

**THIRTY-FIRST REPORT OF THE  
RAILROAD COMMISSION  
OF GEORGIA, FOR THE YEAR  
ENDED OCTOBER 15, 1903**

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Thirty-First Report of the Railroad Commission of Georgia, for the Year Ended October 15, 1903  
by Various

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**VARIOUS**

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THIRTY-FIRST REPORT

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OF THE

RAILROAD COMMISSION

OF

GEORGIA *Volume 100*

*2000-1900*

For the Year Ended October 15, 1903

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ATLANTA, GA.

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1903

SPENCER R. ATKINSON, Chairman,  
J. P. BROWN,  
G. GUNBY JORDAN,  
Commissioners.

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GEO. F. MONTGOMERY,  
Secretary.

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# REPORT.

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OFFICE OF THE RAILROAD COMMISSION OF GEORGIA.  
ATLANTA, GA., OCTOBER 15, 1903.

*To His Excellency, Jos. M. Terrell, Governor:*

SIR: By the terms of the Act creating the Railroad Commission of Georgia, it is made the duty of that Commission to report to the Governor from time to time such recommendations as it may have to offer touching the subject of regulation of railroads, and as well to give to the Chief Executive such information touching the operations of the Board of Railroad Commissioners as will enable the Legislature to understand the practical workings of that body. It is in obedience to this provision of this law that the Commission begs herewith to submit its report.

The wisdom of State regulation of common carriers is now so well established, and so thoroughly recognized, as that no one in this day seriously questions the policy of maintaining a system by which the common carriers of the State in their relations to the public are subject to governmental control. The history of this Commission, dating from its organization, vindicates the wisdom of its establishment. The railroad companies themselves have never been more prosperous, nor have the people of the State ever received such good service for so little money as at the present time. All of the powers of the Railroad Commission have been exercised for the promotion of the general welfare. The rules established by it from the beginning were conceived in wisdom; they have been enforced in moderation, but with an inflexible purpose—to see that complete justice was done to every citizen within the limits of the State. The power to regulate the operations of the great carrying corporations of the country carries with it an enormous responsibility; and this responsibility the Commission has to the best of its ability met from time to time in such a way as to protect all conflicting interests, and at the same time to promote, the general welfare.

The system of railroad management in the State of Georgia has been regarded throughout the country as the most successful, the most wisely and best organized system that prevails in any of the States. While this is true, and in many respects our law is deserving of commendation, there are some respects in which it is deficient; and to these it is made the duty of the Railroad Commission, through Your Excellency, to direct the attention of the General Assembly.

#### RECOMMENDATIONS.

Many complaints have from time to time been made to the Commission that the railroad companies, principally at non-competitive points on the lines of their several roads, fail or refuse to receive, receipt for and forward promptly to destination goods which are tendered to them for shipment. This is notably true during the cotton and fertilizer seasons, and of shipments of those commodities. The companies, when complaint is made, seek to excuse the failure so to receive, receipt for and forward to destination goods offered for shipment, upon the ground that their rolling stock is otherwise employed. The Commission is of the opinion that every railroad company engaged in business within the State of Georgia should provide itself with rolling stock and other equipment adequate to the prompt and expeditious transportation of any freights which may be offered. It is our opinion that the duty of the railroad companies, and the interests of the business and shipping public, demand that this should be done. The so-called extraordinary conditions arising from the sudden access of great volumes of freight, in view of their necessarily frequent recurrence, should be anticipated, and provision should be first made by the railroad companies of this State for the movement of traffic originating in this State and offered for shipment by its citizens.

It will be observed that while this Commission has ample power to prescribe and regulate rates of freight, the General Assembly has not heretofore conferred upon it the power to prescribe the time within which the carrier companies of the State should receive, receipt for and forward to destination freights tendered for shipment.

While the Commission has power to fix as against the citizen the amount which the railroad companies may exact by way of demurrage and storage for the failure promptly to receive from the railroad company



freight which has been tendered in pursuance of the bill of lading, the Legislature has not conferred upon the Commission the corresponding power to impose upon the railroad companies a penalty for a failure promptly to receive, receipt for and forward to destination goods offered for shipment. An Act conferring upon this Commission such a power, with an appropriate penalty for violation of its orders carrying into effect the power conferred, was introduced at the suggestion of the Railroad Commission at the last session of the General Assembly, but failed of its passage. Such an Act would be of inestimable value to the people of the State, and would protect them against the vexation, annoyance and pecuniary loss resulting from the delays above mentioned, and to which they should not be subjected.

To the foregoing matters the Commission has repeatedly called the attention of the General Assembly, and has felt a sense of disappointment that, notwithstanding the personal efforts of the members of the Commission in appearing before the Committees of the General Assembly to present the arguments in favor of the matters thus recommended, the Legislature has not seen proper to pass any of the measures submitted at the suggestion of the Commission.

#### SIDE-TRACKS AND PHYSICAL CONNECTIONS BETWEEN RAILROADS.

In our opinion, the Commission ought to have conferred upon it the authority to require railroad companies to construct and maintain side-tracks wherever the public convenience demands them, and where the volume of business warrants their construction.

The General Assembly has heretofore seen proper to empower the Commission to require the location and erection of freight and passenger depot buildings. Side-tracks, being quite as necessary, and, indeed, as much a part of the indispensable facilities required for the proper handling of traffic as depot buildings themselves, ought, as we believe, to be likewise comprehended by the law so as to enable the Board to require the roads, whenever necessary, to afford adequate side-track facilities. If it is desirable that the Commission be clothed with the power to require the erection of a depot, it is equally desirable and reasonable that such an important concomitant as side-tracks be made subject to the same regulations, and we so recommend.

Practically the same reasoning applies to the provision of such physical connection between intersecting and connecting lines of railway as will render possible the interchange of freights and cars between such lines. Several cases have come to the knowledge of the Commission where, on account of conflicting interests or unfriendly feeling, the officials of intersecting lines refused to make such connections, with the result that inconvenience and hardship were put upon the people, who are entitled to route their freights by the shortest line, regardless of the relations existing between the managements of the different railroads.

We therefore recommend that legislation be enacted, conferring upon the Railroad Commission the authority in such cases, to require the intersecting or connecting railroads to put in the usual appliances to render feasible and convenient the interchange of freights and cars.

#### VENUE IN SUITS TO RECOVER PENALTY.

We recommend that the law be so amended as to authorize the bringing of suit to recover penalties for the violation of rules and orders of the Commission in the county wherein such violation may be committed, instead of, as at present, in the county in which are located the principal offices of the offending company. We are aware of no good reason to the contrary, and are convinced that the change suggested would not only aid largely in the attainment of justice, but would also render more economical and convenient its administration.

For example, where a railroad company has failed to comply with an order of the Board requiring the construction of a depot at a point in a given county, instead of bringing suit to recover the statutory penalty in that county, it is necessary to go perhaps hundreds of miles in order to bring suit in the county where the company's principal offices are located. And this, notwithstanding the fact that the State's evidence to prove the necessity for such depot and the reasonableness of the Commission's order, must be found in the vicinity of the proposed location, and notwithstanding the fact that the defendant railroad company could there present its case equally as well as at the county of its home office.

As it now is, the State must either bear the expense of summoning witnesses from a distance, or rely upon answers to written interrogatories. The jury is precluded from inspecting the premises, while the trial of all

such suits in the county where the violation occurred would entirely obviate the difficulties above mentioned.

#### MANDAMUS.

At this time, the only means given the Commission by law to compel obedience to its rules and regulations is to sue in the courts for the recovery of penalties provided by the statute in cases where such rules and regulations are violated.

This remedy is manifestly inadequate and ought to be improved. The law should, in our judgment, be so amended as to enable the courts of this State, either by mandamus or mandatory injunction, in a summary way, to compel carriers specifically to perform the duties which they assume, or which are imposed upon them by law.

An example will suffice to demonstrate the necessity as above suggested. A railroad company finds that its revenues can be increased by charging exorbitant or discriminatory rates. The Commission issues an order requiring the company to desist. The company refuses. The Commission institutes suit to recover the statutory penalty. The maximum that can be recovered is five thousand dollars. The company finds that it would be to its financial advantage to litigate, even if compelled finally to pay the penalty. The litigation drags its slow length through the courts; and months, even years, elapse before the penalty is finally recovered. In the meantime, the public has been compelled to pay the unjust rate, and perhaps the commercial prosperity of a town or section has been destroyed.

If a given order or rule of the Commission is to be tested in the courts, it seems to us that its actual enforcement under mandamus from the courts would best demonstrate whether it was reasonable or unreasonable. It would enable the Commission to give immediate relief to the public, and at the same time would reserve to the carrier companies all of the legal rights that they now enjoy. Hence, we earnestly recommend that the law be amended as above indicated.

#### ARBITRATION OF TAX RETURNS.

In addition to these matters, which relate to the duties of the Commission devolved upon them by the original Act creating the Board, the members of the Commission beg leave to call attention to a subsequent