

fact, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any accounts, records, memoranda, correspondence, documents, papers, or other writings to which the commission has the right of access as above provided, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars or, if a natural person, to imprisonment for a term of not less than one year nor more than three years, or to both such fine and imprisonment, in the discretion of the court. In construing and enforcing the provisions of this section, the act of any director, stockholder, officer, agent, attorney, employee, receiver, operating trustee, or other person acting for or employed by any carrier, corporation, joint-stock company, or other corporate combination, acting within the scope of his employment, shall be deemed the act of the carrier, corporation, joint-stock company, or other corporate combination, as well as that of the person so acting. The commission may, in its discretion, issue orders designating the operating, accounting, or financial papers, records, books, blanks, tickets, stubs, documents or other papers or writings to which the commission has the right of access as aforesaid which may, after a reasonable time, be destroyed, and prescribing the length of time that all or any of the same shall be preserved.

"Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the commission, or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than five thousand dollars or to imprisonment for a term of not exceeding two years, or to both such fine and imprisonment, in the discretion of the court.

"The district courts of the United States shall have jurisdiction, upon the application of the attorney general of the United States at the request of the commission, alleging a failure to comply with, or a violation of, any of the provisions of said act to regulate commerce, or of any act supplementary thereto or amendatory thereof, by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

"And to carry out and give effect to the provisions of the act to regulate commerce or any amendment thereof the commission is hereby authorized to employ special agents or examiners, who shall have power to administer oaths, examine witnesses, and receive evidence.

"Any common carrier, railroad, or transportation company receiving property for transportation from a point in one state to a point in another state 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, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: Provided, 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 existing law.

"The common carrier, railroad, or transportation company issuing such receipt or bill of lading 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. 2. That the act to regulate commerce as amended be further amended by inserting therein a new section, to be designated section twenty a, to be placed after section twenty and before section twenty-one, to read as follows:

"Sec. 20a. That from and after the passage hereof it shall be unlawful for any common carrier subject to the act to regulate commerce, as amended, to issue any capital stock or certificate of stock or any bond or other evidence of interest or indebtedness of the carrier (hereinafter collectively termed "securities"), or to assume any obligation or liability as lessor of another carrier, or as lessee, guarantor, surety, or otherwise in respect of the securities of any other person, natural or artificial, if connected

with or relating to that part of the business of such carrier governed by the act to regulate commerce as amended, even though permitted by the authority creating the carrier corporation—

(a) unless it be for some purpose within its corporate powers and in the public interest, necessary or appropriate to the proper performance of its service for the public, and not tending to impair the financial ability of the carrier to discharge its duty to the public; and

(b) unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the commission of the purposes and uses of the issue and the proceeds thereof, such issue is approved by order of the commission as reasonably necessary or appropriate for the purposes stated.

"Each such application shall be made in such form as the commission may from time to time determine and prescribe, and shall set forth such matters as the commission may require, including:

"First. (a) The total amount of proposed issue, and how authorized by or on behalf of the carrier;

"(b) The number and amount of all of its securities outstanding at any time prior to the date of such application, the amount thereof retired prior to said date, the amount thereof then undisposed of, and whether such amount is held in the treasury of the corporation as a free asset or pledged, and, if pledged, the terms and conditions of such pledge;

"(c) The number and amount of securities then to be issued, and whether to be sold, pledged, or held in the treasury of the corporation as a free asset, or otherwise disposed of or applied, as the case may be, specifying number and amount in each case; if any such securities are to be sold, the terms and conditions of sale; if any part of the consideration to be received therefor is other than money, an accurate and detailed description of such consideration; if any such securities are to be pledged, the terms and conditions of pledge; or if other disposition or application is to be made, a full and detailed explanation thereof;

"(d) The number and amount of its securities so authorized, but not then to be issued;

"(e) If the issue is of shares of stock, the number thereof, the face or par value thereof, if any, specifying whether common or preferred, and the number and kinds of then outstanding shares previously issued.

"Second. The preferences or privileges granted to the holders of any such securities; the dates of maturity, rates of interest, or fixed dividend, whether cumulative or not, and any conversion rights granted to the holders thereof, and the price, if any, at which any such securities may be retired or redeemed.

"Third. The purpose to which the proceeds of the issue are to be devoted, in such detail as the commission may require.

"Fourth. In case of proposed assumption of any obligation or liability in respect of the securities of any other person, natural or artificial, like showing shall be made as to the financial condition of said other person, as also of the objects sought and benefits to be realized by the carrier from such assumption, to be accompanied by copies of any agreements or contracts therefor.

"Every application for authority, as also every certificate of notification hereinafter provided for, shall be made out under oath, signed, and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held as a free asset in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise

disposed of by the carrier, such carrier shall, within ten days after such sale, pledge, repledge, or other disposition, file a certificate of notification to that effect, setting forth therein all such facts as are required by subdivision (c) of the foregoing first paragraph, or as may be required by the commission.

"Upon application to the commission for approval of proposed issues of securities the commission shall cause notice to be given to the railroad commission or public service or utilities commission, or other appropriate authority, of each state in which the applicant carrier operates. The railroad commission, public service or utilities commission, or other appropriate state authority thus notified shall have the right to present before the commission such representations as they may deem just and proper for preserving and conserving the right and interests of their people and the states, respectively, as involved in such proceeding. The commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"Nothing herein shall be construed to imply any guaranty or obligation as to such issues on the part of the United States.

"The foregoing provisions of this section 20a shall not apply to notes to be issued by any said carrier maturing not more than two years after the date thereof and aggregating not more than five per centum at any time of the securities of said carrier then outstanding. Within ten days after the date of such notes the carrier issuing the same shall file with the commission a certificate of notification, in such form as may from time to time be determined and prescribed by the commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities.

"The commission shall require periodical or special reports from all carriers hereafter issuing any securities, including such notes, which shall show, in such detail as the commission may require, the disposition made of said securities and the application of the proceeds thereof.

"All issues of securities contrary to the provisions of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, or of any director, officer, or stockholder of the carrier proposing to make the issue; and any director, officer, attorney, or agent of such corporation who assents to, or concurs in, any issue of securities forbidden by this section 20a shall upon conviction be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"From and after two years from the passage hereof it shall be unlawful for any person to hold the position of officer or director of more than one carrier subject to the act to regulate commerce, as amended, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interest will be adversely affected thereby. From and after the passage hereof it shall be unlawful for any officer or director of any such carrier to receive for his own benefit, directly or indirectly, any money or thing of value, in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by said carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account, or otherwise than from the revenues of said carrier. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court."

Interstate Trade Commission Bill

H. R. 15613.—An act to create an interstate trade commission, to define its powers and duties, and for other purposes.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that a commission is hereby created and established, to be known as the in-

terstate trade commission (hereinafter referred to as the commission), which shall be composed of three commissioners, who shall be appointed by the president, by and with the advice and consent of the senate. Not more than two of the commissioners shall be members of the same

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