to be indeterminate permits, with the characteristics hereinbefore mentioned. Chairman Roemer is strongly in favor of this kind of permit and states that the only reason why other states have not followed the lead of Wisconsin in this matter is that they do not understand this kind of permit. He points out the following advantages accruing to the corporations:

1. They receive what is in effect a perpetual franchise.
2. They are relieved of the necessity of providing an amortization fund.
3. They are assured a fair price in case their plant is purchased by the municipality within which they operate.

Such permit, on the other hand, is of great benefit to the state because it brings the public service corporations directly under the control of the Commission, avoids cut-throat competition and gives municipalities the power at any time to purchase the public utilities within their limits, at a fair price.

Chairman Roemer was of the opinion, however, that it would not be wise to pass such a statute in California until the situation resulting from divided control of public utilities between state and local authorities has been clarified.

VII.

USE OF FACILITIES BY OTHER UTILITIES.

*Joint use of
equipment
provided for.*

Section 794m-4 of the Public Utilities Law provides that all public utilities having conduits, subways, poles or other equipment on or under any street or highway shall for a reasonable compensation permit the use of the same by any other public utility whenever public convenience requires such use. Chairman Roemer considers this to be an important provision and upon his suggestion the legislature of 1911 added to the section provisions for physical connections between telephone systems in such cases and under such conditions as might be prescribed by the Commission. Wisconsin and Oklahoma have shown clearly the public benefit derived from physical connections between telephone systems.

VIII.

PHYSICAL VALUATION.

Railroads.—The valuation of the railroad properties of Wisconsin was begun in 1903 and completed several years ago. In 1909 a new valuation of the land of all the railroads was made by the Commission and it was found that the value had gone up considerably. The railroads now render each year statements of additions and deductions similar to those rendered in Minnesota. The Commission usually accepts the statements of the larger railroads, which have men regularly employed in the work, but finds it necessary to check up the work of the smaller railroads.

Remarkable increase in value of railroad lands.

Utilities.—There are about one thousand utilities in Wisconsin. Of these the Commission has valued some fifty, being those involved in complaints pending before the Commission. No valuation of utilities had been made except in case of complaint as to rates. The Commission never decides a case involving the rates of a public utility without having first ascertained the value of its property. The work of valuation of utilities is divided among the branches of the engineering department. A hearing is always held by the Commission after the engineering force has completed its report, and the Commission then makes its findings.

Utilities not valued by Commission except in case of complaint.

The statute contains no provision similar to that of Washington for a court review of findings as to value. As no valuations of utilities have been made except in cases pending before the Commission, the Washington provisions would have served no purpose in Wisconsin in so far as the valuations have hitherto been made.

IX.

DEPRECIATION ACCOUNT.

Section 1797m-15 of the Public Utilities Act provides that each utility must on the order of the Commission carry an adequate depreciation account out of operating revenues, in an amount prescribed by the Commission, for the purpose of keeping the property in efficient condition. The money in this fund may be expended for new construction, extensions or additions and for no other purpose. The Commission has not prescribed a general

Depreciation accounts expended under control of Commission.

percentage but does prescribe a percentage in such rate cases as it decides. The Commission directs its statistical department to ascertain the average life of the plant and of the different component elements thereof and then establishes a percentage of depreciation so that if the money is put out at interest for the given number of years the value of the plant will have been replaced. The money so set aside may be used for other purposes, such as new construction, but when the money derived from the sale of new construction bonds is realized, the amount taken from the depreciation account is returned with interest. Commissioner Erickson considers this matter as one of considerable importance. The ordinary corporation is more interested in declaring large dividends than in setting aside funds for the replacement of its property.

X.

PUBLIC CONVENIENCE AND NECESSITY LAW.

*Certificate of
Public
Necessity
required.*

Chapter 454 of the Laws of 1907 provides that no railroad corporation shall begin the construction of any proposed line of railroad or make any extension to an existing line without having first secured from the Commission a certificate that public convenience and necessity require such construction. Before the railroad is operated, it must be inspected and approved by the Commission. This matter has been worked out in greater detail in the New York statute. It is one of very considerable importance, because it gives to the Commission the power to prevent cut-throat competition and wasteful duplication of plants on which the public must pay interest in the form of rates.

XI.

RATE CHANGES.

*Changes in rates
subject to
approval of
Commission.*

Up to 1911, the Wisconsin statute provided that no changes should be made in the rates of a railroad or public utility except upon notice to the Commission. The time in case of a utility was ten days and in case of a railroad thirty days. Unless objection was made, the rate went into effect without further action on the

part of the Commission. In other words, the approval of the Commission was not a condition precedent to the effectiveness of the rate. The result was that there was very little work for the railroad rate department and this work was all done by one rate man and one assistant. The legislature of 1911, however, amended the existing statute so as to provide that no changes might go into effect without the precedent approval of the Commission. The commissioners are somewhat doubtful as to the wisdom of this change. They think that the railroads may possibly use this provision as a pretext for refusing to establish the rates desired by shippers. The Wisconsin Commission seems to have done very little work in fixing railroad rates.

XII.

MUNICIPAL COUNCILS.

I have already stated that utilities owned by municipalities come within the jurisdiction of the Commission to the same extent as other utilities.

*Municipally
owned Public
Utilities under
control of
Commission.*

Under section 1797m-87, of the Public Utilities Law, municipal councils have power in the first instance to determine the quality and character of each kind of product or service and the terms of occupation of streets, but not the power to fix the rates. Even as to the rights exercised by the councils, the Commission has the right to review their action and to set aside their ordinances. The Commission recently declared null and void a city ordinance directing the completion by a public utility within sixty days of work which could not reasonably be performed in less than nine months.

It should be noted that the only powers of regulation or control exercised by municipal councils are those which are particularly mentioned in 1797m-87 and that as to these powers, the Commission has the right of review.

XIII.

GAS, ELECTRIC AND TELEPHONE INSPECTION.

This work is carried on by a branch of the engineering department under the immediate charge of Mr. Cadby. For the purposes of

electrical inspection, the state is divided into four districts with one man in charge of each district. One man supervises all the gas plants in the state. Another is engaged in telephone inspection. Two men are in the office, in addition to Mr. Cadby, making a total of nine men engaged in this work.

The work is done as follows:

Commission regulates standard of quality and measurement of service of Public Utilities.

Gas and Electric Service.—Sections 1797m-22 to 25 of the Public Utilities Law provide that the Commission shall prescribe the standard commercial units of product or service, standards for the measurement of quality, pressure and voltage, and rules and regulations, and shall examine and test appliances used for measuring the product and service of public utilities. Under these sections, the Commission, after numerous conferences with the interested corporations, prescribed its order, U-21—*in re* standards for gas and electric service in the State of Wisconsin, 2 W. R. C. R. 632-662. These rules, established on July 24, 1908, have remained unchanged. Acting under these sections of the statute and this order, the Commission keeps inspectors constantly in the field making inspections of plants and meters and service, examining complaints and advising proprietors of plants how to remedy defects in service. The inspectors, while traveling, also fill out reports as to the service on the railroads over which they are traveling. These reports are turned in monthly with their expense accounts and are then sent to the railroads affected. The inspectors are all University of Wisconsin graduates and are paid between \$90.00 and \$125.00 per month.

Rigid telephone inspection.

Telephone Service.—The department is carrying on a detailed investigation into telephone service within the state. Men are sent to the different cities of the state with instructions to make one hundred and twelve telephone calls, of which twelve are at pay stations. These men note the time which expires before central answers, the time thereafter before the party at the other end answers, and the frequency of "busy" and "don't answer" replies. The results of these trials are then platted and sent to the telephone companies affected. Very marked improvements in the service are said to have resulted from these tests.

XIV.

RATE DEPARTMENT.

Mr. Hogan has charge of the filing of schedules of rates of charges in so far as railway, express and telephone companies are concerned. The Commission has not yet worked out a form for the filing of the schedules of public utilities, and few, if any, such schedules are on file.

Up to the present, the chief work of Mr. Hogan and his assistant has been to prepare information for the Commission in rate cases. The Commission's usual practice is to take the testimony of both sides and then to send it over to the rate expert, who reads it and makes a report thereon. *Rate expert reports on testimony.* The Commission usually follows the report, so that some of the railway companies have adopted the practice of introducing very little evidence at all, for the reason that they know that the Commission will investigate the subject anyway. Mr. Hogan has had some difficulty in securing schedules of rates of charges affecting Wisconsin business issued by foreign companies not doing business in Wisconsin and concurred in by the Wisconsin lines. The statute requires only the filing of tariffs issued by railroads which are subject to the act. The Wisconsin carriers have to ask for an extra copy of such tariffs for the use of the Commission. Other states, such as Oklahoma, secure complete files of all tariffs affecting the state, including those issued by foreign companies. They force the local companies to secure the tariffs from the foreign companies. Mr. Hogan files separately the tariffs affecting state business and those showing nothing but interstate rates. The tariffs are indexed according to their nature, *i. e.*, commodity, switching, distance, lumber, logs, etc. A card index system is used.

XV.

DEPARTMENT OF STATISTICS AND ACCOUNTS.

Section 1797m-8 of the Public Utilities Law provides that every *Uniform* public utility shall keep and render to the Commission, in the manner *accounts must* prescribed by the Commission, uniform accounts of all business *be kept by* transacted. Section 1797m-9 provides that the Commission shall *Public Utility.* prescribe the form of all books, accounts, papers, etc. Section

1797m-13 provides for an annual balance sheet to show the information desired by the Commission. Similar provisions are contained in the railroad act.

The Commission, acting under these sections, has worked out a set of account forms and instructions for every public utility, and in some cases has worked out different forms of reports for the same kind of utility, depending upon the size and the extent thereof. These forms have been worked out with great thoroughness and care. A complete set was sent to the California Commission upon my request, and should be carefully consulted as soon as the Commission undertakes this same work.

The Wisconsin forms provide for an arrangement of operating expense accounts in order of time, so as to show the cost as to each step in the process. The department is also engaged in a thorough classification of all expenses of utilities and other facts connected therewith by percentages, so as to arrive at unit information. Mr. Gruhl showed me several such tables worked out in great detail for some twelve gas companies. His department has also worked out tables of depreciation for each item of utility plants and also a composite curve showing depreciation for each utility. The Commission orders this percentage of operating revenues to be set aside for depreciation as prescribed by the Public Utilities Act. This department has also done very thorough work in the matter of investigating passenger rates of the Milwaukee street car line system. This case will soon be decided and will be one of the most important utility decisions of the Commission.

Detailed tables.

This department also carries on a large amount of general work of investigation with reference to the conduct of the business of the public utilities.

Mr. Schneider is in charge of the railroad and express statistics and accounting. The Wisconsin Commission has adopted the form of accounts prescribed by the Interstate Commerce Commission, but itself prints the forms which are sent out to the railway companies. The same is true of express companies.

XVI.

EXPRESS INVESTIGATION.

Commissioner Erickson told me that the Commission has been investigating express rates for some eighteen months. It has secured from the express companies general data showing amount of business both incoming and outgoing from each station, with the terminal expenditures chargeable thereto. Several hearings have already been held. The Commission is also going into the question of the reasonableness of the rates of the railway companies in connection with this business. Mr. Erickson was of the opinion that Auditor Peabody's estimates in the Kindel case before the Interstate Commerce Commission are defective, because in his original segregation of freight from passenger expenses he loaded the passenger expenses too heavily. The Wisconsin Commission has made a very thorough examination into this question of segregation of passenger from freight operating expenses. (See the Buell case, No. 32.)

*Careful
investigation of
express rates*

XVII.

WRITING OF OPINIONS.

Commissioner Erickson believes strongly in referring in detail to the facts in the opinions of the Commission. He believes that the habit of doing so will induce the commissioners to make more thorough investigations and also that the railroads and utilities will be less likely to appeal. This has been the experience of Wisconsin. The case of City of Beloit against the Beloit Gas, Light and Electric Railway Company, decided while I was in Madison, covers over thirty printed pages. Mr. Erickson also showed me an opinion which he had written in the matter of the City of Janesville water case, containing in detail by tables figures showing operation, revenue, classes of consumers, etc., all prepared by the statistical and accounting department. Mr. Erickson realizes that some prominent commissioners prefer to write merely the decision without going into the reasons, but believes strongly that the Wisconsin system is the better one.

*Discussion of
detailed reports.*

XVIII.

COST BASIS.

*Cost of Service
theory as basis
for rate making.*

Commissioner Erickson is probably the leading exponent in the United States of the theory that rates should be based on the cost of the service, including interest on the value of the plant. He has prepared detailed tables showing how the cost of the service of each unit is secured.

XIX.

RELATION BETWEEN STATE UNIVERSITY AND COMMISSION.

*Close relations
between
Commission and
State University.*

One of the most significant features of the work of the Railroad Commission is the close relation existing between the Commission and the State University. Professor Gilmore, of the law department, rendered assistance in the drafting of the original Railroad Commission Act. Professor Commons, of the Department of Economics, drew the public utilities act of 1907. This work was done without compensation and on the invitation of the legislative committees. As I have already stated, Professors Pence, Burgess, Mack, and others devote part of their time to their work in the University and part to the work of the Railroad Commission. A large number of the employees of the Commission are graduates of the State University. Considerable work of an experimental nature has been done by the students of the University. A number of the students of the University become interested in the work of the Commission by reason of the lectures that are given in the University by men such as the professors whom I have mentioned, and they are then upon graduation selected as employees of the Commission. This relation is one which has grown up naturally and has not resulted from any forwardness on the part of the University.

This relation is of very great assistance both to the University and to the Commission. It helps the University, because quite a number of her instructors are enabled to do practical work and to bring to their classes the point of view of a practical man. The University is also very materially aided because the people of the state see that it is helping them to solve some of their most important practical problems, and for that reason give her generous support. The

arrangement is also of very material assistance to the Commission. It gives to the Commission unprejudiced men of scholarliness and thoroughness and high ideals of public service. I am convinced that the Wisconsin Commission could not have attained its present high stage of efficiency if it had not been for its close association with the State University.

New York

SECOND DISTRICT.

I.

INTRODUCTION.

The Public Service Commission both of the First and Second Districts were created by statute of 1907. They took the place of the Board of Railroad Commissioners, the Commission of Gas and Electricity, the Inspectors of Gas Meters and the Board of Rapid Transit Commissioners. The First District includes the counties of New York, Kings, Queens and Richmond; the Second Districts, all other counties of the state.

The Commission of the First District has jurisdiction over railroads and street railroads lying exclusively within the district; street railroads lying partly within the district in so far as affects transportation of persons or property within the district; the portions of other railroads lying within the district, as to physical features; common carriers other than railroads, as to operations within the district; and gas and electric companies within the district. In addition to these powers, the Commission of the First District is the successor of the Board of Rapid Transit Commissioners in the matter of rapid transit within the City of New York and the management and control of the subways. The headquarters of this commission are in New York City.

*Jurisdiction of
District No. 1.*

The Commission of the Second District has all jurisdiction not specifically conferred upon that of the First District and in addition thereto the legislature of 1910 conferred upon it jurisdiction over

*Jurisdiction of
District No. 2.*

all the telephone and telegraph companies of the state, whether situated within the First or within the Second District. The headquarters of this commission are at Albany.

The Public Utilities Act contains provisions for control over the issue of stocks and bonds and also of extensions and new construction (certificates of public convenience and necessity).

The present Public Service Commission Act was very strongly advocated by Governor Hughes and was one of his pet measures.

II.

ORGANIZATION AND OFFICE SYSTEM.

Commissioners appointed. *The Commission.*—The commissioners are Frank W. Stevens, the chairman, an able lawyer, who handles a large part of the applications for approval of stock and bond issues; Martin S. Decker, formerly assistant secretary of the Interstate Commerce Commission, who handles a portion of the applications and is particularly concerned with traffic matters; James E. Sague, who was for many years a railroad operating man and who is particularly interested in the engineering and physical inspection work of the Commission; John B. Olmstead, a lawyer, who concerns himself with grade crossings and other matters, and Winfield A. Huppuch, recently appointed by Governor Dix. The Commission holds hearings nearly every day and is practically in continuous session. The chairman seems to be a particularly hard working man. The commissioners are appointed by the governor for the term of five years, at a salary of \$15,000.00 per year. The New York salaries are considerably higher than those paid in any other state.

Departments. *Employees.*—The work of the Commission is divided into the following divisions:

- a. Administrative.
- b. Light, heat and power.
- c. Statistics.
- d. Tariffs.
- e. Engineering and inspection.

f. Telegraphs and telephones.

g. Traffic inspection.

The secretary receives a salary of \$6,000.00 per year. The present employees in the administrative department are as follows:

John S. Kennedy, secretary; one assistant secretary; one secretary for each commissioner; and twenty-three clerks and seventeen stenographers.

The Commission has a counsel, Ledyard P. Hale, who receives a salary of \$10,000.00 per year.

The division of light, heat and power has a chief of division, Henry C. Hazzard, who receives a salary of \$4,000.00; one engineer at a salary of \$5,000.00; six persons employed in the electrical department; and thirteen in the gas department. The division of statistics consists of a chief statistician, who receives a salary of \$5,000.00 per year, and fifteen employees. The division of tariffs consists of a chief of division, at a salary of \$4,000.00, and seven employees. The division of engineering and inspection consists of a chief of division, at a salary of \$4,000.00 per year, an inspector and assistant inspectors of electric railways, an engineer and inspectors of grade crossings, a supervisor of equipment and two assistant supervisors, a boiler inspector, a mechanical engineer, four steam railway inspectors and several clerks and stenographers. The division of telegraphs and telephones has a chief, at a salary of \$4,000.00, and an engineer and seven employees in the Albany office and an engineer and three employees in the New York City office. The division of traffic inspection consists of one inspector, whose station is at Buffalo. Altogether, the commissioners and the employees of the commission number one hundred and thirty. The budget for the year 1911-12, is \$388,000, with an additional \$350,000 as the state's share of the cost of elimination of grade crossings.

*Salaries of
department
heads.*

Office System.—All communications both to and from the Commission are handled by the secretary. Each morning he goes through the mail and assigns the correspondence to the respective divisions. The files in the general office are arranged in three main groups (1) formal matters; (2) informal matters; (3) general

*Methods of
filing.*

correspondence. Both formal and informal matters are numbered. The filing clerk keeps in her desk a book for informal matters and assigns to each matter, as it comes in, a number. A decimal filing system has been carefully worked out for the general correspondence files. The office has one large general index. Formal matters are indexed by name of complainant (on a white card), name of the respondent (salmon), name of the locality (blue), and the names of all persons who are connected in any way with the case, including everybody who writes in about it and all lawyers who appear, except the regularly retained corporation lawyers. In this way an index is given to every possible clue. Informal matters are indexed in the same way on the same colored cards. However, these matters have two letters "cc" *i. e.*, "correspondence complaints," in the upper right hand corner. All applications also appear in this same index on green cards. General correspondence matters are indexed by names of the persons. Separate indexes are also kept for the subject matter of all complaints both formal and informal. I consider the filing system of this office to be the best which I observed in any of the commissions, and secured for the information of the California Commission, a copy of the decimal system key.

III.

DIVISION OF HEAT, LIGHT AND POWER.

*Gas and
electric
inspection.*

This division has charge of the inspection of all gas and electric plants within the district and the testing of gas meters. Its chief is Henry C. Hazzard. The Commission has prescribed standards of purity and of illuminating power of gas, and has four men in the field constantly inspecting gas plants to see whether these standards are being complied with. Examinations are also made of the safety of construction and operation of high tension power lines. About 80 per cent of the gas furnished is used for heating. Consequently, in Mr. Hazzard's judgment, a calorific test is better than a lighting (candle power) test. Several conferences have been held between the Commission and the gas companies for the purpose of having the companies adopt a calorific test. The matter is now in process of adjustment. Every gas meter is inspected before being installed; this work necessitates the employment by the Commission

of seven gas meter inspectors. Electric meters cannot be so inspected before installation, for the reason that because of their delicacy they vary materially between the time of inspection and the time of installation. After the installation of the gas meters, they are not inspected by the Commission except upon complaint of a user of gas. The corporation, however, is directed to keep meter testing apparatus, which is inspected from time to time by the Commission's inspectors. In Wisconsin, the Commission does not in the first instance test every gas meter, but forces the company to do so within thirty days after installation, and once every two years thereafter. The New York Commission also forces the electric companies to purchase machines for testing electric meters and to make tests at regular intervals.

IV.

DIVISION OF STATISTICS.

This division is in charge of Mr. Wishart, who was formerly *Forms of accounts.* with the Interstate Commerce Commission. The chief work of the department is to prescribe forms of accounts and reports, to analyze the reports, and to furnish statistical data when required by the Commission in cases of stock and bond issues and other cases. With reference to steam railroads, the department uses the Interstate Commerce Commission's forms as models, but prints its own blank forms, with paper covers for convenience in filing. As to express companies, forms prepared by the Interstate Commerce Commission are used. As to gas and electric companies and street railroads, the department has prepared its own forms for three classes of companies in each case, being those which are large, medium and small. The department is now preparing forms for telephone and telegraph companies. Copies of all these forms have been sent to the California Commission at my request.

The department has two traveling auditors to examine the books *Traveling auditors.* of public utility corporations, to make reports on special cases, and to assist the smaller companies in keeping their books.

V.

DIVISION OF TARIFFS.

*Department
prescribes form
of tariffs.*

This division is in charge of Mr. Griggs, who has devised the most thorough tariff filing index system which I observed on my tour. The Commission has issued its Circular No. 55, being regulations prescribing the form and governing the construction and filing of freight tariffs and classifications and passenger fare schedules of railroad companies. It has also prepared a form of schedule for heat, light and power companies, but this form has not as yet been adopted. Mr. Griggs is now working on a form of schedule for telephone and telegraph companies. None of the public utilities have as yet filed any tariffs. This division issues a weekly tariff bulletin showing all changes in transportation rates and fares for the preceding week.

The largest part of the work of this division consists in keeping up the very thorough card index system which Mr. Griggs has devised. He has one index to tariffs by railroads, showing passenger, class freight and other tariffs, except commodity tariffs, and a separate index for all the commodity tariffs. The commodity index runs alphabetically from a to z, each commodity being separately indexed. Whenever a tariff schedule comes into the office and is ready for filing, every commodity shown therein is passed on to the index cards. For instance, under the head of "apples" will be found a reference to every schedule which shows a rate on apples. In this way, it is possible to tell at a moment's notice every rate on apples in effect on any railroad within the State of New York for the last four years. In some cases, one single schedule necessitates several thousand notations on the index cards.

VI.

DIVISION OF TRAFFIC.

*Relief of
traffic
congestion.*

This division consists of one inspector with headquarters in Buffalo, where the steam railroad traffic is more congested than in any other city in the state. It is the duty of this inspector to study how to relieve this congestion and to expedite traffic.

VII.

DIVISION OF ENGINEERING AND INSPECTION.

The steam railroad inspectors go over all of the steam railroads of the state each year and inspect the same as to their physical features, such as the adequacy of stations and yard facilities and the condition of the track. One supervisor and two assistants do similar work with reference to railroad equipment. The inspector of electric railroads has charge of the physical features of the electric railroads of the second district and examines into all complaints affecting them. The division also has in its employment a locomotive boiler inspector and an engineer and an inspector of grade crossings.

The railroads furnish to the Commission, at short intervals, reports as to each passenger train delay. The engineering and inspection division thereupon analyzes the returns and suggests improvements.

Inspection of station facilities.

VIII.

DIVISION OF TELEGRAPHS AND TELEPHONES.

The statute of 1910 provides that the Commission of the Second District shall have jurisdiction over all telegraph companies and over all telephone companies having a property value of \$10,000.00 or over. Out of eleven hundred telephone companies in the state, only one hundred and thirty-five report that they have the required amount of property. The Commission is having considerable trouble with telephone companies by reason of discriminations in charges arising from existing contracts. The Commission has called for a statement from the telephone companies as to every discrimination of this kind, and may take action to order the cancellation of such contracts. No investigation has been made into the value of the plants of these companies and no rates have been fixed for any of them.

Eleven hundred telephone Companies.

IX.

STOCKS AND BONDS.

No issue of stocks, bonds or other securities payable in more than twelve months, of any of the companies subject to the Public Utilities Act is valid without a certificate of

Stock and bond issues subject to approval of Commission.

*Information
required by
Commission.*

authority from the Commission. A very large part of the Commission's work consists in hearings on these applications. Under the rules of procedure prescribed by the Commission, a petition is filed setting forth the amount and details of the proposed issue; the purposes for which the proceeds are to be used; a general description of property, facilities or service to be acquired or obligations to be refunded; the financial condition of the applicant; the cost of construction of the proposed improvements; and the contract for the sale of the stocks or bonds, or an affidavit as to the amount probably to be realized. The Commission, generally acting through Chairman Stevens or Commissioner Decker, makes a thorough examination into the application. If there is any question about the matter, the accountants and sometimes the engineer of the Commission are sent out to examine the plant and to report. The Texas law as to stock and bond issues of railroads provides that no registration of bonds shall be authorized without a precedent valuation of the plant. The New York Commission generally does not seem to require a valuation as a condition precedent to the issuance of the certificate.

*Commission
prescribes
purpose for
which proceeds
may be used.*

The order of the Commission generally prescribes the purpose for which the money is to be used, directs the applicant to report under oath the sales of obligations issued and the terms and conditions and amounts realized and to make a verified report at least once every six months showing in detail the use and application by the applicant of the moneys so realized. No form for applications nor for reports has been prepared.

*Discussion of
policy.*

The Commission lays very particular stress on this part of its work. One very important question which has arisen is as to whether or not the Commission has the power, under the statute, to impose conditions on the grant of its permission. Recently the Commission made an order permitting an electric railway company, which was very much overcapitalized, to issue \$500,000.00 worth of bonds to make improvements, on condition that the company strike off \$100,000.00 of its capital stock. The Commission's

order in this matter is now in the courts. It is important to have the statute provide that the Commission shall have the power to impose conditions, otherwise it is powerless to force the writing off of any watered stock or to force compliance with any other requirement which, in the judgment of the Commission, may be necessary to protect the company and the public.

X.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

The railroad law and the public service commission law both provide that the corporations therein specified shall not begin the construction of a new plant or an extension of an existing one or exercise any new franchise or right without having first secured from the Commission a certificate that public convenience and necessity require the construction or the extension or the exercise of the franchise or right. *Certificate of Public Necessity.*

The applicant must file a petition showing all the material facts connected with the enterprise, including the manner in which it is proposed to finance the construction or extension. The Commission then gives notice to each municipality affected and to every other public service corporation of the same kind likely to be concerned and to every person who has corresponded in the matter, and directs the applicant to publish notice in a paper designated by the Commission. The chief question, at the hearing, is generally as to whether or not the public convenience or necessity requires the construction of a new plant or the extension of an existing one. The hearings are often contested between the existing company and the new one which is seeking to enter the field. Where the application is submitted by a proposed competitor of an existing utility and the utility already in the field is giving satisfactory service, the Commission generally denies the application. If the existing company is giving poor service, the Commission often holds the application of the new company as a club over the head of the existing company in order to force better service. The commissioners told me that they considered this provision an extremely important one. Cut-throat competition between such companies usually results in deterior- *Facts required.* *Competition regulated.*

ration of the equipment and the service, and when the inevitable consolidation takes place, the public must pay interest on both investments.

A particular case.

The Commission recently refused permission to a proposed new railroad, the Buffalo, Rochester and Eastern to build from Buffalo easterly towards Boston, a proposition involving a contemplated outlay of more than one hundred million dollars. The reason for the refusal was that the traffic in the territory affected was already being adequately handled by the existing railroads and that there was no reason for the investment of so much additional capital on which the public would have to pay interest. A rehearing was granted in the case, but a decision affirming the former decision was being prepared when I was with the Commission, although a large number of legislators had signed a petition to the Commission "to decide the case promptly and in favor of the applicant" and though there was considerable public agitation in favor of the project.

XI.

PHYSICAL VALUATION.

Little progress in physical valuation.

This Commission has done practically no work in ascertaining the value of the properties of the corporations subject to its jurisdiction. The only work which has been done has consisted in the valuation of a few of the smaller utilities in complaints before the Commission concerning their rates. In the New York telephone case, recently decided, concerning ten cent tolls between New York City and adjoining cities, the Commission reduced the toll to five cents. The Commission struck out an item of thirty million dollars for special franchise values, and then took the telephone company's own figures as to value. One valuation was made during the last four years in the matter of a gas rate. One of the commissioners told me that there was little occasion for investigating railroad rates for the reason that they were stable and that the railroads were entitled, if anything, to a higher rate than those in effect.

Reduction of telephone tolls.

Theories of physical valuation discussed.

Chairman Stevens, speaking for himself, is not impressed by the physical valuation theory of some of the western states. He thinks such valuations unsatisfactory for three reasons:

1. Because the principles upon which they are based have not as yet been clearly defined by the courts.
2. Because the ascertainment of the valuation is largely guess work.
3. Because he does not know what to do with the valuation after he gets it.

As bearing on the second point, he referred to a Buffalo gas or electric case, in which he had been taking testimony for some two weeks and in which the experts varied two hundred per cent in their valuations. He is of the opinion that this entire question of physical valuation is largely guess work, particularly with reference to depreciation. In his judgment, the original cost of the plant (not the cost of reproduction) is a material element, but he points out that in New York State it is absolutely impossible to ascertain the original cost of construction of the railroad properties. He stated also that the application of the cost of reproduction theory would very materially raise the railroad rates in the State of New York.

Experts differ.

XII.

RATE FIXING.

As I have already indicated, the New York Commission has done practically no work in the way of rate fixing. In 1907 the legislature passed a two cent maximum fare passenger law, but Governor Hughes vetoed the bill on the ground that there had been no investigation sufficient to justify the reduction. The Public Service Commission did not at that time have the power to investigate rates on its own initiative. No investigation has ever been made. Mr. Stevens' view of the matter is that the service should first be perfected, and that when this has been done, the Commission can take up the question as to whether or not the company is still receiving excessive compensation. The Commission has never made any investigation of express rates.

*Perfect service
vs. rate
regulation.*

XIII.

RELATION WITH NEWSPAPERS.

The Commission is very particular to see to it that adequate *Full publicity to work of Commission.* publicity is given to its proceedings. Each day the assistant secretary prepares a statement of the matters which have come before the Commission during the day, including decisions and new applications for the approval of stock or bond issues and for permission to construct new plants or extensions of existing plants. These statements are secured each day by the newspaper representatives and are published in a large number of the papers in the state. While I was traveling in other states, both in the east and south, I read, from time to time, in the local papers, items which had been telegraphed over the wires of the Associated Press from the Commission of the Second District of New York, showing the effectiveness of the newspaper work of the Commission.

XIV.

RELATION BETWEEN COMMISSION AND CORPORATIONS.

Commission and corporations friendly. This Commission, like that of Wisconsin, seems to be on friendly terms with the corporations subject to its jurisdiction. I was told that there are at present only three or four cases in the courts arising out of orders of the Commission, these being cases raising questions concerning the jurisdiction of the Commission in certain matters, such as the power to impose conditions upon the issue of stocks and bonds.

This condition of affairs, existing as it does with reference to the work of two of the most thorough and capable of the Commissions of the country, would seem to justify the conclusion that where the work of Commissions is done with considerable care and thoroughness, the probability of appeal from their orders is slight. The result has been that the entire legal work of the Commission is handled by its counsel, personally, without any assistants. It is interesting in this connection to note that the legal department of the Commission of the First District in New York consists of a Counsel and some four or five assistants, who are kept constantly busy with the Commission's litigation. It is only fair, however, to say that a

large portion of the litigation of the Commission of the First District is probably due to a mean spirit on the part of some of the corporations, and to the fact that former watering of stock and excessive issues of bonds have placed the corporations now in such a position that they cannot meet the interest on their bonds and declare dividends, and consequently are not in a mood to comply with any order requiring an additional outlay of money.

XV.

ELIMINATION OF GRADE CROSSINGS.

The Railroad Commission Law of 1907 contains elaborate provisions concerning the power of the Commission with reference to supervision of crossings, and particularly the abolition of grade crossings. In the years 1907 to 1910 the State of New York paid as its share in the elimination of grade crossings, the sum of \$1,270,831.49. The final determination by the Commission of a large number of grade crossing cases has been held up because of the failure of the legislature of 1909 to make any appropriation for the further elimination of such crossings. The legislature of 1911, however, appropriated \$350,000 for this work. In the three years from 1907 to 1910, inclusive, 226 persons were killed and 400 injured at highway crossings in New York State outside the limits of New York City. The Commission has recommended that a statute be passed requiring the railway companies to remove, at their own expense, each year one grade crossing for every three hundred miles of railroad. The problem is becoming more serious every day.

*Attempts to
abolish grade
Crossings.*

XVI.

DISCOUNTS AND EXPENSES.

The Commission has taken the position that discounts and expenses incurred in connection with the original sale of securities are not to be regarded as capital on which interest must be paid indefinitely, but rather that they are amounts which must be apportioned annually over the period of life of the security. In other words, these sums should be paid out of income and not

*Discussion of
methods of
write-off
of discounts.*

regarded as capital account. This matter is of importance, in view of the fact that the Washington Commission, in making its valuations, permitted the railroads to capitalize these items.

XVII.

AMORTIZATION FUND.

*Amount of
amortization
fund left to
corporations.*

The Commission insists that the companies shall set aside each year out of their income an amortization fund. While it would naturally be expected that the corporations would be glad to do so, the fact is that many of their managers, desiring to declare as large a dividend as possible, have been extremely dilatory about setting aside this fund. The Commission has prescribed no percentage of depreciation to be set aside, but has left the responsibility for the present with the corporations themselves.

Massachusetts

A.

RAILROAD COMMISSION.

I.

INTRODUCTION.

Jurisdiction. The Board of Railroad Commissioners of Massachusetts was apparently created by act of 1864, although its active work seems to date from the act of 1869. The Board has limited jurisdiction over all steam, electric, and street railroads, express companies and "steamship companies serving as common carriers throughout the year between two or more ports" of the commonwealth. Jurisdiction over gas and electric light companies is exercised by the Gas and Electric Light Commissioners. Jurisdiction over telephone and telegraph companies is exercised by the Board of Highway Commissioners.

The General Court (legislature) of Massachusetts meets

annually and each year passes quite a number of amendments to the railroad commission act, and resolves (resolutions) calling upon the Board to investigate special problems and to report thereon.

II.

ORGANIZATION AND OFFICE SYSTEM.

The Commission.—The commissioners are Walter P. Hall, Chairman; Geo. W. Bishop and Clinton White. Mr. Hall is a lawyer. All the chairmen from Chas. Francis Adams down have been lawyers. Mr. Bishop was formerly road master of the Fitchburg railroad and is the practical railroad man of the Commission. Mr. White has served for ten years, is a banker and financier and handles the stock and bond applications. The commissioners give practically all their time to the duties of their office. They spend considerable time in traveling both in the United States and abroad for the purpose of familiarizing themselves with traffic conditions and with the most approved methods of railroad operation.

Commissioners appointed.

The railroad commissioners are appointed by the governor and serve for three years. By amendment of 1906, the salary of the chairman was raised to \$6,000.00 and that of the other two commissioners to \$5,000.00.

Employees.—The employees of the Board consist of a secretary, an assistant secretary, an auditor, an assistant auditor, a consulting engineer, ten inspectors and four stenographers. The secretary, Chas. E. Mann, is appointed by the governor, at a salary of \$3,000.00 per year, and has served since 1893. The only other secretary whom the Commission has had served from 1869 to 1893. The function of the accountant and his assistant is to edit, check over, analyze and digest the reports submitted each year by the railroad companies. The consulting bridge engineer, Professor George F. Swain of the Harvard Scientific School, receives a salary of \$3,000.00. The inspectors are paid \$2,000.00.

Duties of employees.

The total expense for salaries for the year 1910 was \$42,600.00. The sums of money appropriated annually by the General Court for salaries and expenses of the board, its clerks

Salaries.

and employees, are apportioned by the tax commissioner among the corporations subject to the jurisdiction of board, in proportion to gross earnings, and are collected in the same manner as taxes upon such corporations, so that the entire expense of maintaining the board is ultimately paid by the corporations which are subject to its jurisdiction.

*Records of
Commission.*

Office System.—The office system is not elaborate, for the reason that the Board does not handle a very large amount of business. All formal matters are numbered and a brief history thereof written in an index book. I glanced through this book and noted that practically all matters noted therein are petitions by the railway companies for approval of locations, approval of stock and bond issues, approval of right to exercise franchises, etc. On a number of these pages I noticed only a single case of a complaint by the third party asking a hearing. Matters which are referred to the Board by the General Court for investigation are also noted as formal matters. An index is kept of all correspondence matters. A book containing an entry of every letter received and sent out in each such matter is also kept. The secretary keeps a card index of all applications by railroads. He keeps letterpress books for his correspondence and also one for "Orders of Notice," these being notices to corporations that matters have been set for certain dates. The blank forms of these orders are printed in copying ink so that the entire notice appears in the letterpress book.

The minutes are kept in a loose leaf book with typewritten inserts. On the theory that the Board is in session all the time, no mention is made of adjournments to any particular time. The minute books show proceedings on an average of about every other day.

III.

RATE FIXING.

*Commissioner's
authority
limited to
recommending
changes of rates.*

Up to 1911, the Board had, with reference to rates, recommendatory powers only. For that reason, the Board was referred to by a committee of the National Association of Railroad Commissioners as a weak board. It is evident that this charge rankles. The commissioners explained that although they did not have the power to fix a rate, they accomplished practically the

same purpose through their powers of recommendation, for the reason that if their recommendations were not complied with, the General Court would pass a statute in the matter, lowering the rate. I have been informed within the last few days, however, that the General Court before adjourning this spring finally gave to the Commission the power to fix rates.

In response to a resolve of the General Court, the Board has made a thorough investigation into the commutation rates within fifteen miles of Boston and has secured the adoption by the railroads of twelve day tickets and has also induced them to smooth out all inequalities in rates in concentric spheres of territory radiating out from Boston. Under a resolve of 1911, the Board must now investigate commutation rates further out than fifteen miles. Commissioner White told me that there is a considerable agitation for the reduction of commutation fares further out, particularly on electric roads, and that the promise of a reduction in such fares is frequently the principal plank in the platform of a candidate for the General Court.

IV.

FACILITIES, EQUIPMENT, SAFETY DEVICES.

With reference to repairs, additions to rolling stock, additions to or alterations in stations or waiting rooms, and manner of operation, the powers of the Board are recommendatory only. Certain statutes, however, have given to the Board the power to compel the installation of interlocking plants, signal plants at crossings and safety devices. In general, the Board has mandatory power as to matters affecting the safety of passengers and merely recommendatory power in the general field of service, safety and equipment.

Commission may recommend improvement of facilities.

V.

POWERS OF BOARD AS TO CHARTERS, FINANCES AND CONSTRUCTION.

The most important powers of the Board are those which are exercised in the granting of certificates as preliminary to the incorporation of railroad companies and their construction and financial operations.

Certificate required from Commission before a railroad company may be incorporated.

Incorporation.—After the incorporators of a proposed railroad company have signed articles of intended association and have advertised the same, they must secure from the Board a certificate that public convenience and necessity require the construction of a railroad as proposed in the articles of agreement. The Board has power to refuse the issue of such a certificate. The Board in its order sets a date for the hearing of the matter and usually directs publication in at least one newspaper in each city or town affected, and also directs a copy of the publication to be served on the mayor of each such city or town. Railroads which might be affected are also notified. The general policy of the Board is to grant such certificates wherever they affect new territory but to refuse them where the territory is already adequately served. In case the existing service is inadequate, and the existing company is slow to improve it, Commissioners Hall and White differ as to the policy to be pursued. Chairman Hall would grant the application on the ground that competition is a good thing. Commissioner White would hold the matter in abeyance, using it as a club over the head of the existing corporation to compel improved service, and ultimately granting it only if the existing corporation does not come up to scratch. Chairman Hall fears that this policy will ultimately result in the refusal of any new corporation to apply, and consequently a tendency on the part of the existing corporation not to keep up its service.

The Board last year refused several applications for new railroads, among them the application of the Boston, Lowell and Lawrence Electric Railroad Company, in which case Chairman Hall dissented. The Board last year granted certificates to four railroads, refused them to two (Hall dissenting) and postponed one matter (Hall dissenting).

Procedure. If the Board issues the certificate of public convenience and necessity, the proposed corporation must then agree as to its route with the board of aldermen of all the cities and towns through which the railroad is to run, must pay into its treasury ten per cent of the par value of the stock subscribed, and must then secure from the Board a certificate of compliance with the provisions preliminary to incorporation. Then, and only then, can the incorporators

secure from the secretary of the commonwealth their certificate of incorporation.

As far as I was able to ascertain, Massachusetts is the only state which makes the issuance of a certificate of public convenience a condition precedent to the issuance of articles of incorporation. In Wisconsin and New York, the proposed company can incorporate and secure its articles, subject to the possibility that the Railroad Commission may thereafter refuse permission to build the railroad for which they are incorporated. The Massachusetts plan is more logical in that it goes to the root of the matter and prevents the initial incorporation of such company, unless the Board of Railroad Commissioners decides that public convenience and necessity require the construction of a railroad along the route specified in the articles of incorporation.

Construction.—After the certificate of incorporation has issued and the railroad has been constructed, it can not be operated until the Board has issued its certificate that all laws regarding its construction have been complied with and that it appears to be in a safe condition for operation. If the railroad thereafter wishes to extend its line or to add a new piece of track, it must secure from the Board an approval as to location. With reference to locations, the Board has power to refuse the certificate only on the ground of menace to public safety. The right of the railroad to build along a certain route has already been settled by the issuance of the certificate of public convenience and necessity. The question arising under an application for the approval of a location is simply the determination of a specific location in that general route.

If the railroad thereafter wishes to lease the franchise of another railroad corporation, or to consolidate with such corporation, or to enter into a contract with it under which the corporation shall perform all the transportation upon the road of the other, it must first secure a certificate of authorization from the Board of Railroad Commissioners.

Finances.—If a railroad wishes to issue stocks, bonds, notes or other evidences of indebtedness, payable more than twelve months from the date of issue, it must first

Certificate of Commission required after construction before beginning operation.

Leases, mergers under control of Commission.

Issues of securities must be approved by Commission.

secure a certificate from the Board of Railroad Commissioners. No form of petition has been prescribed by the Board. The Board generally directs notice to be published in one or more newspapers. Cases of contest in matters of this kind are extremely rare. There is generally an appearance made by the attorney and the treasurer or auditor of the applicant. The Board does not seem to make the careful examination into the value of the applicant's property which is made in New York and Texas, but seems to rely largely upon the knowledge of finance possessed by Commissioner White.

Commissioners prefer general powers rather than detailed statutory provisions.

The statute does not specify the purpose for which such issues can be made and in this respect differs from the statutes of New York and Wisconsin. Commissioner White told me that the present Board has never authorized an issue for any purpose other than the purchase of property except under one statute which authorized the issue for working capital. Mr. White thinks it wiser to have the statute give the Board general powers in this respect instead of tying the hands of the commissioners by detailed statutory provisions.

Discussion.

I had some little conversation with Commissioners Hall and White with reference to the policy of the commissions in New York in forcing an applicant at times to write off a designated amount of capital stock as a condition precedent to the approval of a new issue of stocks or bonds so as gradually to squeeze out the water. Chairman Hall is strongly of the opinion that the Commission should not go into these matters, but should start with a clean slate and should consider only whether the amount of the issue applied for is too large for the purpose specified and whether the purpose specified is legitimate. He referred to the converse case in which the corporate plant is worth more than its stocks and bonds and asked why it would not be permissible in such a case, if the theory referred to is correct, to permit a new issue of stocks or bonds without putting in any new money into the plant. He does not see how the New York Commissions can consistently refuse

to grant such permission in the latter case. I found no crystalization of opinion among the commissions on this point.

These provisions with reference to incorporation, construction, and finances give to the Board immense powers, and the larger portion of its work is performed under them. The stock and bond law has been in effect since 1875, and the public convenience and necessity law since 1882. Wisconsin, New York and other states which have recently adopted similar provisions, all apparently took them from Massachusetts.

VI.

GRADE CROSSINGS.

The matter of alteration or abolition of grade crossings is an extremely important one in Massachusetts. In 1910, the Commission approved plans for the abolition of crossings at grade in *Abolishment of grade crossings.* eight towns and also approved two agreements for alterations in *grade crossings.* grade crossings. In cases of abolition, the railway companies pay 65 per cent of the expense, and the state and the city or town *Cost divided.* 35 per cent. \$34,000,000 has already been expended in Massachusetts by the railroad and public authorities in the abolition of grade crossings. In 1910, the commonwealth voted an additional \$500,000 for this purpose. Both Chairman Hall and Commissioner White urged strongly that California take steps in this matter at once, before the expense becomes enormous, as is the case in all the eastern states.

VII.

COURT PROCEDURE.

The Board has had almost no cases in court. This is partly due to the fact that a large portion of the work of the Board has been *Little litigation.* recommendatory and that none of it has involved the fixing of a rate. The remedy adopted, whenever any was used, has been certiorari. The Board has been reversed only four times in its history. Two of these cases date back to the days of Charles Francis Adams.

VIII.

PREPARING ANNUAL REPORT.

Method of keeping data for annual reports. Secretary Mann showed me his method of preparing his annual report. During the year, the usual main heads in a report are cut out and all orders and other matters pertaining thereto are pasted under these heads in chronological order, ready for printing. The index heads are also cut out and pasted on cards, and new cards are prepared by one of the clerks at odd times as new headings become necessary. All orders in so far as possible, are held off after December 15th, and the Chairman's report must be in by that day. Proof has been read in the meantime, from time to time, by the secretary, with the result that the signed report is on the desk of the legislators by the first Wednesday in January. The statistical reports are printed in a separate volume. By planning the work ahead during the year, it is comparatively easy to have the report prepared in time.

IX.

LIBRARY.

Interesting library of Commission. Secretary Mann has spent considerable time in securing a library, particularly in so far as the railroads of Massachusetts are concerned. He has collected a large number of pamphlets dealing with the early history of these railroads, and practically all the books that have been published affecting in any way the railroads of the commonwealth. He showed me some extremely interesting pamphlets going back to the very first railroad construction in Massachusetts, and others dealing with the early history and construction of the Hoosac Tunnel. He has also secured from the railroads and from booksellers and private libraries almost complete sets of the stockholders' reports of the railroad companies—a matter of considerable importance to an effective railroad commission. He has also prepared a historical card index of all the railroads of Massachusetts, showing in detail every step in their history, beginning with the incorporation and continuing through every organization, reorganization and consolidation, and every statute and order of the Board referring in any way to these matters and

to the issuing of stocks and bonds. I shall go into this latter matter a little more fully in connection with the work of the Public Service Commission of the First District of New York. These two commissions seem to be the only ones which have realized fully the immense value of having in the office of the state board detailed and accurate information concerning the entire history of the railroad companies of the state.

X.

INSPECTORS.

Up to 1911, the legislature provided for seven inspectors. The state was divided into six districts, with one inspector in charge of each district. The duty of each inspector is to look into the service, equipment, and facilities of the steam and street railroads within his district and to investigate complaints affecting these matters. The seventh inspector is a locomotive inspector and spends his time riding on locomotives. Commissioner White is particularly proud of these inspectors. All of them are practical railroad men. Each Monday they report to Commissioner Bishop at a general conference. There is sufficient diversity in their qualifications so that one or the other is qualified to handle practically any matter which may come up, however technical it may be, involving a question of service, facilities, or equipment. The legislature of 1911 increased the number of the inspectors from seven to ten.

*Duties of
Inspectors.*

B.

GAS AND ELECTRIC COMMISSIONERS.

I.

INTRODUCTION.

Since 1885, jurisdiction over all the gas and electric light companies of the state has been exercised by the Board of Gas and Electric Light Commissioners.

The Board has the following general powers:

General powers.

1. To supervise all companies manufacturing and selling gas or electricity for light or heat.

2. To authorize a gas light company to engage in the business of furnishing electricity for heat and power.
3. To sit as court of appeal on decisions of boards of aldermen or selectmen on the petition of a second company to lay gas pipes in the streets.
4. To exercise similar power as to electric light companies.
5. To prescribe forms of accounts.
6. To compel the rendition of annual returns.
7. To compel a company to supply gas or electricity upon the petition of a consumer.
8. To fix the quality and price of gas or electricity upon petition of the mayor of a town or the board of selectmen or twenty consumers.
9. To fix the price of gas or electricity upon petition of the company.
10. To test electric meters on petition of a consumer.
11. To investigate accidents.
12. To test and seal all gas meters before installation.
13. To test all gas for candle power and for sulphur, ammonia, and other impurities.
14. To enforce provisions of a recent statute as to smoke in Boston, Brookline, Cambridge, and other cities.
15. To regulate all issues of stocks and bonds and all consolidations of gas and electrical companies.

II.

ORGANIZATION AND OFFICE SYSTEM.

The Commission consists of Forrest E. Barker, Chairman, Morris Schaff, and Alonzo R. Weed. Chairman Barker is a lawyer and has served on the Board since the seventies. Mr. Weed is an engineer, a graduate of West Point and has just been reappointed for the ninth or tenth time. The Commissioners are

appointed by the Governor at a salary of \$5,000.00 for the Chairman and \$4,500.00 for the other two Commissioners. The Commissioners devote their entire time to the duties of the office and seem to perform a very large amount of work. Their report is among the most thorough and comprehensive of any of the reports published by state commissions.

Employees.—The employees consist of a clerk appointed by the Governor, one chief and two assistant gas inspectors, four inspectors or testers of meters, one electrical inspector and three stenographers. All the salaries and expenses are paid by the gas and electric companies in proportion to their gross receipts.

Duties of employees.

Office System.—Stenographic reports are taken of all hearings and the original notes are firmly bound in black leather volumes which are then filed away in the vault. This is an excellent idea, apparently original with this board and worthy of emulation. The annual reports of the corporations are neatly bound when returned, those of private gas companies in one color, those of private electric companies in another and those of municipally owned plants in still another color.

Complete records kept.

III.

RATE FIXING.

Chairman Barker pointed out that the Board does not have power on its own initiative to fix rates. He said that his Board had discouraged legislation to that end, for the reason that the public would then be inclined to lose their initiative in the matter of filing complaints and for the reason that the Board would then be subject to severe criticism for failure to institute investigations in certain cases. He pointed out, however, that when a reduction in rates is petitioned for by the Mayor or the Board of Selectmen or twenty consumers, the Board has the power to fix the rate. On other occasions the Board at times compels the reduction of a rate as a condition to the approval of a stock or bond issue.

Rate complaints must originate with public.

IV.

STOCKS, BONDS, CONSOLIDATION.

There is hardly ever any opposition in cases of this kind. The Board hears the evidence presented and then itself goes carefully into the value of the plant and the financial condition of the company before issuing its certificate. In the year 1910, twenty-nine applications for approval of issue of stocks and bonds were decided. The amount of security asked for was \$3,803,400, and the amount approved \$2,969,600. The Board at times imposes conditions to its permission; for instance, that a certain amount of the capital stock should be written off, or a dividend reduced or an assessment made to bring up the capital account. The policy of this Board, as well as the experience of the New York Commissions of both districts, shows the necessity of giving to the Commission the power to impose conditions on the approval of stock and bond issues.

Examples of conditions imposed by Commission.

The Massachusetts Board has the power, on granting applications for issues of bonds, and it is its duty, to determine the price for which the bonds shall be sold. This is an unpleasant duty and nobody is ever satisfied with the decision of the Board on this question.

Commission determines price for which bonds may be sold.

V.

NEW GAS OR ELECTRIC PLANTS.

Sections 25 and 26 of the statute provide that no gas or electric company shall use the streets of a city or town without the consent of the mayor or aldermen or selectmen granted after notice by publication and a formal hearing. Section 27 provides that any person aggrieved by the decision may within thirty days appeal to the Board of Gas and Electric Light Commissioners, whose decision shall be final. Chairman Barker told me that appeals were taken in practically all cases and that in only one or two cases had the Board permitted the second utility to come into the field. While his Board has not put itself on record as formulating any definite policy in this matter, these results speak for themselves.

Public Utilities must obtain permission to use streets.

I referred to objections which I had heard concerning this policy as applied to railroads, whereupon Chairman Barker answered that there is no remedy so sure or so speedy to secure adequate service by the existing company as the power of the Board to grant or withhold a certificate to a second company. *Adequate service secured by regulation of competition.*

In answer to the suggestions that such a course of procedure might soon dissuade new companies from making further applications, Mr. Barker said that it is always easy to stir up an agitation for a citizens' or other new gas or electric company if the service of the existing company becomes too poor.

VI.

ACCOUNTS.

The Board has prepared a carefully worked out form of accounts and reports, which aims at simplicity, so that the matters presented shall help the public ascertain the simple question as to whether the company is or is not making too large a profit. This commission has done the pioneer work of the country in the matter of the prescription of forms of accounts for gas or electric companies. *Gas and electric accounting.* When the California Commission secures jurisdiction over gas and electric companies, it will do well to examine carefully the forms prescribed by the Massachusetts board, copies of which were sent to the California Commission at my request.

VII.

LITIGATION.

In all its history, this Board has had only a single case in court. *Little litigation*

C.

BOARD OF HIGHWAY COMMISSIONERS.

This Board, among other powers, has jurisdiction over all telegraph and telephone companies within the state. I was unable to visit the Board.

New York.

FIRST DISTRICT.

I.

INTRODUCTION.

Commission controls subways and rapid transit. The extent of this Commission's jurisdiction has already been discussed while considering the Commission of the second district. As there stated, its office is in New York City. The largest portion of the work of the Commission of the first district arises from its control over subways and rapid transit, as the successor of the Board of Rapid Transit Commissioners of New York City. Out of 489 employees of the Commission in June, 1911, 272 were directly and solely concerned with this branch of the work. Two-thirds of the running expenses of the Commission, irrespective of the cost of the construction of subways, are directly chargeable to this branch of the work. The Commission has but little to do with steam surface railways. Such of these railroads as have their terminus in New York City keep up adequate service and facilities without any action on the part of the Commission. The extent of these railroads within the city of New York is so small that no questions affecting the rates within the city of New York have arisen. Apart from its subway work, the attention of the Commission is directed largely to street railways and to gas and electric plants within the city of New York.

II.

ORGANIZATION AND OFFICE SYSTEM.

Personnel of Commission. *The Commission.*—The Commissioners are William R. Willcox, Chairman, Milo R. Maltbie, John E. Eustis, Wm. McCarroll and J. Sergeant Cram. Chairman Willcox was practising law at the time of his appointment by Governor Hughes. Mr. Maltbie is a Ph.D. of Columbia University, a thorough student of political economy and a hard worker. He does most of the public writing for the Commission and also works out and writes a large portion of the opinions of the Commission. He and Commissioner Bassett, whose term

recently expired, did most of the work in connection with stock and bond issues. Mr. Eustis is a lawyer. Mr. McCarroll was formerly a leather merchant. Mr. Cram was recently appointed by Governor Dix in place of Commissioner Bassett, who was regarded as an extremely efficient commissioner.

As is the case in the second district, the commissioners of the first district are appointed by the Governor and devote their entire time to the work. Their salary is likewise \$15,000 a year.

*Salaries of
Commissioners.*

The Office.—The office is divided into the following bureaus:

- (a) Executive.
- (b) Chief Engineer.
- (c) Transportation engineer.
- (d) Gas and electricity.
- (e) Franchises.
- (f) Statistics and accounts.

Bureaus.

(a) *Executive.*—The secretary, Travis H. Whitney, is a member of the class of 1900 at Harvard and of 1903 at the Harvard Law School. He has the work of the office exceptionally well in hand, and directs, with considerable ability, the administrative work of the Commission. The executive office apart from the secretary, consists of the counsel and his office, and of sixty-four employees, of whom thirty-two are clerks, and sixteen stenographers. Among the other employees, are two assistant secretaries, one librarian, one purchasing agent and one photographer.

Executive offices.

(b) *Chief Engineer.*—The attention of the chief engineer and his department is confined entirely to subway construction work. The chief engineer has an office force and an engineer of subway construction, under whom are six divisions and a sewer division and a division of design. There are two hundred and seventy-one men directly under the chief engineer.

*Control of
subway
construction
work.*

(c) *Transportation Engineer.*—The transportation engineer, in addition to his office force, has divisions of transit inspection, equipment inspection and accidents and complaints. The division of transit inspection employs forty-three persons, including thirty-two

inspectors and six or eight assistant engineers. The division of equipment inspection consists of ten railway engineers, five electrical engineers and one inspector. The division of accidents and complaints consists of one assistant electrical engineer and five inspectors.

(d) *Gas and Electricity.*—The gas and electricity bureau consists of thirty-three employees, among whom are one secretary, six inspectors and twenty-three gas meter testers.

(e) *Franchise Bureau.*—The franchise bureau consists of the chief of bureau and ten employees.

(f) *Division of Statistics and Accounts.*—This division consists of the chief statistician and seventeen employees, including five statisticians and six accountants and six stenographers and clerks.

Budget. The budget is about \$1,000,000 a year. The state of New York pays the salaries of the Commissioners, the counsel and the secretary and the city of New York pays the other expenses. The city bears its share of the expenses by means of short term notes which are placed in the next year's city budget as a part of the city's indebtedness. For printing alone, apart from the subway and rapid transit work, the Commission last year spent over \$35,000.00.

Secretary is administrative head. *Office System.*—The secretary is the administrative head of the Commission. I observed the number of men coming into his office during the two days I was there and can bear witness to the very large number of persons whom he sees during the day. These are partly members of the office force coming to him for their instructions and rendering reports to him, partly representatives of the press and partly third parties. The secretary handles all the mail. A stenographer opens the mail early in the morning and writes on a tag, in duplicate, the general nature of the letter, with a reference to the person who wrote it. An assistant secretary then stamps on the tag a reference to the person or department to whom the letter is to go. When the secretary arrives in the office, he glances over the letters and tags, and the letters are then distributed. One of the duplicate tags goes with the letter and the other is kept in the secretary's office and filed, so that he can determine at once to whom the letter was assigned. When the

letter is returned with its answer, the second tag is taken off and filed with the first. The secretary personally signs all letters which go out, except those of the legal and engineering departments. The secretary also prepares carefully the work to be taken up by the Commission at its meetings.

III.

LEGAL DEPARTMENT.

The legal department is headed by James S. Coleman, counsel for the Commission, who receives a salary of \$10,000.00 per year. His office force consists of five assistant counsel, two junior assistant counsel, a secretary to counsel, four stenographers and four clerks. One assistant counsel draws all the orders in stock and bond cases and similar matters, besides taking care of legislation affecting the Commission. Another counsel and two assistants handle the Commission's rapid transit and subway work. Another assistant counsel has charge of matters arising out of the railroad law, such as grade crossings, service and the like.

This Commission seems to have more legal work than any other railroad or public service commission in the United States. This condition arises partly from the large number of contracts and agreements which must be prepared in connection with the Commission's subway work, and partly from the fact that this Commission seems to have more litigation than any similar commission. The large amount of this litigation seems to be due to three causes:

Much litigation.

Causes.

1. Unfavorable judges.
2. Antagonistic corporations.
3. Action on the part of the Commission in exercising powers which the courts later hold are not conferred by the act.

Writ of Review.—The original intention of Governor Hughes and the framers of the statute was that there should be no appeal or review of an order of the Commission, the complainant being left to his remedy by injunction. The state courts, however, held that the remedy of review prescribed by the code of civil procedure would lie. The Commissioners are strongly opposed to the right

Legislation.

of review and are apparently preparing to amend the statute so as to take away this right, as soon as they can secure a favorable legislature. One of the assistant counsel showed me the transcript in the Third Avenue case. The printed volumes of the transcript are at least two feet high. The corporations, in presenting their cases, put in every conceivable kind of testimony, and the Commission itself includes the voluminous reports and records which it may have considered in arriving at the decision.

Mr. Coleman strongly favors the right of review and points out that trial by injunction would take much longer and would be far more cumbersome than review. He might also have pointed out that in the absence of the right of review in the state courts there is nothing to prevent a corporation from going at once to the federal courts for an injunction, freed from any condition which the legislature may prescribe for such cases in the state courts.

*Attitude of
Courts.*

Litigation.—The New York state judges have on every possible occasion whittled down the powers of the Commission. The lower federal judges seem also to be unfavorably inclined. The famous Consolidated Gas case, which was finally decided in favor of the Commission in the United States Supreme Court, was decided adversely to the Commission in every inferior court. The following are some of the leading cases affecting the powers of the Commission:

Particular cases.

a. *Willcox vs. Consolidated Gas Company*, 212 U. S. 40.

In this case, the Supreme Court of the United States finally sustained a statute fixing the price of gas at 80 cents.

b. *Long Acre Electric Light and Power Company Case.*

In this case, the Commission, on general grounds of public policy, refused authority for the issue of stocks and bonds of the newly formed Long Acre Electric Light and Power Company. The Commission regarded the matter as simply an effort on the part of the applicant to secure the desired permission so that it might then be in a position to force a sale to the Consolidated Gas Company. The courts reversed the order of the Commission, denying the desired authority, and the Commission thereupon on July 28, 1911, while I was visiting them, finally granted the desired certificate.

c. *South Shore Traction Company Case.*

This was an application to build an electric railway from Queens County over the Queensborough Bridge into Manhattan. The Commission found that public convenience and necessity would be subserved by the construction of the contemplated railway, but held that the franchise granted by the city of New York did not sufficiently protect the city because it did not provide sufficiently for the use of the bridge by possible later companies. The court overruled the Commission, on the ground that the Commission's power as to franchises was merely a perfunctory power of approval, without the right to impose conditions or qualifications.

d. *The Third Avenue Railroad Case.*

This was a case of reorganization. The Commission refused to authorize the issue of some \$73,000,000 of stocks and bonds, on the ground that the real value of the plant was not over \$58,000,000. The court held that under a proper construction of the language of the statute as to reorganization, the companies had the full power to issue up to the combined stocks and bonds of the component companies and that the Commission had no power to impose any condition which would lower this total, even for the purpose of squeezing out water. These people applied twice to the Commission and were twice refused. The decision of the appellate division overruling the Commission was handed down on June 21, 1911. The Commission intends to appeal the case.

IV.

STOCKS AND BONDS.

Apparently the most important work of the Commission, *Security issues* apart from its subway and rapid transit work, is that in *must have* connection with applications for approval of stock and bond *approval of* issues. The rules of procedure in these matters are similar *Commission.* to those of the second district already referred to. The Commission makes a very thorough investigation in each case, and, as a part of its inquiry, at times makes a physical valuation of the plant. There is considerable question, as a matter of law, whether the Commission has

been granted the power to impose conditions on the granting of the desired permission. The Commission acts on the theory that it has this right, and often imposes quite a number of conditions. A typical order was issued on July 28, 1911, in the matter of the application of the Long Acre Electric Light and Power Company for authority to issue \$10,000,000 of preferred stock and \$50,000,000 of bonds to be secured by mortgage on its property. The Commission's order authorized an issue of \$2,000,000 of capital stock and of \$50,000,000 of bonds, of which bonds, however, only \$4,000,000 may at present be issued. After specifying the purpose for which the money may be used, the order sets out the following conditions:

Conditions of order. 1. No bond shall issue until the existing mortgage has been satisfied.

2. \$2,000,000 of bonds may issue only when \$1,000,000 of new stock has been fully paid in. The same condition governs the second \$2,000,000 of bonds. The bonds may not be sold at less than 90 per cent of par, and the proceeds must be applied as specifically directed.

3. If the company proposes to sell the bonds for less than 90 per cent of par, it must publish notice of the sale and permit a public bidding under the control of the Public Service Commission.

4. Discounts, commissions and expenses shall not exceed \$400,000 and shall be amortized out of the income of the company before July 1, 1961.

5. The company must keep full accounts of receipts and applications of proceeds of sales and make each month a verified report of the same to the Commission.

6. No proceeds shall be spent until an itemized bill therefor has been submitted to the Commission.

7. Stocks and bonds, under this authority, must issue prior to July 1, 1913.

8. A duplicate original of the mortgage must be filed with the secretary of the Commission.

Commissioner Maltbie states that in his judgment the present law concerning applications for approval of stock and bond issues is satisfactory, except that the statute should clearly confer upon the Commission the power to prescribe conditions on the issue of stocks and bonds, should make the power of the Commission apply to reorganizations, and should provide, in addition to its present provisions, that notes of a corporation running for less than a year can not in turn be replaced by other notes.

Discussion of policy regarding stock and bond issues.

The street railway conditions in New York City show very clearly the necessity of public control over the issue of stocks and bonds. Although New York City is the richest passenger traffic territory in the country, every street railway company in that city is in the hands of a receiver. The reason is that every time any of the extremely numerous organizations and reorganizations in street railway properties were effected, the amount of capital stock was increased and the issue of bonds was augmented. The result is that today these companies are vainly trying to pay interest on a tremendous amount of watered capital and excessive bond issues. It further follows that the companies have no money for the betterment of the service or for the purchase of necessary additional equipment or facilities. The investing public has suffered because of excessive capitalization, and the traveling public because of inability to improve service, facilities and equipment. If at the time these organizations and reorganizations started, an efficient state commission had had control of stock and bond issues, the present condition of affairs would never have resulted.

Securities of New York City railway properties.

V.

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Section 53 of the Public Service Commission law, referring to railroads, street railroads and common carriers, and similar sections

Certificate of public necessity required before beginning construction.

applicable to gas and electric companies and telegraph and telephone companies, provide that no company shall begin the construction of its plant without first securing from the Public Service Commission a certificate of public convenience and necessity. Dr. Wilcox told me that the public service field had already been so thoroughly covered in New York City that very few applications have been made or will be made for certificates of public convenience and necessity. No such application has been made with reference to gas and electric companies. Apparently no case has arisen as to railway companies except the South Shore Traction Company case, *supra*, in which case, Commissioner Bassett specifically found that public convenience and necessity existed but refused a certificate because of disapproval of certain provisions of the franchise granted by the city.

VI.

APPROVAL OF FRANCHISES.

Commissioner must approve before franchises may be exercised. The sections referred to in section V hereof further provide that the corporations therein specified shall not exercise any franchise or right not theretofore lawfully exercised without having first secured the permission and approval of the proper Commission. The statute contains similar provisions with reference to the transfer of franchises or stock. In the South Shore Traction Company case, the court held that the Commission does not have the right to refuse approval to the exercise of a franchise, except in so far as the public safety is affected. If this is the law, the statutory power in this respect is at present largely ineffective.

VII.

FRANCHISE BUREAU.

The Commission of the first district is the only commission in the country which has a special franchise bureau. The head of the bureau is Dr. Delos F. Wilcox, a Ph.D. of Columbia, author of "Municipal Franchises" and a number of pamphlets and magazine articles, and an unusually well posted man. Dr. Wilcox has made a thorough study of all the organizations and reorganizations,

mergers and consolidations, affecting the public service corporations of this district and of all the franchises which have been granted to them. He furnished the material from which Commissioner Maltbie published a two hundred and thirty page book on "Franchises of Electrical Corporations in Greater New York," accompanied by an illuminative chart.

Reports and documents from companies.—This bureau secured from each company subject to the jurisdiction of the Commission a certified copy of each document affecting its organization, reorganizations, consolidations, mergers, etc., and of every deed, franchise, lease or agreement and all miscellaneous documents affecting its corporate existence. The bureau has secured a very large number of these documents and has filed them by companies, each document in a separate file with a number. A card index is arranged by original companies. As to each such company, the index has subheads for certificate of incorporation, franchises, leases, operating agreements, etc. Maps secured from the companies in connection with their franchises are also indexed but separately filed.

Statistical data.

Franchise books.—Dr. Wilcox's office has prepared blue prints showing the history of every franchise that has been granted within the limits of the city of New York. Each map shows some franchise or franchises, trackage actually used and trackage owned and trackage operated under lease, with appropriate references. Along the edges of the print, Dr. Wilcox has written historical data showing the history of each franchise. These maps follow each other in chronological order and are pasted into four large scrap books, one book for each borough.

History charts.—Dr. Wilcox has also prepared charts showing diagrammatically the history of each company performing a certain kind of service, with the original organization and all successive organizations, reorganizations, mergers, consolidations, receiverships, etc., including the stock owned in other corporations. These charts show as to each kind of public service, a large number of original companies gradually merging into one or two which now control the situation. Copies both of franchises and history charts in so far

Franchise charts.

as they affect electrical corporations will be found in the book of "Franchises of Electrical Corporations in Greater New York," above referred to.

Franchise records. *Value of franchise compilations.*—The franchise compilations so prepared are of great assistance to the Commission in the matter of the approval of stock and bond issues and may also be used as the basis for actions to forfeit a considerable number of unused franchises. This data also shows that in some cases the public service corporations are using the streets of the city of New York without any franchise at all.

There is no statutory provision in New York for an indeterminate franchise, similar to that of Wisconsin, except in the Rapid Transit Act, affecting the subways and the rapid transit system of New York City.

VIII.

PHYSICAL VALUATION.

The Commission has made no physical valuations except in connection with a few matters of approval of stock and bond issues.

IX.

NEWSPAPERS.

Publicity work of Commission. The relationship between the Commission and the press is very close. An Associated Press correspondent has his office with the Commission. The first assistant secretary spends almost his entire time in preparing for the press statements of what the Commission is doing, including abstracts of opinions. While I was in the office, a constant stream of newspaper men kept coming in for news. Secretary Whitney lays great stress on this part of the Commission's work. He suggests for California a card index of all the newspapers of the state with their affiliations, dates of publication, owners, etc., and a system of sending out statements to all newspapers which are willing to run Commission news.

X.

LIBRARY.

The Commission has employed Dr. Whitten, another Columbia Ph.D., who receives a salary of some \$3,600.00, and spends his entire time in collecting a library of reference books and reports and newspaper clippings and magazine articles, referring to the subject-matter of the Commission's work. The Commission's library is by far the most complete of any railroad or public service commission visited by me. *Reference books.*

XI.

ACCIDENTS.

Immediate notice of every accident is given to the Commission by telephone or telegraph. One of the Commission's inspectors is on the ground within a few moments and takes the names of the witnesses and gathers information concerning the cause of the accident. The Commission has a photographer who takes photographs of the surroundings whenever applicable. In serious cases, the Commission also holds a hearing of its own. In case of death, it always sends a representative to the coroner's inquest. Within twenty-four hours after the accident, the company must send in a written report. *Accidents must be reported immediately to Commission.*

Maryland.

I.

INTRODUCTION.

The Public Service Commission of Maryland was created by Act of April 5, 1910. The Commission has jurisdiction over all railroads of every kind, common carriers and gas, electricity, telephone, telegraph and water companies. The Commission started work in May, 1910, and is still in the formative stage. *Jurisdiction.*

The statute seems to have been modeled very largely on the New York Act and partly on the Interstate Commerce Commission Act.

II.

ORGANIZATION AND OFFICE SYSTEM.

Personnel. *The Commission.*—The commissioners are James M. Ambler, Chairman, Philip Laird, and Joshua W. Hering. Chairman Ambler is an attorney. Dr. Hering is a practicing physician.

Employees.—The Commission has a counsel and assistant counsel. The secretary is Louis M. Duvall. There are several clerks in the office. The Commission's engineer is now engaged in making a physical inspection of the public service corporations of the state, preliminary to a physical valuation.

III.

STOCK AND BOND ISSUES.

Maryland statute modeled after New York statute, as to stocks and bonds. The Maryland Statute contains provisions similar to those of the New York Statute with reference to the approval by the Commission of issues of stocks and bonds. While I was visiting the Commission, they were considering an application of a proposed railroad for permission to construct a railroad and for an approval of a stock and bond issue. The promoters intended to utilize a roadbed constructed some twelve or thirteen years before, largely from state and county moneys, and to secure their funds from a popular subscription. The promoters had not secured permission from the county authorities to cross the public highways nor had they filed with the Commission the data required in the Commission's rules of procedure. The Commission was inclined to withhold consent, at least until the necessary franchise for crossing the public highway had been secured from the county authorities. The Commission's disinclination to permit the establishment of any more grade crossings entered largely into the case. The attention of the Commission seemed to be directed very largely to the question of the certificate of public convenience and necessity and not so much attention was paid as to the amount of the stock or bond issue which should be authorized.

Discussion of particular case.

As above stated, this Commission is in its formative period. It gives every indication of doing good work when it is fairly under way.

INTERSTATE COMMERCE COMMISSION.

While with the Interstate Commerce Commission, I paid particular attention to matters of litigation and to the investigation which the Commission is now carrying on into the express rates of the country. I also conferred with the Post Office Department in the matter of certain data which they have secured from the railway companies as to all kinds of passenger train service, including express and mail. *Investigation of express rates.*

I also examined the Commission's filing system and was shown the method of handling both formal and informal complaints from the time of their filing to their final disposition.

The Commissioners were all out of town on their vacations, so that I had no opportunity to discuss with them any of the problems of public regulation and control of public service corporations.

Georgia.

I.

INTRODUCTION.

The Railroad Commission of Georgia was created by act of October 14, 1879. This act provided for the appointment of three commissioners to serve for six years at an annual salary of \$2,500.00 with jurisdiction over all railroad companies except street railroads. It was made the duty of the Commission to establish rates of charges. By act of December 18, 1890, it was made the duty of the Commission to investigate all interstate freight rates affecting Georgia. The act of October 17, 1891, made it the duty of the Commission to inspect railroads, on complaint made, with respect to their safety. Another act of October 17, 1891, extended the jurisdiction of the Commission to the fixing of storage rates. The act of October 21, 1891, extended the jurisdiction of *Jurisdiction.*

the Commission to express and telegraph companies, with power to fix their rates. The act of August 21, 1906, provided that the commissioners should be elected instead of appointed. The act of August 22, 1907, gave to the Commission its present powers. It increased the number of commissioners from three to five and gave to the Commission jurisdiction over railroads of all kinds, common carriers, express companies, telephone, telegraph, dock, wharfage, gas, electric light and power and cotton compress companies.

II.

ORGANIZATION AND OFFICE SYSTEM.

Commissioners appointed.

The Commission.—The commissioners are H. Warner Hill, Chairman, George Hillyer, O. B. Stevens, Chas. Murphey Candler, and Joseph S. Gray. Chairman Hill is a lawyer and has served on the Board some eight or ten years. In 1907, Governor Hoke Smith removed Joe Brown, then chairman of the Board. The governor appointed a member in place of Brown and the law was thereafter amended so as to add two commissioners, making five, the two new commissioners to be appointed by the governor. Judge Hillyer was appointed by Governor Smith in 1907 and is likewise a lawyer. Mr. Candler fathered the present railroad commission law in 1907 and was likewise appointed by Governor Smith. Mr. Stevens is a farmer. Mr. Gray is a railroad man. The statute provides that the chairman shall devote his entire time to the duties of his office and that he shall receive a salary of \$4,000. The other commissioners are paid \$2,500 each and apparently do not have to devote any considerable amount of time to the work.

Budget.

Employees.—The employees of the Commission consist of Campbell Wallace, secretary; J. Prince Webster, rate expert; an assistant rate expert and a stenographer. The Commission has no engineers or inspectors or accountants.

The budget is twenty-eight thousand seven hundred dollars per year, of which twenty-three thousand seven hundred dollars is paid for salaries, leaving three thousand dollars for contingent fund and two thousand dollars for printing. The Commission is very much handicapped for lack of money. Though the act of 1907 makes

it the duty of the Commission "to ascertain the cost of construction and present value of the properties in Georgia" owned by each of the public service corporations over which the Commission has control, nothing has been done for the reason that the legislature has provided no funds. As the contingent fund of three thousand dollars must pay the traveling expenses of the commissioners and most of the expenses of running the office, very little money is left for any work outside of the office.

Office System.—The office correspondence is very carefully indexed in a bound index book. No card system or letter press books are kept. The incoming mail seems to consist largely of weekly passenger train reports, accident reports and general inquiries.

III.

LEGAL DEPARTMENT.

Judge Hines is special attorney for the Commission. His chief *Little litigation.* work is to write opinions on matters submitted to him by the Commission. The Commission has had almost no cases in court. In 1902, the Commission lowered passenger fares and also freight rates. The federal courts refused to issue an injunction in the passenger case, preferring to wait to see whether the fares would prove confiscatory. In the freight case, however, a temporary injunction was issued by the federal court. The case has not as yet been decided by that court. In the mean time, no further reductions in freight rates have been made by the Commission.

IV.

RATES.

The statute provides that "the power to determine what are just and reasonable rates is vested exclusively in the Commission." *Rate making power invested in Commission.* Under this power, the Commission in 1880 established maximum freight and passenger distance tariffs with a table of distances and also a freight classification table. Changes in these tables are made from time to time, especially in the classification tables. The carriers file with the Commission all new tariffs, and these, under a

general order, become the maximum tariffs of the Commission, unless the rates are in excess of those theretofore established in the maximum tariffs. Under general order of the Commission, no railroad company can change a freight or passenger schedule or discontinue the same without permission from the Commission. The Commission has placed the railroads of the state in different classes as to both passenger and freight business, and permits the members of a different class to charge different maximum rates and fares.

V.

STOCK AND BOND ISSUES.

Commission controls issue of stocks and bonds.

Section 8 of the act of 1907 gives the Commission power to control all issues of stock and bonds and contains provisions similar to those in the New York law, upon which it was modeled. The Commission has adopted the most detailed rules which I have seen concerning the contents of the petition for the approval of such issues. The Commission hears the evidence presented, but apparently does not send any one out to look at the petitioner's property. The Commission has no money available for this purpose.

A particular case.

The Seaboard Air Line Railway in 1910 applied for and was granted permission to issue \$150,000,000 of bonds. This is a foreign corporation. It stated to the Commission that, in its judgment, the Commission had no jurisdiction for the reason that the applicant was a foreign corporation, but that it desired to remove any possible doubt. After securing the authority, the railroad refused to comply with the order of the Commission to report the disposition of the securities, and the use made of the money, and Judge Hines reported to the Commission that it had no authority to compel the report. Chairman Hill suggests the advisability of making sure that the statutes prescribe a penalty for failure to furnish these reports.

Foreign corporations.

Apparently very little thought has been given by any of the states to the question as to whether a state has the

right to insist on approval by its Commission of issues of bonds, notes or other evidences of indebtedness by foreign corporations, affecting property within the state.

VI.

EXPRESS RATES.

The Southern Express Company is the only express company within the state. The Commission several months ago instituted an investigation into the rates, rules and regulations of this company and prepared a list of questions asking for information. The Commission has not hitherto taken any steps to ascertain the cost of the railroad end of the express service.

*Investigation of
Southern Express
Co. rates.*

VII.

PUBLIC UTILITIES.

These have been under the jurisdiction of the Commission since 1907. Only two cases involving the rates of such companies have come before the Commission. No system of accounts have been prescribed. The form of annual return provides for information concerning simply ten or twelve facts as to the financial operations of the companies.

VIII.

TELEPHONE AND TELEGRAPH COMPANIES.

The remarks under section VII are applicable to these companies as well.

IX.

COURT REVIEW AND APPEAL.

No review is provided for by the statute. Judge Hillyer tells me that whenever the action of the Commission is attacked, the procedure is one *de novo* for an injunction. The Commission is rather proud of the fact that, with the exception of the federal proceeding above referred to, no adverse decisions have been

Litigation.

rendered by the courts. The powers of the Commission have been uniformly upheld, ever since the case of *Smith vs. Georgia Railroad*, 70 Georgia, 694, in which case a decision in favor of the Commission was affirmed by the United States Supreme Court.

X.

RAILROAD MAPS.

This Commission, in common with almost all of the other *State railroad map.* railroad commissions, publishes at stated intervals a railroad map showing all the railroads of the state. The Georgia map shows on its back the census returns.

XI.

PASSENGER TRAIN DELAYS.

This Commission, in common with the Texas and Oklahoma Commissions, receives from each railroad every week a statement of all passenger train delays and the reasons therefor. These reports are then filed. The Commission does not have an inspector who can go out and personally investigate the delays.

XII.

GENERAL ORDERS, RULES AND REGULATIONS.

Work of Commission. The Commission has prepared freight rules; passenger rules; rules governing railroad, express and telegraph depots, stations, agencies and offices; storage (demurrage) rules; telegraph rules; passenger and freight classification; rules, tariffs and classifications governing express companies; and some nineteen general orders—which rules, regulations and orders are constantly referred to by the commissioners in their conversation. The commissioners spoke to me of the care exercised in framing these rules and orders. Many subjects covered by them, such as the establishment of tariffs, inhibitions upon the use of passes, the filing of accident reports, etc., are, in other states, provided for by specific statutory enactments, but have been covered in Georgia under the broad general powers granted to the Commission.

Texas.

I.

INTRODUCTION.

The Railroad Commission of Texas was established in 1891, and has jurisdiction over steam railroad and express companies, but none over public utilities. An elaborate stock and bond law was approved on April 8, 1893. *Jurisdiction.*

II.

ORGANIZATION AND OFFICE SYSTEM.

The Commission.—The commissioners are Allison Mayfield, chairman, Wm. D. Williams and Joseph R. Wortham. The commissioners were originally appointed by the governor for three year terms, but the Constitution was amended in 1894 so as to provide that the commissioners should henceforth be elected for six years. The commissioners receive a salary of \$4,000.00 each. Governor Colquitt was formerly a railroad commissioner and seems to have been elected governor on the record which he made in that capacity. *Commissioners elected.*

Employees.—The secretary of the Commission is E. R. McLean. The Commission also employs an engineer, an auditor, a rate expert and some four or five clerks and stenographers. The secretary receives a salary of \$2,000.00 and the engineer \$3,000.00. The Commission has no inspectors. The engineer seems to do all the inspection for valuations in connection with the stock and bond issues and any other inspection which may be necessary. The engineer of the Commission was formerly R. A. Thompson, who is regarded as one of the best railroad commission engineers of the country.

III.

RAILROAD RATES.

The Commission fixes the moving rate. When the statute was passed, the railroads had in effect distance tariffs in Texas. The

Commission has used these tariffs as a basis and has established a distance table for class rates, some forty-seven commodity rate tariffs, and a class rate classification. The annual reports give the rate effective on each railroad. By reason probably of the fact that the rates were but little lowered at the outset, the railroads did not take the matter into the courts. The Commission from time to time makes alterations in the rates and classifications both on its own initiative and on petition from the carrier. If a carrier wishes a rate to be altered and writes a letter to the Commission stating its desire, the Commission, if favorable, grants the request by issuing a circular which is mailed to the applicant, to every railroad in the state and to other interested parties. The applicant does not file a tariff showing the proposed change, but the Commission issues its circular in its own form.

There has been almost no freight litigation in the state. With reference to passenger rates, the Commission ordered a 2 cent rate in on the Galveston, Houston and Henderson Railroad as a test case. The railroad promptly secured an injunction and ultimately won out on the ground of confiscation of property. The Texas passenger rate is now 3 cents per mile.

*Two-cent
passenger rate
declared
confiscatory.*

IV.

EMERGENCY RATES.

The act of April 5, 1897, as amended on June 5, 1899, gives the Commission power "when deemed by it necessary to prevent interstate rate wars and injury to the business or interest of the people or railroads of the state, or in case of any other emergency to be judged by the Commission, to temporarily alter, amend or suspend any existing freight rates, tariffs, schedules, orders and circulars of any railroad or part of the railroad within the state."

*Manipulation of
rates.* I was informed that the provision concerning the prevention of interstate rate wars has little or no meaning. The real purpose of the provision was to give power to the Texas Commission to lower an intrastate rate from a producing to a consuming center in cases in which an interstate rate from a producing center outside of the state had been lowered, so as to lessen the differential theretofore enjoyed by the Texas producers. In cases of this kind, the Texas

Commission regulates the state rates so as to keep Texas markets for Texas producers. The fear that their intrastate rates within Texas will be lowered has prevented carriers from lowering their interstate rates. In a number of cases the railroads have written to the Commission asking whether it would have any objection to a reduction of an interstate rate from Louisiana into Texas, and the Commission had uniformly replied that it would have such objection in any case in which Louisiana products would thereby come into competition with those produced in Texas. As a result of the Commission's uniform reply, the railroads in these cases have refrained from reducing the interstate rates.

The rate expert told me that as far as he knew, this paragraph had never been attacked on the ground that the emergency rates were established without any notice whatsoever to the carrier and consequently without due process of law. We agreed that it would be wiser to give some short notice, such as three days.

V.

EXPRESS RATES.

Early in its history, the Commission established a distance express tariff applying on merchandise for every pound up to 100; a similar tariff for general specials; similar tariffs for certain commodities such as green and fresh fruits, melons and vegetables, beer and other liquors, mineral and spring water; also an express classification with rates and rulings.

The Commission seems very largely to have established the rates and regulations in effect at the time, so that no complaint was made by the express companies. Later, when Commissioner (now Governor) Colquitt was elected, he started an investigation for a reduction of express rates. The Commission made an order reducing express rates (an early report states that the average reduction was about 20 per cent, although it is very questionable whether the reduction was in fact so large), whereupon the express companies at once enjoined the Commission, as is their usual practice in these cases. Mr. Colquitt took a mass of testimony in San Francisco and elsewhere. After some six or eight months, the matter was compromised by a new order making an average cut of some 8 per cent, and the rates established by that order are in effect today.

*Investigation of
express rates.*

VI.

DEPARTMENT OF STATISTICS AND ACCOUNTS.

Mr. W. F. Fitzgerald, who was for over twenty years auditor of the Southern Pacific Company, has charge of the work of this department.

Railroads make annual reports. The railroad companies make annual returns on the forms prescribed by the Texas Commission. These forms are modeled on those prepared by the Interstate Commerce Commission for steam railroads. In addition to the information called for by the interstate forms, the Texas forms provide for a segregation of operating revenue, both freight and passenger, into local, interline-interstate and interline-intrastate. The state returns call for a segregation of operating expenses into one hundred and sixteen accounts, based on those prescribed by the Interstate Commerce Commission. In addition to this information, the form calls for the following information:

Information required of railroads. 1. As to passenger traffic, it calls for the number of passengers carried, earning revenue, and the number of passengers carried one mile as to local, interline-state and interline-interstate traffic.

2. As to freight traffic, similar information is requested as to the number of tons carried earning revenue, and the number of tons carried one mile.

3. As to train mileage, information is called for as to revenue freight, revenue passenger, revenue mixed, revenue special service, total revenue, train mileage and non-revenue totals as to freight, passenger and work trains.

Information carefully checked by Commission. When the returns are filed with the Commission, they are carefully checked over by Mr. Fitzgerald and requests for corrections and amplifications are frequently made by him. Before he took office, the reports were simply filed without being checked over. The returns are analyzed by Mr. Fitzgerald and appear in twenty-six carefully worked out statistical tables in the annual report of the Commission. The work of the Texas Commission in analyzing and tabulating the reports of the railway companies ranks with the work of the Massachusetts Commission as among the best in the

country and can be referred to with profit by the California Commission when it starts on this same work.

The Commission receives also from each railroad a monthly report of operating revenues, operating expenses, passenger traffic, freight traffic and train mileage. Mr. Fitzgerald considers these reports valuable for the reason that they allow the Commission to see month by month just how the railroads are spending their money and thus enables the Commission to stop unauthorized expenditures. Texas and Oklahoma seem to be the only Commissions which require these monthly statements.

Monthly railroad reports.

Several years ago, the Commission promulgated its bookkeeping rules A1 and A2. Number A2, prescribing the keeping of accounts so as to segregate operating expenses as to passenger and freight for each of the one hundred and sixteen accounts prescribed by the Interstate Commerce Commission, and also as to local, interline-intrastate and interline-interstate, was enjoined in the district court of Travis County, in the suit of *Texas and Pacific Railway Company vs. Railroad Commission of Texas*. The district court in that case rendered judgment against the Commission; the case was recently decided on appeal in the court of Civil Appeals in favor of the Commission. In this order, the Commission prescribed the bases of segregation, and the railroads severely attacked the same. These bases should be compared with those used by the Wisconsin Commission in the Buell case, those prescribed by the Oregon Commission and those used by Statistician James Peabody of the Santa Fe.

Commission prescribed form of keeping accounts.

The Texas Commission uses for express companies the form of return prescribed by the Interstate Commerce Commission.

Reports of express companies.

VII.

VALUATION OF RAILROAD PROPERTIES.

The Railroad Commission Act provides that the Commission "shall ascertain as early as practicable the amount of money expended in the construction and equipment per mile of each railway in Texas, the amount of money expended to procure the rights of way and the amount of money it would require to reconstruct the railroad bed, track, depots and transportation, and to replace all the physical properties belonging to the railroads."

Physical valuation of railroads. Section 3 of the stock and bond law provides that "it shall be the duty of the railroad commission to ascertain, and, in writing, report to the Secretary of State the value of each railroad in this state, *including all its franchises, appurtenances and property.*"

It will be noted that the directions contained in these two statutes differ with respect to franchise values. The duty imposed by the Railroad Commission Act is to ascertain the value of the physical properties of the railroads, whereas the duty imposed by the Stock and Bond Act is to ascertain the value of each railroad, including all its franchises and appurtenances. It might well be that the value of a franchise might be considered in determining the amount of stocks and bonds which a railroad company may properly issue, while it would be improper to consider the value of that franchise for rate fixing purposes. I assume that some such idea is responsible for the difference in the language of these two statutes.

Value of railroad franchises.

The Texas Commission, in such valuations as it has made, has apparently acted under the terms of the stock and bond law and under that law has valued some 12,988.09 out of 13,819.44 miles of main trackage in the state.

Methods of ascertaining physical valuation.

For the purpose of ascertaining the value of the railroads under the stock and bond law, blanks calling for values of (a) railroad bed, tracks, etc., (b) rolling stock, (c) miscellaneous—are handed to the railroads affected. Upon receipt of these returns, the engineer checks over the figures. Under the head of "c" appear street franchises, legal and engineering expenses and interest during construction, but not commissions and discounts. All general franchises are valued at 6 per cent of the value of the railroads and are then added to the totals derived by the addition of a, b, and c, for the purpose of covering such items as discount on bonds and contingencies which could not be considered in the scheme of valuation provided by law.

No valuation under the stock and bond law has ever been contested in Texas. There was some talk when I was in Austin to the effect that the International and Great Northern Railroad would appeal from a recent valuation of the Commission, but nothing definite has been done in the matter. This railroad wished to issue bonds in excess of the amount which could be issued on the basis of the valuation made by the Commission.

VIII.

STOCK AND BOND LAW.

Texas has the most complete stock and bond law of which I know. It prescribes practically every detail, leaving little or nothing to the discretion of the Commission. It declares that no bonds or other indebtedness shall issue, secured by lien or mortgage on railroad properties in Texas, above the reasonable value of the property, except that in case of emergency the issue may run up to 50 per cent in excess of such value. The Commission has confined emergencies to fire, flood or other acts of God. The statute provides for a valuation of railroad properties as described in paragraph VII hereof, with the right on the part of the company to a hearing before the Commission; for the filing by the Commission of its certificate of value with the secretary of state; for the authorization of the issue by the Commission; and for the registration of its bonds by the railway company with the secretary of state, with adequate penalties.

Texas Stock and Bond Law very comprehensive.

No securities may be issued in amount above value of property, except——

As every railroad corporation doing business in Texas except the Texas Pacific (under a federal charter) and the Atchison, Topeka and Santa Fe, a leasing line, operates under a Texas charter, the question whether the stock and bond law applies to a foreign corporation has not arisen in Texas.

IX.

CONTROL OVER CORPORATIONS.

By providing that each railway shall keep in Texas an office for transfer of stock, that the directors must hold at least one meeting annually in Texas, that no railway company shall consolidate with any other railway company organized under the laws of any other state or the United States, and similar provisions in her constitution and statutes, Texas has driven all the railway companies, except the two hereinbefore mentioned, to take out separate charters in Texas. This result has simplified the control in Texas over stock and bond issues.

Stringent regulation of railroad corporations.

X.

DEPOT COMPLAINTS.

Commission regulates station facilities. I was informed that the Commission handles a large number of complaints calling for the erection of additional depots or the improvements of existing ones. The Commission has no inspectors to send out on the line; the engineer performs all this work. The complainant presents his case, with a photograph where applicable, and the defendant its case, whereupon the Commission decides. In the important Dallas Union Depot case, the attorney general ruled that, as the statute now reads, the Commission cannot prescribe the exact site of a union depot, though it has authority to order the erection of such depot. The Commission, in its 1910 report, referring to union depots, recommends that the statute be amended so as to give to the Commission authority to fix the site for the location of such depots and also authority to enforce compliance with the orders of the Commission in the premises.

XI.

NEWSPAPERS.

Publicity of work of Commission. Ten copies of each circular changing rates and ten copies of any statement which may be prepared by the Commission for publication are placed on a newspaper file in the office. The reporters come in each day and take off the copies for their respective papers. The Texas Commission, in common with most of the wide awake Commissions of the country, lays great stress on the matter of publicity.

Oklahoma.

I.

INTRODUCTION.

Jurisdiction. The Corporation Commission of Oklahoma was created by section 15 of article 9 of the Constitution (1907) and most of its powers and duties are defined by the Constitution itself. The Commission has jurisdiction over railroad, express, telegraph, telephone, oil pipe,

car companies and, at least to a certain extent, over heat, light, power and water companies. Some of these latter utilities have denied the right of the Commission to regulate their rates. The Commission also claims the right under another section of the Constitution to regulate and fix the price of any article as to which a monopoly exists, and under this section has in certain cases fixed the rates of ice and lumber.

The Commission has twice asked the legislature to pass a statute giving to it control over the issues of stocks and bonds. The statute as proposed specified that the sum of stock and bonds should not exceed the value of the property except in emergency cases when the total might run up to 50 per cent in excess of the value. The Commission likewise has no control over the exercise of franchise rights or the commencement of construction of a plant. The municipalities themselves determine these matters and uniformly grant the new companies the desired permission to enter the field.

*Control of
stock and
bond issues.*

II.

ORGANIZATION AND OFFICE SYSTEM.

The Commission.—The commissioners are J. E. Love, chairman, A. P. Watson, and George A. Henshaw. Mr. Love is a cattle raiser. Mr. Watson is about 64 years of age, a farmer and formerly a colonel in the Confederate Army. Mr. Henshaw was formerly Assistant Attorney General and was a member of the Oklahoma Constitutional Convention. The Commission is one of the most active in the country. The commissioners devote all their time to the duties of their office. They are elected at large for terms of six years and receive an annual salary of \$4,000 each.

*Personnel of
Commission.*

Employees.—The office is divided into the following departments:

Departments.

1. Executive.
2. Auditing.
3. Engineering.
4. Rate.
5. Telephone.
6. General corporation records.

Salaries. The law and executive clerk, E. C. Patton, receives a salary of \$2,000.00; the rate expert, Mr. Bee, \$3,600.00; the auditor, Mr. Stout, \$2,500.00; the telephone expert, Geo. P. Player, \$2,500.00; the engineer \$3,000.00; and the corporation record clerk \$2,200.00. In addition to these men, the Commission employs an assistant engineer and two or three tariff men; several assistants to the auditor; two or three assistants each to the rate expert, the telephone expert and the corporation record clerk; and several official stenographers and some four or five office stenographers.

Appropriations. For the two years from July 1, 1909, to June 30, 1911, the legislature appropriated for salaries, printing and court expenses \$60,200.00; for contingent expenses \$120,000.00; and for rate litigation in the federal courts \$50,000.00—being a total of \$230,200.00 for two years, or \$115,100.00 for one year. For details of the contingent account, see the 1909-1910 report, at page 11.

III.

COURT PROCEDURE.

Appeal direct to Supreme Court. Section 20 of Article IX of the constitution provides that from the orders of the Commission therein specified, an appeal may be taken directly to the State Supreme Court. The constitution does not specify the time within which the appeal may be taken, but

Discussion. Commissioner Henshaw told me that the courts had ruled that it may be taken at any time within a year. The constitution provides that such appeal may be taken in designated cases only, as from orders prescribing rates, charges and classifications, and that the legislature may also provide by general laws for appeals from orders of the Commission in other cases. Mr. Patton pointed out the importance of the limitation just noted. When the Commission made its important accounting order (No. 50), the corporations asked the Commission to approve a supersedeas bond, which the Commission refused to do, on the ground that this was not a case in which an appeal would lie (June 29, 1909). On June 30, 1909, the supreme court denied the request of the petitioners for a supersedeas on the ground that this was not an appealable case. Mr. Patton pointed out other cases, such as cases of request for information to be used in pending litigation, in which the Commission's hands should not in his judgment be tied.

Section 21 provides that the supreme court may grant a writ of *Supreme Court may grant writ of supersedeas.* supersedeas, but that it cannot do so until a suspending bond shall first have been approved by the Commission in an amount sufficient to insure the payment of all charges in excess of those finally established by the court on appeal. The Constitution provides that the Commission must thereupon forthwith direct the appealing company to keep such accounts as in the judgment of the Commission may suffice to show the amounts being charged or received by the company in excess of the charge allowed by the Commission, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company are not sustained on appeal. On the final decision, the Commission may direct the manner of the payment of refunds. Such appeals shall have precedence in the supreme court over all other cases except habeas corpus and state cases already on the docket of the court.

Mr. Patton was of the opinion that the requirements to keep *Discussion.* books showing excess collections is a powerful detriment against appeals from the orders of the Commission. It is an expensive task to keep such records. Wells-Fargo & Company are keeping them under their appeal from the Commission's order of June 11, 1909.

Section 22 provides that the supreme court may not consider any new or additional evidence, "but the court may, when it deems it necessary, in the interest of justice, remand to the Commission any case pending on appeal and require the same to be further investigated by the Commission, and reported upon to the court, before the appeal is finally decided." Commissioner Henshaw thinks that this is a good provision, for the reason that the court is thus enabled to give to the Commission another opportunity in any case in which otherwise it would have to decide against the Commission. The Wells-Fargo & Company case is now back before the Commission to ascertain just what losses in revenue, if any, would be suffered under the Commission's order, if it went into effect.

Whenever the supreme court reverses an order of the Commission *In case of reversal.* affecting rates, charges, classifications, etc., it must substitute another rate, charge or classification, so that its function in this respect is legislative and not judicial. This provision was taken from the

Virginia constitution, referred to in the case of *Prentiss vs. Atlantic Coast Line*, 211 U. S. 210, in which case it was held that the federal courts should not, as a matter of comity, assume jurisdiction to enjoin an order of a state railroad commission fixing rates, until the corporation has completely exhausted its remedy by appeal to the final rate fixing body in the state, which in Virginia and Oklahoma is the supreme court. Notwithstanding an appeal, the Commission has the right to make other orders in the same matter based upon different circumstances and conditions. This provision is obviously to prevent the tying up of the entire rate situation during the pendency of court proceedings.

IV.

LITIGATION.

*Many appeals
from orders of
Oklahoma
Commission.*

The Oklahoma Commission has had more cases on appeal than any other railroad commission in the country. It has had almost as many appeals as all the other commissions, which I investigated, put together.

Of the first one hundred cases coming before the Commission on complaints of third parties and formally heard before the Commission, appeals were taken in thirty-seven cases. The record in these cases is as follows:

1. Affirmed (or appeals dismissed)	15
2. Reversed	5
3. Partly affirmed and partly reversed	2
4. Remanded for further testimony	2
5. Pending	13

*Character of
decisions
appealed from.*

of the cases reversed, the Commission had in one case ordered a railroad to construct at its own expense a side track so as to equalize a disadvantage of location. In two cases, it had ordered a railroad to install telegraph service for commercial purposes. In one case, it had held that a railroad would have to install all desired street crossings at its own expense, and in the fifth case, involving the installation of telegraph service for bulletining passenger trains, there was no evidence as to amount of passenger service at the station.

As bearing upon the reason for so many appeals, it is well to note that the Commission granted the petitioner's prayer in its original form or a modified form in eighty-six out of those one hundred cases and denied it in only fourteen.

In cases on the Commission's own initiative, in which proposed orders are issued and published and final orders are then either issued or not issued after hearing, the railroads appealed in nearly every case. Fifteen of these appeals were from orders establishing rates on different commodities. The railroads also appealed from orders directing reports as to earnings, state and interstate; requiring accident reports; requiring physical connections at junction points; establishing demurrage and storage rules; requiring the promulgation of all rules and regulations; and requiring all public service corporations to maintain an office in the state.

The most important cases now in litigation involve the rates of: *Cases now in litigation.*

1. Railroads.
2. Telegraph companies.
3. Express companies.

Railroads.—The matters in litigation comprise the 2 cent *Two-cent passenger fare law.* maximum passenger fare law (part of the Constitution) and the *Commodity rates.* different commodity rates prescribed by the Commission. The corporations went to the federal courts and secured injunctions, so that these rates have never gone into effect. The case went to the United States Supreme Court on the contention of the state that under the Prentiss case, 211 U. S. 210, it was the duty of the corporations to first exhaust their remedy by appeal to the state supreme court. Judge Hook, in the circuit court, differentiated this case from the Prentiss case on the ground that the Commission had refused to grant a supersedeas bond. The United States Supreme Court refused to decide this point, but sent the case back to Judge Hook, who decided three or four months ago against the state. Commissioner Henshaw, in referring to the decision, said that it would be impossible to secure a fair decision from the federal courts as long as they insisted on holding that the cost of state service was from two or eight times as much as the cost of interstate service.

Mr. Henshaw said that he hardly thought the Commission would further contest the passenger fare case. Section 37 of article IX of the constitution, while establishing a 2 cent maximum passenger fare, gives the Commission power "to exempt any railroad from the operation of this section upon satisfactory proof that it cannot earn a just compensation for the services rendered by it to the public, if not permitted to charge more than 2 cents per mile for the transportation of passengers within the state." The Commission has exempted from the provisions of the 2 cent law all railroads applying for exemption.

*Orders affecting
telegraph
companies.*

Telegraph Rates.—On December 2, 1908, the Commission issued its order No. 149 prescribing telegraph rates, rules and regulations. Commissioner Watson told me that there would have been no appeal had it not been for rule 4 providing that the receiving clerk must mark on the message the time of filing, and rule 6 providing that the operator on the other end of the line must mark on the message the time when received by him.

On December 19, 1908, the case was certified to the Supreme Court. On December 28, 1909, the mandate of the Supreme Court was received, requiring the taking of further evidence to show what the company would have lost had the order gone into effect. If I am not mistaken, a heavy indemnity bond has been filed by the company and it is also keeping an account of excess payments.

*Litigation over
express rates.*

Express Rates.—On June 11, 1909, the Commission issued its opinion and order No. 203, prescribing new rates, rules and regulations for express companies. This is a long and carefully worked out order prescribing distance tables for merchandise, general special, milk and cream, and other special commodities and also classifications, rules, etc., and making a total reduction in rates of about 20 per cent. All four express companies, Wells-Fargo & Company, United States, American and Pacific, appealed to the State Supreme Court, giving bonds in amounts of \$200,000, \$33,000, \$35,000 and \$4,500 respectively. The Supreme Court remanded the case with instructions to ascertain the amount of loss which would have been sustained, had the order gone into effect.

The express companies have taken a large amount of testimony on that point but the state has not as yet had an opportunity to rebut the same.

I was informed that the express companies are trying to compromise the case and that they have made several propositions which, while seeming fair, have as a matter of fact made but very small reductions, for the reason that the proposed reductions are in rates under which but few commodities move. The express companies seem to be chafing under the expense necessary to keep account of every shipment made, with the name and address of the consignor and the amount paid in excess of the Commission's order.

V.

COMMISSION'S BUSINESS.

Until recently the matters on which the Commission took action were divided into (1) complaints; (2) proposed orders, on Commission's own initiative; and (3) citations for disobedience of Commission's orders. At present all matters are placed on one general docket file. The character of the Commission's activities appears from the following compilation:

Methods of handling business.

Complaints.—Of the first one hundred complaints on which the Commission took action, other than to dismiss at the request of plaintiff or for lack of prosecution, the nature of the cases was as follows:

Character of complaints.

Steam Railroads.

Passenger trains—stop on signal.....	8
Depots—erection or increase in size.....	18
Shipping facilities	5
Sidetracks, spurs, switches.....	9
Railroad crossing—with another railroad.....	1
Railroad crossing—with highway.....	2
Passengers—treatment of, after wreck.....	1
Physical connections, railroads.....	2
Stations	2
Bulletining of trains.....	1
Stock pens, water in.....	2

Agent at depot.....	1
Depot to be moved.....	1
Additional passenger service.....	5
Name of station, change in.....	1
Waiting rooms	1
Stockyards scales	1
Agent, discourteous treatment by.....	1
Union stations	1
Drainage opening	1

Interurban Railroads.

Rates, reduction of.....	1
--------------------------	---

Street Railroads.

Extension of service.....	1
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Telephone Companies.

Installation in railroad depot.....	9
Rates, reduction of.....	1
Rates, discrimination in.....	1
Physical connection	6
Installation in private residence.....	1

Telegraph Companies.

Installation or restoration of service.....	7
---	---

Gas Companies.

Gas to be furnished.....	1
--------------------------	---

Express Companies.

Establishment office and agent.....	2
-------------------------------------	---

Ice Companies.

Rates, reduction in.....	1
Service, short weight, refusal to sell, etc.....	4

*Much time
devoted to
questions of
service, facilities
and equipment.*

A perusal of the foregoing table will show a very great amount of time devoted by the Commission to the consideration of the questions of service, facilities and equipment.

Proposed Orders.—These have dealt with matters of fixing rates; accounting rules; the filing of plans and specifications of all depots; accident reports; physical connection of railroads at junction points; the filing of inventories of all telephone and telegraph properties; fixing the amount of excess fare to be charged to passengers without tickets; demurrage and storage rules; handling and moving of freight; filing documents with the Commission; requiring all public service corporations to maintain offices in the state; the filing of tariffs by express companies, etc. About seventy-five proposed orders were made, of which quite a number were never issued.

Character of orders of Commission.

Citations.—These citations are for violations of the Commission's orders on information of third parties. The Commission has power to enforce compliance with its orders by the imposition of fines. The usual fine for contempt of the Commission's orders is somewhere between \$100.00 and \$500.00. Up to 1911, there were one hundred and twenty-three of these cases. The fines are imposed on the theory that the railroad is in contempt for failure to use due diligence in obeying the orders of the Commission. In most other states, the desired results would be secured without the necessity of contempt proceedings.

Cases of contempt of Commission.

VI.

AUDITING DEPARTMENT.

Annual Reports.—This department has prepared forms of annual reports for all railroads, street railroads, gas, electric, telephone and telegraph companies. The railroad reports contain the information required by the Interstate Commerce Commission and also the additional information required by the Texas Commission. The gas, electric, telephone and telegraph reports have been worked out in considerable detail and will be valuable as models.

Commission's report published annually.

Monthly Reports.—Following the lead of the Texas Commission, the Oklahoma Commission requires each month from each railway company a full statement of earnings, operating expenses and tonnage moved, going into considerable detail as to segregation

Commission requires monthly reports from railroads.

between state and interstate traffic. The Commission also requires a monthly statement of the total tonnage and revenue of all commodities moved during the month.

Organization reports must be filed for reference.

Organization Reports.—The Commission also required of each railroad subject to its jurisdiction a special report containing a copy of its charter; its mortgages and other agreements affecting its property; minutes of stockholders' meetings, etc. These returns have been bound and are valuable for reference purposes. The Oklahoma Street Railway report is particularly complete.

VII.

ENGINEERING DEPARTMENT.

Physical valuation of properties now being made.

This department is working on the valuation of the properties of the railroads and of the public utilities of the state. As to none of these companies is the material in final form. Questions concerning unearned increment, right of way multiple, interest, discounts and commissions have not as yet been determined by the Commission.

The department has prepared a complete railroad map of Oklahoma and is now preparing detailed maps of each county. The Commission paid about \$500.00 for 5,000 of these maps, an unusually low figure.

VIII.

TELEPHONE DEPARTMENT.

Investigation of telephone rates.

This department is in charge of Mr. Geo. P. Player. The telephone companies make an annual report and also monthly reports, the latter showing the number of toll and residence telephones and the earnings and expenses for each station. Mr. Player is now working on material for an investigation by the Commission of telephone rates in the state. The telephone companies have returned to the Commission, on blanks furnished by it, a statement as to the physical values of their plants, by stations.

There are over six hundred telephone companies in the state, most of them being so-called farmers' telephone companies. Section 5 of article IX of the constitution provides that all telephone and

telegraph lines operated for hire must make physical connections with each other's lines under such rules and regulations as the Commission may prescribe. This is a matter of very considerable importance. The Commission forces in these connections whenever the point is raised, with the result that it is possible to talk from the Commission's office with over 50 per cent of the farmers of the state.

Physical connections between telephone companies required.

IX.

RATE DEPARTMENT.

This department is headed by Mr. C. B. Bee, a very competent man. The department has in its files not only all the tariffs affecting Oklahoma intrastate business, but also all the interstate tariffs in any way affecting the state, both those issued by carriers doing business in Oklahoma and those issued by other carriers concurring in the rates into or through Oklahoma. These latter tariffs are furnished to the Commission by the local railroads. The Oklahoma Commission believes that its tariffs are as complete as those of any state commission in the country.

Statistical file of rate tariffs complete.

The Commission handles all interstate commerce complaints for Oklahoma citizens, even filing complaints for them and appearing before the Interstate Commerce Commission without any expense to the complainant.

X.

CORPORATION CLERK DEPARTMENT.

This department receives reports from all corporations in the state and collects the license taxes.

XI.

MUNICIPAL UTILITIES.

The Commission has no control over public service plants owned or operated by municipalities. In this respect it differs from the Commissions of Wisconsin, Massachusetts and New York.

Municipally owned public utilities not controlled by Commission.

XII.

GAS AND ELECTRIC COMPANIES.

The Commission's control over these companies has been somewhat halting, for the reason that there is a question as to whether the constitution as now worded confers upon the Commission full power of control over this class of corporations.

XIII.

USE OF INITIATIVE BY CORPORATIONS.

Attempts to reduce Commission's power. The "interests" of the state have three times tried by the initiative to repeal a section of the constitution forbidding the consolidation of local and foreign corporations and substituting a section very materially reducing the Commission's power. The Commission conducted a campaign each time against the proposition and is of the opinion that it has now finally won out.

Recommendations.

From the observations which I made on my tour of investigation, I respectfully make the following suggestions and recommendations concerning the regulation and control of public service corporations in this state:

SERVICE, EQUIPMENT AND FACILITIES.

Appointment of expert inspectors. The appointment by the Railroad Commission of a sufficient number of expert inspectors to inspect the physical condition of all tracks, stations, plants and other facilities and equipment of all the public service corporations of the state; also to render reports constantly as to the quality and sufficiency of the service rendered to the public.

STOCK AND BOND LAW.

Control of issuance of securities. The determination by the Railroad Commission of the amount of stocks, bonds, notes and other evidences of indebtedness, that public service corporations may issue and the conditions of the issue.

DEPARTMENT OF STATISTICS AND ACCOUNTS.

The establishment by the Railroad Commission of a department of statistics and accounts for the purpose of working out a uniform system of accounts for the different public service corporations of the state, of analyzing and digesting their annual reports, and furnishing to the Commission financial and other statistical data whenever needed.

Collection of complete statistical data.

PUBLIC UTILITIES.

Adequate control by the Railroad Commission, under the constitution as recently amended, of rates, service, equipment, stocks and bonds, and accounts of gas, electric, water, power, telephone, telegraph and street railway companies, and other public utilities, including the power to compel physical connections between telephone companies.

Control of public utilities as to rates, service, equipment and facilities.

PROPERTY VALUATION.

The extension of the power of the Railroad Commission in the matter of ascertaining the value of the property engaged in the public service from railroads to all other public service corporations subject to its jurisdiction.

Power to ascertain physical valuation of property.

PUBLIC SAFETY.

The adoption of adequate means to secure public safety, particularly with reference to grade crossings between railroads and highways, or two or more railroads.

Control of grade crossings.

INTERSTATE COMMERCE COMPLAINTS.

The protection of the people of California in the matter of interstate commerce rates, where any considerable portion of the shippers of the state are affected. The Railroad Commission should appear in such cases before the Interstate Commerce Commission.

Represent people before Interstate Commerce Commission.

COURT PROCEEDINGS.

The modification of existing statutes so as more adequately to protect the Railroad Commission from the great delays incident to court proceedings in many other jurisdictions and for the protection of the public in the interim.

Prompt settlement of litigation.

ACCIDENTS.

Immediate investigation of accidents. The establishment of a system for immediate notice to the Railroad Commission of accidents and for examination into the same by the Commission's inspectors and recommendations by them as to means of prevention.

CO-OPERATION.

Formation of Pacific Coast Railroad Commissioners' Association. Between the State Railroad Commission and the Interstate Commerce Commission and constant correspondence with other State Commissions. Also the formation of a Pacific Coast Railroad Commissioners' Association, to consist of the Commissions of Oregon, Washington, Nevada and California, for the purpose of frequent consultation and concerted action on problems of mutual interest.

Respectfully submitted,

MAX THELEN,

Attorney for Railroad Commission of State of California.

Dated, San Francisco, Cal., October, 1911.

Assembly Constitutional Amendment No. 50.

A RESOLUTION TO PROPOSE TO THE PEOPLE OF THE STATE OF CALIFORNIA AN AMENDMENT TO SECTIONS TWENTY AND TWENTY-ONE OF ARTICLE TWELVE OF THE CONSTITUTION OF THE STATE OF CALIFORNIA RELATING TO RAILROADS AND OTHER TRANSPORTATION COMPANIES.

[Adopted March 24, 1911.]

The legislature of the State of California at its regular session commencing on the second day of January, one thousand nine hundred and eleven, two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof hereby proposes the following amendment to article 12 of the Constitution of the State of California.

First. Section 20 of Article 12 is hereby amended to read as follows:

SEC. 20. No railroad or other transportation company shall raise any rate of charge for the transportation of freight or passengers or any charge connected therewith or incidental thereto, under any circumstances whatsoever, except upon a showing before the railroad commission provided for in this constitution, that such increase is justified, and the decision of the said commission upon the showing so made shall not be subject to review by any court except upon the question whether such decision of the commission will result in confiscation of property.

Railroad rates may not be raised without approval of Commission.

Decision of Commission not subject to review, except ———.

Second. Section 21 of Article 12 is hereby amended to read as follows:

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the

Railroads may not discriminate in charges or facilities or between places or persons.

transportation of the same classes of freight or passengers within this state. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rates than the aggregate of the intermediate rates.

Long and short hauls regulated.

Exceptions in special cases to be approved by Commission.

Provided, however, that upon application to the railroad commission provided for in this constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the railroad commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul. The railroad commission shall have power to authorize the issuance of excursion and commutation tickets at special rates.

Commission may order reparation to shippers.

Nothing herein contained shall be construed to prevent the railroad commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to said shipper being excessive or discriminatory, provided no discrimination will result from such reparation.

Assembly Constitutional Amendment No. 6.

A RESOLUTION PROPOSING TO THE PEOPLE OF THE STATE OF CALIFORNIA AN AMENDMENT TO SECTION TWENTY-TWO OF ARTICLE TWELVE OF THE CONSTITUTION OF THE STATE OF CALIFORNIA CREATING A RAILROAD COMMISSION AND DEFINING ITS POWERS AND DUTIES.

[Approved March 24, 1911.]

The legislature of the State of California, at its regular session, commencing on the second day of January, one thousand nine hundred and eleven, two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes to the people of the State of California that Section 22 of Article 12 of the Constitution of the State of California be amended so as to read as follows:

SEC. 22. There is hereby created a railroad commission which shall consist of five members and which shall be known as the railroad commission of the State of California. The commission shall be appointed by the governor from the state at large; *provided*, that the legislature, in its discretion, may divide the state into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; and *provided further* that the three commissioners in office at the time this section takes effect shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the governor immediately after the adoption of this section, to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921. Whenever a vacancy in the office of commissioner shall occur, the

*Creation of
Railroad
Commission of
five members
to be appointed.*

Districts.

*Term of office
six years.*

Governor to fill vacancies.

governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Commissioners appointed for regular terms shall, at the beginning of the term for which they are appointed, and those appointed to fill vacancies, shall, immediately upon their appointment, enter upon the duties of their offices. The legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain as now fixed by law. The legislature shall have the power, by a two-thirds vote of all members elected to each house, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this state, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said railroad commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of railroad commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated, pursuant to such inquiry, investigation or hearing, when approved or confirmed by the commission ordered filed in its office, shall be deemed to be the order of the commission.

*Removal of Commissioners.**Disqualifications.**Orders effective upon approval of majority.**Powers of Commission to establish rates.*

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates, established by said commission than the rates, fares and charges which are specified in such tariff. The commission shall have the further

power to examine books, records and papers of all railroad and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpoenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record; the commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies.

To examine records.

To control facilities and service.

To enforce orders.

No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon the railroad commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the railroad commission in this constitution, and the authority of the legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this constitution.

Additional powers.

The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and the "Railroad Commission Act" of this state approved February 10, 1911, shall be construed with reference to this constitutional provision and any other constitutional provision becoming operative concurrently herewith. And the said act shall have the same force and effect as if the same had been passed after the adoption of this provision of the constitution and of all other provisions adopted concurrently herewith, except that the three commissioners referred to in said act shall be held and construed to be the five commissioners provided for herein.

Railroad Commission Act of 1911.

Public Library
of the City of
New York
Astor
Lenox
Tilden

Senate Constitutional Amendment No. 47.

A RESOLUTION PROPOSING TO THE PEOPLE OF THE STATE OF CALIFORNIA AN AMENDMENT TO SECTION TWENTY-THREE OF ARTICLE TWELVE OF THE CONSTITUTION OF THE STATE OF CALIFORNIA, TO CONFER UPON THE RAILROAD COMMISSION POWER AND JURISDICTION TO REGULATE AND CONTROL THE BUSINESS OF FURNISHING CERTAIN COMMODITIES AND PERFORMING CERTAIN SERVICES TO OR FOR THE PUBLIC.

[Adopted March 28, 1911.]

The Legislature of the State of California, at its regular session, commencing on the second day of January, one thousand nine hundred and eleven, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that Section 23 of Article 12 of the Constitution of the State of California be amended so as to read as follows:

SEC. 23. Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant or equipment within this state, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the railroad commission as may be provided by the legislature, and every class of private corporations, individuals, or

*Public Utilities
defined by
constitutional
amendment and
placed under
control of
Commission.*

associations of individuals hereafter declared by the legislature to be public utilities shall likewise be subject to such control and regulation.

*Powers of
Commission
plenary.*

The railroad commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the railroad commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution.

*Powers
respecting public
utilities vested
in Board of
Supervisors to
cease.*

From and after the passage by the legislature of laws conferring powers upon the railroad commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this state, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the railroad commission; *provided, however*, that this section shall not affect such powers of control over any public utility vested in any city and county, or incorporated city or town as, at an election to be held pursuant to laws to be passed hereafter by the legislature, a majority of the qualified electors voting thereon of such city and county, or incorporated city or town, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the railroad commission as provided by law; *and provided, further* that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by a vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the railroad commission in the manner to be prescribed by the legislature; or if such municipal corporation shall have surrendered any powers to the railroad commission, it may, by like vote, thereafter reinvest itself with such power.

Except —

*Procedure
under which
municipalities
may retain
control.*

Nothing in this section shall be construed as a limitation upon any power conferred upon the railroad commission by any provision of this constitution now existing or adopted concurrently herewith.

Public Utilities Election Act.

AN ACT TO PROVIDE FOR SUBMITTING TO THE QUALIFIED ELECTORS OF EVERY CITY AND COUNTY, OR INCORPORATED CITY OR TOWN, IN THIS STATE THE QUESTION WHETHER SUCH CITY AND COUNTY, OR INCORPORATED CITY OR TOWN, SHALL RETAIN THE POWERS OF CONTROL VESTED THEREIN RESPECTING ALL OR ANY PUBLIC UTILITIES, AND PROVIDING FURTHER FOR ELECTIONS THEREAFTER TO SURRENDER SUCH POWERS IN CASE THE QUALIFIED ELECTORS OF ANY SUCH CITY AND COUNTY, OR INCORPORATED CITY OR TOWN, SHALL HAVE VOTED TO RETAIN SUCH POWERS OR TO REINVEST SUCH CITY AND COUNTY, OR INCORPORATED CITY OR TOWN, WITH SUCH POWERS, IN CASE THE QUALIFIED ELECTORS THEREOF HAVE VOTED TO SURRENDER SUCH POWERS.

[Approved January 2, 1912.]

The people of the State of California do enact as follows:

SECTION 1. Any city and county, or incorporated city or town, may retain its powers of control vested therein respecting any one or more classes of public utilities and may thereafter surrender such powers to the Railroad Commission of the State of California, hereinafter called the Railroad Commission, or may reinvest itself with such powers as it may have surrendered to the Railroad Commission, all as in this act provided. *Municipalities may retain, may surrender or may reinvest themselves with control of public utilities.*

SEC. 2. The term "municipal corporation," as used in this act, shall be construed to mean a city and county, or an incorporated city or town. The term "legislative body," as used in this act, shall be construed to mean the board of supervisors, municipal council, commission or other legislative or governing body of a municipal corporation. *"Municipal corporation" defined. "Legislative Body" defined.*

Other terms defined.

SEC. 3. The terms "railroad corporation," "street railroad corporation," "common carrier," "gas corporation," "electrical corporation," "water corporation," "telephone corporation," "telegraph corporation," "wharfinger," "warehouseman" and "public utility," as used in this act, shall severally have the same meaning as is given to them, respectively, in section 2 of the act known as the "Public Utilities Act."

When and how question of control may be submitted to the people.

SEC. 4. The question whether any municipal corporation shall retain its powers of control respecting one or more classes of public utilities may be submitted to the qualified electors of such municipal corporation, as provided in this act, either at a general municipal election or at a special election held therein. Such question may be so submitted, either in pursuance of an ordinance of intention adopted by a vote of three-fifths of all the members of the legislative body of such municipal corporation, declaring that the public interest requires the submission of, and that it is the intention of such legislative body to submit, such question to a vote of the qualified electors of such municipal corporation, or in pursuance of a petition of qualified electors of such municipal corporation, as hereinafter provided. Such ordinance of intention or such petition, as the case may be, shall contain the propositions proposed to be so submitted, as set forth in section 6 of this act. Such petition shall be signed by qualified electors of such municipal corporation, equal in number to ten per centum of such qualified electors, computed upon the total number of votes cast in such municipal corporation for all candidates for governor at the last preceding general election prior to the filing of such petition at which a governor was elected. Such petition may consist of separate papers; *provided*, that if any paper consists of more than one sheet, it shall be securely fastened together at the top. The signatures need not all be appended to one sheet or paper. Each such paper shall have attached thereto, at the bottom of the last sheet thereof, the affidavit of a qualified elector of such municipal corporation, stating that all of the signatures on each sheet thereof were made in his presence, and that to the best of his knowledge and belief each signature is the genuine signature of the person whose name purports to be thereto subscribed. Such petition shall be filed with the

*Ten per cent of qualified-electors must sign petition.**Form of petition.**Filing of petition.*

clerk of the legislative body of such municipal corporation. Within ten days from the date of the filing of such petition, said clerk shall examine the petition and ascertain from the record of the registration of the electors of the city and county, or of the county in which such municipal corporation is situated, whether the petition is signed by the requisite number of the qualified electors of such municipal corporation; and if requested by said clerk, the said legislative body of said municipal corporation shall authorize him to employ persons specially to assist him in the work of examining such petition and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result of such examination. If from such examination, said clerk shall find that said petition is signed by the requisite number of qualified electors, he shall certify that the same is sufficient; but if, from such examination, he shall find that said petition is not signed by such requisite number of qualified electors, he shall certify to the number of qualified electors signing such petition and to the number of qualified electors required to make such petition sufficient. If by the certificate of said clerk the petition is shown to be insufficient, it may be amended by filing a supplemental petition within ten days from the date of such certificate. Said clerk shall, within ten days from the filing of such supplemental petition, make like examination of the same and certify to the result of such examination as hereinbefore provided. If the certificate of the clerk shall show any such petition, or any such petition together with a supplemental petition, to be insufficient, it shall be retained by him and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the clerk, such petition, or such petition together with a supplemental petition, is shown to be sufficient, the clerk shall forthwith present the same to the legislative body of such municipal corporation. The sufficiency or insufficiency of such petition shall not be subject to review by such legislative body. After the election held in pursuance of such petition, the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned. In any city and county having a board of election commissioners and a registrar of voters, the clerk of the legislative

Identification of signatures.

Petitions to be certified.

Supplementary petitions.

New Petitions.

body thereof shall immediately upon the filing of any petition with him, transmit the same to such board of election commissioners, who shall forthwith deliver such petition to said registrar of voters, who shall perform all the duties herein required to be performed in other municipal corporations by the clerk of the legislative body thereof, respecting the examination and certification of such petition. Such registrar of voters shall, upon making his certificate, forthwith return said petition to said clerk, who shall thereupon present such petition and the certificate thereto attached to the legislative body of such municipal corporation as hereinbefore in this section provided.

*Special elections
under the Act.*

SEC. 5. Upon the adoption of such ordinance of intention, or the presentation as aforesaid of such petition, as provided in section 4 of this act, the legislative body of such municipal corporation shall, by ordinance, order the holding of a special election for the purpose of submitting to the qualified electors of such municipal corporation the propositions set forth in such ordinance of intention or in such petition, as the case may be, which propositions shall be those set forth in section 6 of this act, or such legislative body shall, by ordinance, order the submission of such propositions at a general municipal election, as hereinafter provided. Such special election shall be held not less than twenty days nor more than sixty days after the adoption of the ordinance of intention provided for in section 4 of this act, or the presentation of such petition to said legislative body; *provided*, that if a general municipal election shall occur in said municipal corporation not less than twenty days nor more than sixty days after the adoption of said ordinance of intention or the presentation of said petition to said legislative body, said propositions may be submitted at such general municipal election, in the same manner as other propositions are required by law to be submitted at general municipal elections in such municipal corporation. Every special election held in any municipal corporation under the provisions of this act, shall be called by the legislative body thereof, by ordinance, which shall specify the propositions to be submitted at such election and the date thereof, and, where provision is not otherwise made by law, shall establish the election precincts therefor and designate the polling places therein, and the names of the election officers for each such precinct.

Such ordinance shall, prior to such election, be published five times in a daily newspaper printed and published in such municipal corporation, or twice in a weekly newspaper printed and published therein, if there be no such daily newspaper; *provided*, that if no such daily or weekly newspaper be printed and published in such municipal corporation, the clerk of said legislative body shall post a copy of said ordinance in three public places in such municipal corporation at least ten days prior to such election. The propositions submitted under this section at any general municipal election or at any special election shall be the same as those set forth in section 6 of this act.

Publication of Ordinance.

SEC. 6. The ballots to be used at any general municipal election or at any special election, at which is submitted the question whether a municipal corporation shall retain its powers of control respecting public utilities shall have printed thereon, in addition to the other matters required by law, the following propositions:

Style of ballot election to retain.

“Proposition No. 1. Shall (name of municipal corporation) retain its powers of control over railroad corporations?”

“Proposition No. 2. Shall (name of municipal corporation) retain its powers of control over street railroad corporations?”

“Proposition No. 3. Shall (name of municipal corporation) retain its powers of control over common carriers other than railroad and street railroad corporations?”

“Proposition No. 4. Shall (name of municipal corporation) retain its powers of control over gas corporations?”

“Proposition No. 5. Shall (name of municipal corporation) retain its powers of control over electrical corporations?”

“Proposition No. 6. Shall (name of municipal corporation) retain its powers of control over telephone corporations?”

“Proposition No. 7. Shall (name of municipal corporation) retain its powers of control over telegraph corporations?”

“Proposition No. 8. Shall (name of municipal corporation) retain its powers of control over water corporations?”

“Proposition No. 9. Shall (name of municipal corporation) retain its powers of control over wharfingers?”

“Proposition No. 10. Shall (name of municipal corporation) retain its powers of control over warehousemen?”

Instructions to voters. Opposite each such proposition to be voted upon, and to the right thereof, the words “Yes” and “No” shall be printed on separate lines, with voting squares. Any voter desiring to vote in favor of the retention of the powers of control of such municipal corporation respecting any particular class of public utility, shall stamp a cross (X) in the voting square after the printed word “Yes” opposite the proposition as to such class, and any voter desiring to vote against the retention of such powers of such municipal corporation respecting any particular class of public utility, shall stamp a cross (X) in the voting square after the printed word “No” opposite such proposition.

Canvassing election returns. SEC. 7. If the propositions specified in section 6 of this act shall have been submitted at a special election in any municipal corporation, then the legislative body or other body or board charged with the duty of canvassing the returns and declaring the result of elections in such municipal corporation, shall meet at their usual place of meeting on the first Monday after such election to canvass the returns and declare the result thereof. Immediately upon the completion of such canvass, or upon the completion of the canvass of the returns of any general municipal election at which such propositions shall have been submitted, such legislative body or other body or board charged with said duty shall make an order declaring the result of the election upon such propositions and shall

cause the same to be entered upon its minutes, which order shall show the total number of votes cast upon each such proposition, and the number of votes cast respectively in favor of and against each such proposition. If it shall appear from the result of such election, as so declared, that a majority of the qualified electors of such municipal corporation voting on any proposition submitted, as provided in section 5 of this act, shall have voted to retain the powers of control of such municipal corporation respecting any particular class of public utility, such municipal corporation shall be deemed to have elected to retain such powers of control respecting such class of public utility, and such powers shall be exercised by such municipal corporation until the same may be surrendered as hereinafter provided; and if it shall appear from the result of such election, as so declared, that a majority of such qualified electors so voting on any such proposition shall have voted not to retain such powers respecting any class of public utility, such municipal corporation shall be deemed to have elected not to retain such powers of control respecting such class of public utility, and such power of control shall thereafter vest in and be exercised by the railroad commission as provided by law. Immediately upon the entry of the order declaring the result of the election as to such proposition, the clerk of the legislative body or the registrar of voters in any municipal corporation having a board of election commissioners and a registrar of voters, shall make copies, in duplicate, of such order, and shall attach to each such copy his certificate under the seal, if any, of such municipal corporation, or of such board of election commissioners, certifying that the same is a true and correct copy of such order. Said clerk or registrar of voters, as the case may be, shall forthwith file one of said copies in the office of the railroad commission of the State of California and the other in the office of the secretary of state. Immediately upon the filing of such certified copy of such order in the office of the railroad commission, the powers of control theretofore vested in such municipal corporation over any class or classes of public utilities which a majority of the qualified electors of such municipal corporation voting thereof shall have voted not to retain, as shown by such order shall thereupon vest in and be exercised by the railroad commission, until such municipal

*Result of
election to retain.*

*One copy of
election returns
must be filed with
Commission if
municipality
delegates control.*

corporation shall reinvest itself with such powers of control as hereinafter provided.

Procedure when municipality has elected to control public utilities.

SEC. 8. Any municipal corporation which shall have voted to retain the powers of control vested therein respecting any class or classes of public utilities, or which may have reinvested itself with such power, as hereinafter provided, may thereafter surrender its powers of control as to such class or classes of public utilities at a general municipal election or a special election therein, called for that purpose. The ballots to be used at such election shall have printed thereon, in addition to the other matters required by law, separate propositions as to each of the classes of public utilities as to which such municipal corporation may theretofore have voted to retain its powers of control or with which it may have reinvested itself. As to each of such classes of public utilities, and in addition to the other matters required by law to be printed thereon, a proposition shall be printed on the ballot to be used at such

Form of ballot election to surrender.

election in substantially the following form: "Shall (name of municipal corporation) surrender its powers of control over (here insert class of public utility) to the railroad commission?" Opposite each such proposition to be voted upon, and to the right thereof, the words "Yes" and "No" shall be printed on separate lines, with voting squares. Any elector desiring to vote to surrender the powers of control of such municipal corporation over any class of public utility specified on the ballot, shall stamp a cross (X) in the voting square opposite the printed word "Yes," after the proposition as to such class; and any elector desiring to vote not to surrender the powers of control of such municipal corporation over such class of public utility, shall stamp a cross (X) in the voting square opposite the printed word "No" after the proposition as to such class. The provisions of sections 4, 5 and 7 of this act, in so far as applicable, shall govern elections called, conducted and held under the provisions of this section and to general municipal elections at which such propositions

Canvassing results of election to surrender.

shall be submitted. If it shall appear from the result of such election declared as provided in section 7 of this act, that a majority of the qualified electors of such municipal corporation voting on any proposition submitted as provided in this section, shall have

voted to surrender the powers of control of such municipal corporation respecting any particular class of public utility, such municipal corporation shall be deemed to have surrendered its powers of control as to such class of public utility to the railroad commission, and such powers shall thereafter vest in and be exercised by the railroad commission, as provided by law, upon the filing, in the office of the railroad commission, of a certified copy of the order declaring the result of such election until such municipal corporation shall reinvest itself with such powers as hereinafter provided; and if it shall appear from the result of such election, as declared, that a majority of such qualified electors voting on any such proposition shall have voted not to surrender such powers of control respecting any particular class of public utility, such powers of control shall continue in such municipal corporation; *provided, however,* that such powers of control may thereafter be surrendered by such municipal corporation at any subsequent election at which the question of such surrender may again be submitted under the provisions of this act.

Question of control of utilities may be submitted to voters at any election.

SEC. 9. Any municipal corporation that shall have surrendered to the railroad commission powers of control respecting any class of public utility may thereafter reinvest itself with such powers by a vote of the qualified electors thereof taken at a general municipal election or at a special election. The ballots to be used at such election shall have printed thereon, in addition to the other matters required by law, separate propositions as to each class of public utility designated in the petition for such election or in the ordinance of intention. As to each such class of public utility, a proposition shall be printed on the ballot in substantially the following form: "Shall (name of municipal corporation) reinvest itself with powers of control over (class of public utility)?" Opposite each such proposition to be voted upon and to the right thereof, the words "Yes" and "No" shall be printed on separate lines, with voting squares. Any elector desiring to vote to reinvest such municipal corporation with powers of control respecting any class of public utility designated on the ballot shall stamp a cross (X) in the voting square after the printed word "Yes" opposite the proposition as to such class, and any elector desiring to vote not to reinvest such municipal corporation with powers respecting such class of public utility shall stamp a

A municipality may reinvest itself with control of utilities.

Form of ballot to reinvest.

*Canvassing of
election
to reinvest.*

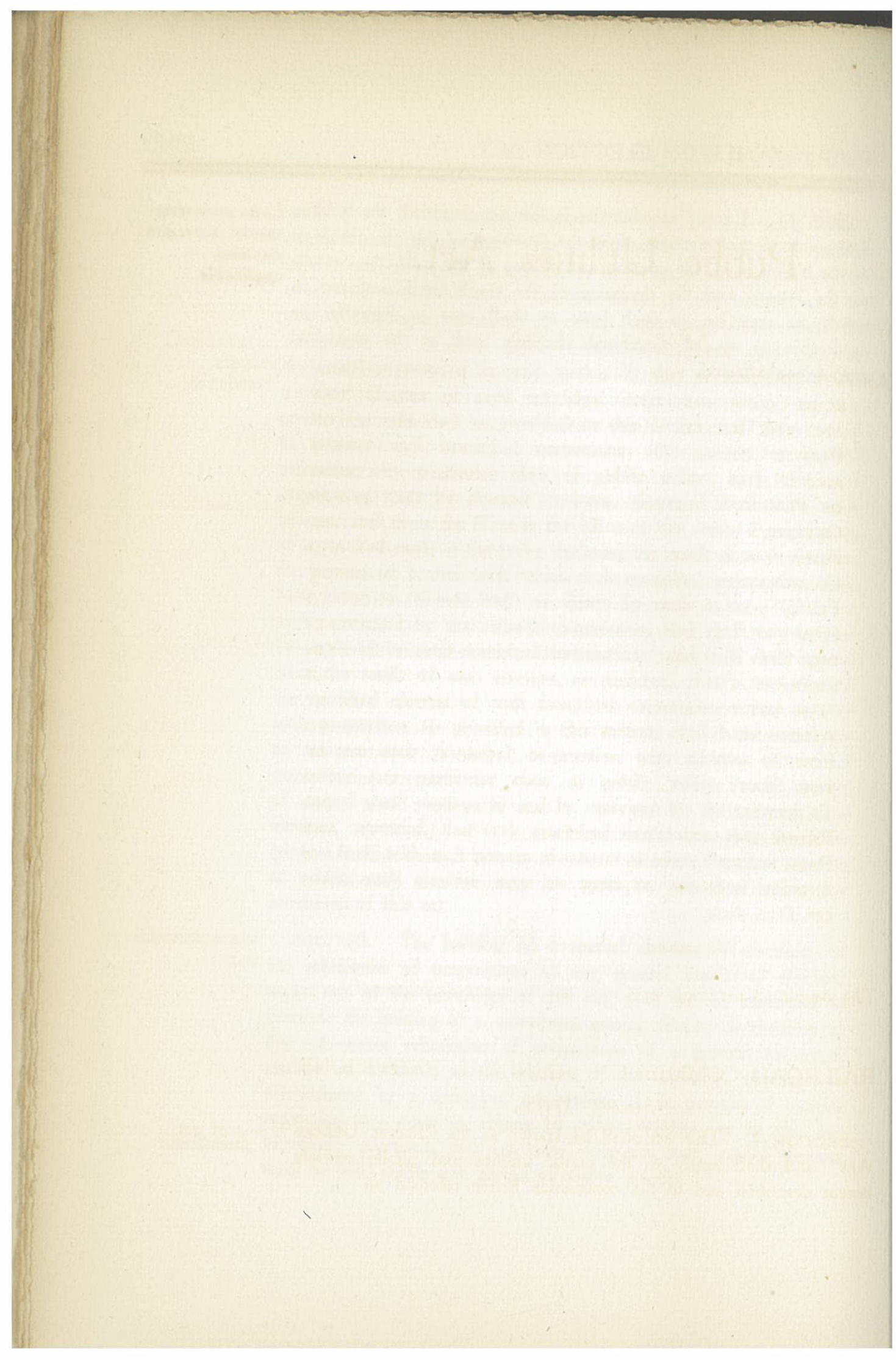
cross (X) in the voting square after the printed word "No" opposite such proposition. The provisions of sections 4, 5 and 7 of this act, in so far as applicable, shall apply to elections called, conducted and held under the provisions of this section and to general municipal elections at which such propositions shall be submitted. If it shall appear from the result of such election, declared as provided in said section 7, that a majority of the qualified electors of such municipal corporation voting on any proposition submitted as provided in this section shall have voted to reinvest such municipal corporation with powers of control respecting any particular class of public utility, such municipal corporation shall be deemed to have reinvested itself with such powers, and upon the filing in the office of the railroad commission of a certified copy of the order declaring the result of such election, the powers of control with which such municipal corporation shall have voted to reinvest itself, as shown by such order, shall cease to be exercised by the railroad commission, and shall vest in and be exercised by such municipal corporation; and if it shall appear from the result of such election, as declared, that a majority of the qualified electors of such municipal corporation voting on any such proposition, as provided in this section, shall have voted not to reinvest such municipal corporation with powers of control respecting any particular class of public utility, such powers of control shall continue in and be exercised by the railroad commission; *provided*, that such municipal corporation may thereafter reinvest itself with such powers of control at any subsequent election at which such question may be again so submitted under the provisions of this act.

*Elections under
Act.*

SEC. 10. The holding of a special election or elections, or the submission of propositions at any general municipal election, under any of the provisions of this act, shall not be construed to preclude the holding of a subsequent special election or elections or the subsequent submission of propositions at a general municipal election or elections, on the question of the retention, surrender or reinvestment by a municipal corporation of its powers of control respecting any class or classes of public utilities, as in this act provided; *provided*, that not more than one such special election shall be held within any period of twelve months.

Limitations.

SEC. 11. Except as otherwise in this act provided, the holding and conducting of elections under the provisions of this act, the form of the ballots used, the opening and closing of the polls, the canvass of the returns and the declaring of the result shall conform, as nearly as may be, to such laws as shall now or hereafter be applicable to special municipal elections held in the municipal corporation affected. *Laws governing special municipal elections applicable.*



Public Utilities Act.

CHAPTER FOURTEEN.

AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE RAILROAD COMMISSION, TO DEFINE ITS POWERS AND DUTIES AND THE RIGHTS, REMEDIES, POWERS AND DUTIES OF PUBLIC UTILITIES, THEIR OFFICERS, DEFINE ITS POWERS AND DUTIES AND THE RIGHTS, REMEDIES, OF PATRONS OF PUBLIC UTILITIES, AND TO PROVIDE PENALTIES FOR OFFENSES BY PUBLIC UTILITIES, THEIR OFFICERS, AGENTS AND EMPLOYEES AND BY OTHER PERSONS AND CORPORATIONS, CREATING THE "RAILROAD COMMISSION FUND" AND APPROPRIATING THE MONEYS THEREIN TO CARRY OUT THE PROVISIONS OF THIS ACT, AND REPEALING THE RAILROAD COMMISSION ACT, APPROVED FEBRUARY 10, 1911, AND ALSO REPEALING AN ACT ENTITLED "AN ACT TO AMEND THE RAILROAD COMMISSION ACT BY AMENDING SECTION FIFTEEN THEREOF RELATING TO POWERS AND DUTIES OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AND TO AMEND SECTION THIRTY-SEVEN THEREOF RELATING TO FREE AND REDUCED-RATE TRANSPORTATION FOR FREIGHT AND PASSENGERS," APPROVED APRIL 6, 1911, AND ALL ACTS AND PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF THIS ACT.

[Approved December 23, 1911.]

The people of the State of California do enact as follows:

ARTICLE I.

RAILROAD COMMISSION: GENERAL PROVISIONS.

SHORT TITLE.

SECTION 1. This act shall be known as the "Public Utilities *Name of act.* Act" and shall apply to the public utilities and public services herein described and to the commission herein referred to.

DEFINITIONS.

- Definition of Commission.* SEC. 2. (a) The term "commission," when used in this act, means the Railroad Commission of the State of California.
- Commissioner.* (b) The term "commissioner," when used in this act, means one of the members of the commission.
- Corporation.* (c) The term "corporation," when used in this act, includes a corporation, a company, an association and a joint-stock association.
- Person.* (d) The term "person," when used in this act, includes an individual, a firm and a copartnership.
- Transportation of persons.* (e) The term "transportation of persons," when used in this act, includes every service in connection with or incidental to the safety, comfort or convenience of the person transported and the receipt, carriage and delivery of such person and his baggage.
- Transportation of property.* (f) The term "transportation of property," when used in this act, includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and handling, and the transmission of credit by express corporations.
- Street railroad.* (g) The term "street railroad," when used in this act, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city and county, or city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property; but the term "street railroad," when used in this act, shall not include a railway constituting or used as a part of a commercial or interurban railway.
- Street railroad Corporation.* (h) The term "street railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for compensation within this state.

(i) The term "railroad," when used in this act, includes every *Railroad.* commercial, interurban and other railway other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

(j) The term "railroad corporation," when used in this act, *Railroad corporation.* includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any railroad for compensation within this state.

(k) The term "express corporation," when used in this act, *Express corporation.* includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this state.

(l) The term "common carrier," when used in this act, includes *Common carrier.* every railroad corporation; street railroad corporation; express corporation; dispatch, sleeping car, dining car, drawing room car, freight, freight-line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state or upon the high seas, over regular routes between points within this state.

(m) The term "pipe line," when used in this act, includes all *Pipe line.* real estate, fixtures and personal property, owned, controlled,

operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of crude oil or other fluid substances except water through pipe lines.

Pipe line corporation. (n) The term "pipe line corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipe line for compensation within this state.

Gas plant. (o) The term "gas plant," when used in this act, includes all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas (natural or manufactured) for light, heat or power.

Gas corporation. (p) The term "gas corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

Electric plant. (q) The term "electric plant," when used in this act, includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of electricity for light, heat or power, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

Electrical corporation. (r) The term "electrical corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

(s) The term "telephone line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires. *Telephone line.*

(t) The term "telephone corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for compensation within this state. *Telephone corporation.*

(u) The term "telegraph line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires. *Telegraph line.*

(v) The term "telegraph corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telegraph line for compensation within this state. *Telegraph corporation.*

(w) The term "water system," when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, head-gates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use. *Water system.*

(x) The term "water corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state. *Water corporation.*

Vessel. (y) The term "vessel," when used in this act, includes every species of water craft, by whatsoever power operated, which is owned, controlled, operated or managed for public use in the transportation of persons or property.

Wharfinger. (z) The term "wharfinger," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees, appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this state.

Warehouseman (aa) The term "warehouseman," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any building or structure in which property is regularly stored for compensation within this state, in connection with or to facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf or structure, owned, operated, controlled or managed by a wharfinger.

Public Utility. (bb) The term "public utility," when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act.

RAILROAD COMMISSION: APPOINTMENT: TERM: VACANCIES:
REMOVAL.

Railroad Commission: Appointment term. SEC. 3. (a) The railroad commission shall consist of five members, who shall be appointed by the governor from the state at large; *provided*, that the three commissioners in office on the tenth day of October, nineteen hundred and eleven, shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the governor to hold office during the same term. Upon the expiration of said term, the term

of office of each commissioner thereafter shall be six years, excepting that of the commissioners first appointed after the expiration of said term one shall be appointed to hold office until the first day of January, nineteen hundred and seventeen, two until the first day of January, nineteen hundred and nineteen, and two until the first day of January, nineteen hundred and twenty-one. The commissioners shall elect one of their number president of the commission.

(b) Whenever a vacancy in the office of commissioner shall occur, the governor shall forthwith appoint a qualified person to fill the same for the unexpired term. The legislature, by a two-thirds vote of all members elected to each house, may remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. *Vacancies: removal.*

ATTORNEY.

SEC. 4. The commission shall have power to appoint as attorney to the commission an attorney at law of this state, who shall hold office during the pleasure of the commission. It shall be the right and the duty of the attorney to represent and appear for the people of the State of California and the commission in all actions and proceedings involving any question under this act or under any order or act of the commission, and, if directed to do so by the commission, to intervene, if possible, in any action or proceeding in which any such question is involved; to commence, prosecute and expedite the final determination of all actions and proceedings directed or authorized by the commission; to advise the commission and each commissioner, when so requested, in regard to all matters in connection with the powers and duties of the commission and the members thereof; and generally to perform all duties and services as attorney to the commission which the commission may require of him. *Attorney.*

SECRETARY: ASSISTANT SECRETARY.

SEC. 5. The commission shall appoint a secretary, who shall hold office during its pleasure. It shall be the duty of the secretary to keep a full and true record of all proceedings of the commission, to issue all necessary process, writs, warrants and notices, and *Secretary.*

Assistant Secretary. to perform such other duties as the commission may prescribe. The commission may appoint an assistant secretary, who shall have all the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in any county or city and county of this state.

ADDITIONAL OFFICERS AND EMPLOYEES.

Other employees to be appointed by Commission. SEC. 6. The commission shall have power to employ, during its pleasure, such officers, experts, engineers, statisticians, accountants, inspectors, clerks and employees as it may deem necessary to carry out the provisions of this act or to perform the duties and exercise the powers conferred by law upon the commission.

OATH OF OFFICE: ELIGIBILITY OF COMMISSIONERS AND EMPLOYEES.

Commissioners or employees must not own stocks or bonds except . . . SEC. 7. Each commissioner and each person appointed to a civil executive office by the commission shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. Each commissioner shall be a qualified elector of this state, and no person in the employ of or holding any official relation to any corporation or person, which said corporation or person is subject in whole or in part to regulation by the commission, and no person owning stocks or bonds of any such corporation or who is in any manner pecuniarily interested therein shall be appointed to or hold the office of commissioner or be appointed or employed by the commission; *provided*, that if any such person shall become the owner of such stocks or bonds or become pecuniarily interested in such corporation otherwise than voluntarily, he shall within a reasonable time divest himself of such ownership or interest; failing to do so, his office or employment shall become vacant.

OFFICE OF COMMISSION: MEETINGS: OFFICIAL SEAL: SUPPLIES AND EQUIPMENT.

Office of Commission in San Francisco. SEC. 8. (a) The office of the commission shall be in the city and county of San Francisco. The office shall always be open, legal holidays and non-judicial days excepted. The com-

mission shall hold its sessions at least once in each calendar month in said city and county of San Francisco, and may also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties. For the purpose of holding sessions in places other than the city and county of San Francisco, the commission shall have power to rent quarters or offices, and the expense thereof and in connection therewith shall be paid in the same manner as other expenses authorized by this act. The sessions of the commission shall be public.

*Sessions
monthly.*

*Meetings
elsewhere.*

*Sessions open
to public.*

(b) The commission shall have a seal, bearing the following inscription: "Railroad Commission State of California." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of said seal.

*Courts must
take judicial
notice of seal.*

(c) The commission is authorized to procure all necessary books, maps, charts, stationery, instruments, office furniture, apparatus and appliances, and the same shall be paid for in the same manner as other expenses authorized by this act.

Equipment.

QUORUM.

SEC. 9. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission: but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every finding, order or decision made by a commissioner so designated, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the commission and ordered filed in its office, shall be and be deemed to be the finding, order or decision of the commission.

*Majority
Commissioners
a quorum.*

*Powers of
single
commissioner.*

SALARIES AND EXPENSES.

Salary of Commissioners. SEC. 10. (a) The annual salary of each commissioner shall be six thousand (6,000) dollars. All officers, experts, engineers, statisticians, accountants, inspectors, clerks and employees of the commission shall receive such compensation as may be fixed by the commission. The commissioners, attorney, secretary, rate expert and assistant secretary shall be civil executive officers and their salaries as fixed by law or the commission shall be paid in the same manner as are the salaries of other state officers. The salary or compensation of every other person holding office or employment under the commission shall be paid monthly from the funds appropriated for the use of the commission, after being approved by the commission, upon claims therefor to be audited by the board of control.

Expenses. (b) All expenses incurred by the commission pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the commissioners, their officers and employees, incurred while on business of the commission, shall be paid from the funds appropriated for the use of the commission, after being approved by the commission, upon claims therefor to be audited by the board of control.

How paid.

TRANSPORTATION FOR COMMISSIONERS, OFFICERS AND EMPLOYEES.

Free transportation for Commission. SEC. 11. The commissioners and the officers and employees of the commission, shall, when in the performance of their official duties, have the right to pass, free of charge, on all railroads, cars, vessels and other vehicles of every common carrier, as said term is defined in this act, subject in whole or in part to control or regulation by the commission, between points within this state, and such persons shall not be denied the right to travel upon any railroad, car, vessel or other vehicle of such common carrier, whether such railroad, car, vessel or other vehicle be used for the transportation of passengers or freight, and regardless of its class.

ANNUAL REPORT.

SEC. 12. The commission shall make and submit to the governor on or before the first day of December of each year subsequent to the year nineteen hundred and twelve, a report containing a full and complete account of its transactions and proceedings for the preceding fiscal year, together with such other facts, suggestions, and recommendations as it may deem of value to the people of the state.

Complete reports to be made annually.

ARTICLE II.

DUTIES OF PUBLIC UTILITIES.

CHARGES: SERVICE AND FACILITIES: RULES AND REGULATIONS.

SEC. 13. (a) All charges made, demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful.

Public utility charges must be reasonable.

Unreasonable charges prohibited.

(b) Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable.

Service and facilities must be adequate

(c) All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

Rules must be reasonable.

TARIFF SCHEDULES: PUBLICATION.

SEC. 14. (a) Every common carrier shall file with the commission and shall print and keep open to the public inspection schedules showing the rates, fares, charges and classifications for the transportation between termini within this state of persons and property from each point upon its route to all other points thereon; and from each point upon its route to all points upon every other

Common carriers must publish rate schedules.

*Information
which must
be given.*

*Schedules
must be kept
open to public.
Where kept.*

*Form of
schedule to be
prescribed by
Commission.*

route leased, operated or controlled by it; and from each point on its route or upon any route leased, operated or controlled by it to all points upon the route of any other common carrier, whenever a through route and a joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the schedules of the several carriers in such through route shall show the separately established rates, fares, charges and classifications applicable to the through transportation. The schedules printed as aforesaid shall plainly state the places between which property and persons will be carried, and shall also contain the classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges and all other charges which the commission may require to be stated, all privileges or facilities granted or allowed, and all rules or regulations which may in any wise change, affect or determine any part, or the aggregate of, such rates, fares, charges and classifications, or the value of the service rendered to the passenger, shipper or consignee. Subject to such rules and regulations as the commission may prescribe, such schedules shall be plainly printed in large type, and a copy thereof shall be kept by every such carrier readily accessible to and for inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation, when such station or office is in charge of an agent, and in every station or office of such carrier where passenger tickets or tickets for sleeping, parlor car or other train accommodations are sold or bills of lading or waybills or receipts for property are issued. Any or all of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person. A notice printed in bold type and stating that such schedules are on file with the agent and open to inspection by any person, and that the agent will assist any person to determine from such schedules any rates, fares, rules or regulations in force, shall be kept posted by the carrier in two public and conspicuous places in every such station or office. The form of every such schedule shall be prescribed by the commission and shall conform in the case of common carriers subject to the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof

and supplementary thereto, as nearly as may be to the form of schedules prescribed by the interstate commerce commission under said act.

(b) Under such rules and regulations as the commission may prescribe, every public utility other than a common carrier shall file with the commission within such time and in such form as the commission may designate, and shall print and keep open to public inspection schedules showing all rates, tolls, rentals, charges and classifications collected or enforced, or to be collected or enforced, together with all rules, regulations, contracts, privileges and facilities which in any manner affect or relate to rates, tolls, rentals, classifications, or service. The rates, tolls, rentals and charges shown on such schedules when filed by a public utility as to which the commission by this act acquires the power to fix any rates, tolls, rentals or charges, shall not, within any portion of the territory as to which the commission acquires as to such public utility such power, exceed the rates, tolls, rentals or charges in effect on the tenth day of October, nineteen hundred and eleven; the rates, tolls, rentals and charges shown on such schedules, when filed by any public utility as to any territory as to which the commission does not by this act acquire as to such public utility such power, shall not exceed the rates, tolls, rentals and charges in effect at the time the commission acquires as to such territory and as to such public utility the power to fix rates, tolls, rentals or charges. Nothing in this section contained shall prevent the commission from approving or fixing rates, tolls, rentals or charges, from time to time, in excess of or less than those shown by said schedules.

(c) The commission shall have power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of the schedules referred to in this section as it may find expedient, and to modify the requirements of any of its orders, rules or regulations in respect to any matter in this section referred to.

CHANGES IN SCHEDULES: NOTICE REQUIRED.

SEC. 15. Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating

Other public utilities must publish rates and charges, rules, regulations, etc.

Charges must not exceed those in effect October 10, 1911.

Commission may fix charges.

Commission may change form of schedule.

Public utility rates may not be changed without thirty days' notice.

to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, except after thirty days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission, by some character to be designated by the commission, immediately preceding or following the item.

Except...

CONCURRENCE IN JOINT TARIFFS.

Joint tariffs and concurrences.

SEC. 16. The names of the several public utilities which are parties to any joint tariff, rate, fare, toll, contract, classification or charge shall be specified in the schedule or schedules showing the same. Unless otherwise ordered by the commission, a schedule showing such joint tariff, rate, fare, toll, contract, classification or charge need be filed with the commission by only one of the parties to it; *provided*, that there is also filed with the commission in such form as the commission may require a concurrence in such joint tariff, rate, fare, toll, contract, classification or charge by each of the other parties thereto.

RATES AND FARES AS PUBLISHED TO BE CHARGED: EXCEPTIONS.

No common carrier may engage in transportation until schedules are filed.

SEC. 17. (a) 1. No common carrier subject to the provisions of this act shall engage or participate in the transportation of persons or property, between points within this state, until its schedules of rates, fares, charges and classifications shall have been filed and published in accordance with the provisions of this act.

2. No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time: nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares or charges so specified, except upon order of the commission as hereinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

Compensation for transportation may not differ from published rates.

No refunds may be made except by order of Commission.

Facilities and privileges must be uniform.

3. No common carrier subject to the provisions of this act shall, directly or indirectly, issue, give or tender any free ticket, free pass or free or reduced-rate transportation for passengers between points within this state, except to its officers, agents, employees, attorneys, physicians and surgeons, and members of their families; to ministers of religion, traveling secretaries of railroad men's religious associations, or executive officers, organizers or agents of railroad employees' mutual benefit associations giving the greater portion of their time to the work of any such association; inmates of hospitals or charitable or eleemosynary institutions, and persons exclusively engaged in charitable or eleemosynary work, and persons and property engaged or employed in educational work or scientific research when permitted by the commission; to the executive officers of mercantile or promotion boards or bodies within this state when traveling in the performance of duties affecting the advancement of the business of such boards or bodies, or the development of trade or industry within or without this state, when authorized by the commission; to hotel employees of season resort hotels, when authorized by the commission; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers, going and returning, of live stock, poultry, milk, fruit and other freight, under uniform and non-discriminatory regulations; to employees of sleeping car

Free and reduced rates transportation prohibited except . . .

corporations, express corporations and telegraph and telephone corporations; to railway mail service employees, United States internal revenue officers, post office inspectors, customs officers and inspectors and immigration inspectors when traveling in the course of their official duty; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons; *provided*, that the term "employees," as used in this section, shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such carrier, ex-employees traveling for the purpose of entering the service of any such carrier, and the remains of persons dying while in the employment of any such carrier; and the term "families," as used in this section, shall include the families of those persons heretofore named in this proviso, the families of persons killed, and the widows during widowhood and minor children during minority of persons who died while in the service of any such carrier; *and provided, further*, that no free ticket, free pass or free or reduced-rate transportation shall be issued, given or tendered to any officer, agent or employee of a common carrier, who is at the same time a shipper or receiver of freight, or an officer, agent or employee of a shipper or receiver of freight, unless such officer, agent or employee devotes substantially his entire time to the service of such carrier; *and provided, further*, that the members of the railroad commission, their officers and employees, shall be entitled, when in the performance of their official duties, to free transportation over the lines of all common carriers within this state; *and provided, further*, that passenger transportation may issue to the proprietors and employees of newspapers and magazines and the members of their immediate families, in exchange for advertising space in such newspapers or magazines at full rates, subject however to such reasonable restrictions as the commission may impose.

*Term
"Employees"
defined.*

*Term
"Families"
defined.*

*Shippers
of freight.*

*Transportation
in exchange for
advertising.*

*Free
transportation
of express
matter for
personal use.*

Nothing in this act contained shall be construed to prohibit the issue by express corporations of free or reduced-rate transportation for express matter to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the interchange of free or reduced-rate transportation for passengers or express matter between common carriers, their officers, agents,

employees, attorneys, physicians and surgeons, and members of their families; *provided*, that such express matter be for the personal use of the person to or for whom such free or reduced-rate transportation is granted, or of his family: nor to prohibit the issue of passes or franks by telegraph or telephone corporations to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the exchange of passes or franks between such telegraph and telephone corporations or between such corporations and such common carriers, for their officers, agents, employees, attorneys, physicians and surgeons, and members of their families: nor to prevent the carrying out of contracts for free or reduced-rate passenger transportation heretofore made, founded upon adequate consideration and lawful when made: nor to prevent a common carrier from transporting, storing or handling, free or at reduced rates, the household goods and personal effects of its employees, of persons entering or leaving its service, and of persons killed or dying while in its service.

4. Every common carrier subject to the provisions of this act may transport, free or at reduced rates, persons or property for the United States, state, county or municipal governments, or for charitable purposes, or to provide relief in cases of general epidemic, pestilence or other calamitous visitation, and property to or from fairs or expositions for exhibit thereat; also contractors and their employees, material or supplies for use or engaged in carrying out their contracts with said carriers, for construction, operation or maintenance work or work incidental thereto on the line of the issuing carrier, to the extent only that such free or reduced-rate transportation is provided for in the specifications upon which the contract is based and in the contract itself. Common carriers may also enter into contracts with telegraph and telephone corporations for an exchange of service.

(b) Except as in this section otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly

Free telephone and telegraph franks.

Prior contracts for transportation.

Household goods of employees.

Special cases of carriage of persons or property.

Schedule rates to be charged.

Refunds prohibited.

or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or any rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; *provided*, that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility.

FILING OF INTERSTATE TARIFFS.

Common carriers must file copies of interstate tariffs.

SEC. 18. Every common carrier and every telegraph and telephone corporation shall print and file or cause to be filed with the commission schedules showing all the rates, fares, tolls, rentals, charges and classifications for the transportation of persons or property or the transmission of messages or conversations between all points within this state and all points without the state upon its route, and between all points within this state and all points without the state upon every route leased, operated or controlled by it, and between all points on its route or upon any route, leased, operated or controlled by it within this state and all points without the state upon the route of any other common carrier or telegraph or telephone corporation, whenever a through route and joint rate shall have been established between any two such points.

PREFERENCES.

Public utilities must not grant special privileges. Nor discriminate between localities nor classes of service.

SEC. 19. No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

ECONOMIES: PROFIT FROM TO INURE TO PUBLIC UTILITY.

SEC. 20. Nothing in this act shall be taken to prohibit any public utility from itself profiting, to the extent permitted by the

commission, from any economies, efficiencies or improvements which it may make, and from distributing by way of dividends, or otherwise disposing of, the profits to which it may be so entitled, and the commission is authorized to make or permit such arrangement or arrangements with any public utility as it may deem wise for the purpose of encouraging economies, efficiencies or improvements and securing to the public utility making the same such portion, if any, of the profits thereof as the commission may determine.

Commission may permit utilities to increase dividends by reason of economies.

SLIDING SCALE OF CHARGES: PROFIT SHARING.

SEC. 21. Nothing in this act shall be taken to prohibit a corporation or person engaged in the production, generation, transmission or furnishing of heat, light, water or power, or telegraph or telephone service, from establishing a sliding scale of charges; *provided*, that a schedule showing such scale of charges shall first have been filed with the commission and such schedule and each rate set out therein approved by it. Nothing in this act shall be taken to prohibit any such corporation or person from entering into an arrangement for a fixed period for the automatic adjustment of charges for heat, light, water or power, or telegraph or telephone service, in relation to the dividends to be paid to stock holders of such corporation, or the profit to be realized by such person; *provided*, that a schedule showing the scale of charges under such arrangement shall first have been filed with the commission and such schedule and each rate set out therein approved by it. Nothing in this section shall prevent the commission from revoking its approval at any time and fixing other rates and charges for the product or commodity or service, as authorized by this act.

Under certain conditions public utilities may establish a sliding scale.

Automatic adjustment of rates.

DISCRIMINATION BETWEEN UTILITIES *inter se* PROHIBITED: CONNECTING LINES.

SEC. 22. (a) Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage and cars, loaded or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall make such interchange and transfer promptly without discrimination between

Common carriers must provide facilities for interchange of business without discrimination.

shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded. Every railroad corporation shall receive from every other railroad corporation, at any point of connection, freight cars of proper standard and in proper condition, and shall haul the same either to destination, if the destination be upon a line owned, operated or controlled by such railroad corporation, or to point of transfer according to route billed, if the destination be upon the line of some other railroad corporation.

*Joint rates
must be
established.*

Nothing in this section contained shall be construed as in anywise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of passengers and property over the lines owned, operated, controlled or leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of the commission to require the establishment of such joint rates, fares and charges.

*Telephone and
telegraph corpora-
tions must inter-
change business
under certain
conditions.*

(b) Every telephone corporation and telegraph corporation operating in this state shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph corporation with whose line a physical connection may have been made.

FALSE BILLING, ETC., BY CARRIER OR SHIPPER: FALSE
CLAIMS FOR DAMAGES.

*False billing and
similar offenses
prohibited.*

SEC. 23. (a) No common carrier, or any officer or agent thereof, or any person acting for or employed by it, shall, by means of known false billing, classification, weight, weighing, or report of weight, or by any other device or means assist, suffer or permit any corporation or person to obtain transportation for any person or property between points within this state at less than the rates and fares then established and in force as shown by the schedules filed and in effect at the time. No person, corporation, or any officer, agent or employee of a corporation shall, by means of false billing, false or incorrect classification, false weight or weighing, false representation as to contents or substance of a package, or false report or statement of weight, or by any other device or means, whether with or without the consent or connivance of a common

carrier or any of its officers, agents or employees, seek to obtain or obtain such transportation for such property at less than the rates then established and in force therefor.

(b) No person or corporation, or any officer, agent or employee of a corporation, shall knowingly, directly or indirectly, by any false statement or representation as to cost or value, or the nature or extent of an injury, or by the use of any false billing, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit or deposition, or upon any false, fictitious or fraudulent statement or entry, obtain or attempt to obtain any allowance, rebate or payment for damage, in connection with or growing out of the transportation of persons or property, or an agreement to transport such persons or property, whether with or without the consent or connivance of a common carrier or any of its officers, agents or employees; nor shall any common carrier, or any officer, agent or employee thereof, knowingly pay or offer to pay any such allowance, rebate or claim for damage. *False claims prohibited.*

LONG AND SHORT HAUL AND SERVICE.

SEC. 24. (a) No common carrier subject to the provisions of this act shall charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation as a through rate than the aggregate of the intermediate rates; but this shall not be construed as authorizing any such common carrier to charge or receive as great a compensation for a shorter as for a longer distance or haul. Upon application to the commission, such common carrier may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance for the transportation of persons or property, and the commission may from time to time prescribe the extent to which such carrier may be relieved from the operation and requirements of this section. *Regulation of long and short haul rates.*

(b) No telephone or telegraph corporation subject to the provisions of this act shall charge or receive any greater compensation *Regulation of long and short distance telephone and telegraph rates.*

in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to the provisions of this act; but this shall not be construed as authorizing any such telephone or telegraph corporation to charge and receive as great a compensation for a shorter as for a longer distance. Upon application to the commission, a telephone or telegraph corporation may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telephone or telegraph corporation may be relieved from the operation and requirements of this section.

SWITCH AND SPUR CONNECTIONS.

Railroads must provide switches and spur tracks upon application, provided . . . SEC. 25. (a) Every railroad corporation, upon the application of any corporation or person, being a shipper or receiver or contemplated shipper or receiver of freight, for a connection between the railroad of such railroad corporation and any existing or contemplated private track, tracks or railroad of such corporation or person, shall make such connection and provide such switches and tracks as may be necessary for that purpose and deliver and receive cars thereover; *provided*, that such connection is reasonably practicable and can be installed and used without materially increasing the hazard of the operation of the railroad with which such connection is sought, and that the business which may reasonably be expected to be received by such railroad corporation over such connection is sufficient to justify the expense of such connection to such railroad corporation.

Spurs on railroad's own property. (b) Under the conditions specified in the proviso in sub-section (a) hereof, every railroad corporation, upon the application of any corporation or person, being a shipper or receiver or contemplated shipper or receiver of freight, shall construct upon its right of way a spur or spurs for the purpose of receiving and delivering freight thereby, and shall receive and deliver freight thereby.

FOREIGN PUBLIC UTILITIES EXCLUDED.

SEC. 26. No foreign corporation, other than those which by a compliance with the laws of this state are entitled to transact a public utility business within this state, shall henceforth transact within this state any public utility business, nor shall any foreign corporation which is at present lawfully transacting business within this state henceforth transact within this state any public utility business of a character different from that which it is at present authorized by its charter or articles of incorporation to transact, nor shall any license, permit or franchise to own, control, operate or manage any public utility business or any part or incident thereof be henceforth granted or transferred, directly or indirectly, to any foreign corporation which is not at present lawfully transacting within this state a public utility business of like character; *provided*, that foreign corporations engaging in commerce with foreign nations or commerce among the several states of this Union may transact within this state such commerce and intrastate commerce of a like character.

Limitation placed on foreign public utility corporations.

FARES AND TRANSFERS ON STREET RAILROADS.

SEC. 27. No street or interurban railroad corporation shall charge, demand, collect or receive more than five cents for one continuous ride in the same general direction within the corporate limits of any city and county, or city or town, except upon a showing before the commission that such greater charge is justified; *provided*, that until the decision of the commission upon such showing, a street or interurban railroad corporation may continue to demand, collect and receive the fare in effect on October 10, 1911, or at the time the commission acquires as to such corporation the power to fix fares within such city and county, or city or town. Every street or interurban railroad corporation shall upon such terms as the commission shall find to be just and reasonable furnish to its passengers transfers entitling them to one continuous trip in the same general direction over and upon the portions of its lines within the same city and county, or city or town, not reached by the originating car.

Street car fare within city limits, except . . .

Transfers must be given . . .

REQUESTS FOR INFORMATION: BLANKS: COPIES OF RECORD.

All public utilities must furnish desired information.

SEC. 28 (a) Every public utility shall furnish to the commission in such form and such detail as the commission shall prescribe all tabulations, computations and all other information required by it to carry into effect any of the provisions of this act, and shall make specific answers to all questions submitted by the commission.

Must answer all questions.

(b) Every public utility receiving from the commission any blanks with directions to fill the same shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure.

Must furnish copies of records.

(c) Whenever required by the commission, every public utility shall deliver to the commission copies of any or all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business, and also a complete inventory of all its property in such form as the commission may direct.

Complete inventory of property.

Information confidential unless ordered published by commission.

(d) No information furnished to the commission by a public utility, except such matters as are specifically required to be open to public inspection by the provisions of this act, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any officer or employee of the commission who, in violation of the provisions of this sub-section, divulges any such information shall be guilty of a misdemeanor.

Violation of confidence a misdemeanor.

REPORTS.

All public utilities must report annually.

SEC 29. Every public utility shall annually furnish to the commission at such time and in such form as the commission may require a report in which the utility shall specifically answer all questions propounded by the commission upon or concerning which the commission may desire information. The commission shall have authority to require any public utility to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special reports concerning any matter about which

the commission is authorized by this or any other act to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by the commission.

COMPLIANCE WITH COMMISSION'S ORDERS.

SEC. 30. Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.

Public utilities shall obey all orders of commission.

ARTICLE III.

POWERS AND DUTIES OF RAILROAD COMMISSION.

POWERS OF COMMISSION.

SEC. 31. The railroad commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the state and to do all things, whether herein specifically designated or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

Commission to control all public utilities.

CHARGES TO BE FIXED BY COMMISSION.

SEC 32. (a) Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices or contracts, or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in anywise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges or classifications are insufficient, the commission shall determine the just, reasonable or

To fix rates.

sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

To fix single rates or entire schedules.

(b) The commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts and practices, or any thereof, of any public utility, and to establish new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices, or schedule or schedules, in lieu thereof.

JOINT RATES AND THROUGH ROUTES ON COMMON CARRIERS.

To fix joint rates.

SEC. 33. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares or charges in force over two or more common carriers, between any two points in this state, are unjust, unreasonable or excessive, or that no satisfactory through route or joint rate, fare or charge exists between such points, and that the public convenience and necessity demand the establishment of a through route and joint rate, fare or charge between such points, the commission may order such common carriers to establish such through route and may establish and fix a joint rate, fare or charge which will be fair, just, reasonable and sufficient, to be followed, charged, enforced, demanded and collected in the future, and the terms and conditions under which such through route shall be operated. The commission may order that freight moving between such points shall be carried by the different common carriers, parties to such through route and joint rate, without being transferred from the originating cars. In case the common carriers do not agree upon the division between them of the joint rates, fares or charges established by the commission over such through routes, the commission shall, after hearing, by supplemental order, establish such division; *provided*, that where any railroad which is made a party to a through route has itself over its own line an equally satisfactory through route between the

May order through car service.

May establish division of rates on through business.

termini of the through route established, such railroad shall have the right to require as its division of the joint rate, fare or charge its local rate, fare or charge over the portion of its line comprised in such through route, and the commission may, in its discretion, allow to such railroad more than its local rate, fare, or charge whenever it will be equitable so to do. The commission shall have the power to establish and fix through routes and joint rates, fares or charges over common carriers and stage or auto stage lines and to fix the division of such joint rates, fares or charges.

To fix joint rates over common carriers stage and auto stage lines.

INTERSTATE RATES.

SEC. 34. The commission shall have the power to investigate all existing or proposed interstate rates, fares, tolls, charges and classifications, and all rules and practices in relation thereto, for or in relation to the transportation of persons or property or the transmission of messages or conversations, where any act in relation thereto shall take place within this state; and when the same are, in the opinion of the commission, excessive or discriminatory or in violation of the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, or of any other act of congress, or in conflict with the rulings, orders or regulations of the Interstate Commerce Commission, the commission may apply by petition or otherwise to the Interstate Commerce Commission or to any court of competent jurisdiction for relief.

To investigate interstate rates, etc.

May petition Interstate Commerce Commission.

SERVICE, EQUIPMENT, FACILITIES—TO BE FIXED BY THE COMMISSION.

SEC 35. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rules, regulations, practices, equipment, appliances, facilities or service of any public utility, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or

Commission to protect public from poor service or inadequate facilities.

employed and shall fix the same by its order, rule or regulation. The commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility, and, on proper demand and tender of rates, such public utility shall furnish such commodity or render such service within the time and upon the conditions provided in such rules.

POWER OF COMMISSION TO ORDER ADDITIONS, IMPROVEMENTS,
CHANGES.

*Commission
may order
extensions and
improvements
of service.*

*New buildings
for convenience
of employees
or public.*

*May specify
manner of
building
and site.*

*May order
joint action by
public utilities.*

SEC. 36. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If the commission orders the erection of a new structure, it may also fix the site thereof. If any additions, extensions, repairs, improvements or changes, or any new structure or structures which the commission has ordered to be erected, require joint action by two or more public utilities, the commission shall notify the said public utilities that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at their joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, extensions, repairs, improvements or changes or new structure or structures, which each shall bear. If at the expiration of such time such public utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs, improvements or changes, or

new structure or structures, the commission shall have authority, after further hearing, to make an order fixing the proportion of such cost or expense to be borne by each public utility and the manner in which the same shall be paid or secured.

Commission may fix proportion of expense and manner paid.

POWER OF COMMISSION TO ORDER CHANGES IN TIME SCHEDULES AND RUNNING OF ADDITIONAL CARS AND TRAINS.

SEC. 37. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any railroad corporation or street railroad corporation does not run a sufficient number of trains or cars, or possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger or freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop the same at proper places, or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the commission shall have power to make an order directing any such railroad corporation or street railroad corporation to increase the number of its trains or of its cars or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train or car, or to change the stopping place or places thereof, or to make any other order that the commission may determine to be reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.

Commission may order sufficient number trains to accommodate traffic.

May change schedules.

May change stopping places or make other reasonable regulations for the accommodation of the public.

TRACK CONNECTIONS.

SEC. 38. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the public convenience and necessity would be subserved by having connections made between the tracks of any two or more railroad or street railroad corporations, so that cars may readily be transferred from one to the other, at any of the points hereinafter in this section specified, the commission may order any two or more such corporations owning, controlling, operating or managing tracks of the same gauge to make physical connections at any and all crossings, and at all points where a railroad or street railroad shall begin or terminate

Commission may order track connections between railroads and street car lines.

or run near to any other railroad or street railroad. After the necessary franchise or permit has been secured from the city and county, or city or town, the commission may likewise order such physical connection, within such city and county, or city or town, between two or more railroads which enter the limits of the same.

May fix proportion of expense.

The commission shall by order direct whether the expense of the connections referred to in this section shall be borne jointly or otherwise.

SWITCH AND SPUR CONNECTIONS: INTERCHANGE SWITCHING TO INDUSTRIAL TRACKS.

Commission may order switches and spur tracks and prescribe terms for use.

SEC. 39. (a) Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that application has been made by any corporation or person to a railroad corporation for a connection or spur as provided in section 25 of this act, and that the railroad corporation has refused to provide such connection or spur and that the applicant is entitled to have the same provided for him under said section 25, the commission shall make an order requiring the providing of such connection or spur and the maintenance and use of the same upon reasonable terms which the commission shall have the power to prescribe. Whenever any such connection or spur has been so provided, any corporation or person shall be entitled to connect with the private track, tracks or railroad thereby connected with the railroad of the railroad corporation and to use the same or to use the spur so provided upon payment to the party or parties incurring the primary expense of such private track, tracks or railroad, or the connection therewith or of such spur, of a reasonable proportion of the cost thereof to be determined by the commission after notice to the interested parties and a hearing thereon; *provided*, that such connection and use can be made without unreasonable interference with the rights of the party or parties incurring such primary expense.

May require switching service to private spurs.

(b) The commission shall likewise have the power to require one railroad corporation to switch to private spurs and industrial tracks upon its own railroad the cars of a connecting railroad corporation and to prescribe the terms and compensation for such service.

PHYSICAL CONNECTIONS AND JOINT RATES—TELEPHONE AND
TELEGRAPH CORPORATIONS.

SEC. 40. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telephone corporations or two or more telegraph corporations whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone corporations have failed to establish joint rates, tolls or charges for service by or over their said lines, and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conversations between points within the same city and county, or city or town, and that conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and in force in the future. If such telephone or telegraph corporations do not agree upon the division between them of the cost of such physical connection or connections or the division of the joint rates, tolls or charges established by the commission over such through lines, the commission shall have authority, after further hearing, to establish such division by supplemental order.

Commission may order physical connections between telephone and telegraph lines in specified cases.

May fix joint telephone and telegraph rates.

USE OF JOINT FACILITIES.

SEC. 41. Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that public convenience and necessity require the use by one public utility of the conduits, subways, tracks, wires, poles, pipes or other equipment, or any part thereof, on, over, or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other

May order joint use of facilities and equipment on, over or under streets.

*Public utility
using other
public utilities'
equipment
liable for
damage.*

equipment or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment for such damage as may result therefrom to the property of such owner or other users thereof.

HEALTH AND SAFETY: SAFETY DEVICES.

*Commission to
protect health
and safety
of public.*

SEC. 42. The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signalling, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand.

GRADE CROSSINGS.

*Grade
crossings
prohibited,
except...*

SEC. 43. (a) No public road, highway or street shall hereafter be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without having first secured the permission of the commission;

provided, that this subsection shall not apply to the replacement of lawfully existing tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

(b) The commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public road or highway by a railroad or street railroad and of a street by a railroad or *vice versa*, subject to the provisions of section 2694 of the Political Code, so far as applicable, and to alter or abolish any such crossing, and to require where, in its judgment, it would be practicable, a separation of grades at any such crossing heretofore or hereafter established and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected or between such corporations and the state, county, municipality or other public authority in interest.

All railroad crossings under jurisdiction of Commission.

May abolish crossings.

May require separation of grades.

Cost of work to be divided.

INVESTIGATION OF ACCIDENTS: REPORTS TO COMMISSION.

SEC. 44. The commission shall investigate the cause of all accidents occurring within this state upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the commission, investigation by it, and shall have the power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable; *provided*, that neither the order or recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of the loss of life, or injury to person or property, in this section referred to. Every public utility is hereby required to file with the commission,

All accidents involving public utilities shall be immediately reported to Commission.

Power of Commission to investigate.

under such rules and regulations as the commission may prescribe, a report of each accident so occurring of such kinds or classes as the commission may from time to time designate.

POWER OF COMMISSION TO PROVIDE RULES FOR EXPEDITING
TRAFFIC: EXPRESS AND TELEGRAPH RULES
AND REGULATIONS.

*Commission to
establish demur-
rage rules.*

SEC. 45. (a) The commission shall have power to provide by proper rules and regulations the time within which all railroad corporations shall furnish, after demand therefor, all cars, equipment and facilities necessary for the handling of freight in carload and less than carload lots, the time within which consignors or persons ordering cars shall load the same, and the time within which consignees or persons to whom freight may be consigned shall unload and discharge the same and receive freight from the freight rooms, and to provide penalties to be paid for failure on the part of the railroad corporations, consignors and consignees to conform to such rules. Charges for demurrage shall be uniform so that the same penalty shall be paid by both shipper or consignee and railroad corporation for an equal number of cars for each day for which demurrage is charged.

*Time allowed
for loading
or unloading.*

*Fix demurrage
charges.*

*Fix zones for
free delivery of
express
packages,
telephone and
telegraph
messages.*

(b) The commission shall also have power to provide the time within which express packages shall be received, gathered, transported and delivered at destination, and the limits within which express packages shall be gathered and distributed and telegraph and telephone messages delivered without extra charge.

POWER OF COMMISSION AS TO SERVICE, ETC., OF PUBLIC
UTILITIES.

*Commission to
regulate electric,
gas and water
service.*

SEC 46. (a) The commission shall have power, after hearing had upon its own motion or upon complaint, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water corporations; to ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition

pertaining to the supply of the product, commodity or service furnished or rendered by any such public utility; to prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof; to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements; and to provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility.

To regulate quality.

To regulate measurements.

(b) The commissioners and their officers and employees shall have power to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any of the other powers provided for in this act, and to set up and use on such premises any apparatus and appliances necessary therefor. The agents and employees of said public utility shall have the right to be present at the making of such examinations and tests.

Public utility premises shall be open to Commission.

(c) Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by the commission.

Any consumer may have meter tested.

Fee.

VALUATION OF PROPERTY.

SEC. 47. The commission shall have power to ascertain the value of the property of every public utility in this state and every fact which in its judgment may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of every public utility.

Commission to ascertain physical valuation of property.

To make re-valuations.

UNIFORM SYSTEM OF ACCOUNTS: ACCESS TO ACCOUNTS, ETC.

Commission to prescribe system of accounts for public utilities.

To prescribe forms for other records.

Other systems prohibited.

Power of Commission to order carrying of depreciation accounts.

SEC. 48. The commission shall have power to establish a system of accounts to be kept by the public utilities subject to its jurisdiction, or to classify said public utilities and to establish a system of accounts for each class, and to prescribe the manner in which such accounts shall be kept. It may also in its discretion prescribe the forms of accounts, records and memoranda to be kept by such public utilities, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this act. The system of accounts established by the commission and the forms of accounts, records and memoranda prescribed by it shall not be inconsistent, in the case of corporations subject to the provisions of the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, with the systems and forms from time to time established for such corporations by the interstate commerce commission, but nothing herein contained shall affect the power of the commission to prescribe forms of accounts, records and memoranda covering information in addition to that required by the interstate commerce commission. The commission may, after hearing had upon its own motion or upon complaint, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. Where the commission has prescribed the forms of accounts, records or memoranda to be kept by any public utility for any of its business, it shall thereafter be unlawful for such public utility to keep any accounts, records or memoranda for such business other than those so prescribed, or those prescribed by or under the authority of any other state or of the United States, excepting such accounts, records or memoranda as shall be explanatory of and supplemental to the accounts, records or memoranda prescribed by the commission.

DEPRECIATION ACCOUNTS.

SEC. 49. The commission shall have power, after hearing, to require any or all public utilities to carry a proper and adequate

depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund.

To prescribe rules for expenditure of depreciation funds.

NEW CONSTRUCTION: FRANCHISES AND PRIVILEGES.

SEC. 50 (a) No street railroad corporation, gas corporation, electrical corporation, telephone corporation or water corporation shall henceforth begin the construction of a street railroad, or of a line, plant or system, or of any extension of such street railroad, or line, plant, or system, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction; *provided*, that this section shall not be construed to require any such corporation to secure such certificate for an extension within any city and county or city or town within which it shall have theretofore lawfully commenced operations, or for an extension into territory either within or without a city and county or city or town, contiguous to its street railroad, or line, plant or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business; *and provided*, *further*, that if any public utility, in constructing or extending its line, plant, or system, shall interfere or be about to interfere with the operation of the line, plant or system of any other public utility, already constructed, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants or systems affected as to it may seem just and reasonable.

Certificate of public convenience and necessity to be obtained before beginning any new construction, except...

Commission to settle disputes as to interference with existing plants.

Certificate of public convenience and necessity must be obtained before exercising franchise rights.

(b) No public utility of a class specified in subsection (a) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, or under any franchise or permit heretofore granted, but not heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege; *provided*, that when the commission shall find, after hearing, that a public utility has heretofore begun actual construction work and is prosecuting such work, in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege; *and provided, further*, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state.

Articles of incorporation must be filed with Commission.

(c) Before any certificate may issue, under this section, a certified copy of its articles of incorporation or charter, if the applicant be a corporation, shall be filed in the office of the commission. Every applicant for a certificate shall file in the office of the commission such evidence as shall be required by the commission to show that such applicant has received the required consent, franchise or permit of the proper county, city and county, municipal or other public authority.

Permit of proper public authorities must be had.

The commission shall have power, after hearing, to issue said certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated street railroad, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter, upon application, under such rules and

Preliminary order may be secured.

regulations as it may prescribe, issue the desired certificate, upon such terms and conditions as it may designate, after the public utility has obtained the contemplated franchise or permit. Upon the presentation to the commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility, the commission shall thereupon issue such certificate.

TRANSFER OF PROPERTY, FRANCHISES, ETC.; TRANSFERS OF STOCK.

SEC. 51 (a) No railroad corporation, street railroad corporation, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation or water corporation shall henceforth sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant or system, necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, direct or indirect, merge or consolidate its railroad, street railroad, line, plant or system, or franchises or permits or any part thereof, with any other public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under section fifty of this act, or the sale, lease, assignment, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, lease or other disposition by any public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value.

Public utilities may not dispose of certain property, merge or consolidate without permission of Commission.

Sales without order of Commission are void.

Property which may be sold without permission of Commission.

No public utility may acquire stock of others without permission.

Transfers in violation are void.

(b) No public utility shall hereafter purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under or by virtue of the laws of this state, without having been first authorized to do so by the commission. Every assignment, transfer, contract or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this section shall be void and of no effect, and no such transfer shall be made on the books of any public utility. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired.

APPROVAL OF STOCKS AND STOCK CERTIFICATES, AND BONDS,
NOTES AND OTHER EVIDENCES OF INDEBTEDNESS.

Issuance of securities by public utilities a special privilege.

Control vested in the State.

SEC. 52 (a) The power of public utilities to issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness and to create liens on their property situated within this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe.

Conditions under which public utilities may issue stocks and bonds.

(b) A public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for the following purposes and no others, namely, for the acquisition of property, or for the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility, within five years next prior to the filing of an

application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and replacements, in cases where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; *provided*, that such public utility, in addition to the other requirements of law, shall first have secured from the commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. To enable it to determine whether it will issue such order, the commission shall hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issue of such stocks or stock certificates, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary. The commission may authorize issues of bonds, notes or other evidences of indebtedness, less than, equivalent to or greater than the authorized or subscribed capital stock of a public utility corporation, and the provisions of sections 309 and 456 of the Civil Code of this state, in so far as they contain inhibitions against the creation by corporations of indebtedness, evidenced by bonds, notes or otherwise, in excess of their total authorized or subscribed

Issue must be authorized by Commission.

Investigations by Commission.

Public utilities exempt from provisions of sections 309 and 456 of the civil code limiting indebtedness.

Proceeds from sale of securities shall be expended as ordered by the Commission.

capital stock shall have no application to public utility corporations. No public utility shall, without the consent of the commission, apply the issue of any stock or stock certificate, or bond, note or other evidence of indebtedness, or any part thereof, or any proceeds thereof, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof. A public utility may issue notes, for proper purposes and not in violation of any provision of this act or any other act, payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the commission, but no such note shall, in whole or in part, be refunded by any issue of stocks or stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the commission.

Right to be corporation and franchise not to be capitalized except...

The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right; nor shall any contract for consolidation or lease be capitalized, nor shall any public utility hereafter issue any bonds, notes or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

Contracts for consolidation may not be capitalized.

Public utility must account for the proceeds of securities sold.

(c) The commission shall have the power to require public utilities to account for the disposition of the proceeds of all sales of stocks and stock certificates, and bonds, notes and other evidences of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

(d) All stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued with the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock or stock certificate, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice.

Stock or bonds issued without order of Commission are void.

Protection to bona fide purchasers.

(e) Every public utility which, directly or indirectly, issues or causes to be issued, any stock or stock certificate, or bond, note, or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the constitution of this state, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order, as herein provided, or to any purpose specified in the commission's order in excess of the amount in said order authorized for such purpose, is subject to a penalty of not less than five hundred dollars nor more than twenty thousand dollars for each offense.

Penalty for misuse of proceeds from sale of securities.

(f) Every officer, agent or employee of a public utility and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or stock certificate, or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the constitution of this state, or who, in any proceeding before the commission,

Penalty for fraudulent issue of securities.

knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation, which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issue of any stock or stock certificate, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission, in any proceeding, tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate, or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or stock certificate, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this act, negotiates, or causes the same to be negotiated, shall be guilty of a felony.

Approval of securities by Commission no guarantee.

(g) No provision of this act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the State of California to pay or guarantee, in any manner whatsoever, any stock or stock certificate, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this act.

(h) All stocks and stock certificates, and bonds, notes and other evidences of indebtedness issued by any public utility after this act takes effect, upon the authority of any

articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had, previous to the taking effect of this act, shall be void, unless an order of the commission authorizing the issue of such stocks or stock certificates, or bonds, notes or other evidences of indebtedness shall have been obtained from the commission prior to such issue. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary.

Authority of articles of incorporation, vote of stockholders or directors previous to taking effect of this act not sufficient for issuing securities without order of the Commission.

ARTICLE IV.

PROCEDURE BEFORE RAILROAD COMMISSION AND COURTS.

RULES FOR HEARINGS: INFORMALITIES.

SEC. 53. All hearings and investigations before the commission or any commissioner shall be governed by this act and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission nor any commissioner shall be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony before the commission or any commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission.

This act and "Rules of Practice" to govern hearings.

Commission not bound by rules of technical evidence.

POWERS OF COMMISSION AS TO PROCESS: SERVICE.

SEC. 54. The commission and each commissioner shall have power to issue writs of summons, subpoenas, warrants of attachment, warrants of commitment and all necessary process in proceedings for contempt, in the like manner and to the same extent as courts of record. The process issued by the commission, or any commissioner, shall extend to all parts of the state and may be served by any person authorized to serve process of courts of record, or by any person designated for that purpose by the commission or a commissioner. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed

Commission has certain powers of courts of record. May issue subpoenas, etc.

the fees now prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for payment of the fees of witnesses.

WITNESSES: ATTENDANCE AND FEES: DEPOSITIONS:
INCRIMINATION.

*Commission to
administer oaths,
take evidence,
etc.*

*Fees of
witnesses.*

SEC. 55. (a) The commission and each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Each witness who shall appear, by order of the commission or a commissioner, shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness who has not been required to attend at the request of any party shall be subpoenaed by the commission, his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioner, as directed in the subpoena. All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. No witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation.

*Proceedings for
contempt, in
superior courts.*

(b) The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held by the commission or any commissioner shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including waybills, books, accounts

and documents, as required by any subpoena issued by the commission or any commissioner. The commission or the commissioner before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission or commissioner, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission. The court, upon the petition of the commission or such commissioner, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or a commissioner, the court shall thereupon enter an order that said witness appear before the commission or said commissioner at the time and place fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this subsection is cumulative, and shall not be construed to impair or interfere with the power of the commission or a commissioner to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record.

(c) The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be

*Commission
may take
depositions.*

taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers and accounts.

*Possible
incrimination
no excuse for
refusal to
testify.*

(d) No person shall be excused from testifying or from producing any book, waybill, document, paper or account in any investigation or inquiry by or hearing before the commission or any commissioner, when ordered to do so, upon the ground that the testimony or evidence, book, waybill, document, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath have testified or produced documentary evidence; *provided*, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained shall be construed as in any manner giving to any public utility immunity of any kind.

CERTIFIED COPIES OF PAPERS FILED TO BE EVIDENCE.

*Certified copies
of records
accepted as
evidence.*

SEC. 56. (a) Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary under the official seal of the commission to be true copies of the originals, shall be evidence in like manner as the originals.

*Certified copies
of certain records
orders, etc., may
be recorded.*

(b) Every order, authorization or certificate issued or approved by the commission under any provision of sections 38, 39, 40, 41, 43, 50, 51 or 52 of this act shall be in writing and entered on the records of the commission. Any such order, authorization or certificate, or a copy thereof, or a copy of the record of any such order, authorization or certificate, certified by a commissioner or by the secretary under the official seal of the commission to be a true copy of the original order, authorization, certificate or entry, may be recorded in the office of the recorder of any county, or city and county, in which is located the principal place of business of any public utility affected thereby, or in which is situated any property

of any such public utility, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the commission that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with like effect.

FEEES.

SEC. 57. The commission shall charge and collect the following fees: for copies of papers and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office, fifteen cents for each folio and one dollar for every certificate under seal affixed thereto; for certifying a copy of any report made by a public utility, two dollars; for each certified copy of the annual report of the commission, one dollar and fifty cents; for certified copies of evidence and proceedings before the commission, fifteen cents for each folio; for certificate authorizing an issue of bonds, notes or other evidences of indebtedness, one dollar for each thousand dollars of the face value of the authorized issue or fraction thereof up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and twenty-five cents for each one thousand dollars over ten million dollars, with a minimum fee in any case of two hundred and fifty dollars; *provided*, that no fee shall be required when such issue is made for the purpose of guaranteeing, taking over, refunding, discharging or retiring any bond, note or other evidence of indebtedness up to the amount of the issue guaranteed, taken over, refunded, discharged or retired. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each week, accompanied by a detailed statement thereof, into the treasury of the state to the credit of a fund to be known as the "Railroad Commission Fund," which fund is hereby created.

Fees for papers, records, official documents, reports of public utilities and reports of Commission.

Fees on stock or bond issues.

All fees paid into State Treasury to credit of "Railroad Commission Fund."

INSPECTION OF BOOKS, PAPERS AND DOCUMENTS.

Commission to have free access to all records of public utilities.

SEC. 58. The commission, each commissioner and each officer and person employed by the commission shall have the right, at any and all times, to inspect the accounts, books, papers and documents of any public utility, and the commission, each commissioner and any officer of the commission or any employee authorized to administer oaths shall have power to examine under oath any officer, agent or employee of such public utility in relation to the business and affairs of said public utility; *provided*, that any person other than a commissioner or an officer of the commission demanding such inspection shall produce under the hand and seal of the commission his authority to make such inspection; *and provided further*, that a written record of the testimony or statement so given under oath shall be made and filed with the commission.

PRODUCTION OF BOOKS AND RECORDS KEPT OUTSIDE THE STATE.

Commission may require records kept out of State to be produced.

SEC. 59. The commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this state at such time and place as it may designate, of any books, accounts, papers or records kept by said public utility in any office or place without this state, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction.

COMPLAINTS.

Filing of complaints against public utilities.

SEC. 60. Complaint may be made by the commission of its own motion or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission; *provided*, that no complaint shall be entertained by the

Method of handling by Commission.

commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers, of such gas, electricity, water or telephone service. All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties; and in any review by the courts of orders or decisions of the commission the same rule shall apply with regard to the joinder of causes and parties as herein provided. The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant. Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the corporation or person complained of. Service in all hearings, investigations and proceedings pending before the commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure of this state, and may be made personally or by mailing in a sealed envelope, registered, with postage prepaid. The commission shall fix the time when and place where a hearing will be had upon the complaint and shall serve notice thereof, not less than ten days before the time set for such hearing, unless the commission shall find that public necessity requires that such hearing be held at an earlier date.

*Copy of
complaint
served on
alleged offender.*

HEARINGS, ORDERS AND RECORD: RECOVERY ON DECISION.

SEC. 61. (a) At the time fixed for any hearing before the commission or a commissioner, or the time to which the same may have been continued, the complainant and the corporation or person complained of, and such corporations or persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. After the conclusion of the

*Defendant
entitled to
hearing.*

*Witnesses may
be subpoenaed.*

hearing, the commission shall make and file its order, containing its decision. A copy of such order, certified under the seal of the commission, shall be served upon the corporation or person complained of, or his or its attorney. Said order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission. If an order can not, in the judgment of the commission, be complied with within twenty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the commission on its own initiative and considered by it in rendering its order or decision, and of the pleadings, record and proceedings in the cause, shall constitute the record of the commission; *provided*, that on review of an order or decision of the commission, the petitioner and the commission may stipulate that a certain question or questions alone and a specified portion only of the evidence shall be certified to the supreme court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review.

PUBLIC UTILITY MAY COMPLAIN.

Complaints by public utilities. SEC. 62. Any public utility shall have a right to complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases, except that the complaint may be heard *ex parte* by the commission or may be served upon any parties designated by the commission.

INCREASES IN RATES.

SEC. 63. (a) No public utility shall raise any rate, fare, toll, rental or charge or so alter any classification, contract, practice, rule or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.

Rates may not be raised except by order of Commission.

(b) Whenever there shall be filed with the commission any schedule stating an individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, not increasing or resulting in an increase in any rate, fare, toll, rental or charge, the commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, and pending the hearing and the decision thereon such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation shall not go into effect; *provided*, that the period of suspension of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation shall not extend beyond one hundred and twenty days beyond the time when such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation would otherwise go into effect unless the commission, in its discretion, extends the period of suspension for a further period not exceeding six months. On such hearing the commission shall establish the rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. All such rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations not so suspended shall, on the expiration of thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, go into effect and be the established and effective rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules and regulations, subject to the power of the commission, after a hearing had on its own motion or upon complaint, as herein provided, to alter or modify the same.

Commission may suspend schedules not showing increase.

Orders of suspension should not be over 120 days.

Unless extended not over six months.

Otherwise to go into effect in thirty days.

COMMISSION MAY CHANGE ORDERS AND DECISIONS.

Orders changed by Commission have effect of original orders. SEC. 64. The commission may at any time, upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it. Any order rescinding, altering or amending a prior order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original orders or decisions.

ORDERS AND DECISIONS CONCLUSIVE IN COLLATERAL PROCEEDINGS.

Orders conclusive in collateral proceedings. SEC. 65. In all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive.

REHEARINGS.

Applications for re-hearings. SEC. 66. After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in said action or proceeding and specified in the application for rehearing, and the commission may grant and hold such rehearing on said matters, if in its judgment sufficient reason therefor be made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless such corporation or person shall have made, before the effective date of said order or decision, application to the commission for a rehearing. Such application shall set forth specifically the ground or grounds on which the applicant considers said decision or order to be unlawful. No corporation or person shall in any court urge or rely on any ground not so set forth in said application. Any application for a rehearing made ten days or more before the effective date of the order as to which a rehearing is sought, shall be either granted or denied before such effective date, or the order shall stand suspended until such application is granted or denied. Any application for a rehearing made within less than ten days before the effective date

No cause for action until after application for re-hearing.

Grounds must be set forth in application for re-hearing.

of the order as to which a rehearing is sought, and not granted within twenty days, may be taken by the party making the application to be denied, unless the effective date of the order is extended for the period of the pendency of the application. If any application for a rehearing be granted without a suspension of the order involved, the commission shall forthwith proceed to hear the matter with all despatch and shall determine the same within twenty days after final submission, and if such determination is not made within said time, it may be taken by any party to the rehearing that the order involved is affirmed. An application for rehearing shall not excuse any corporation or person from complying with and obeying any order or decision, or any requirement of any order or decision of the commission theretofore made, or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the commission may by order direct. If, after such rehearing and a consideration of all the facts, including those arising since the making of the order or decision, the commission shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order or decision made after such rehearing abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision unless so ordered by the commission.

*Orders of
Commission
must be obeyed
pending
re-hearing
except . . .*

*Commission may
modify orders.*

REVIEW.

SEC. 67. Within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may apply to the supreme court of this state for a writ of certiorari or review (hereinafter referred to as a writ of review) for the purpose of having the lawfulness of the original order or decision or the order or decision on rehearing inquired into and determined. Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day, the cause shall be heard by the supreme court, unless

*Supreme Court
may review.*

No new or additional evidence may be introduced in the Supreme Court.

Findings of Commission on questions of fact final.

No other courts of State shall have jurisdiction.

for a good reason shown the same be continued. No new or additional evidence may be introduced in the supreme court, but the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the constitution of the United States or of the State of California. The findings and conclusions of the commission on questions of fact shall be final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission on reasonableness and discrimination. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing the supreme court shall enter judgment either affirming or setting aside the order or decision of the commission. The provisions of the code of civil procedure of this state relating to writs of review shall, so far as applicable and not in conflict with the provisions of this act, apply to proceedings instituted in the supreme court under the provisions of this section. No court of this state (except the supreme court to the extent herein specified) shall have jurisdiction to review, reverse, correct or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin, restrain or interfere with the commission in the performance of its official duties; *provided*, that the writ of mandamus shall lie from the supreme court to the commission in all proper cases.

SUSPENSION OF COMMISSION'S ORDERS.

Supreme Court may suspend Commission's orders.

SEC. 68. (a) The pendency of a writ of review shall not of itself stay or suspend the operation of the order or decision of the commission, but during the pendency of such writ, the supreme court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order or decision.

Upon three days' notice and after hearing.

(b) No order so staying or suspending an order or decision of the commission shall be made by the supreme court otherwise than upon three days' notice and after hearing, and if the order

or decision of the commission is suspended, the order suspending the same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage.

(c) In case the order or decision of the commission is stayed or suspended, the order of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by the commission (or approved, on review, by the supreme court), payable to the people of the State of California, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity or service in excess of the charges fixed by the order or decision of the commission, in case said order or decision is sustained. The supreme court, in case it stays or suspends the order or decision of the commission in any matter affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the public utility affected to pay into court, from time to time, there to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the order or decision of the commission had not been stayed or suspended.

(d) In case the supreme court stays or suspends any order or decision lowering any rate, fare, toll, rental, charge or classification, the commission, upon the execution and approval of said suspending bond, shall forthwith require the public utility affected, under penalty of the immediate enforcement of the order or decision of the commission (pending the review and notwithstanding the suspending order), to keep such accounts, verified by oath, as may, in the judgment of the commission, suffice to show the amounts being charged or received by such public utility, pending the review,

Suspending bond must be filed.

Damages.

Money collected in excess of rates authorized by Commission shall be impounded pending settlement of litigation.

Public utility must keep accurate account of excess charges collected pending settlement of litigation.

*Impounded
money to be
promptly paid
to persons
entitled thereto.*

*Method of
payment
prescribed by
Commission.*

in excess of the charges allowed by the order or decision of the commission, together with the names and addresses of the corporations or persons to whom overcharges will be refundable in case the charges made by the public utility, pending the review, be not sustained by the supreme court. The court may, from time to time, require said party petitioning for a review to give additional security on, or to increase the said suspending bond, whenever in the opinion of the court the same may be necessary to insure the prompt payment of said damages and said overcharges. Upon the final decision by the supreme court, all moneys which the public utility may have collected, pending the appeal in excess of those authorized by such final decision, together with interest, in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by the commission. If any such moneys shall not have been claimed by the corporations or persons entitled thereto within one year from the final decision of the supreme court, the commission shall cause notice to such corporations or persons to be given by publication, once a week for two successive weeks, in a newspaper of general circulation, printed and published in the city and county of San Francisco, and such other newspaper or newspapers as may be designated by the commission, said notice to state the names of the corporations or persons entitled to such moneys and the amount due each corporation or person. All moneys not claimed within three months after the publication of said notice shall be paid by the public utility, under the direction of the commission, into the state treasury for the benefit of the general fund.

COURT PROCEEDINGS: PREFERENCE.

*Preference to
Commission
cases in court.*

SEC. 69. All actions and proceedings under this act, and all actions or proceedings to which the commission or the people of the State of California may be parties, and in which any question arises under this act, or under or concerning any order or decision of the commission, shall be preferred over all other civil causes except election causes and shall be heard and determined in prefer-

ence to all other civil business except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the attorney of the commission in any action or proceeding in which he may be allowed to intervene.

PHYSICAL VALUATION: PROCEDURE.

SEC. 70. For the purpose of ascertaining the matters and things specified in section forty-seven of this act, concerning the value of the property of public utilities, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had, the commission shall give the public utility affected thereby at least thirty days' written notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section and in said section forty-seven of this act, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing. All public utilities affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The commission is empowered to resort to any other source of information available. The evidence introduced at such hearing shall be reduced to writing and certified under the seal of the commission. The commission shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the public utility affected. Such findings shall be subject to review by the supreme court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court, in which the commission, the state or any officer, department or institution thereof, or any county, city and county, municipality or other body politic and the public utility affected may be interested whether arising under the provisions of this act or otherwise, and

*Hearings by
Commission to
ascertain
physical
valuation of
public utilities.*

*Preliminary
examination.*

Evidence.

*Finding subject
to review by
Supreme Court.*

*Findings of
Commission
admissible as
evidence in any
action.*

Further hearings.

such findings, when so introduced, shall be conclusive evidence of the facts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may from time to time cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any public utility subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings; *provided*, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation.

EXCESSIVE OR DISCRIMINATORY CHARGES: REPARATION.

Refunds of excessive or discriminatory charges.

SEC. 71. (a) When complaint has been made to the commission concerning any rate, fare, toll, rental or charge for any product or commodity furnished or service performed by any public utility, and the commission has found, after investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection; *provided*, no discrimination will result from such reparation.

*Suits to recover.**Complaints must be filed within two years.*

(b) If the public utility does not comply with the order for the payment of reparation within the time specified in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the petition for the

enforcement of the order shall be filed in the court within one year from the date of the order of the commission. The remedy in this section provided shall be cumulative and in addition to any other remedy or remedies in this act provided in case of failure of a public utility to obey an order or decision of the commission.

COMMISSION SHALL ENFORCE LAWS.

SEC. 72. It is hereby made the duty of the commission to see that the provisions of the constitution and statutes of this state affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected, and to this end it may sue in the name of the people of the State of California. Upon the request of the commission, it shall be the duty of the attorney general or the district attorney of the proper county or city and county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute actions or proceedings for the enforcement of the provisions of the constitution and statutes of this state affecting public utilities and for the punishment of all violations thereof.

Commission may sue in name of people.

Public attorneys shall assist Commission.

PUBLIC UTILITIES LIABLE FOR DAMAGES.

SEC. 73. (a) In case any public utility shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by the constitution, any law of this state or any order or decision of the commission, such public utility shall be liable to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the court shall find that the act or omission was wilful, the court may in addition to the actual damages award damages for the sake of example and by way of punishment. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any corporation or person.

Public utilities may be sued for actual and exemplary damages.

(b) No recovery as in this section provided shall in any manner affect a recovery by the state of the penalties in this act provided or the exercise by the commission of its power to punish for contempt.

EFFECT OF ACT ON RELEASE OF DAMAGES: PENALTIES
CUMULATIVE.

This act does not effect existing rights of action.

SEC. 74. (a) This act shall not have the effect to release or waive any right of action by the state, the commission, or any person or corporation for any right, penalty or forfeiture which may have arisen or accrued or may hereafter arise or accrue under any law of this state.

Penalties under this act cumulative and no bar to other prosecution.

(b) All penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any criminal prosecution against any public utility, or any officer, director, agent or employee thereof, or any other corporation or person, or be a bar to the exercise by the commission of its power to punish for contempt.

SUMMARY PROCEEDINGS.

Commission shall act in the name of the people to enforce laws against public utilities.

SEC. 75. Whenever the commission shall be of the opinion that any public utility is failing or omitting or about to fail or omit, to do anything required of it by law, or by any order, decision, rule, direction or requirement of the commission, or is doing anything or about to do anything, or permitting anything or about to permit anything to be done, contrary to or in violation of law, or of any order, decision, rule, direction or requirement of the commission, it shall direct the attorney of the commission to commence an action or proceeding in the superior court in and for the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides, in the name of the people of the State of California, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney of the commission shall thereupon begin such action or proceeding by

petition to such superior court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public utility complained of must answer the petition, and in the mean time said public utility may be restrained. In case of default in answer, or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken to the supreme court from such final judgment in the same manner and with the same effect, subject to the provisions of this act, as appeals are taken from judgments of the superior court in other actions for mandamus or injunction.

Court to set time within 20 days of complaint.

Appeals may be carried to Supreme Court.

PENALTIES, VIOLATIONS BY PUBLIC UTILITIES.

SEC. 76. (a) Any public utility which violates or fails to comply with any provision of the constitution of this state or of this act, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement or any part or provision thereof, of the commission, in a case in which a penalty has not hereinbefore been provided for such public utility, is subject to a penalty of not less than five hundred dollars nor more than two thousand dollars for each and every offense.

Public utilities may be fined.

(b) Every violation of the provisions of this act or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

Every violation of this act a separate offense.

Each day's violation a separate offense.

*Public utility
responsible for
action of
officers, agents
or employees.*

(c) In construing and enforcing the provisions of this act relating to penalties, the act, omission or failure of any officer, agent or employee of any public utility, acting within the scope of his official duties or employment, shall in every case be and be deemed to be the act, omission or failure of such public utility.

PENALTIES, VIOLATIONS BY OFFICERS, AGENTS OR EMPLOYEES OF PUBLIC UTILITIES.

*Officers, agents
or employees of
public utilities
may be fined or
imprisoned, or
both.*

SEC. 77. Every officer, agent or employee of any public utility, who violates or fails to comply with, or who procures, aids or abets any violation by any public utility of any provision of the constitution of this state or of this act, or who fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement or any part or provision thereof, of the commission, or who procures, aids or abets any public utility in its failure to obey, observe and comply with any such order, decision, rule, direction, demand or requirement, or any part or provision thereof in a case in which a penalty has not hereinbefore been provided for such officer, agent or employee, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

PENALTIES, VIOLATIONS BY CORPORATIONS OTHER THAN PUBLIC UTILITIES.

*Fines for corpora-
tions other than
public utilities.*

SEC. 78. Every corporation, other than a public utility, which violates any provision of this act, or which fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement, or any part or provision thereof, of the commission, in a case in which a penalty has not hereinbefore been provided for such corporation, is subject to a penalty of not less than five hundred dollars nor more than two thousand dollars for each and every offense.

PENALTIES, VIOLATIONS BY PERSONS OTHER THAN OFFICERS,
ETC., OF PUBLIC UTILITIES.

SEC. 79. Every person who, either individually, or acting as an officer, agent or employee of a corporation other than a public utility, violates any provision of this act, or fails to observe, obey or comply with any order, decision, rule, direction, demand or requirement, or any part or portion thereof, of the commission, or who procures, aids or abets any such public utility in its violation of this act, or in its failure to obey, observe or comply with any such order, decision, rule, direction, demand or requirement, or any part or portion thereof, in a case in which a penalty has not hereinbefore been provided for such person, is guilty of a misdemeanor, and is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

Individuals not officers, etc., of public utilities may be fined or imprisoned, or both.

SUITS FOR PENALTIES.

SEC. 80. Actions to recover penalties under this act shall be brought in the name of the people of the State of California, in the superior court in and for the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides. Such action shall be commenced and prosecuted to final judgment by the attorney of the commission. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

Suits for penalties may be brought in superior court.

CONTEMPT PROCEEDINGS.

SEC. 81. Every public utility, corporation or person which shall fail to observe, obey or comply with any order, decision, rule,

Punishment for contempt same as in courts of record.

regulation, direction, demand or requirement, or any part or portion thereof, of the commission or any commissioner shall be in contempt of the commission, and shall be punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in this act, but shall be cumulative and in addition to such other remedy or remedies.

Punishment cumulative.

ARTICLE V.

CONSTRUCTION: SAVING CLAUSE: APPROPRIATION: REPEAL.

EFFECT OF ACT OF EXISTING POWERS OF ANY CITY AND COUNTY, OR INCORPORATED CITY OR TOWN.

Municipalities may retain control of public utilities or may surrender such control or re-invest themselves with it. SEC. 82. This act shall not affect such powers of control over any public utility vested in any city and county or incorporated city or town as, at an election to be held pursuant to laws to be hereafter passed by the legislature, a majority of the qualified electors voting thereon of such city and county, or incorporated city or town, shall vote to retain, and until such election such powers shall continue unimpaired in such city and county or incorporated city or town; but if the vote so taken shall not favor the continuation of such powers, they shall thereafter vest in the commission; *provided*, that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by a vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the commission in the manner to be prescribed by the legislature; or if such municipal corporation shall have surrendered any powers to the commission, it may, by like vote, thereafter reinvest itself with such power.

EFFECT OF ACT ON PENDING ACTIONS AND PROCEEDINGS.

Act does not affect pending actions of Commission. SEC. 83. (a) This act shall not affect pending actions or proceedings brought by or against the people of the State of California or the commission, or by any other person or corporation

under the provisions of chapters 20 or 386 of the laws of 1911, but the same may be prosecuted and defended with the same effect as though this act had not been passed. Any investigation, hearing, or examination undertaken, commenced, instituted or prosecuted prior to the taking effect of this act may be conducted and continued to a final determination in the same manner and with the same effect as if it had been undertaken, commenced, instituted or prosecuted in accordance with the provisions of this act. All proceedings hitherto taken by the commission in any such investigation, hearing or examination are hereby ratified, approved, validated and confirmed and all such proceedings shall have the same force and effect as if they had been undertaken, commenced, instituted, and prosecuted under the provisions of this act and in the manner herein prescribed.

All previous proceedings of Commission validated.

(b) No cause of action arising under the provisions of chapters 20 or 386 of the laws of 1911 shall abate by reason of the passage of this act, whether a suit or action has been instituted thereon at the time of the taking effect of this act or not, but actions may be brought upon such causes in the same manner, under the same terms and conditions, and with the same effect as though said chapters had not been repealed.

(c) All orders, decisions, rules or regulations heretofore made, issued or promulgated by the commission shall continue in force and have the same effect as though they had been lawfully made, issued or promulgated under the provisions of this act.

All previous orders of Commission shall continue in force.

(d) This act, in so far as it embraces the same subject matter, shall be construed as a continuation of chapter 20 of the laws of 1911, approved February 10, 1911, and chapter 386 of the laws of 1911, approved April 6, 1911.

This act continuance of Chap. 20, Laws of 1911.

CONSTITUTIONALITY.

SEC. 84. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Unconstitutionality of part of act does not affect other parts.

INTERSTATE COMMERCE.

Act does not apply to foreign or interstate commerce except as permitted. SEC. 85. Neither this act nor any provision thereof, except when specifically so stated, shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the Acts of Congress.

APPROPRIATION.

Appropriation of fees collected by Commission. SEC. 86. All moneys which are paid into the state treasury by the commission up to and including the thirtieth day of June, 1913, under the provisions of section 57 of this act, and credited to the Railroad Commission Fund, are hereby appropriated, to be used by the commission in carrying out the provisions of this act, and the controller is hereby directed to draw his warrant on said fund from time to time in favor of the commission for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

REPEAL.

Repeal of acts in conflict. SEC. 87. The railroad commission act, approved February 10, 1911, and the act entitled "An act to amend the railroad commission act by amending section fifteen thereof relating to powers and duties of the railroad commission of the State of California, and to amend section thirty-seven thereof relating to free and reduced-rate transportation for freight and passengers," approved April 6, 1911, and all acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

TIME OF EFFECT.

Public Utility Act takes effect March 23, 1912. SEC. 88. This act shall take effect ninety days after the final adjournment of this session of the legislature.

Rules of Practice and Procedure

Railroad Commission of the State of California.

Adopted March 13, 1912.

Effective March 23, 1912.

The following rules of practice and procedure are adopted by the Railroad Commission of the State of California in accordance with the provisions of Section 53 of the Public Utilities Act:

RULE I.

DEFINITIONS.

1. The term "public utility," when used in these rules, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, as those terms are defined in Section 2 of the Public Utilities Act. *Public Utility.*
2. The term "Commission," when used in these rules, means the Railroad Commission of the State of California. *Commission.*
3. The term "formal proceeding," when used in these rules, means a proceeding which contemplates a hearing before the Commission or a commissioner sitting in a judicial or quasi-judicial capacity. A formal proceeding may be either (a) a complaint, or (b) an application. *Formal proceeding.*
4. The term "complaint," when used in these rules, means a formal proceeding, whether brought upon the Commission's own motion or upon complaint of a third party, having for its object the rendition of an order or decision which can be enforced by the Commission. *Complaint.*

Application. 5. The term "application," when used in these rules, means a formal proceeding brought by a public utility, for the purpose of securing the Commission's authorization or permission to perform an act.

Financial Condition. 6. The term "financial condition," when used in these rules with reference to an application, means the financial condition of the applicant as shown by a schedule or schedules annexed to the petition and properly referred to therein, and showing:

Stock. (a) Amount and kinds of stock authorized.
(b) Amount and kinds of stock issued and outstanding.

Preferred Stock. (c) Terms of preference of all preferred stock, whether cumulative or participating, or on dividends or assets, or otherwise.

Mortgage. (d) Brief description of each mortgage upon property of the applicant, giving date of execution, name of mortgagor, name of mortgagee or trustee, amount of indebtedness authorized to be secured thereby and amount of indebtedness actually secured.

Bond issues. (e) Number and amount of bonds authorized and issued, giving name of the public utility which issued the same, describing each class separately, giving date of issue, par value, rate of interest, date of maturity and how secured.

Other indebtedness. (f) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by any corporation or person, if the original liability has been transferred.

Interest. (g) Amount of interest paid during previous fiscal year and rate thereof, with amount paid at each rate, if different rates were paid, upon each issue of indebtedness.

Dividends. (h) Rate and amount of dividends paid during the five previous fiscal years and the amount of capital stock on which dividends were paid each year.

(i) Detailed statement of earnings and expenditures for and balance sheet showing conditions at close of the last fiscal year, unless already filed with the commission as part of the annual report, in which case a reference to the filing should be given. *Earning statements.*

RULE II.

SESSIONS OF COMMISSION.

The office of the Commission shall be in San Francisco, California, and shall always be open, legal holidays and non-judicial days excepted. The regular monthly session of the Commission shall be held in its office on the second Tuesday of every month, at 10:30 A. M., at which time any person having business with the Commission may appear and be heard. The Commission will hold other sessions at San Francisco and elsewhere in the State of California at such times as it may designate. The sessions of the Commission shall be public. *Office in San Francisco. Regular meetings. Sessions elsewhere. Sessions public.*

RULE III.

INFORMATION.

The Commission's secretary will, upon request, advise as to the form of complaint, petition, answer or other documents necessary to be filed in any formal proceeding, and furnish such information from the files of the Commission as will conduce to a full presentation of material facts. *Secretary to advise and furnish information to the public.*

RULE IV.

FORMAL PROCEEDINGS—GENERAL MATTERS APPLICABLE TO ALL.

1. All communications should be addressed to "Railroad Commission of the State of California, San Francisco, California." *Communications to Commission.*
2. The secretary shall assign to each formal proceeding a number which the parties shall, before filing, place on all subsequent papers in such proceeding. *Cases to be numbered.*

- Documents to be uniform.* 3. All pleadings filed with the Commission in formal proceedings shall be printed or typewritten on one side of the paper only, and, as far as practicable, shall be upon paper 8½ x 13 inches in size. Each line and page shall be numbered.
- Lines and pages numbered.*
- Pleadings may be amended.* 4. The Commission may, in its discretion, allow any pleading to be amended or corrected or any omission therein to be supplied.
- Commission may issue subpoenas.* 5. Subpoenas requiring the attendance of a witness from any place in the state to any designated place of hearing for the purpose of taking the testimony of such witness orally, before the Commission or one or more commissioners may be issued by any commissioner or the secretary.
- Subpoenas for production of records.* Subpoenas for the production of books, accounts, papers, waybills and other documents (unless issued upon the Commission's own motion) will only be issued upon application in writing stating, as nearly as possible, the books, accounts, papers, waybills or other documents desired to be produced.
- Personal service.* 6. Personal service of papers in all hearings, investigations and formal proceedings pending before the Commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure of this state.
- Service by registered mail.* Service may also be made by mailing in a sealed envelope, registered, with postage prepaid, addressed to any party to such hearing, investigation or formal proceeding or to any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure. If service is by mailing, and an act is to be performed within a specified time after service, the time for the performance of the act shall begin to run at the time the registered letter is received. When any party has appeared by
- Service upon attorney.* attorney, service upon the attorney will be deemed proper service upon such party.
- Orders, etc., must be in writing.* 7. Each order, authorization or certificate made, issued or approved by the Commission shall be in writing and shall be filed with or entered on the records of the Commission, in accordance with the provisions of the Public Utilities Act, and a copy thereof, certified by the secretary under the seal of the Commission, shall be served upon or delivered to the corporation or person complained of, or the applicant, or his or its attorney.
- Copy served upon defendant.*

8. In any formal proceeding, the Commission may permit any corporation, association, body politic or person to intervene and be heard, after opportunity has been given to the party or parties to such proceeding to be heard on such intervention. Leave thus granted shall entitle the intervenor to have notice of and to appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard in person or by counsel on the argument. *Interested parties may intervene.*

RULE V.

COMPLAINTS—CONTENTS AND PROCEEDINGS UP TO HEARING.

1. Complaint may be made by the Commission of its own motion or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by complaint in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed to be in violation of any provision of law or of any order or rule of the Commission. *Complaints shall be in writing.*

(a) Any public utility shall have the right to complain on any of the grounds upon which complaint may be made by other parties. *Public utilities may complain.*

2. Each complaint shall show the venue, "Before the Railroad Commission of the State of California," shall bear a heading showing the name of the complainant and the name of the defendant and shall state *Form of complaints.*

(a) The full name and post-office address of the complainant.

(b) The full name and post-office address of the defendant.

(c) Fully, clearly and with reasonable certainty the act or thing done or omitted to be done, of which complaint is made, with a reference, where possible, to the law, order or rule, and the section or sections thereof, of which a violation is claimed.

(d) Such other matters or facts, if any, as may be necessary to acquaint the Commission fully with the details of the alleged violation.

How complaints must be signed.

3. (a) The complaint shall be signed by the complainant or his attorney, if any, and shall show the name and post-office address of such attorney and shall be verified. Complaints by unincorporated associations may be verified by any officer or director thereof.

Who must sign complaints as to reasonableness of rates.

(b) Except upon its own motion, the Commission will entertain no complaint as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, other than a complaint of the corporation itself, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers of such gas, electricity, water or telephone service.

Copies of Complaint.

4. At the time complainant files his original complaint, he must also file copies thereof equal in number to one more than twice the number of corporations or persons to be served.

Mailed to defendants.

5. Upon the filing of such complaint, the Commission shall immediately mail a copy thereof to the defendant or defendants and shall also examine the same to ascertain whether it establishes a prima facie case and conforms to those rules. At any time within five days after the receipt by a defendant of such copy of such complaint, he may, in writing, call the Commission's attention to any defects therein, but this privilege shall not in any wise, unless the Commission specifically so orders, extend the time within which such defendant is required to satisfy the complaint or to answer. If the Commission is of the opinion that the complaint does not establish a prima facie case or does not conform to these rules, it shall notify the complainant or his attorney to that effect, and opportunity may be given to amend the complaint within a specified time. If the complaint is not so amended within such time or such extension thereof as the Commission, for good cause shown, may grant, it will be dismissed.

Answers to complaints.

If the Commission is of the opinion that such complaint, either as originally filed or as amended does establish a prima facie case and conform to these rules, the Commission shall serve upon each corporation or person complained of, an order under the hand

of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten days from the date of service of such order, provided that the Commission may, in particular cases, require the answer to be filed within a shorter time.

6. If the defendant desires to satisfy the complaint, he may submit to the Commission, within the time allowed for satisfaction or answer, a statement of the relief which he is willing to give. On the acceptance of this offer by the complainant and the approval of the Commission, no further proceedings need be taken. *Settlement without a hearing.*

7. If satisfaction be not made as aforesaid, the corporation or person complained of must, within the time specified in the order or such extension thereof as the Commission, for good cause shown, may grant, file an answer to the complaint, with admission of service by complainant or his attorney endorsed thereon, or an affidavit of service. The answer must contain a specific denial of such material allegations of the complaint as are controverted by the defendant and also a statement of any new matter constituting a defense. If the answering party has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer and place his denial upon that ground. The filing of an answer will not be deemed an admission of the sufficiency of the petition, but a motion to dismiss may be made at the hearing. *Procedure when complaint is contested.*

RULE VI.

HEARINGS AND REHEARINGS—IN ALL FORMAL PROCEEDINGS.

1. Except as otherwise determined in specific cases, the Commission will grant a hearing in the following classes of cases: *Classes of cases entitled to a hearing.*

(a) When an order to satisfy a complaint or to make answer thereto has been made and the corporation or person complained of has not satisfied the cause of complaint. (Rule V.)

(b) When an application has been made in a formal proceeding.

Ten day notice required. 2. (a) Notice of the day and hour of a hearing shall be served at least ten days before the time set therefor, unless the Commission shall find that public necessity requires the hearing to be held at an earlier date. Hearings shall be held in the office of the Commission in San Francisco unless elsewhere specified in the notice.

Formal applications. (b) In formal applications, the Commission may, in its discretion, give all other corporations or persons who may be affected thereby an opportunity to be heard, either by service upon them of a copy of the petition or by publication of the substance thereof, at the expense of the applicant, for such length of time and in such newspaper or newspapers as the Commission may designate. In such cases, the form of the notice must be submitted to the secretary of the Commission for approval, and proof of the publication thereof must be filed with the secretary at or before the hearing.

Agreements as to facts. 3. The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Commission or entered in the record, agree upon the facts or any portion thereof involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practicable. The Commission may in such cases require such additional evidence as it may deem necessary.

Examination of witnesses. 4. (a) Witnesses will be examined orally and under oath before the Commission or a commissioner unless the facts are stipulated or the Commission or commissioner otherwise orders.

Complainant must establish facts. (b) The complainant must establish the facts upon which he bases his complaint, unless the defendant admits the same or fails to answer the complaint. The defendant must likewise give evidence of the facts alleged in the answer, unless admitted by the complainant, and must fully disclose its defense at the hearing. In case of failure to answer, the Commission will take such proof of the facts as may be deemed proper and reasonable and make such order thereon as the circumstances of the case may require.

Documentary evidence. (c) If documentary evidence is offered, the Commission, in lieu of requiring the originals to be filed, may, in its discretion,

accept certified or otherwise authenticated copies of such documents or of such portions of the same as may be relevant; or may require such evidence to be transcribed as part of the record.

5. Hearings may be adjourned from time to time by or at the direction of the Commission or a commissioner. *Hearings may be adjourned.*

6. The Commission or a commissioner may require the submission of briefs. *Submission of briefs.*

7. The Commission may at any time, of its own motion, make investigations and order hearings into any act or thing done or omitted to be done by any public utility which the Commission may believe is in violation of any provision of law or of any order or rule of the Commission. It may also, through its own experts or employees, or otherwise, secure such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by the parties. *Investigation by commission on its own motion.*

8. Any party to a formal proceeding or any stockholder or bondholder or other party pecuniarily interested in the public utility affected may apply for a rehearing as to any matters determined by the Commission and specified in the application for the rehearing, and the Commission may grant and hold such rehearing on said matters, if in its judgment sufficient reason therefor be made to appear. Such application shall set forth specifically the ground or grounds on which the applicant considers the Commission's decision or order to be unlawful or erroneous. Rehearings must be asked for before the effective date of the decision or order complained of. In further respects, rehearings will be governed by the provisions of Section 66 of the Public Utilities Act. *Any security holder may apply for re-hearing.*

RULE VII.

SWITCH CONNECTIONS AND SPURS—COMPLAINTS FOR.

When complaint is made for the installation of a switch connection or spur, under the provisions of Section 39 of the Public Utilities Act.

Complaint for installation of switch must show amount of business, length of track required.

1. The complaint, in addition to the requirements of Rule V.2, must state:

(a) Character and amount of business which will probably be tendered at such connection or spur.

(b) Length of track necessary to be built by defendant and the cost of the same.

2. With the complaint shall be filed:

Map in triplicate.

(a) Map on scale of not less than 100 feet per inch, showing location of existing tracks; property lines; buildings and structures in the vicinity; and the location and length of the proposed switch connection or spur. Such map should be filed in triplicate; one copy shall be on tracing linen unless waived by the Commission.

RULE VIII.

VALUE OF PROPERTY OF PUBLIC UTILITIES.

Physical valuation of property of public utilities.

Formal proceedings instituted by the Commission to ascertain the value of the property of a public utility shall be conducted as specified in Section 70 of the Public Utilities Act. Whenever in any formal proceeding the value of the property or a portion thereof of a public utility becomes relevant and pertinent, the Commission may, through its own experts and employees, or otherwise, investigate and ascertain such value.

RULE IX.

APPLICATIONS—GENERAL MATTERS APPLICABLE TO ALL.

1. All formal applications must be by petition in writing, signed by the applicant and duly verified. The petition must set forth the full name and post-office address of the applicant and must show the full name and address of its attorney, if any, and must contain the facts on which the application is based, with a request for the order, authorization, permission or certificate desired and a reference to the particular provision of law requiring or providing for the same. Three copies of the petition shall be filed with the original except in applications covered by Rules XVII, XVIII, XIX and XX, in which cases the original petition alone need be filed.

The petition must contain such further statements as may be required by any provision of law or of these rules and must show in detail compliance therewith.

If the applicant is a corporation, there must be annexed to the petition a certified or verified copy of its articles of incorporation or charter and all amendments thereof, except in applications covered by Rules XVII, XVIII, XIX and XX. If maps or profiles are filed with the petition, they must always be filed in triplicate and one copy thereof shall be on tracing linen.

Information required with formal applications.

2. Whenever under these rules any map, profile, certificate, statement or other document is required to be filed with a petition and the same has therefore been filed with the Commission, the petition may state the fact of such filing with the date and the proceeding in which or occasion on which the filing was made.

3. Upon the filing of such petition, the Commission shall examine the same to see whether it establishes a prima facie case for action on the part of the Commission and conforms to these rules. If the petition fails in either of these respects, the Commission will give notice of the defects to the applicant, who may correct the same. If the petition be found to state a prima facie case and to comply with the rules, the Commission may make an order ex parte granting the application or will appoint a time and place for a hearing on the same, provided that a hearing shall always be held when provided for in the Public Utilities Act.

Corporate applicants must file articles of incorporation, etc.

Correction of applications.

RULE X.

RAILROAD CROSSINGS—APPLICATIONS FOR CONSTRUCTION, ALTERATION OR ABOLITION OF.

When application is made for the construction, alteration or abolition of crossings (1) of public roads, highways or streets by railroads, or (2) of railroads by public roads, highways or streets, or (3) of railroads by railroads, or (4) of railroads by street railroads, or (5) of street railroads by railroads, or (6) of public roads or highways by street railroads, or (7) of street railroads by public roads or highways, under the provisions of Section 43 of the Public Utilities Act,

Additional information required in applications regarding railroad crossings.

1. The petition, in addition to the requirements of Rule IX, must state:

Estimates of cost. (a) If the application is for a crossing at grade, such facts, data and estimates of cost as tend to show that it is not reasonable or practicable to effect a separation of grades.

Safety devices. (b) Such safety device or other protection, if any, as the applicant may believe should be installed, with detailed information concerning the same.

2. With the petition shall be filed:

Map. (a) Map on scale of not less than 200 feet per inch showing accurately the location of all tracks, buildings, structures, property lines, streets and roads in the vicinity of the proposed crossing.

Profile maps. (b) Profiles showing ground lines and proposed grade lines of approaches on such public roads, highways or streets, railroads or street railroads as may be affected by the proposed crossing. In case of a contemplated crossing of a railroad by a railroad, the profile of each railroad shall show the customary information for not less than one (1) mile on each side of the proposed crossing.

RULE XI.

SAFETY DEVICES AT RAILROAD CROSSINGS— APPLICATIONS FOR.

Information required as to safety devices. Whenever a railroad or street railroad desires to protect any crossing which it may have at grade with another railroad or street railroad, with an interlocking or other safety device, it may make application to the Commission for an order approving such device and directing its construction and also prescribing the division of the cost of construction, maintenance and operation of the same.

1. The petition, in addition to the requirements of Rule IX, must state:

Description and cost of device. (a) The kind of device proposed, with a description thereof and an estimate of the cost of its construction and operation.

Number of trains using crossing. (b) The average number of trains of each class, and of cars in case of street railroads, operated daily over the crossing by each railroad over a period of not less than thirty (30) days.

2. With the petition shall be filed:

(a) Map on scale of not less than 100 feet per inch, showing the location of main tracks, the length and location of all switches, sidings and spur tracks, all buildings and obstructions to the view in the vicinity, the proposed location of tower, if any, and the proposed location of all derails, switches, signals and detector bars, which are proposed to be operated by the device. *Maps.*

(b) A profile of each railroad or street railroad showing the customary information for not less than one (1) mile on each side of the crossing, in case of railroads, and not less than 1000 feet in case of street railroads. *Profiles.*

(c) Copies of such contracts or agreements, if any, as may have been entered into relating to the construction or protection of the crossing. *Copies of agreements.*

RULE XII.

NEW CONSTRUCTION OR EXTENSIONS—APPLICATIONS FOR.

When application is made by a street railroad corporation, gas corporation, electrical corporation, telephone corporation or water corporation for a certificate that the present or future public convenience or necessity require or will require a proposed new construction or an extension in the cases specified in Section 50a of the Public Utilities Act, *Information required with applications for new construction.*

1. The petition, in addition to the requirements of Rule IX, must state:

(a) The proposed location, route or routes, the method of construction, and the names of all public utility corporations or persons with whom the proposed new construction or extension is likely to compete. *Location. Method of construction.*

(b) The facts showing that the proposed new construction or extension is or will be required by public convenience and necessity. *Necessity.*

(c) The manner, in detail, in which it is proposed to finance the proposed new construction or extension. *Method of financing.*

2. With the petition shall be filed:

Maps. (a) Map to suitable scale showing the location or route of the proposed new construction or extension with its relation to other public utilities with which the same is likely to compete, which map shall contain all data necessary for a complete understanding of the situation.

Certified copies of franchises. (b) When the consent, franchise or permit of a county, city and county, municipal or other public authority is necessary, a certified copy of the application therefor and of the ordinance or other document granting such consent, franchise or permit. If it is impossible to file a copy of the application, the facts rendering such filing impossible shall be stated.

RULE XIII.

FRANCHISES AND PERMITS—APPLICATIONS FOR PERMISSION TO EXERCISE.

Information required with applications to exercise franchises and permits. When application is made by a street railroad corporation, gas corporation, electrical corporation, telephone corporation or water corporation for a certificate that public convenience and necessity require the exercise of a right or privilege under a franchise or permit, in the cases specified in Section 50b of the Public Utilities Act.

1. The petition, in addition to the requirements of Rule IX, must state:

Financial condition. (a) The financial condition of the applicant as defined in Rule I, 6.

Franchise proceedings. (b) The facts showing the proceedings theretofore taken with reference to franchise or permit for which permission and approval are sought.

Reasons for delay in exercise. (c) If the application is for permission to exercise a right or privilege under any franchise or permit granted prior to March 23, 1912, but not theretofore exercised, or the exercise of which has been suspended for more than one year, the reason why such right or privilege has not been exercised or has been suspended.

(d) The facts showing that the exercise of such right or privilege under such franchise or permit is required by the public convenience and necessity. *Necessity.*

2. With the petition shall be filed:

(a) A certified copy of the written application to the proper county, city and county, municipal or other public authority for its consent, franchise or permit and of the ordinance or other document, if any has been secured, granting such consent, franchise or permit. If it is impossible to file a copy of the application, the facts rendering such filing impossible shall be stated. *Copy of application to local authorities.*

(b) Map to suitable scale showing the streets, avenues and all other places and property in or upon or along which it is proposed to exercise such franchise or permit. *Map.*

3. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the Commission for an order preliminary to the issue of the certificate. The Commission will, in its discretion, thereupon make an order declaring that it will thereafter upon application issue the desired certificate, upon such terms and conditions as it may designate after the public utility has obtained the contemplated franchise or permit. Upon the presentation to the Commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility, the Commission will thereupon issue such certificate. *Preliminary order required before application for franchise.*

RULE XIV.

SALE, LEASE, ASSIGNMENT, MORTGAGE OR OTHER DISPOSITION OF PROPERTY—APPLICATION FOR.

When application is made by a railroad corporation, street railroad corporation, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation or water corporation for an order authorizing the sale, lease, assignment, mortgage or other disposition of the whole or any part of its railroad, street railroad, line, plant or system, necessary or useful *Information required with applications for disposing of property.*

in the performance of its duties to the public, or any franchise or permit or any right thereunder, or by any means whatsoever, direct or indirect, the merger or consolidation of its property, franchises or permits or any part thereof, with any other public utility, in the cases specified in Section 51a of the Public Utilities Act.

1. The petition must be made by all the parties to the proposed transaction and, in addition to the requirements of Rule IX, must state:

Financial condition. (a) The financial condition of each applicant, as defined in Rule I, 6.

Detailed reasons for disposal. (b) In detail the reasons upon the part of each applicant for entering into the proposed sale, lease, assignment, mortgage or other disposition of such property, franchise or permit and all the facts warranting the same and showing that it is for the benefit of the public service.

2. With the petition shall be filed:

Copies of agreements. (a) A copy of the proposed contract, agreement, lease or mortgage, and if prior agreements have been made between the parties relating to the same subject matter, copies of such agreements must be filed with the petition or referred to as already on file with the Commission.

RULE XV.

ACQUISITION OF PART OR ALL CAPITAL STOCK OF ANOTHER UTILITY—APPLICATIONS FOR.

Information required with applications to purchase property. When application is made by any public utility for authorization to purchase or acquire, take or hold any part of the capital stock of any other public utility, under the provisions of Section 51b of the Public Utilities Act,

1. The petition must be made by the public utility proposing to purchase, acquire, take or hold the stock, and in addition to the requirements of Rule IX, must state:

Financial condition. (a) The financial condition of the applicant and of the corporation whose stock is sought to be purchased, acquired, taken or held, as defined in Rule I, 6.

(b) The reasons why the applicant desires to secure the stock, and the amount of the stock of the public utility affected already owned or held by applicant, if any. *Reasons for purchase.*

(c) Price proposed to be paid for the stock, the terms of payment with the market value thereof, the highest and lowest price during the period of at least one year prior to the application, and dividends, if any, paid for a period of five years. *Price, terms of payment, etc.*

RULE XVI.

STOCKS, BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS—APPLICATIONS FOR ORDER AUTHORIZING ISSUE OF.

When application is made by any public utility for an order authorizing the issue of stock or stock certificates, or bonds, notes or other evidences of indebtedness payable at periods of not more than twelve months after the date thereof, under the provisions of Section 52 of the Public Utilities Act, *Information required with application to issue securities.*

1. The petition, in addition to the requirements of Rule IX, shall state:

(a) The financial condition of the applicant as defined in Rule I, 6 and a description of the railroad, street railroad, line, plant or system, and equipment of the applicant, with the original cost, where possible, and its cost to the applicant, and the amount of its stock held by other corporations and their names, and the kind of stock held by each. If it is impossible to state the original cost, the facts creating such impossibility shall be stated. *Physical condition of applicant.*

(b) The amount and kind of stock, if any, which the public utility desires to issue, and, if preferred, the nature and extent of the preference: the amount of bonds, notes or other evidences of indebtedness, if any, which the public utility desires to issue, with terms, rate of interest, and whether and how to be secured. *Amount and kind of securities to be issued.*

(c) The use to which the capital to be secured by the issue of such stock or stock certificates, or bonds, notes or other evidences of indebtedness is to be put, with a definite statement of how much is to be used severally for the acquisition of property, the *Use to which proceeds are to be devoted.*

construction, completion, extension or improvement of facilities, the improvement of service, the maintenance of service, the discharge or refunding of obligations, and the reimbursement of moneys actually expended from income or from any other moneys in the treasury as provided by Section 52 of the Public Utilities Act.

Description of property to be required.

(d) The property in detail which is to be acquired, with its value, a detailed description of the contemplated construction, completion, extension or improvement of facilities set forth in such a manner that an estimate of cost may be made, a statement of the character of the improvement of service proposed, and of the reasons why the service should be maintained from its capital. If it is proposed to discharge or refund obligations or to reimburse moneys actually expended, a statement of the nature and description of such obligations and expenditures, including the par value of the obligations and the amount for which they were actually sold and the application of the proceeds and of the moneys expended, showing when, to whom and for what paid or applied.

Copies of all contracts.

(e) Whether any contracts have been made for the acquisition of such property, or for such construction, completion, extension or improvement of facilities, or for the reimbursement of expenditures, or for the disposition of any of the stock or stock certificates, or bonds, notes or other evidences of indebtedness which it is proposed to issue or the proceeds thereof and if any such contracts have been made, copies thereof shall be annexed to the petition.

Detailed information regarding capitalization of right to be a corporation, etc.

(f) Whether any of the outstanding stock or stock certificates or bonds, notes or other evidences of indebtedness of the public utility have been issued or used in capitalizing the right to be a corporation, or any franchise or permit, or the right to own, operate or enjoy any such franchise or permit, or any contract for consolidation or lease, and if so, the amount thereof and the franchise, right, contract or lease so capitalized.

Statement of financial condition required in case of merger.

(g) If the stock or stock certificates are to be issued by a corporation formed by the merger or consolidation of two or more corporations, the petition shall contain a complete statement of the financial condition of the corporations so to be merged or consolidated of the kind required by subdivision (a) hereinbefore set forth, and of their capital stock at the par value thereof.

- (h) Such other facts as may be pertinent to the application. *Other pertinent facts.*
2. With the petition must be filed:
- (a) A certificate or proposed certificate of proceedings at the meeting of directors and stockholders authorizing the issue of the desired securities with a copy of the mortgage, if any. *Records which must be filed with petition. Proceedings authorizing issue of securities.*
- (b) A certified list of the certificates of stock already outstanding, with the shares of stock represented by each certificate, and the amounts paid to the public utility on each certificate as originally issued, either in money, labor or property, stating the amount of each. *Certified list of stockholders.*
- (c) Maps, profiles, plans and plats of proposed property and construction showing— *Maps.*
1. In the case of railroads, including street railroads, all information required by the Commission's General Order No. 14. *Information General Order No. 14.*
2. In the case of other public utilities, such certified maps and plans as will indicate to the Commission the property to be acquired and the location, extent and character of the proposed construction. *Maps of property to be acquired.*
- (d) Original deeds of property, or certified copies thereof, covered by proposed issue, with a detailed statement of its actual cost. *Copies of deeds.*
- (e) Certified copies of all contracts for the acquisition of proposed property and equipment and for construction, with plans and specifications of such buildings and structures as may have been designed. *Copies of contracts.*
- (f) Complete inventory of all property and equipment proposed to be acquired, prepared upon or in accordance with blank forms and specifications prescribed by the Commission, and a statement of the cost thereof. *Inventories of property. Statement of bonuses.*
- (g) A certified statement of all cash bonuses and other donations of property received, if any. *The Commission's order if granted will prescribe how proceeds may be used.*
3. If the application is granted, in whole or in part, the Commission's order will:

(a) Prescribe the purposes and amounts for which the issue authorized or the proceeds thereof may be used.

Require report terms and conditions of sales of securities.

(b) Direct the applicant to report under oath the sale or sales of the securities or obligations authorized, the terms and conditions of sale and the amounts realized therefrom.

Require report showing use of moneys.

(c) Require the applicant to make a verified report at least every six months showing in detail the use and application by it of the moneys so realized until such moneys shall have been fully expended.

Specify other conditions.

(d) Specify such condition or conditions and prescribe such terms as the Commission may deem reasonable and necessary to the exercise of its permission.

RULE XVII.

INCREASES IN CHARGES—APPLICATIONS FOR PERMISSION TO MAKE.

Information required with application to increase charges.

When application is made by any public utility to raise any rate, fare, toll, rental or charge or so to alter any classification, contract, practice, rule or regulation as to result in an increase in any rate, fare, toll, rental or charge, under the provisions of Section 20 of Article XII of the Constitution of this State or Section 63a of the Public Utilities Act.

1. The petition, in addition to the requirements of Rule IX, must state:

Statement of present rates.

(a) The rates, fares, tolls, rentals or charges in effect and the increases which it is desired to make. These allegations may be made by reference to schedules accompanying the petition.

Reasons for increase.

(b) The reasons for the increase, to be stated in full, so that the Commission may clearly see the justification therefor.

2. With the petition must be filed:

Schedules or data.

(a) Such schedules or data, if any, as the Commission's tariff circulars or other applicable orders may, from time to time, specify.

3. If the Commission is satisfied with the showing, so made, *Action of Commission.* it may take action on the application ex parte: otherwise it may order a hearing and give notice thereof to such corporations or persons as it may consider necessary or desirable.

RULE XVIII.

LONG AND SHORT HAUL RULE: THIRTY-DAY NOTICE
 RULE—APPLICATIONS FOR RELIEF FROM.

When application is made by a common carrier for authorization to charge less for a longer than a shorter haul over the same line or route in the same direction, under the provisions of Section 21 of Article XII of the Constitution of this State or of Section 24a of the Public Utilities Act or by a telegraph or telephone corporation for authorization to charge less for a longer than for a shorter distance service for the transmission of messages or conversations over the same line or route in the same direction, under the provisions of Section 24b of the Public Utilities Act, or by any public utility to change a rate, fare, toll, rental, charge or classification, or a rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, in cases other than those covered by Rule XVII, on less than thirty days' notice, under the provisions of Section 15b of the Public Utilities Act, *Information required with applications relating to long and short haul.*

1. The petition, in addition to the requirements of Rule IX, must state:

(a) Such facts in connection with the matter and the reasons *Facts bearing on applications,* for the desired relief as may be specified from time to time in the Commission's tariff circulars or other applicable orders or instructions.

2. With the petition must be filed:

(a) Such schedules or data, if any, as the Commission's *Schedules or data.* tariff circulars or other applicable orders, or instructions may, from time to time, specify.

3. If the Commission is satisfied with the showing so made, *Action of Commission.* it may take action on the application ex parte: otherwise it may order a hearing and give notice thereof to such corporations or persons as it may consider necessary or desirable.

RULE XIX.

EXCESSIVE OR DISCRIMINATORY CHARGES—APPLICATIONS FOR PERMISSION TO REFUND.

Information required with application to refund.

When application is made by any public utility to make reparation to any shipper or consumer on account of the rates charged to said shipper or consumer being excessive or discriminatory, under the provisions of Section 21 of Article XII of the Constitution of this State,

1. The petition, in addition to the requirements of Rule IX, must state:

Statement of facts.

(a) Such facts in connection with the matter as may be specified from time to time in the Commission's tariff circulars or other applicable orders or instructions.

2. With the petition shall be filed:

Admissions.

(a) Such admissions, undertakings or statements on the part of the applicant as the Commission's tariff circulars or other applicable orders or instructions may, from time to time, specify.

Action of Commission.

3. If the Commission is satisfied with the showing so made, it may take action on the application ex parte: otherwise it may order a hearing and give notice thereof to such corporations or persons as it may consider necessary or desirable.

RULE XX.

EXTENSIONS OF TIME TO FILE REQUIRED REPORTS, STATEMENTS OR DATA OR TO COMPLY WITH COMMISSION'S ORDERS—APPLICATIONS FOR.

Information required with applications for extension of time to file reports.

Whenever a public utility has been required by the Commission to file any report, statement or data or to comply with any other order of the Commission within a time specified, and for any reason is unable to do so within the time specified, it must, before the expiration of such time, file with the Commission an application for extension of time, in which event:

1. The petition shall set forth in detail:

(a) What, if any, effort has been made by the applicant to prepare such report, statement or data or to comply with such order. *Efforts made to prepare reports.*

(b) Any facts tending to show why the said report, statement or data cannot be filed or said order complied with within the time prescribed. *Reasons for delay.*

(c) Any other facts which may make an extension of time necessary or proper.

(d) The further period of time deemed necessary by the applicant within which to make and file such report, statement or data or to comply with such order. *Time necessary to complete.*

2. The Commission may direct a hearing upon said petition and in that event the applicant shall attend before the Commission or the Commissioner holding the hearing and produce such witnesses and documents as the Commission may require. *Action of Commission.*

RULE XXI.

OTHER APPLICATIONS.

All applications relating to matters over which the Commission has jurisdiction and which are not governed by any of the preceding rules shall be made by petition, setting forth the name and address of the applicant and the matter with reference to which the Commission's order, authorization or permission is desired. Thereupon the procedure shall be such as the Commission may prescribe. *Information required with other applications.*

RULE XXII.

DEVIATIONS FROM RULES—AUTHORIZATION FOR.

In special cases, for good cause shown, the Commission may permit deviations from these rules, in so far as it may find compliance therewith to be impossible or impracticable.

2. That (here insert full name, occupation and post-office address of defendant).

3. That (here insert fully, clearly and specifically the act or thing done or omitted to be done which complainant claims constitutes a cause of complaint, with a reference to the law, order or rule, and the section or sections thereof, of which a violation is claimed).

Wherefore complainant asks (here state specifically the relief to which complainant believes he is entitled).

Dated at, California, this day of, 191...

.....
(Complainant's name.)

.....
(Name and address of attorney, if any.)

STATE OF CALIFORNIA, }
..... COUNTY OF } ss.

(Insert name of complainant or other person qualified to verify), being first duly sworn, deposes and says: That he is the complainant in the action entitled as above; that he has read the foregoing complaint and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated on information or belief, and that as to those matters he believes it to be true.

.....
Subscribed and sworn to before me, this day of, 191...

.....
Notary Public in and for the County of, State of California.

No. 2.

Formal application.

FORM OF FORMAL APPLICATION

Before the Railroad Commission of the State of California.

In the matter of the Application of
(here insert name of applicant)
for (here insert desired order,
authorization, permission or cer-
tificate: thus, "order authorizing
issue of stocks and bonds").

No.
(To be inserted by Secretary of
Commission.)

APPLICATION.

The petition of (here insert name of applicant) respectfully shows:

1. That (here insert principal place of business or post-office address, character of business and territorial extent thereof, of applicant).

2. That (here insert clearly, specifically and fully the facts required by these Rules and any additional facts which the applicant desires to state to show the relief which he desires and the facts on which it is based).

Wherefore petitioner asks that the Railroad Commission of the State of California (here state specifically the action which the applicant desires the Railroad Commission to take).

Dated at, California, this day of, 191...

(Verification.)

.....
(Petitioner's name.)

.....
(Name and address of attorney, if any.)

No. 4.

*Answer to
formal complaint.*

FORM OF ANSWER TO FORMAL COMPLAINT

Before the Railroad Commission of the State of California.

(Insert name of complainant)	}	No.
Complainant,		
vs.	}	(Insert number of case.)
(Insert name of defendant)		
Defendant.		

ANSWER.

The above named defendant, for answer to the complaint in this proceeding, respectfully states:

1. That (here follow specific admissions or denials of the material allegations of the complaint, and also the facts relied upon as a defense. Continue numbering each succeeding paragraph).

Wherefore the defendant prays that the complaint be dismissed (or other appropriate prayer).

(Verification.)

.....

(Name of defendant.)

No. 5.

FORM OF NOTICE OF HEARING ON COMPLAINT

Before the Railroad Commission of the State of California.

Notice of hearing on complaint.

(Insert name of complainant)	}	No.
Complainant,		
vs.	}	(Insert number of case.)
(Insert name of defendant)		
Defendant.		

NOTICE OF HEARING.

To (here insert names of all parties).

You and each of you are hereby notified that the Railroad Commission of the State of California has set the above entitled case for hearing before Commissioner on (day of week), the (day of month), day of (name of month), 191..., at o'clock .. M., in the office of the Commission, Room, Building, San Francisco, California, at which time and place you will be given an opportunity to be heard.

By order of the Railroad Commission.

Dated at San Francisco, California, this day of, 191...

.....
 Secretary Railroad Commission of
 the State of California.

(Railroad Commission Seal.)

No. 6.

*Publish notice
of hearing on
application.*

FORM OF PUBLISHED NOTICE OF HEARING ON APPLICATION

Before the Railroad Commission of the State of California.

In the matter of the Application of
(here insert name of applicant)
for (here insert desired order,
authorization, permission or
certificate).

No.
(Insert number of case.)

NOTICE OF HEARING.

Notice is hereby given that the application of (name of applicant in full) for the (approval, determination, consent, permission, certificate or authorization) of the Railroad Commission of the State of California to (here state nature of consent asked for) will be heard before Commissioner at the office of the Commission in the Building, San Francisco, California, on (day of week), the (day of month) day of (name of month), 191.., at o'clock in the noon.

By order of the Railroad Commission.

Dated at San Francisco, California, this day of, 191...

.....
Secretary Railroad Commission of
the State of California.

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