

Ante, p. 1445.

the administration of such Act of September 7, 1916, and from the fund established in section 45 of this Act, in such proportion as the commission, with the approval of the Director of the Bureau of the Budget, determines to be fairly attributable to the cost of administration of the respective Acts, but the total amount paid from such appropriation and such fund in any fiscal year on account of the administration of such Act of September 7, 1916, shall not exceed the amounts appropriated for salaries and contingent expenses for the administration of such Act for such year.

Laws inapplicable.

LAWS INAPPLICABLE

Limit of recovery, etc., not affected by designated laws.
R. S., secs. 4283-4286, 4289, p. 827.
Vol. 23, p. 57.

SEC. 48. Nothing in sections 4283, 4284, 4285, 4286, or 4289 of the Revised Statutes, as amended, nor in section 18 of the Act entitled "An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June 26, 1884, as amended, shall be held to limit the amount for which recovery may be had (1) in any suit at law or in admiralty where an employer has failed to secure compensation as required by this Act, or (2) in any proceeding for compensation, any addition to compensation, or any civil penalty.

Effect of unconstitutionality

EFFECT OF UNCONSTITUTIONALITY

If payment invalidated, time for action against employer computed.

SEC. 49. If any part of this Act is adjudged unconstitutional by the courts, and such adjudication has the effect of invalidating any payment of compensation under this Act, the period intervening between the time the injury was sustained and the time of such adjudication shall not be computed as a part of the time prescribed by law for the commencement of any action against the employer in respect of such injury; but the amount of any compensation paid under this Act on account of such injury shall be deducted from the amount of damages awarded in such action in respect of such injury.

SEPARABILITY PROVISION

Invalidity of any provision not to affect remainder of Act.

SEC. 50. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons and circumstances shall not be affected thereby.

Effective date.

EFFECTIVE DATE

Administrative sections at once, and remainder July 1, 1927.

SEC. 51. Sections 39 to 51, inclusive, shall become effective upon the passage of this Act, and the remainder of this Act shall become effective on July 1, 1927.

Approved, March 4, 1927.

March 4, 1927.
[S. 3286.]
[Public, No. 804.]

CHAP. 510.—An Act To amend the Interstate Commerce Act and the Transportation Act, 1920, and for other purposes.

Interstate commerce.
Vol. 25, p. 862, amended.

Reduced rates for transporting property for relief in case of earthquake, flood, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 22 of the Interstate Commerce Act, as amended, be amended by adding at the end thereof the following new sentence: "Nothing in this Act shall prevent any carrier or carriers subject to this Act from giving reduced rates for the transportation of property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought,

epidemic, pestilence, or other calamitous visitation or disaster, if such reduced rates have first been authorized by order of the commission (with or without a hearing); but in any such order the commission shall define such section and shall specify the period during which such reduced rates are to remain in effect."

That paragraph (2) of section 3 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(2) No carrier by railroad subject to the provisions of this Act shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the commission may from time to time prescribe to govern the settlement of all such rates and charges and to prevent unjust discrimination: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia. Where carriers by railroad are instructed by a shipper or consignor to deliver property transported by such carriers to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (a) is an agent only and has no beneficial title in the property, and (b) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of a shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has also notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or, in the case of a shipment so reconsigned or diverted, the beneficial owner, shall be liable for such additional charges, irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made. An action for the enforcement of such liability may be begun within the period provided in paragraph (3) of section 16 or before the expiration of six months after final judgment against the carrier in an action against the consignee begun within the period provided in paragraph (3) of section 16. If the consignee has given to the carrier erroneous information as to who the beneficial owner is, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. An action for the enforcement of such liability may be begun within the period provided in paragraph (3) of section 16 or before the expiration of six months after final judgment against the carrier in an action against the beneficial owner named by the consignee begun within the period provided in paragraph (3) of section 16."

SEC. 2. Paragraph (7) of section 15 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(7) Whenever there shall be filed with the commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the commission shall have, 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 pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare,

Vol. 41, p. 479, amended.

Carrier not to deliver freight until charges paid.

Proviso.
Freight for Federal, State, etc., authorities, excepted.

Nonliability of consignee, if only an agent, having no interest in the property.

Reconsigned shipments.

Liability of beneficial owner for diverted property charges, etc.

Vol. 43, p. 633.

Consignee liable, if giving erroneous statement to carrier.

Limit of time for actions.

Vol. 41, p. 486, amended.

New rates, classifications, etc.
Commission to determine lawfulness of.

Suspension pending decision.

Period extended.

Final determination.

Change effective.

Refund if increased rates finally disallowed.

Burden of proof as to reasonableness of increased rates, on carrier.

Preference to these cases.

Responsibility for losses, etc.

Receiving carrier to issue bill of lading. Vol. 41, p. 1197, amended.

Liability to holder for loss.

Not exempted by any contract, etc.

Liability for full actual loss, etc.

charge, classification, regulation, or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed increased rate or charge for or in respect to the transportation of property, the commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this Act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the carrier, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible."

SEC. 3. Paragraphs (11) and (12) of section 20 of the Interstate Commerce Act, as amended, are amended to read as follows:

"(11) That any common carrier, railroad, or transportation company subject to the provisions of this Act receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or from any point in the United States to a point in an adjacent foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or from any point in the United States to a point in an adjacent foreign country, or for transportation wholly within a Territory, or any common carrier, railroad, or transportation company delivering said property so received and transported, shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage,

or injury to such property caused by it or by any such common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made is hereby declared to be unlawful and void: *Provided*, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by and under the laws and regulations applicable to transportation by water, and the liability of the initial or delivering carrier shall be the same as that of such carrier by water: *Provided, however*, That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply, first, to baggage carried on passenger trains or boats, or trains or boats carrying passengers; second, to property, except ordinary livestock, received for transportation concerning which the carrier shall have been or shall hereafter be expressly authorized or required by order of the Interstate Commerce Commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and shall not, so far as relates to values, be held to be a violation of section 10 of this Act to regulate commerce, as amended; and any tariff schedule which may be filed with the commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. The term 'ordinary livestock' shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: *Provided further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further*, That all actions brought under and by virtue of this paragraph against the delivering carrier shall be brought, and may be maintained, if in a district court of the United States, only in a district, and if in a State court, only in a State, through or into which the defendant carrier operates a line of railroad: *Provided further*, That it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than ninety days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: *Provided, however*, That if the loss, damage, or injury complained of was due to carelessness or negligence while the property was in transit, or while the property was being loaded or

Limitations void.

Provisos.
Liability while in custody of water carrier.
Vol. 41, p. 494.

Not applicable to passenger baggage.

Property other than livestock, the rates on which by order of Commission are dependent on declared value.

Limitation.

Schedules to refer to order.

Ordinary livestock defined.

Rights under existing law.

Venue of actions against delivering carrier.

Contracts for shorter time than legal period, unlawful.
Vol. 41, p. 494.

No notice required of claim, if loss due to negligence, etc., in transit.

Time limit.	unloaded, or was due to unreasonable delay in transit or in loading or unloading, then no notice of claim or filing of claim shall be required as a condition precedent to recovery, but in no case under this proviso shall suit be instituted after three years from the time such cause of action accrued: <i>And provided further</i> , That for the purposes of this paragraph and of paragraph (12) the delivering carrier shall be construed to be the carrier performing the line-haul service nearest to the point of destination and not a carrier performing merely a switching service at the point of destination: <i>And provided further</i> , That the liability imposed by this paragraph shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as in this Act provided.
Delivering carrier construed.	
Reconsigned property.	
Recovery by initial carrier from line where loss occurred. Vol. 34, p. 584, amended.	
Federal control. Vol. 41, p. 461, amended.	
Reimbursement denied carriers not furnishing statement in prescribed time.	
Actions arising from Federal control. Vol. 42, p. 1443, amended.	
Time limited for suits by United States for services, etc.	
Bills of lading. Vol. 39, p. 542, amended.	
Liability of carrier for acts of agents.	
To owner of goods.	
To holder of order bill.	

unloaded, or was due to unreasonable delay in transit or in loading or unloading, then no notice of claim or filing of claim shall be required as a condition precedent to recovery, but in no case under this proviso shall suit be instituted after three years from the time such cause of action accrued: *And provided further*, That for the purposes of this paragraph and of paragraph (12) the delivering carrier shall be construed to be the carrier performing the line-haul service nearest to the point of destination and not a carrier performing merely a switching service at the point of destination: *And provided further*, That the liability imposed by this paragraph shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as in this Act provided.

"(12) That the common carrier, railroad, or transportation company issuing such receipt or bill of lading, or delivering such property so received and transported, shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained, the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof."

SEC. 4. Section 204 of the Transportation Act, 1920, is amended by adding at the end thereof a new subdivision to read as follows:

"(h) This section shall not be applicable to any carrier which has not, on or before the expiration of sixty days after this subdivision takes effect, filed with the commission a statement, compiled substantially in the manner prescribed in this section, showing the amount claimed to be due such carrier under this section."

SEC. 5. Section 206 of the Transportation Act, 1920, as amended, is amended by adding at the end thereof a new subdivision to read as follows:

"(j) All actions at law and claims by or on behalf of the United States for the recovery of any charges, or any part thereof, for services rendered during the period of Federal control by any railroad or system of transportation possessed, used, or operated by the President (under the provisions of the Federal Control Act, or the Act of August 29, 1916) shall be begun or made before the expiration of ninety days after this subdivision takes effect, and not after."

SEC. 6. Section 22 of the Act entitled "An Act relating to bills of lading in interstate and foreign commerce," approved August 29, 1916, is amended to read as follows:

"SEC. 22. That if a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations, the carrier shall be liable to (a) the owner of goods covered by a straight bill subject to existing right of stoppage in transitu or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, or upon the shipment being made upon the date therein shown, for damages caused by the nonreceipt by the carrier of all or part of the goods upon or prior to the date therein shown, or their failure to correspond with the description thereof in the bill at the time of its issue."

Approved, March 4, 1927.