

to make and file any such report or answer, such common carrier shall forfeit to the State the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the State of Maryland. The amount recovered in any such action shall be paid to the State Treasurer.

The provisions of this section shall be applicable to all corporations and individuals subject to the jurisdiction of the Public Service Commission of Maryland which are by law required to file the annual and other reports referred to therein.*

435.

Limitations of power of commission to fix intrastate tariffs and rates. How reasonableness of rates is determined. Nature of commutation service. Not all discriminations are condemned by law. Rates must be reasonable, but not confiscatory; meaning of latter term. Upon a bill for an injunction restraining the execution of an order of the commission, the court may not determine what are reasonable rates or establish rates, but only whether the rates fixed by the commission are unreasonable or unlawful; rates fixed by commission *prima facie* proper. Practical experience held to be only test of reasonableness of commutation rates. Portion of order fixing duration of rates modified. *Penna. R. R. Co. v. Public Serv. Com.*, 126 Md. 65.

If the charter of a railroad authorizes it, without requiring it to extend its railroad to a certain point, it may not be compelled to make such extension if same would not be remunerative. The manner of construction, equipment and operation of such extension are to be determined by the directors of the company, and when their judgment is honestly exercised may not be controlled by the commission or the courts. *Public Serv. Com. v. U. R. & E. Co.*, 126 Md. 487.

See notes to section 430.

435A.

See notes to section 435.

436.

An order of the commission requiring a railroad when an express train is late to hold it back until the local trains have passed and thus depriving the railroad of all discretion in respect to the operation of its train in case of such delays, is unreasonable and void. The powers of the commission should not be extended by implication beyond what is necessary for their just and reasonable execution. *N. C. Rwy. Co. v. Public Serv. Com.*, 124 Md. 146.

438.

It is for the court and not for a jury to determine whether it is necessary to condemn particular property except in so far as the public service commission may pass on that question under this section; there may, however, be cases in which certain questions of fact in connection with the

*The act of 1918, chapter 402, section 2, provides that in lieu of the annual reports which were heretofore required to be filed on or before September 30, 1918, for the fiscal ending June 30, 1918, reports shall be filed on or before August 31, 1918, covering the calendar year 1917.