

Thirty-Fifth Annual Report

OF THE

Railroad and Warehouse Commission

OF THE

STATE OF ILLINOIS

Railroads for the Year Ending June 30, 1905.
Grain Inspection Department for the Year Ending Oct. 31, 1905.
Office Expenses for the Year Ending Nov. 30, 1905.

COMMISSIONERS:

JAMES S. NEVILLE, Bloomington, *Chairman*.
ARTHUR L. FRENCH, Chapin.
ISAAC L. ELLWOOD, DeKalb.
WM. KILPATRICK, Chicago, *Secretary*.
CHAS. J. SMITH, DuQuoin, *Ass't. Secretary*.
FRANK J. EWALD, Chicago, *Consulting Engineer*.



SPRINGFIELD:
ILLINOIS STATE JOURNAL CO., STATE PRINTERS.
1906.

RULES OF PRACTICE IN CROSSING AND INTER-LOCKING CASES.

I.

For the hearing of cases arising under the act approved May 27, 1889, concerning crossings, and the act approved June 2, 1891, concerning interlocking, there shall be held at the office of the commission, in the State House, in Springfield, a regular meeting of the commission on the Tuesday after the first Monday in each month, and continuing from day to day thereafter, if necessary until the business of such meeting is finished; but if the day above designated for such meeting shall at any time fall upon a general election day or legal holiday, then the meeting shall be held upon the day following.

II.

If no quorum of the commission shall be present on any day named in these rules for any regular meeting of the commission, and there are causes on the docket ready for hearing, the secretary of the commission shall adjourn such meeting from day to day (noting the same upon the record), until a quorum is present for the transaction of business, at which time the hearing shall be proceeded with in the same manner as they would had a quorum been present on the day named in the rules for said meeting. When the secretary shall be aware in advance, that for any reason a quorum will not be present for the transaction of business on the day named for a regular meeting, he shall, so far as practicable, advise all interested parties by letter or otherwise of the fact, and also let them know on what day a quorum is expected.

III.

Upon the filing of any petition in pursuance of any of the provisions of either of such acts, the secretary of the commission shall at once issue and cause to be served upon or delivered to the defendant in such petition such notice as the law requires, or as may be prescribed by the commission; and the secretary shall also, for the better information of such defendant, mail to its president or general manager a copy of the petition, but a failure by defendant to receive the letter shall not be taken as a failure of notice.

IV.

If the notice provided for in the last rule shall be served upon or received by the defendant ten days before the next regular meeting of the commission as above established, the case shall stand for hearing at that meeting, but if such notice shall be served or received less than ten days before such regular monthly meeting, then such petition shall stand for hearing at the next regular monthly meeting succeeding that one.

V.

In the case of any proceeding begun under the said interlocking act of 1891, by a citation issued by order of the commission instead of by petition, the secretary shall make such citation returnable at the next regular monthly meeting of the commission, if the same shall take place ten days or more after the time of issuing such citation; but if such citation shall not be served upon any defendant therein named ten days or more prior to the first day of the next meeting, then such citation shall stand for hearing at the next regular meeting succeeding.

VI.

Such answer as any defendant may desire to make to any petition, or such return as any company may desire to make to any citation which may be issued, shall be filed in the office of the commission not later than the morning of the day upon which said petition or citation stands for hearing upon the docket in accordance with these rules; and such answer or return shall close the written pleadings in the case.

VII.

Cases shall stand for hearing at such regular meetings in the order of their numbers unless the commission shall for good cause vary such order; and in the general manner of conducting hearings, producing testimony, etc., the commission will be governed by the general system of practice which obtains in the circuit courts of Illinois, so far as the same is applicable to these proceedings.

VIII.

All evidence offered on any such hearing shall be reported in full by the stenographer of the commission, who shall write the same out correctly in typewriting and file the same for reference with the papers in the case in which the same is taken.

IX.

Every case which may for any reason remain on the docket, not finally disposed of at the conclusion of any such regular meeting of the commission, shall stand continued to the next regular meeting, and the secretary shall enter an order to that effect, in such case, without specific action or instructions by the commission.

X.

The secretary of the commission is hereby empowered, without further specific order, to issue from time to time, under his hand and seal of the commission, such subpoenas for witnesses in any case arising under either of said acts as any party thereto may request to be issued. Said secretary shall advance no fees for the service of any such subpoenas, but leave the party calling for the same to serve it or procure it to be served as he shall think fit.

XI.

In every trial had under these rules, the petitioner will open and close the case. Each party to the hearing will be allowed to introduce such evidence as to facts and expert questions as may be thought necessary, provided the same is admissible under the common law rules of evidence; and each party will be fully heard in argument upon all points of the case by counsel or other representative; but no petition for rehearing will be entertained in any such case, unless the right to present the same is expressly reserved in the final order or decree of the commission.

XII.

The petition mentioned in section 1 of this act of 1891, concerning interlocking, will be deemed sufficient if in substantially the following form:

To the Railroad and Warehouse Commission of the State of Illinois:

The.....Rail.....company represents that it owns and operates a certain railroad extending from.....to.....within the State of Illinois; that the main track of said railroad crosses at grade the main track of the.....Rail.....company.....in the county of.....; that petitioner desires to unite with the said.....Rail.....company in protecting said crossing with proper devices and appliances, thus securing greater safety to persons and property, and enabling trains to pass said crossing without stopping, but is unable to agree with said company upon a plan of the same, that the public good requires that said crossing be so protected; and petitioner files herewith a plat showing the location of the tracks involved in said crossing; and make said plat a part of this petition.....

In consideration of the premises, petitioner prays this commission to give notice to the said.....Rail.....company, which is made defendant to this petition, and to proceed to view the site of said crossing, and appoint a time and place for a hearing of this petition, and that upon such hearing the commission will enter an order prescribing a proper device and machinery for the protection of said crossing in pursuance of an act of the General Assembly, entitled "An act to protect persons and property from danger at the crossings and junctions of railroads," etc., approved June 2, 1891; and the petitioner further prays that the commission will fix in such order the proportion of the cost for the construction, maintenance and operation of such device which each of the parties hereto shall pay; and prays generally for such other relief as may be appropriate to the case.

.....
Petitioner.

.....
Its Solicitor.

XIII.

The notice to be given in pursuance of section 1 of said act of 1891, may be in substance as follows:

Office of the Railroad and Warehouse Commission of the State of Illinois:

To the.....Rail.....Company:

You are hereby notified that on the.....day of.....19.., the.....Rail.....company filed in the office of the Railroad and Warehouse Commission of the State of Illinois a petition, praying for the protection, by proper devices and machinery, of a certain grade crossing of the main tracks of your railroad and that of the said petitioner, situated.....in the county of....., in the State of Illinois, in pursuance of an act of the General Assembly, approved June 2, 1891, entitled "An act to protect persons and property from danger at the crossings and junctions of rail-

roads," etc.; and you are hereby further notified that under the rules of said commission the said petition will stand for hearing at the office of said commission in the State House, in the city of Springfield, Illinois, on the.....day of.....19.., at 9:00 o'clock a. m., at which time and place the said commission will proceed to try the question whether or not the said crossing shall be protected by interlocking or other devices, and in case the said companies are unable to agree, to prescribe if the public good is deemed to require it, what kind of device, equipment and machinery shall be put in by the companies concerned, and the proportion of the cost of the construction, maintenance and operation thereof, which each of said companies shall pay; and you can, if you think proper, appear through your proper officers or counsel at the time and place above mentioned and be fully heard by the commission upon all the matters involved in said petition.

The commission will, if practicable, advise you of the time when the site of said crossing will be viewed, so you may be present if you desire.

Witness.....secretary of said commission, and
the seal thereof, at Springfield, Illinois, this.....
day of.....A. D. 19..

.....
Secretary.

XIV.

The citation provided for in section 2 of said act of 1891, may be in substantially the following form:

Office of the Railroad and Warehouse Commission of the State of Illinois.

To the.....Rail..... Company:

WHEREAS, Facts have come to the knowledge of the Railroad and Warehouse Commission of the State of Illinois, which give the said commission cause to believe that the grade crossing between the main tracks of the.....
.....Rail..... Company and the.....
.....Rail..... Company, situated.....
in the county of in the State of Illinois is probably dangerous to the public, and to persons operating trains across and over the same, and that said crossing probably requires protection by proper devices, machinery and appliances, in accordance with an act of the General Assembly entitled, "An act to protect persons and property from danger at the crossing and junctions of railroad," etc., approved June 2, 1891.

Now, therefore, you, the said.....
Rail..... Company, impleaded herein with the said.....
.....Rail..... Company, are hereby notified and cited to come before the said Railroad and Warehouse Commission at.....
on the day of 19.., at the hour of o'clock .. m., then and there to show cause why you should not be required to unite with said Rail.....
Company in providing said crossing with such safety appliances, devices and machinery, as may, in the judgement of said commission, after fully hearing, be thought requisite for the proper protection thereof; and said commission, in case the protection of said crossing is, after hearing, deemed necessary, will also, unless the companies agree thereon, prescribe and order proper devices, machinery and appliances for the protection of said crossing, and also fix the proportion of cost each company concerned shall pay for the construction, maintenance and operation thereof; upon all which matters you will, through your proper officer or counsel, be fully heard at the time and place specified, if you see fit to appear.

Witness.... secretary of said commission, and
the seal thereof, at Springfield, Illinois, this.....
day of A. D. 19..

.....
Secretary.

The form of notification to be given in cases arising under the act of 1889, concerning crossings, may be in substantially the following form:

Office of the Railroad and Warehouse Commission of the State of Illinois.

To the Rail..... Company:

You are hereby notified that on the day of 19... the Rail..... Company filed in the office of the Railroad and Warehouse Commission of the State of Illinois, a petition praying the commission for leave to cross with its tracks the main line of your railroad at in the county of in the State of Illinois, in pursuance of an act of the General Assembly, approved May 28, 1889, entitled, "An act in relation to the crossing of one railroad by another, and to prevent danger to life and property from grade crossings," and you are further notified that under the rules of said commission, the said petition will stand for hearing at the office of said commission, in the State House, in the city of Springfield, Illinois, on the day of 19... at 9:00 o'clock a. m., at which time and place you can appear through your proper officer or counsel and be heard upon the question involved in said petition, if you see fit to do so.

The commission will, if practicable, advise you of the time when the site of said crossing will be viewed, so you may be present if you desire.

Witness.....secretary of said commission, and
the seal thereof, at Springfield, Illinois, this.....
day of.....A. D. 19...

.....
Secretary.