

**FIRST ANNUAL REPORT OF THE STATE
RAILROAD COMMISSION,
COMPLIMENTS OF THE
STATE RAILROAD COMMISSION OF
COLORADO FROM JUNE 20TH, 1907, TO
JANUARY 1ST, 1909**

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First Annual Report of the State Railroad Commission, Compliments of the State Railroad
Commission of Colorado from June 20th, 1907, to January 1st, 1909 by Various

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LETTER OF TRANSMITTAL.

Denver, Colo., January 1, 1909.

HONORABLE HENRY A. BUCHEL,

Governor of Colorado,

State Capitol, Denver, Colorado.

Sir—We have the honor to submit herewith a report of the proceedings of the State Railroad Commission of Colorado for the years 1907 and 1908, under the "Act to regulate Common Carriers in this State," which became effective June 20, 1907.

Respectfully,

FREDERICK J. CHAMBERLIN, President,

HALSTED L. RITTER,

BULKELEY WELLS, Secretary,

Commissioners.

EDWARD O. ALSTON, Clerk.

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REPORT.

HISTORY OF LEGISLATION REGULATING TRANSPORTATION LINES IN COLORADO.

The theory of a reasonable control of common carriers is not of recent origin in Colorado. As early as 1862 the Territorial Legislature passed an act relating to corporations, including those engaged in constructing and operating wagon and rail roads, and in a provision of this act, which prescribed the maintenance of toll roads in good repair, and withheld the right to collect toll and fixed a penalty if they were not so kept, the foundation was laid for later legislation designed to secure the proper maintenance of road beds of railroads and the rendering of good service to the public.

In 1867 another act, of similar intent and more specific terms, was passed.

The Constitution of the State of Colorado, adopted in 1876, has the following provisions, directly relating to railroads (Mills' Annotated Statutes, Vol. 1):

493, Section 3. "The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revokable at the adoption of the Constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the incorporators."

494, Section 4. "All railroads shall be public highways and all railroad companies shall be common carriers."

495, Section 5. "No railroad corporation or the lessees or managers thereof shall consolidate the stock, property or franchises with any other railroad corporation owning or having under its control a parallel or competing line."

496, Section 6. "All individuals, associations and corporations shall have signal rights to have persons and property transported over any railroad in this State and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within

the State, and no railroad company nor any lessee, manager or employe thereof, shall give any preference to individuals, associations or corporations in furnishing cars or motive power."

499, Section 9. "No corporation shall issue stocks or bonds, except for labor done, services performed or money or property actually received, and all fictitious increase of stock or indebtedness shall be void."

In 1881 an act was passed requiring every railroad company to keep an agent in the principal town or city along its line in this State, to adjust and settle claims for overcharges and for all loss or damage. The penalty fixed for failure to comply was a fine of \$3,000.00 for each month of neglect. A further provision of this act, which is still in force, prescribed the settlement by railroad companies of all claims within sixty days after presentation.

In 1883 an act was passed providing that no railroad corporation transacting its own express business, or express company doing business, in this State shall charge, demand or receive from any shipper more than double first-class freight rates, and "All individuals, associations and corporations shall have equal rights to have their express, freight and material transported over such railroads in this State."

In 1885 the Legislature established a Railroad Commission consisting of but one member, and granted him extensive powers. The act required the Commissioner to make a report annually to the Governor, but in the eight years prior to the repeal of the act in 1893, but two reports were rendered, and, so far as the records show, little was accomplished.

In March, 1907, the Sixteenth General Assembly of Colorado passed an act, entitled "An Act to regulate Common Carriers in this State," providing for three commissioners. It is considered a conservative law by authorities who have classified the railroad laws of the various states. It has no radical features, but is sufficiently comprehensive to enable the Commission, created by it, to meet effectively the conditions affecting the public in its dealings with the railroads.

REVIEW OF THE WORK OF THE COMMISSION.

The act became effective, by law, on June 20, 1907, and the Commissioners appointed by the Governor, as provided in the act, Frederick J. Chamberlin, Halsted L. Ritter and Bulkeley Wells, immediately entered upon the discharge of their duties. But on June 29, 1907, a large number of the railroad companies operating in this State instituted quo warranto proceedings against the Commission in the District Court of the Second Judicial District; and on July 29, 1907, that court held the act creating the Commission was unconstitutional, and a judgment of ouster was entered against the members of the Commission. The case was appealed to the Supreme Court of Colorado, and on June 1, 1908, that court ordered the District Court to dismiss the case without prejudice. For practically a year the Commission was thus without power to enforce orders, and could concern itself only with the collecting of data and information regarding the physical condition of the railroads and their equipment, and the most general causes of complaint advanced by the traveling and shipping public.

On August 3, 1908, the railroads of this State brought suit in the United States Circuit Court, again attacking the constitutionality of the act creating the Commission. No hearing has yet been had in this action, and the fact that it is pending has enabled the railroad companies to neglect to comply freely and fully with the provisions of the act, and necessarily has seriously handicapped the Commission in its work. A number of railroads against which formal complaints were filed with the Commission have answered upon notice and have appeared by counsel at hearings held by the Commission thereon, but in every instance with the reservation that their action in so doing was not to be construed as a recognition of the constitutionality of the act, or of the right of the Commission to take any action whatever, both being specifically denied, but was taken solely out of respect for the Commission.

In view of the action brought by the railroads, attacking the constitutionality of the act, the State Treasurer declined to honor warrants drawn by the Commission for the salaries of the Commissioners and the employes of the Commission, and for the expenses of the Commission in carrying on its work. The Commission and its employes therefore drew no compensation from June, 1907, to July, 1908, when the State Treasurer