

## CHAPTER 25.

## AN ACT

[S. B. 45]

To provide for the institution and maintenance by the Territory, or in its name, of various proceedings before courts of Justice and other tribunals and officers, to protect the rights or promote the interests of the people of the Territory, and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Whenever the constitutionality or validity of any statute is seriously in doubt, and the enforcement of such statute affects the Territory or a considerable portion of its people or important industries therein, suits or actions may by the Attorney General be instituted in the name of the Territory in any court to determine the constitutionality or validity of such law. And such proceeding may be had for that purpose either by means of suits to restrain, or by means of action to compel, the enforcement of such law, or by any other appropriate proceeding that will bring the question at issue fairly before the court. Or, the Attorney General may for such purpose institute or defend actions or suits for private individuals or corporations, and at the expense of the Territory, whenever the importance of the questions involved to the inhabitants of the Territory shall warrant it; but no such proceeding shall be instituted or maintained in the name of the Territory or at its expense except with the approval of the Governor, Secretary and Treasurer or any two of them in the manner hereinafter provided.

Attorney General to institute actions in name of Territory, when.

For private individuals, when.

Section 2. It shall also be the duty of the Attorney General to protect the interests of the Territory and its people before the United States Shipping Board, the Interstate Commerce Commission, or any other Bureau, board, committee, commission or officer of the

Attorney General to protect interests of Territory before various Boards.

United States, or of any of the States of the Union, in any action, suit, proceeding or hearing in which the Territory is a necessary or a proper party, or in which the Territory or its people, or a considerable portion thereof, are interested, or its industries are materially affected; and it shall be his duty to institute on behalf of the Territory and in its name any appropriate proceeding before such board, commission, committee, officials or other tribunals to protect the right and promote the interests of the Territory and its people, subject, however, to the provisions of the succeeding sections in this act.

Governor the  
agent of Terri-  
tory for service  
of process.

Section 3. That the Governor of the Territory is hereby constituted the Agent of the Territory of Alaska, upon whom service of summons or other process or notice of hearing shall be made in any action, suit, or proceeding which may be instituted or pending in any of the Courts of the United States, or before the United States Shipping Board, the Interstate Commerce Commission or any other Bureau, Board, Committee, Commission or officer of the United States or of any of the States of the Union and in which the Territory is a necessary or proper party or in which the Territory or the people or a considerable part thereof are interested.

Governor to  
consult with  
other officers  
and determine  
action to be  
taken.

Section 4. That when served with summons, process or notice of any hearing or action, suit or proceeding of any nature instituted or pending before the tribunals or officers aforesaid, in which the Territory may be a proper or necessary party, or in which the interests of the Territory or its people may be involved or affected adversely or otherwise, or if it shall come to his attention that the interests of the Territory or its people or a considerable portion thereof are or may be liable to be affected in any suit, action, hearing or proceeding pending before any of the said tribunals or officers, it shall be the duty of the Governor of the

Territory to immediately call into consultation the Secretary, Treasurer and Attorney General of the Territory to determine whether any action should be taken in behalf of the Territory therein, and if it be determined by a majority of them that the interests of the Territory or a considerable portion of its people are liable to be adversely affected or that they may be promoted or protected by an appearance in or at such action, hearing or proceeding, the Governor shall so instruct the Attorney General in writing and direct him to appear and represent the Territory therein.

Authorization to Attorney General to appear.

Section 5. On receiving such instruction from the Governor to so appear in such action, hearing or proceeding, the Attorney General shall, and he is hereby authorized and directed to appear on behalf of the Territory or its people, and use all proper means to protect the interests so entrusted to him as therein directed. And the said Attorney General shall be authorized to employ additional counsel to attend and represent the Territory in said proceeding, but only after receiving the authority to do so from the Governor, Secretary and Treasurer, or any two of them, made after a finding by them that the expense of such additional counsel will be less than expenses likely to be incurred by personal attendance of the Attorney General or where additional counsel because of the importance of the matter involved would in their judgment be for the best interests of the Territory.

Additional Counsel.

Section 6. When in the opinion of the Governor, the Secretary and Treasurer of the Territory, or any two of them it shall be for the best interests of the people of the Territory, or the Territory itself to commence any action, hearing or other proceeding before any Court, tribunal or Board or Commission, or officer mentioned in Sections 1 and 2 of this Act, they shall so direct the Attorney General, under the hand of the Governor, and the Attorney General shall proceed as

Commencement of actions on behalf of Territory.

directed therein, if in his opinion the action or proceeding can be prosecuted with success. If his opinion is adverse to such action he shall set forth the reasons for such opinion and embody same and the correspondence in regard thereto in his biennial report to the Legislature .

Section 7. The Attorney General is authorized and empowered in any hearing or proceeding, in which he has appeared or is about to appear before any Board, Court, Commission, Committee, or officer of the United States involving, or which may involve, traffic and commerce or rates of transportation or carriage between points within the Territory to or from points without the Territory; or between places within the Territory, to demand from any person, firm or corporation, engaged in the transportation business in whole or in part between such points or places, any information which may be pertinent at such hearing or proceeding or which may be necessary to prepare for the defense of the interests of the people of the Territory thereat and may require by notice in writing that such person, firm or corporation, furnish or produce, within a reasonable time, for his inspection, any books or other records, in the possession of such person, firm or corporation, showing the amount of freight and passenger traffic to and from or within Alaska; the rates respectively charged therefor on each class of freight or passenger; the carriage expense; and other expense in aggregate and detail including overhead charges; the bonded and other indebtedness and interest charges; the gross capital invested and how invested; amounts charged off for depreciation; the gross and net income and any other data either in detail or the aggregate necessary or pertinent in such hearing or proceeding and in the event such person, firm or corporation neglect, or fail, or refuse to furnish, produce or deliver such data or information to or its books

Evidence in matters involving traffic and transportation.

Attorney General may require production of certain evidence.

or records for inspection by the Attorney General upon his demand in writing, within a reasonable time, specifically detailing the information required, and reason and necessity therefor, for use in such hearing or proceeding the said Attorney General may present to the judge of the District Court of Alaska, his petition in the name of the Territory for the production or furnishing of such data or information or production of books and records for inspection. Such petition shall set forth therein the nature of the hearing or proceeding for which the information is required, the necessity or materiality thereof and such other facts as may be pertinent to place before the Judge the importance of obtaining the same, and thereupon if the court shall be satisfied that the petition is made in good faith to obtain information necessary or important to the Territory or its people at the hearing or proceeding designated and that the same can or ought to be supplied to the Territory, he shall issue an order directing such person, firm or corporation to appear before the Court on a day and hour certain to show cause why an order should not issue directing the furnishing of such data or the producing of such records or books or part thereof as the court shall deem proper. Said order shall be served on such person, firm or corporation in the same manner as other process of the court. At the time set therein, or such other time as the court may in its discretion set, the court shall hear and determine the issues formed by the petition and any answer thereto which may be filed, and shall determine whether the information or data mentioned in the petition is necessary or important in whole or in part to the Territory in the hearing in which it is proposed to be used; whether the same can be obtained and whether such person, firm or corporation should produce the same or any part thereof for the purpose designated and if it be found by the Court that such

May apply to  
court for order.

information or data is important for preparation for trial to the petitioner, or is necessary or important at such hearing and that the same should be produced or furnished the Attorney General for preparation for or for use, or production at such hearing, he shall enter an order accordingly specifying therein the time within which the same shall be furnished or produced for inspection and whether in whole or in part and what part. If such person, firm or corporation so ordered shall fail, neglect or refuse to produce for inspection or furnish the information to the Attorney General in the manner and within the time limited in such order, the said person, firm, or corporation shall be deemed guilty of contempt and shall be fined in any sum not exceeding five thousand dollars, which fine shall be covered into the general fund of the Territorial treasury.

Expense of hearing to be paid from emergency fund.

Section 8. That the necessary expenses of the Attorney General in making investigation for and in appearing in such hearing or proceedings shall be provided for out of the emergency appropriation in such amount or amounts, as from time to time may be necessary, the same to be allowed and audited by the Governor, Secretary and Treasurer or any two of them, who, before allowance, shall certify to the necessity for such expenditure and the reasonableness of the amounts so allowed.

Section 9. An emergency is hereby declared to exist, and this Act shall take effect from and after its passage and approval.

Approved May 3, 1921.