

Railroads and Canals.

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tion, and that the effect will be to dissolve the corporation, is not, of itself, and standing alone, as a proposition of law, or as a settled point of practice, a ground for refusing leave to file an information, *Ibid.* 199. At common law and in cases not within the statute, the courts have no authority to direct such information, and leave the matter to the discretion of the attorney general, *State v. Paterson Turnpike Co.*, 1 Zab 9, 10. A relator who is not a contestant but merely a taxpayer and legal voter, who is an inhabitant of the city and subject to its municipal government, has a sufficient interest to support his right to interpose, where it is claimed that the members composing the common council were unduly elected, *State, Mitchell v. Tolan*, 4 Vr. 193, 199. Where the object is to displace a particular officer or member of a corporation, the proceedings must be instituted by a proper relator, *State, Winsor v. Brown*, 2 Vr. 355, 358. But when public corporations are once *de facto* formed, and are exercising corporate powers, proceedings by way of *quo warranto*, to declare such corporations inoperative and in effect dissolved, can only be in the name of the attorney-general

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acting *ex officio*, *Ibid.* *State v. Paterson Turnpike Co.*, 1 Zab. 9, 10. In case of a small, annual township office, the court will allow an information in the nature of a *quo warranto* to be filed in the first instance; but in the case of a corporation or high public officer, a rule to show cause should be first taken, *State v. Gummersall*, 4 Zab. 529. *State v. Vreeland*, and *State v. Thompson*, cited, *Id.* 531. *Potts, J.* The defendant should be brought in by process, and then ruled to plead, *Ibid.* To an information in the nature of a *quo warranto*, the defendant can plead but one plea, *State, Everet v. Roe*, 2 *Dulch*. 215. The usual course in such case is for the defendant either to put in a disclaimer, or to plead to the information by setting out his title to the office, *State v. Utter*, 2 *Gr.* 4, 87. Where the court have granted leave to file an information, the usual course is for the defendant not to file a general demurrer to the information, but either to put in a disclaimer, or to plead to the information, by setting out his title to the office, to which plea the attorney-general may reply or demur, as in other cases, *Ibid.* See *State v. Associates, &c.*, cited 4 Zab. 529, 531, *Potts, J.*

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An act respecting railroads and canals.

Revision—Approved March 27, 1874.

I. Railroads.

1. PROVISIONS FOR REGULATING THE USE OF RAILROADS, TO SECURE THE SAFETY AND COMFORT OF PASSENGERS, PROTECT THE PUBLIC AND PROPERTY.

1. That any engineer, officer, agent, or employé of any railroad company, who in this state, shall wilfully or negligently disregard and disobey any rule, regulation, or published order of any said company or companies, in regard to the running of trains, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be punished by a fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court; but nothing in this act contained shall be construed to repeal any acts or parts of acts punishing either of the persons aforesaid in any other manner than that pointed out in this act.

2. No train carrying passengers shall be run upon any railroad in this state without a rope or cord being attached at one end to a bell, gong or whistle on the locomotive, and said rope or cord led from there through every baggage, express and passenger car in the train and the other end attached to the rear part of the rear car of said train; and any corporation violating these provisions shall be subject to a fine of four hundred dollars for each offence, to be recovered by any inhabitant of this state who may sue for the same in any court having cognizance of the same; one-quarter of said fine to go to the person suing for the same and three-quarters thereof to the state.

3. No cars that shall be or have been engaged in the transportation of petroleum or crude oils, in bulk, shall pass any passenger train of any railway company, in any tunnel, or upon any bridge of more than one hundred feet in length, in this state, nor shall they enter into or upon such tunnel or bridge during the times a passenger train shall or may be within or upon such tunnel or bridge; and any corporation violating this provision of this act shall be subject to a fine of one thousand dollars, to be recovered by any inhabitant of this state who may sue for the same; one-quarter of said fine to go to the person suing for the same and three-quarters thereof to the free school fund of this state.

4. It shall be lawful for any railroad company to place in any of their passenger trains a car or cars furnished in a superior manner, and with extra accommodations, either day cars or sleeping cars, for the use of families, excursion parties or other persons who may desire such extra accommodations, and to charge therefor such rates of fare as they may deem expedient and just; *provided*, that the number of such extra cars shall not exceed the proportion of one-fourth of the passenger cars regularly run by such railroad company; *and provided*, that a sufficient number of ordinary first-class passenger cars on every train shall be run at the ordinary rates of fare to accommodate all person who shall prefer to travel therein.

5. Whenever any person not especially authorized by license, signed by the president or superintendent, shall get upon the trains of any railroad company of this state, with the intent and purpose to sell books, pamphlets, papers, fruit, provisions or any other articles, it shall and may be lawful for any conductor or any other person employed on said train or trains, or any ticket agent or other person employed at or about the depots to eject such person or persons from the said trains and depots, using no unnecessary violence, and to take possession of such books, pamphlets, papers, fruit, provisions and other articles, and the baskets, boxes or

R. S. 592, 594, 601, 1035.

P. P. 1852, p. 82, 317, 532.

" 1853, p. 396, 445.

" 1855, p. 118, 352.

" 1856, p. 276.

" 1858, p. 206, 215, 461.

" 1860, p. 609.

" 1862, p. 289.

" 1864, p. 785.

" 1865, p. 466, 818, 501.

" 1866, p. 256.

" 1867, p. 983, 989.

" 1868, p. 550.

" 1869, p. 806.

" 1870, p. 55, 64.

" 1871, p. 115, 124.

" 1872, p. 60.

" 1873, p. 67, 108, 121, 155.

Employees who wilfully break orders, punishable for a misdemeanor.

P. L. 1865, p. 818.

Rope or cord to be attached to locomotives, &c.

P. L. 1873, p. 108.

Oil cars not to pass passenger train in tunnels or on bridges.

P. L. 1871, p. 124.

Parlor and sleeping cars authorized and regulated.

P. L. 1867, p. 983.

Unlicensed vendors may be ejected, and goods to be confiscated.

P. L. 1867, p. 989.

vessels containing the same, and to give them to the overseer of the poor of the township or city wherein such person shall be at the time of such ejection, for the use of the poor thereof.

Bell or whistle
required at cross-
ings.

P. L. 1852, p. 532.

R. S. 594.

6. Every incorporated company that hath been or hereafter may be authorized to construct any railroad in this state, shall cause to be placed on some part of every locomotive engine used by any such company a bell of a weight not less than thirty pounds, or steam whistle which can be heard distinctly at a distance of at least three hundred yards, and shall cause such bell to be rung or such steam whistle to be blown at the distance of at least three hundred yards from the place where any such railroad crosses a turnpike road or highway upon the same level with the said railroad; and such bell shall be kept ringing or such steam whistle shall continue to be blown until the engine has crossed such turnpike or highway, or has stopped.

Signboard
required at
crossings.

7. Every such company shall cause a board with this inscription, "Look out for the locomotive," to be erected and maintained wherever the road of such company may be crossed, as aforesaid, by any turnpike road or public highway, so as to be easily seen by travelers.

Penalty for
neglect.

8. If any such company shall refuse or neglect to comply with either of the foregoing provisions, they shall forfeit for every such refusal or neglect the sum of one hundred dollars, to be sued for by the clerk of any township in which such refusal or neglect shall occur, for the use of the said township, and to be recovered with costs in an action of debt in any court having cognizance thereof; *provided*, that all complaints of any refusal or neglect to comply with said provisions shall have been made within ten days thereafter; *and provided further*, that nothing herein contained shall be construed to take away from any individual or individuals any right he, she or they may have to recover damages for any injury which may be incurred by any refusal or neglect to comply with the requirements of this act.^(a)

Proviso.

Penalty for
injuring signs.

9. If any person shall wilfully obliterate, destroy or injure any such board, so as aforesaid erected, he, she or they so offending shall forfeit for every such offence the sum of twenty dollars, to be recovered with costs by any such railroad company, in an action of debt before any court having cognizance thereof, for the use of said company.

Companies may
fence in their
stations.

R. S. 594.

10. It shall and may be lawful for any such company to cause a fence or other enclosure to be made around their depots, where the public safety requires it, so as to prevent persons other than travelers from coming near the locomotives and train of cars, and to exclude from such enclosures all persons except travelers and the agents of the said companies.

Passage of rail-
roads through
cities.

P. L. 1864, p. 735.

11. If any railroad company shall have or erect alongside of their track or roadway, in any incorporated city where the same may adjoin any public road or street, a fence, wall, or embankment, four feet high, sufficiently close and strong to prevent children and horses from going through the same, and shall construct and provide on each side of such track, where it may cross any public road or street now established or which hereafter may be established, a gate of like height and sufficiency, and cause the same to be closed at least half a minute before any locomotive may cross such street or road, and to be kept closed until such locomotive and its train shall have passed by; or when the track or roadway, as aforesaid, shall be laid through any excavation four feet deep; then and from thenceforth it shall be lawful for such company to run locomotives and trains in said city over the parts of their road so enclosed or excavated and over the parts that do not adjoin or cross any public street or highway, at any rate of speed they may deem proper, and such speed shall not thereafter be restrained by any city ordinance to regulate the same; but if such fence, wall or embankment, or any part thereof, shall not be maintained in manner aforesaid, or said gates or any of them shall not be closed as aforesaid, at the passage of any trains or locomotives, then the said company and their agents shall be liable to the provisions of any law or ordinance, and any penalty thereby inflicted, for the passage of any train or locomotive over that part of their road adjoining or crossing any public street or road along which such fence, wall, or embankment

(a) Form of proceedings to recover these penalties, *Crawford v. New Jersey R. R. Co.*, 4 *Dutch*. 479, and *infra*, § 12.

shall not be maintained, or said gates shall not be so closed at the passage of said trains or locomotives; *provided*, that nothing herein contained shall affect the liability of any railroad company to any person injured, for any damage to person or property caused by the negligence or want of care of said company or their agents in the running of their trains.

12. Whenever any railroad company has neglected or refused to cause the bell to be rung or the steam whistle to be sounded on any locomotive engine before crossing any public highway, as now required by law, and a penal action shall have been instituted against said company in consequence thereof by the clerk of any township, it shall be lawful for the said clerk to prove upon the trial of said action any such neglect or refusal that may have occurred on the part of said company, at any time within ten days prior to the commencement of said action, without having specially mentioned and described the time of said neglect or refusal in the state of demand filed in said action; and that for any such neglect or refusal proved on said trial, it shall be lawful for the justice to render judgment for the penalty of one hundred dollars, for the use of said township; *provided, however*, that but one action shall be maintained by said clerk against said company for said neglects or refusals within ten days next preceding the commencement of said action; and *provided also*, that nothing herein contained shall be construed to take away from any individual or individuals any right he, she, or they may have to recover damages for any injury which may be incurred by any refusal or neglect to comply with the requirements of this act.

Proceedings in penal actions for not giving signals regulated.

P. L. 1867, p. 984.

13. It shall be the duty of every railroad company in this state, and of every company or person operating or using any railroad in this state, with a locomotive engine or locomotive engines, to take and use all practicable means to prevent the communication of fire from any locomotive engine used or employed by them on any railroad in this state, in passing along or being upon any such railroad, to any property of whatever description of any owner or occupant of any land adjacent or near to such railroad.

Communication of fire from engines prohibited.

P. L. 1865, p. 901, § 1.

14. When any injury is done to any building, grain, hay, crops, or other property of any person or corporation, by fire communicated by a locomotive engine of any person or railroad corporation, in violation of the foregoing section of this act, said person or corporation shall be held responsible in damages to the person or corporation so injured; and it shall be lawful for any railroad corporation to make an agreement for insurance of any such property on which an insurance may be practicable, and such corporation shall have an insurable interest therein accordingly, and may effect insurance thereon in its own behalf.

Company responsible, may insure against loss.

Ib. § 2.

15. It shall be the duty of every railroad company in this state, and of every company or person operating or using any railroad in this state with a locomotive engine or locomotive engines, to provide such engine or engines with a screen or screens, or cover or covers, on the smoke-stack or smoke-pipe of such engine or engines, so as to prevent as much as practicable the escape of fire, either from wood, soft coal, or hard coal, from the smoke-stack or smoke-stacks, smoke-pipe or smoke-pipes of said engine or engines.

Locomotives to be supplied with screens.

P. L. 1873, p. 155, § 1.

16. In every action now or hereafter brought for the recovery of damages for an injury done to the property of any person or corporation, by fire communicated by a locomotive engine of any person or railroad corporation, in violation of the preceding sections of this act, proof that the injury was so done shall be *prima facie* evidence of such violation, subject nevertheless to be rebutted by evidence of the taking and using all practicable means to prevent such communication of fire as by said section required.

Proof in action for recovery of damages.

Ib. § 2.

17. If any company or person shall refuse or neglect to comply with either of the foregoing provisions of this act for preventing the communication of fire from locomotives, they shall forfeit for every such refusal or neglect, the sum of one hundred dollars to any person who may sue for the same, to be recovered with costs in an action of debt in any court having cognizance thereof, one-half of the sum recovered to go to the person suing, and one-half to the state for the public school fund.(a)

Penalty for refusal to comply with provisions of act.

Ib. § 3.

(a) *Infra*, § 158.

Penalty on passengers practicing frauds on the company.

18. If any person travel or attempt to travel in any carriage of any railroad company, or of any other railroad company or party using any railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall for every such offence forfeit to the company running the train whereof such carriage shall be part, a sum not exceeding five dollars, which fine shall be imposed with costs by any justice of the peace before whom such person shall be brought on complaint made on oath or affirmation, and after summary hearing of the facts and circumstances, or on admission of the party.

When discovered may be arrested.

19. If any person be discovered in committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants, railway police, and other persons on behalf of the company, or such other company or party as aforesaid, and all constables and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice of the peace or until he be otherwise discharged by due course of law.

Carriage of explosive articles, no duty; how such carriage regulated.

20. No person shall be entitled to carry or to require any company to carry upon any railway any aquafortis, oil of vitriol, gunpowder, nitroglycerine, lucifer matches or any other goods which may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the company with whom the same are left at the time of so sending, he shall forfeit to the company twenty dollars for every such offence and be besides liable to all damage that may occur therefrom, and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Railroads may employ policemen.

P. L. 1865, p. 466.

Governor to appoint.

P. L. 1865, p. 466.

21. Any railroad corporation on which steam is used as a motive power may apply to the governor of the state of New Jersey, to commission such persons as any such railroad corporation may designate, to act as policemen for such corporation. (a)

22. The governor, upon such application may appoint such persons, or so many of them, as he may deem proper to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen; a copy of such commission shall be filed in the office of the secretary of state.

Powers of police.

23. Every person so appointed shall, in the counties through which such railroad may run, possess all the powers of policemen and of constables in criminal cases, of the several cities, wards of cities, and townships in such counties.

Shield to be worn.

24. Such railroad policemen, when on duty, shall severally wear a metallic shield or device with the words "Railway Police," and the name of the corporation for which appointed inscribed thereon; and such shield or device shall be worn in plain view, except when such policemen shall be employed as detectives.

Pay.

25. The compensation of such policemen shall be paid by the companies for which the policemen are respectively employed and commissioned, and shall be such as shall be agreed upon by any such company and such policemen.

Vacation of commission.

26. Whenever any such company shall no longer require the service of such policemen so appointed as aforesaid, such company shall file a notice to that effect in the office of the secretary of state of this state, and thereupon the power of such policemen shall cease and be determined.

(a) *Infra*, § 162.

II. Freight, fares, tolls, and duties thereon.

27. Any railroad company of this state may, by giving notice to any person or persons offering goods, merchandise or baggage for transportation on the railroad, or in the boats or vessels of such company, limit their responsibility as carriers thereof to one hundred dollars for every one hundred pounds weight of such goods, merchandise or baggage, and at that rate for a greater or less quantity, unless such person or persons so offering such goods, merchandise or baggage for transportation shall pay to said company, by way of insurance, for any additional amount of responsibility to be assumed, such rate or rates as may be charged by said company therefor, not to exceed the legal rates for transporting one hundred pounds of goods or merchandise on such railroad, or in such boats or vessels, for every two hundred dollars of additional responsibility, assumed on each one hundred pounds of such goods, merchandise or baggage, and at that rate for a greater or less quantity; and a general notice of the limitation of such company's responsibility, placed in a conspicuous place, at or in the receiving office of such company, where goods, merchandise or baggage are usually received by them for transportation, and inserted in the bills of lading, or receipts given for such goods or merchandise, and in the tickets delivered to passengers, shall be deemed sufficient notice under this section.
28. It shall be the duty of every railroad company in this state, whenever required by the owner or owners of any freight, to deliver the same at the terminus of their road; and the owner or owners of such freight may require any railroad company conveying such freight to deliver the same at the junction of their road, or any railroad over which they pass, with any other railroad, or within a reasonable distance from said junction, not exceeding one-quarter of a mile; and if any railroad company shall refuse or neglect to comply with either of these foregoing provisions they shall forfeit for every such refusal or neglect the sum of one hundred dollars to any person who may sue for the same, to be recovered with costs, in an action of debt, in any court having cognizance thereof.
29. It shall be lawful to charge on gold, either in coin or bullion, transported on such railroads and routes, at the rate of four cents for every ten miles for every one thousand dollars, and one cent per mile for every one thousand dollars of silver in coin or bullion; and a transit duty shall be paid to the state, at the rate of two cents for every ten miles, on every twenty thousand dollars of gold, and at the rate of two cents for every ten miles for every eight thousand dollars of silver, and in the same proportion for any less sum.
30. It shall be lawful to charge for carrying, on such railroads and routes, twelve and a half cents for every small package, whatever may be its weight or the distance it is carried; and a transit duty shall be paid to the state of twenty cents for each and every twenty dollars received for such transportation.^(a)
31. The term small packages in the foregoing section, shall not be held to include bundles and packages where more than five bundles or packages are delivered to one person at one time, and where such bundles and packages so delivered can be, in the aggregate, readily weighed, either as light or bulky goods, or as ordinary freight. (See *Sec. 30*).
32. Every railroad company which shall avail itself of the provisions of this act, shall pay any transit duties, required to be paid, quarterly, to the treasurer of this state.
33. It shall be lawful to charge for the transportation of light and bulky goods on any railroad in this state, and on the routes continuous therewith, to the termination thereof, the same charge for every eighty cubic feet, as is limited by law for the transportation of one ton by weight, and at a proportionate rate for a greater or less number of cubic feet, and the transit duty to the state shall be paid on such goods, where the charge for transportation is made in accordance with this section, as if eighty cubic feet were one ton in weight.

Responsibility as
common carriers
may be limited
by notice.

P. L. 1853, p. 396.

Extra rates.

Freight to be
delivered at ter-
minus or junc-
tion, if required.

P. L. 1862, p. 289.

Rates of freight
for carrying bul-
lion.

P. L. 1852, p. 317.

Rates on small
packages.

Small packages
defined.

But transit duties
to be paid.

In charges for
transportation,
eighty cubic feet
to be a ton

P. L. 1853, p. 396.

(a) See *McGregor v. Erie Railway Co.*, 6 Vr. 115, 120.

Charge for passengers.
P. L. 1856, p. 276.
" 1858, p. 201.

Freight charge for short distance.

Charge for heavy freight.

Freight on goods transported between way stations.

P. L. 1873, p. 67.

Penalty for taking unlawful tolls.

R. S. 601.

Pending suits not to be affected.

P. L. 1870, p. 64.
" 1871, p. 115.
" 1872, p. 60.

Charges to express companies not limited.

P. L. 1867, p. 983.

Express matter may be carried at double rates.

Proviso as to other goods than as mentioned.

Perishable goods may be sold

34. It shall be lawful for all railroad companies in this state to charge ten cents for each passenger for the whole distance carried, whenever the present legal rates shall not amount to said sum.

35. It shall be lawful for all said companies to charge five cents for the whole distance carried for each hundred pounds of merchandise or other property, other than hereinafter mentioned, whenever the present legal charges shall not amount to said sum.

36. It shall be lawful for all such companies to charge three cents for the whole distance carried for each hundred pounds of stone, coal, lime, sand, shells, ashes, iron ore, pig iron, and fire wood, whenever the present legal rates shall not amount to said sum.

37. Hereafter it shall not be lawful for any railroad or canal company doing business in this state to charge or receive any greater rate of compensation for freight upon goods, wares or merchandise transported between way stations, or between a terminal station and a way station, than they charge and receive for freight upon such goods, wares, and merchandize between the terminal stations of such railroad or canal.

38. Any incorporated company or companies in this state which is or are, or shall be authorized by law to take toll, or to charge for the transportation of passengers, goods, wares, or merchandise, which shall, directly or indirectly, through or by any agent, director, or other officer whatever, take or demand of any passenger or person, under any pretence whatever, more than the charge, toll rates, or fare allowed by law, shall forfeit and pay the sum of one hundred dollars for each and every such offence, to be recovered in an action of debt, by any person who may sue for the same, the one-half to the prosecutor, and the other half to the use of the state, before any court of competent jurisdiction, together with the costs of prosecution.

39. All penal suits now pending in any of the courts of this state, whether pending under the act passed March twelfth, one thousand eight hundred and thirty-nine, or under the act amendatory thereof, approved March seventeenth, one thousand eight hundred and seventy, shall, each and all of them, be determined under the law as it stood at the time said penal suits or actions were commenced, and all penalties and forfeitures under either the said act, passed March twelfth, one thousand eight hundred and thirty-nine, or under the said act amendatory thereof, shall be recoverable as fully, to all intents and purposes, as though no subsequent amendment or repeal of either of said acts by any law or laws of this state had been made or enacted.

40. It shall be lawful for any railroad company in this state to receive from any express or transportation company, person or firm any amount that such company, person or firm shall agree to pay as compensation for carrying express goods or other property, any limit to the rate of compensation in the charters of such railroad companies or otherwise, to the contrary notwithstanding.

41. It shall be lawful for any railroad company in this state to charge for the transportation of property known as express matter, and of property the handling or transportation of which is attended with extraordinary expense or risk, such as living animals, in less quantities than car loads, valuable furniture not boxed, powder, looking-glass plates, pianos, and the like, any rate not exceeding twice the rate such railroad companies are allowed to charge for the transportation of ordinary goods by their respective charters or other laws of this state; the term express matter in this section is to be understood as applying only to packages weighing less than one hundred pounds each, or the value of which exceeds one dollar per pound, or to property forwarded in passenger or special trains.

42. Nothing in this act shall be so construed as to exonerate any railroad company from carrying goods, other than hereinbefore mentioned, that shall be offered to their agents for transportation on the terms prescribed by their respective charters or by the laws of this state.

III. Unclaimed freight.

43. In all cases where the consignee of perishable goods, wares, and merchandise transported by any canal or railroad company in this state,

and still in possession of such company, cannot be found, or shall neglect or refuse to receive the same, or to pay the costs and expenses of the transportation thereof, application may be made in writing by said company or their agents to two justices of the peace of this state, and said justices upon proofs made to their satisfaction that said goods, wares, and merchandise, have been transported by said company, and are perishable, that the consignee thereof cannot be found, or neglects or refuses to receive the same, or to pay the costs and expenses of the transportation thereof, shall issue an order under their hands and seals, commanding a constable to sell said goods, wares, and merchandise by public vendue, at the time and place therein named, due notice whereof shall be given by advertisement signed by said constable, at such places and for such time as said justices shall direct.

when they cannot be delivered, and how.

P. L. 1855, p. 352

44. The fees of said justices and constable, and the costs and expenses of said transportation shall first be paid out of the proceeds of said sale, and the balance (if any) shall be paid over to the clerk of the county, who shall pay the same to the person entitled thereto (if claimed by such person or persons within two years), upon the order of a judge of the court of common pleas of said county, made upon due proof of said claims, and if the same is not claimed in two years, shall pay the same into the school fund of this state.

Regulations as to fees and proceeds of sale.
Ib. § 1.

45. It shall be lawful for any railroad and transportation company, chartered by this state, to sell at public auction all articles of freight or baggage, transported by such company to any station on their respective roads, which may have remained at such station for six months or over, and not called for by owner or owners, or consignee or consignees, or when the owner or consignees cannot be found, or is unknown; and may in like manner sell all articles of a perishable nature in two days, if such articles would depreciate in value by being longer kept; *provided*, that before such sale shall be made, public notice shall be given by six insertions in the newspapers and by notices set up in at least three of the most public places in the neighborhood, where the sale is to take place, naming the articles to be sold, the time and place of sale, in at least five of the most public places, at least five days before the time of sale; and in case of sale of perishable articles, such notice shall be at least one full day; *provided*, that such sale shall not take place before ten o'clock in the morning, or after four o'clock in the afternoon, nor elsewhere than in a public place.

Goods remaining unclaimed six months may be sold, and how.

P. L. 1858, p. 461.

46. The proceeds of said sale shall go first to defray the costs and expenses of said sale, and then to the account of freight and charges of the railroad company on said freight and baggage, and the balance, if there be any, shall be paid over to the legal owner or owners.

Distribution of proceeds of sale.

P. L. 1858, p. 461.

47. When any freight may have been carried over any railroad, and delivered by the company at any point specified by the shippers, other than the depot of the company, the said company shall not be responsible for the safety and security thereof. (a)

No responsibility for delivery except at depot.

48. It shall be lawful for any express company chartered by this state, to sell at public auction any unclaimed freight, articles or goods not perishable, which may have been in their possession for six months or over, and when the owner or owners, consignee or consignees, are unknown, cannot be found, or refuse to receive such freight, articles or goods; and may in like manner sell all articles of a perishable nature in five days, if such articles would depreciate in value by being longer kept; *provided*, that before such sale shall be made, public notice shall be given by six insertions in the newspapers, and by notices set up in at least three of the most public places of the neighborhood, at which such freight, articles or goods were directed to be left, and where the sale is to take place, naming the articles to be sold, the name of the person to whom directed, if known, and the time and place of sale, at least five days before the time of sale; and in case of sale of perishable articles, such notice shall be sufficient, if so set up at least three full days, and also advertise one insertion in a newspaper printed in the immediate neighborhood.

Express companies may sell unclaimed goods.

P. L. 1860, p. 609.

49. Every sale made, as provided in the foregoing section, shall be made in some public place, between the hours of ten o'clock in the forenoon and

Regulation of such sales.

(a) As to the degree of care required after goods have been stored in their stations, see *Morris and Essex R. R. Co. v. Ayres*, 5 *Dutch*. 398.

four o'clock in the afternoon, and if the residence of the person to whom the article is directed be known, the company shall serve a copy of the notice of sale on such person before the sale; and it shall be the duty of every express company making a sale, as aforesaid, to keep a book in which shall be recorded a list of all articles sold by them, the price for which, and the name of the person to whom each article is sold, and the expenses of advertisement and sale, the name of the person or firm to whom it was directed, and the name of the owner and person by whom it was delivered to said company, if known, and shall once in each year file a true transcript from said books in the office of the clerk of the county where such property is sold.

Distribution of proceeds.

50. The proceeds of said sale shall go first to defray the costs and expenses of said sale, and then to the account of freight and charges of the express company on said freight, articles or goods, and the balance, if there be any, shall be paid over to the legal owner or owners; and if no person or persons shall, within one year after the sale, claim the net proceeds thereof, then said company shall pay the same over to the overseer of the poor of the city, township or borough where such sale is made.

IV. Reports required.

Annual reports to be made by railroads.

P. L. 1852, p. 82.

51. Every railroad company in this state shall, on the first Tuesday of January, in each and every year, make to the legislature a report, under oath or affirmation of the president of said company, containing an account of their capital stock actually paid in, and the amount of funded and other debts of said company; also of the costs of said road and equipments; also of the operations of the said company during the year preceding, up to the first day of January aforesaid; also the expenditures for working the said roads, including repairs, maintenance of way, motive power and contingencies; also the income from passengers, freight and other sources; also the amount of dividends, and how paid; also the accidents that have occurred during said year on the road, and the cause of the same, with the names of the persons injured, and the nature and extent of their injuries; also the names of the engineers and conductors under whose management such accidents have occurred, and whether such engineers and conductors are still retained in the employ of said companies.

Canal companies to make annual reports.

52. Every canal company of this state shall, on the first Tuesday of January in each year, make to the legislature a report, under oath or affirmation of the president of said company, containing an account of the capital stock of said company actually paid in, and the amount of funded and other debts of said company; also of the cost of the canal and appurtenances; also of the expenditures for repairs, superintendence and management of the same, under their appropriate heads; also of the income during the year from passengers, freight and other sources, and the amount of dividends, and how paid.

Reports transmitted and filed.

P. L. 1853, p. 445.

" 1873, p. 121.

53. The reports provided for as aforesaid shall be transmitted to the comptroller of the treasury, who shall file the same in his office, there to remain of record, and that copies of the said reports shall be made out by the said secretary, and transmitted to the legislature on the first Tuesday of February of each year.

Penalty for failure to report, and disposition of fines.

P. L. 1853, p. 445.

54. Upon the failure of any railroad or canal company of this state to make report to the legislature, in accordance with the provisions of the first and second sections of the act to which this is a supplement, by the first Tuesday of February in each year, they shall respectively forfeit and pay to the state for every such omission the sum of ten thousand dollars, to be sued for and recovered against them in an action of debt, with costs of suit.

Fines recovered to go to school fund.

55. All fines recovered from any incorporated companies in this state, under the provisions of this act, shall be added to the school fund of this state, for the benefit of public schools.

V. Provisions respecting railroads sold under mortgage.

Sale of roads or canals under

56. Whenever any railroad, canal, turnpike or plank road in this state of any corporation, created by or under any law or laws of this state, shall

be sold and conveyed under or by virtue of any decree or decrees of the court of chancery of this state, or of the circuit court of the United States in and for the district of New Jersey, sitting in equity, and an execution or executions issued thereon, to satisfy any mortgage debt or debts, judgment or judgments, or other incumbrance or incumbrances thereon, such sale and conveyance, duly made and executed, shall vest in the purchaser or purchasers thereof all the right, title, interest, property, possession, claim, and demand, in law and equity, of the parties to the suit or suits, action or actions, in which such decree or decrees was or were made, of, in, and to the said railroad, canal, turnpike, or plank road, with its appurtenances; and also, of, in, and to the corporate rights, liberties, privileges, and franchises of the said corporation, but subject to all the conditions, limitations, restrictions, and penalties of the said corporation of and concerning the same; and such purchaser or purchasers, and his or their associates, not less than fifteen in number, shall thereupon become a new body politic and corporate, in fact and in law, by the name of the aforesaid corporation, and shall be deemed and considered the stockholders of the capital stock of such new body politic and corporate, in the ratio and according to the amount of the purchase money by them respectively contributed; and shall be entitled to all the rights, liberties, privileges, and franchises, and be subject to all conditions, limitations, restrictions, and penalties of and concerning the said railroad, canal, turnpike, or plank road, so sold and conveyed, which were contained in the act or acts creating, or under which the aforesaid corporation was created, and the supplements thereto, so far as the same was or were in force and unrepealed at the time of such sale and conveyance; and it shall and may be lawful for the said new body politic and corporate, at any time within one year after such sale and conveyance, to organize themselves as a corporation by the aforesaid name, by electing a board of directors, and the election or appointment of a president and such other officers as shall or may be authorized or required by the aforesaid act or acts and supplements thereto, and to make and issue certificates of the capital stock of such new corporation to the said purchaser or purchasers and their associates, to the amount of their respective interests therein; and it shall be the duty of such new corporation, within one calendar month after its said organization, to make a certificate thereof, under its common seal, attested by the signature of its president, specifying the date of such organization, and the names of its president and directors, and transmit the said certificate to the secretary of state, at Trenton, to be filed in his office, and there remain of record; *provided*, that no such sale and conveyance, and organization of such new corporation shall in any wise affect or impair any right or rights in law or equity, of any person or persons, body politic or corporate, not a party or parties to the suit or suits, action or actions, in which the aforesaid decree or decrees was or were made, nor of the said party or parties, except so far forth as determined by said decree or decrees; *and provided also*, that when any trustee or trustees shall be made a party or parties to such suit or suits, action or actions, and their *cestuis que trust*, for any reason or reasons satisfactory to the court in which such suit or suits, action or actions may be, shall not be made a party or parties thereto, the rights and interests of such *cestuis que trust* shall be concluded by such decree or decrees.

57. Whenever any railroad, canal or turnpike company, incorporated under the laws of this state, have become insolvent or failed for ninety days after the same becomes due to pay the principal or interest on any mortgage on the property or franchises of such company, it shall be lawful for the chancellor, upon the application of any creditor, mortgagee or stockholder of such company, to appoint a receiver or receivers, or three trustees, who shall have and exercise all the powers and authority that it is lawful for receivers and trustees to exercise under the "act concerning corporations," and it shall be lawful for such receivers or trustees to sell or lease the canal, railroad or turnpike belonging to such company, together with all the chartered rights, privileges and franchises of such company; and the purchaser or purchasers, lessee or lessees, of such work, chartered rights, privileges and franchises, shall thereafter hold, use and

mortgage to vest franchises and create new corporation.

P. L. 1858, p. 215.

Proviso

When receiver may be appointed.

P. L. 1870, p. 55.

Receivers may sell or lease canal, railroad or turnpike.

Upon filing certificate with secretary of state, the purchasers become a corporation, &c.

enjoy the same during the whole of the residue of the term limited in the charter of such company, or during the term in such lease specified, in as full and ample a manner as the stockholders of such company could or might have enjoyed the same, subject, however, to all the restrictions, limitations and conditions contained in such charter; and upon filing in the office of the secretary of state, within six months after such sale or lease, a certificate that they accept the charter of the company whose property has been sold or leased, under some corporate name different from that of the said company, such purchasers or lessees shall become a corporation under the name so specified, with all the powers, rights, privileges and franchises of the former company; the lessees or purchasers or corporation formed by them as aforesaid, shall hold and enjoy the same free and clear of all debts, claims and demands of creditors, mortgagees, or stockholders, who shall look only to the fund arising from such lease or sale, which money, as collected, shall be paid into the court of chancery; but where such property is subject to a mortgage, the chancellor shall, if the principal is not due, direct a sale or lease to be made subject to the lien of the mortgage.

VI. Canal companies.

Masters on Delaware and Raritan canal to exhibit manifest; form thereof.

R. S. 1035.

58. Every master or other person having charge or command of any vessel or boat navigating the Delaware and Raritan canal, shall produce to each and every collector of tolls a manifest in writing, containing a just and particular account of all the goods, wares, merchandise, and other matters on board of such vessel or boat; and it shall and may be lawful for such collectors of tolls, if they shall deem it advisable to require the said master, or other person having charge or command of any such vessel or boat, to declare to the truth of such manifest, which declaration shall be on oath or solemn affirmation, before such collector so requiring it, in manner and form following, to wit: "I do solemnly, sincerely, and truly swear (or affirm), that the manifest subscribed with my name, and now delivered by me to ——— one of the collectors of tolls of the Delaware and Raritan Canal Company, contains, to the best of my knowledge and belief, a just and true account of all the goods, wares, and merchandise, including packages of every kind and nature whatsoever, which now are or were on board the ——— at the time of her entering the Delaware and Raritan canal; that I am at present, and have been since her entering the said canal, master of the said vessel or boat; that no package whatsoever, or any goods, wares or merchandise, have, to the best of my knowledge and belief, been unladen, landed or taken out, or in any manner whatever removed from on board the said vessel or boat, since her entering the said canal at ——— excepting such as are now particularly specified and declared in the account herewith."

Penalty for false manifest.

59. If on examination of the cargo of the said vessel or boat, by the said collector of tolls, it shall turn out that such manifest does not contain a just and true account of the said cargo, the master or other person having the charge or command of such vessel or boat shall forfeit and pay the sum of one hundred dollars to the said Delaware and Raritan Canal Company, to be recovered in their name in an action of debt, with costs; and it shall be lawful for the collector of tolls to detain such vessel or boat till the said penalty and costs be paid, unless said master, or other person having charge or command of such vessel or boat, shall enter into bond to said company, with one or more sureties, being freeholders in this state, in the penal sum of two hundred dollars, conditioned for the payment of such penalty and costs as may be recovered against him or them by virtue of this act; and immediately upon the delivery of such bond to the collector of tolls, the said vessel or boat shall forthwith be released.

Collectors of tolls may administer oaths.

60. The several collectors of tolls of the said the Delaware and Raritan Canal Company be, and they are hereby authorized and empowered to administer the oath or affirmation required by this act, to the master or other person having the charge or command of such vessel or boat; and if such master or other person having the charge or command of such vessel or boat, shall falsely, wilfully and corruptly swear or affirm, then such person so offending shall be deemed and adjudged to be guilty of

wilful and corrupt perjury, and on being convicted thereof shall be punished accordingly.

61. If any person or persons shall, in any manner, wilfully or maliciously destroy, injure, or obstruct the Morris canal, or any of its parts, or any of the works therewith connected, or thereunto appertaining, or shall wilfully or maliciously injure, or obstruct the passage of any boat therein, or navigating the same; or if any person or persons shall, against the will or consent of the person who may be by the said company appointed to have charge of, or to attend any lock or inclined plane on the said canal, open any gate of such lock or plane, or shall work or attempt to work such plane, or to pass a boat, raft, or other floating thing through or over such lock or plane; or if any person shall wilfully or maliciously let off or discharge water from the said canal, through or by any waste-weir, or waste-gate, or otherwise, or shall shut down or close, either in part or in whole, any feed-gate, or water-weir, or water-gate, which may have been opened to feed the said canal, or any part thereof, or to discharge water for the safety thereof, the person or persons so offending shall forfeit and pay to the said company the sum of twenty-five dollars, to be recovered by, and in the name of the president and directors of the Morris Canal and Banking Company, in any court having competent jurisdiction; *provided*, that nothing herein contained shall be taken or construed to prevent the said company from proceeding, if they shall elect so to do, under and pursuant to the provisions of the thirteenth section of the act entitled "An act to incorporate a company to form an artificial navigation between the Passaic and Delaware rivers," against the person or persons so offending, as in the said act is specified, and saving to the said company the right also to prosecute a civil suit, as it is given to them by the said act; but there shall, nevertheless, be no more than one penalty imposed upon any person or persons, in virtue of this act and the last mentioned act, for the same offence.

Penalty for interfering with Morris canal.
R. S. 592.

62. So much of this act as authorizes the governor to commission persons designated by a railroad corporation, to act as policemen for such corporation and regulate their commissions, powers, duties, badge, compensation, and the determination of their offices is hereby made applicable to the canal corporations of this state, and policemen so commissioned shall be designated "canal police."

Canal police authorized.

VII. Miscellaneous Provisions.

63. When any railroad corporation which has been created by the laws of any other state or states has by any law or laws passed by the legislature of this state been authorized to hold property and exercise franchises and privileges in this state, it shall be lawful for the directors of such company elected in another state to hold their meetings in this state, and exercise all the powers and franchises of such company within this state, so far as it may be necessary to transact any business of such company.

Foreign railroad companies with franchises in this state, may hold meetings here and transfer stock.

P. L. 1868, p. 550.

64. It shall be lawful for such company to have an office in this state for the transfer of stock; and the officers and agents of such company shall be authorized to transact the business of such company in this state.

May have transfer office in state.

65. Whereas, the acts incorporating some of the railroad companies in this state limit the quantity of land that said companies may hold at their stations; *and whereas*, experience has shown that the quantity so limited is insufficient for the economical and advantageous working of their road; now therefore,

Railroads may own enough land at stations for railroad purposes and depots.

P. L. 1855, p. 118.

It shall be lawful for such railroad companies in this state to purchase and hold so much lands at their stations as may be strictly necessary for most conveniently storing and working upon their engines, cars, fuel and materials to be used on their roads, and for receiving and delivering property transported on their roads to the best advantage, and for tracks, wagon roads, platforms and all other strictly station and railroad purposes; *provided always*, that any land owned as hereinbefore authorized, exceeding the quantity limited in the respective charters or supplements thereto at the stations, shall be subject to the same taxes as other lands in the same township or city may be.

To be subject to taxation.

When judges to prescribe mode of service of notice for taking lands.

P. L. 1852, p. 532.

66. In all cases of proceedings to be had under the provisions of any statute or statutes of this state, to appraise the value of any lands required for the construction of any railroad, turnpike, plank road, ferry or other public use, and to award concerning the same, where notice to the owner or owners of such land cannot be served in the manner now prescribed by law, and the execution of the powers conferred by law require it, it shall and may be lawful for the court in which, or the judge before whom such proceeding shall be commenced, to prescribe in what manner such notice shall be served or published; and service or publication thereof, in the manner prescribed, shall be valid and effectual to bind the parties to such proceeding, and their estate.

When persons held to contribute to injury and not to recover damages.

P. L. 1869, p. 806.

67. If any person shall be injured by a locomotive engine, car or cars, whilst walking, standing or playing on any railroad in this state, or by jumping on or off a car whilst in motion, such person shall be deemed to have contributed to the injury sustained, and shall not recover any damages therefor from the company owning or operating the said railroad; *provided, however,* that this section shall not apply to any person or persons crossing a railroad at any lawful public or private crossing.

Authorized to hold necessary land in other states.

P. L. 1866, p. 256.

68. It shall be lawful for any railroad, canal, or transportation company, incorporated by this state, to lease, purchase, hold and convey any real estate that may be necessary for the purpose of carrying on their business in any of the adjoining states, the laws of such state or states not prohibiting.

VIII. Supplements.

Supplement.

Approved March 15, 1876.

P. L. 1876, p. 30.

Any railroad company may abandon transportation by water in certain cases without forfeiture of its franchises.

69. SEC. 1. That whenever any railroad, has a route between *termini*, extending within, through or beyond this state, which, in so doing, traverses by ferry or steamboat, any river or sound, such company shall have the right, whenever lawfully possessed, by lease or otherwise, of the franchise to carry freight or passengers by land from the place of embarkation upon said river or sound to either of its *termini*, to make use exclusively of such franchise, and abandon, at its discretion, such transportation by said waters, and such abandonment shall constitute no ground for the forfeiture of its franchises, or for the enforcement of any penalty provided by any law heretofore passed and existing, or for any action at law or in equity against said company; *provided*, that this act shall not take effect until such provision be made by said railroad company for the transportation of passengers and freight by railroad cars in one continuous route, not exceeding in length the present route by water as will enable them to reach either of its *termini* within the time heretofore usually occupied by said transportation by water; *and provided further*, that nothing therein contained shall authorize such company to increase their rates of charges for transportation of passengers or freight between such *termini*; *provided further*, that if the connections aforesaid as contemplated in this act are not made on or before July fourth, one thousand eight hundred and seventy-seven, then this act shall be null and void; *provided however*, that this act shall not in any way apply to or affect any canal or canals within this state.

Proviso.

P. L. 1876, p. 68.

Supplement.

Approved March 30, 1876.

Intent and meaning of section 81 declared.

70. SEC. 1. That the true intent and meaning of said section which reads as follows: "the term small packages in the foregoing section, shall not be held to include bundles and packages where more than five bundles or packages are delivered to one person at one time, and where such bundles and packages so delivered can be, in the aggregate, readily weighed, either as light or bulky goods, or as ordinary freight," is hereby declared to be, and it shall be so construed as to authorize the same amount to be charged for a greater number of packages than five when delivered to one person at one time as is allowed in said section to be charged for five packages when so delivered, and no more; until the lawful charge by weight for such packages so delivered shall exceed the

amount authorized by law to be charged for five packages; *provided however*, that when bundles and small packages are delivered to one person at one time with other ordinary freight, such bundles, small packages and ordinary freight shall be aggregated, weighed, delivered and charged for as ordinary freight, in all cases when the amount of said charge shall exceed the amount authorized by law to be charged for five packages.

Proviso.

Supplement.

Approved April 11, 1876. P. L. 1876, p. 90.

71. SEC. 1. That railroad corporations now or hereafter existing by or under the laws of another state, any part of whose route, whether acquired by lease or otherwise, shall lie within this state, or who shall have been, or hereafter shall be authorized to exercise any franchises within this state, shall be deemed corporations of this state, for the purpose of being sued or proceeded against if insolvent, in the same manner and to the same extent as if organized originally therein; and no suit of foreign attachment shall be brought against any such corporation.

When foreign corporations to be deemed corporations of this state for purpose of being sued, etc.

72. SEC. 2. That in case suit shall be brought for the foreclosure of any mortgage of the franchises and railroads of any such corporation in the state of its original creation and domicile, and also of the same mortgage in the court of chancery of this state, said suit in said court of chancery shall, so far as consistent with the protection of parties having acquired liens in this state, be regarded and conducted as auxiliary to the said suit brought in said state where such corporation was originally created and domiciled; and, upon decree obtained in said last mentioned suit for the foreclosure of such mortgage, and for the sale of the property and franchises thereby conveyed, including such property and franchises in New Jersey, to pay and satisfy the said mortgage and other liens which may be established by such decree by such officers as shall be designated therefor, the said court of chancery in this state shall be empowered so to frame its decree for foreclosure and sale under said mortgage to satisfy the same and such other liens which by its said decree it shall establish, as that sale may be made thereunder, out of this state, and at the same time and place of the sale under the judgment or decree obtained in said other state, and under such regulations as to advertisement thereof as to the chancellor shall seem fit, anything in the laws of this state regulating the sale of land under executions to the contrary notwithstanding.

Proceedings in case of suit for foreclosure of any mortgage of franchises and railroad.

Decree.

73. SEC. 3. That at the time and place appointed for such sale, the person to whom the writ of execution issued upon said decree from the court of chancery of this state shall be directed, who shall be one of the masters of said court specially designated, shall not make sale under his said writ until said franchises and railroads of said corporation shall be sold under the judgment and decree obtained in said state of the original creation and domicile of said corporation; and he shall adjourn his said sale from time to time, if sale under said last mentioned judgment or decree shall be adjourned and according thereto; and whenever such sale under said last mentioned judgment or decree shall be made, then said master shall immediately and at the same time and place proceed to expose to public sale and outcry the franchises, railroads and property mentioned in and conveyed by said mortgage, and existing or exercisable within the state of New Jersey, and directed to be sold by said decree; and in such manner as that said sales shall both be made together and for the one price and bid, but it shall be a condition of said sale under said decree of said court of chancery, that the purchaser, in addition to the amount bid by him, shall pay and discharge all such sums of money as shall by its decree aforesaid be established as liens upon said mortgaged property and franchises in this state, or any part thereof, and by said decree ordered to be raised, including the costs taxed and execution fees taxable as in ordinary cases; and in case such condition shall be fulfilled, the said purchaser or purchasers shall be declared and taken to have purchased said franchises, railroads and property in New Jersey; *provided*, that no deed shall be made by said master in chancery under his said sale till after conveyance made to such purchaser by the officers selling under the said judgment in said state of the original creation and organization of such

Proceeding in case of sale.

Adjournment of sale.

When master shall proceed to expose for public sale.

Condition of sale.

Proviso.

corporation, nor until special order made by the court of chancery confirming said sale, and directing the delivery of said deed; *and provided further*, that the title vested by said sale shall be subject to all lawful mortgages or other liens as directed or specified by said decree.

Proceedings for forming a new corporation.

74. SEC. 4. That in case such purchase shall be made by, or for, or with the intent to form a new corporation in said state of the creation or domicile of such corporation the mortgage upon whose franchises and railroad was foreclosed, for the purpose of operating the franchises thereof, such new corporation, whenever formed, and possessed by the laws of the state of its creation of such mortgaged property, premises and franchises, shall, immediately upon filing proof of such formation and organization, according to the provisions of the succeeding sections of this act, become vested with all the property, rights legal or equitable, and franchises of such original corporation within the state of New Jersey, as conveyed by said decree and sale, subject only to such liens as were not affected by said proceedings of foreclosure, as fully and effectually as if such original corporation had been duly created or organized under the laws of the state of New Jersey, and such property and franchises had been duly sold under a decree of foreclosure made in said court of chancery, and thereupon a new corporation had been formed for the maintenance and operation of said railroad, and the exercise of the franchises and privileges of such original corporation according to the statutes in such cases made and provided.

New corporation to file its petition in court of chancery.

75. SEC. 5. That it shall be the duty of said new corporation, within sixty days after its formation, to file its petition in the court of chancery of this state, in said suit of foreclosure therein, stating the fact of its formation and incorporation, and appending to said petition a copy of its charter, certificate of organization, or other documentary legal evidence thereof, in which petition prayer shall be made that said court of chancery do declare it, the said corporation, to be legally created, and to have acquired the said property, rights legal and equitable, and franchises of said original corporation as aforesaid; and thereupon said court of chancery, being satisfied of the truth of such allegations, shall so decree, whereupon a copy of such petition, proceedings and decree duly certified under the seal of said court, shall be filed in the office of the secretary of state, there to be forever of record, and said record and a copy thereof, duly certified under the great seal of the state, shall be plenary evidence in all cases of the incorporation and rights within this state of such new corporation.

Certified copy of petition, &c., to be filed and recorded in office of secretary of state.

Corporation to have and possess all powers belonging to corporations organized under laws of this state.

76. SEC. 6. That such corporation, on compliance with the preceding section of this act, shall have and possess all powers belonging to corporations organized under the laws of this state, and all powers conferred by said laws upon the corporation whose franchises and property were sold and bought as aforesaid; it shall receive, have and hold the railroad property and franchises within this state included within and bound by said mortgage or sold and purchased at said sale, subject only to all liens, however created, and to all contracts, limitations, covenants and agreements relative to said mortgaged premises, property and franchises prior to the making of said mortgage, and the filing of said copy of said petition, proceedings and decree in the office of the secretary of state shall operate and be construed in all courts to operate as a covenant and agreement on its part to observe and perform all said contracts, limitations, covenants and agreements; *provided*, that in no event shall such new corporation be deemed or construed to have acquired, by virtue of any such sale or purchase, any different rights, franchises or privileges from those possessed by said original corporation, and conveyed or intended to be conveyed by such mortgage as aforesaid.

Proviso.

If receiver appointed, chancellor may order sale of property and franchises.

77. SEC. 7. That if a receiver shall have been appointed in this state, by the court of chancery, on the petition of any creditor or stockholder of any such corporation, created or organized by the laws of any other state but having part of its route and exercising franchises within this state, and upon allegations of its insolvency, of the property and franchises thereof, it shall be lawful for the chancellor to order sale of such property, real and personal, rights legal and equitable, and franchises, at the same

time and place, whether in or out of this state, of selling the property and franchises of said corporation under any decree of foreclosure as aforesaid, and in such manner as that a purchase thereof may be made on one and the same bid by such persons as shall become purchasers under the said decree; imposing on such purchasers such further conditions of the acquisition of the right, title and interest in such property and franchises, which shall be legally transferable by said receiver as shall be equitable and just; and the chancellor shall order the said corporation to join with said receiver in the conveyance of said property, rights and franchises.

78. SEC. 8. That if the property and franchises of said corporation shall have been sold under any such foreclosure as aforesaid, and purchased by, for, or with intent to form a new corporation for the operation of said franchises, it shall be lawful for the chancellor to make decree in said suit wherein such receiver was as aforesaid appointed, upon petition of said corporation, that the said original corporation and its said receiver do make conveyance to said new corporation of all and singular the property and rights, real and personal, legal and equitable, and franchises of said original corporation, upon such terms as to payment of debts, assumption of liability upon former contracts of said original corporation, and in respect to all other matters, or for such consideration whatsoever as to him, the said chancellor, shall seem equitable and just.

When property, etc., sold, chancellor may decree conveyance to new corporation.

79. SEC. 9. That such new corporation when formed, as in this act described, and having complied with the fifth section thereof, shall, in case of the conveyance by said receiver and said original corporation in manner aforesaid, receive, have and enjoy said property, and exert such franchises so conveyed to it within this state (subject, nevertheless, to all prior liens) as fully and effectually as if such purchasing corporation were organized therefor under the laws of this state, upon a purchase under the act to which this is a supplement, or the other acts of this state providing for such organization.

New corporation may have and enjoy property and franchises.

80. SEC. 10. That any railroad corporation organized under the laws of another state, but having a route and exerting franchises within this state, shall be governed by such rules, regulations and arrangements as shall be made and adopted at or under such organization not repugnant to the laws and constitution of this state.

Rules, regulations, etc., of foreign corporation.

81. SEC. 11. That this act shall apply to all suits now pending wherein such corporations are parties defendant, whether for foreclosure or on allegation of insolvency, and shall be retrospective as well as prospective.

Act to apply to suits pending, etc.

Supplement.

Approved April 21, 1876. P. L. 1876, p. 263.

82. SEC. 1. That whenever any turnpike road or steamboat company in this state shall have been sold, or may hereafter be sold or conveyed, under or by virtue of any decree or execution of any circuit court of this state, to satisfy any mortgage thereon, or the bond named therein or secured thereby, such sale and conveyance shall have the same force and effect, and the purchaser or purchasers thereof, and their associates, shall thereupon become a body politic, and be entitled to all the corporate rights, liberties, privileges and franchises of the said corporation so sold and conveyed, and be subject to all the conditions, limitations, restrictions and penalties of and concerning the said corporation, the same as if said sale and conveyance had been made under or by virtue of a decree of the court of chancery of this state; *provided*, such purchasers shall organize within three months after the passage of this act or within one year after any sale hereafter made by the name of said corporation, and by the election of a president and such other officers as said corporation was required to have by law, and shall within one month after such organization file a certificate thereof under its common seal attested by its president, specifying the date of the organization and the names of its president and directors, in the office of the secretary of state; *and provided further*, that such sale and conveyance and organization shall in no wise affect the rights of any person or corporation not a party to the suit or action in which such decree or execution was made or issued.

Purchasers of turnpike or steamboat company under decree of circuit court to be body politic, etc.

When to organize.

Supplement.

P. L. 1876, p. 307.

Approved April 21, 1876.

Stockholders of railway and canal companies may agree in writing that holders of bonds may vote at meetings, etc.

Voting may be by proxy.

Agreement to be expressed in certificate of organization or supplemental certificate.

Such agreements heretofore made valid.

Mortgage of franchises and chattels not to be filed if lodged for registry.

Award of commissioners for taking and condemning lands to be recorded.

President of corporation to be a director and entitled to vote.

Constitution of board of directors.

83. SEC. 1. That it shall be lawful for the stockholders of any existing corporation, or of any new corporation organized under the act respecting railroads and canals, upon the sale and purchase of any railroad, canal, turnpike or plank road, and of the corporate rights, liberties, privileges and franchises of the corporation owning the same, as provided for by the said act, to agree in writing that the holders of any bonds by such corporation thereafter issued and secured by mortgage of the property and franchises thereof, shall have and exercise the right of voting at all meetings of stockholders of said corporation, either for election or other purposes, in the same manner as if such persons holding such bonds were stockholders in such corporation; such voting to be either in person or by proxy, and such persons to cast as many votes in right of their said bonds as they would be entitled to cast if holders of stock of par value equal to the amount thereof, and the production of their bonds shall be evidence of their right; *provided however*, that every bond holder availing himself of the agreement provided for in this section, and voting upon his bonds shall be subject to the same liabilities as a stockholder of such corporation to the amount of his bonds.

84. SEC. 2. That such agreement contemplated in the preceding section shall be stated and expressed in the certificate of organization filed by such corporation, or in a supplementary certificate to be by the stockholders thereof at any time made and filed in like manner, as required by said act, as to the original certificate of organization; *provided*, that every certificate containing the statement of any such agreement shall be signed by all the stockholders for the time being of such corporation.

85. SEC. 3. That any such agreement heretofore made and actually carried out in the organization of any such corporation according to the terms of the certificate of organization thereof, filed in pursuance of said act, shall be as valid and effectual as if hereafter made in the manner by this act provided, and notwithstanding that the same shall not have been formally signed as aforesaid.

86. SEC. 4. That nothing in any of the laws of this state shall be held to require the filing of record in the clerk's office of any county of any mortgage given by any such corporation conveying the franchises thereof, and whereby, also, any chattels then or thereafter to be possessed and acquired by such corporation shall purport to be mortgaged; *provided*, that such mortgage shall be duly lodged for registry according to the laws regulating the conveyance of real estate.

87. SEC. 5. That the awards of commissioners for the taking and condemnation of any lands for the use of any such corporation, or for any public use whatever, hereafter filed in pursuance of the laws of this state, shall be duly recorded by the clerks of the counties wherein such lands lie, in books to be provided for that purpose, at the expense of parties filing the same, and upon payment of like fees as for the registry of deeds; and such awards heretofore filed may, at the instance of such parties, be also so recorded, and a convenient index to such books, and the records therein made, shall be made and kept in order to the better use thereof.

88. SEC. 6. That the president of every such corporation organized under the act to which this is a supplement, or under the act entitled "An act concerning the sale of railroads, canals, turnpikes, bridges and plank roads," approved March twenty-fifth, eighteen hundred and seventy-five, or under the act entitled "An act respecting railroads sold under mortgage," approved April ninth, eighteen hundred and seventy-five, shall be a director of such corporation, and entitled to vote as such; and the board of directors of such corporation shall consist of as many persons as shall have constituted such board according to the charter of the corporation originally existing and by virtue of such acts or either of them newly organized, anything in any act to the contrary notwithstanding.

IX. General railroad law.

An act to authorize the formation of railroad corporations and regulate the same.

Approved April 2, 1873. P. L. 1873, p. 88.

89. Sec. 1. That any number of persons not less than seven, in case where the proposed road is less than ten miles in length, and not less than thirteen in case where the proposed road is ten miles or more in length, may form a company for the purpose of constructing, maintaining and operating a railroad for the public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company, the number of years the same is to continue, the places from and to which the road is to be constructed or maintained and operated, the length of such road as near as may be, and the name of each county in this state through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than ten thousand dollars for every mile of road constructed or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of seven directors of the company, in cases where said road is less than ten miles in length, and the names and places of residence of thirteen directors of the company, in cases where said road is ten miles or more in length, a majority of whom shall be residents of this state, who shall manage its affairs for the first year, and until others are chosen in their places; each subscriber to such articles of association, shall subscribe thereto his place of residence, and the number of shares of stock he agrees to take in said company; on compliance with the provisions of the next section, such articles of association may be filed in the office of the secretary of state, who shall endorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and upon tendering the said articles to the secretary of state to be filed, the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association; every corporation formed under this act, in addition to the general powers set forth in an act entitled "An act concerning corporations," approved February fourteenth, one thousand eight hundred and forty-six, and the several supplements thereto, shall have power:

I. To cause such examination and surveys for its proposed railroad, to be made as may be necessary to the selection of the most advantageous route, and for such purpose by its officers and servants to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto.

II. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad, but the real estate received as a voluntary grant, shall be held and used for the purpose of such grant only.

III. To purchase, hold and use all such real estate or other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the object of its incorporation.

IV. To lay out its road as hereby provided and to construct the same, and for the purposes of cuttings and embankments to take as much more land as may be necessary for the proper construction and security for the road.

V. To exercise all other powers hereby granted.

90. Sec. 2. That such articles of association shall not be filed and recorded in the office of the secretary of state until at least two thousand dollars of stock for every mile of railroad proposed to be made, is subscribed thereto, and ten per centum paid thereon in good faith, and in cash, to the directors named in said articles of association, nor until there is endorsed thereon, or annexed thereto, an affidavit, made by at least five of the directors named in said articles, that the amount of stock required

Proceedings for the formation of a company.

P. L. 1877, p. 155.

Capital stock.

Articles of association to be filed in the office of the secretary of state.

When articles of association may be filed.

by this section has been in good faith subscribed, and ten per centum paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association as aforesaid.

Certified copy to be evidence of incorporation.

91. SEC. 3. That a copy of any articles of association filed and recorded in pursuance of this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the secretary of this state, shall be presumptive evidence of the incorporation of such company and of the facts therein stated.

Directors may receive subscriptions until whole capital stock is subscribed.

92. SEC. 4. That when such articles of association and affidavit are filed and recorded in the office of the secretary of state, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, continue to receive subscriptions until the whole capital stock is subscribed; at the time of subscribing every subscriber shall pay to the directors ten per centum on the amount subscribed by him, in money, and no subscriptions shall be received or taken without such payment.

Annual election for directors shall be held.

93. SEC. 5. That there shall be a board of thirteen directors of every corporation formed under this act to manage its affairs; said directors shall be chosen annually by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places; in the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him; vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation; the inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association; no person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen; at every election of directors the books and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

Directors to appoint president and other officers.

94. SEC. 6. That the directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws, and shall establish and fix such salaries to them and to the president as to said board of directors shall appear proper.

Proceedings in case of forfeiture of stock.

95. SEC. 7. That the directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such instalments as they may deem proper; if any stockholder shall neglect to pay any instalment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice, in writing, to be served on him personally, or by depositing the same in the post office, properly directed to him at the post office nearest his usual place of residence, stating that he is required to make such payments at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid at least thirty days previous to the day on which such payment is required to be made; *provided*, that if said company shall not declare such stock forfeited then such neglecting stockholder shall be individually liable to said company for the amount unpaid upon the stock so held by him, until the whole amount of the capital stock so held by him shall have been paid to the company.

Proviso.

Stock to be deemed personal estate.

96. SEC. 8. That the stock of every company formed under this act shall be deemed personal estate, and be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable until all previous calls thereon shall have been fully paid in.

Capital stock may be increased.

97. SEC. 9. That in case the capital stock of any company formed under this act, is found to be insufficient for constructing and operating its road,

such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time, to any amount required for the purpose of constructing, maintaining and operating its railroad; such increase may be sanctioned by a vote in person or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him, at the post office nearest his usual place of residence, in the post office, at least twenty days prior to such meeting; such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock; the proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

98. SEC. 10. That as often as any contractor for the construction of any part of a railroad which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; the said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor; such notice shall be given by such laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made; such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney, and shall be served on an engineer, agent, or superintendent employed by such company having charge of the section of the road on which such labor was performed, personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age; but no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided; *provided*, that the liability of the company under this section shall not exceed its liability to the contractor; *and provided further*, that any payments made to such laborers shall be a full discharge to the company from such contractor for the amount so paid.

Proceedings in case of indebtedness by contractor for labor performed in construction of road.

Proviso.

99. SEC. 11. That any railroad constructed under the provisions of this act shall not exceed a hundred feet in width, unless more land shall be required for the slopes of cuts and embankments, with as many sets of tracks and rails as such company incorporated under this act may deem necessary; and it shall be lawful for the said company, its agents, engineers, superintendents, or others in its employ, to enter at all times upon all lands or waters for the purpose of exploring, surveying, leveling, and laying out the route or routes of such railroad, and of locating the same, and to locate all necessary works, buildings, conveniences, appurtenances and appendages thereof; doing no unnecessary injury to private or other property; and when the route or routes of such railroad and the location or locations of other works, buildings, conveniences, appurtenances and appendages thereof shall have been determined upon, and a survey of such route or routes, location or locations, deposited in the office of the secretary of state, then it shall be lawful for every corporation formed under this act, upon payment or tender of such compensation as is hereinafter provided, by its officers, agents, engineers, superintendents, workmen and other persons in their employ, to construct, maintain and operate a railroad with a single or double track, with such side tracks, turnouts, offices and depots as they may deem necessary between the points named in the articles of association, commencing at or within and extending to or into any town, city or village named as the place of the *termini* of such road, and construct, maintain and operate branches from the main line to other towns or places within the limits of any county through which said road

Width of road.

may pass, lay rails, and for that purpose to enter upon, take possession of, hold, have, use, occupy, and excavate any lands, and to erect embankments, bridges, and all other necessary works, and to do all other things which may be suitable or necessary for the completion, repairs or management of said railroad, and for the conveyance of passengers and freight to and from the terminus thereof by steam or other motive power; *provided, always* that the payment or tender of the payment of all damages for the occupancy of all lands through, under or upon which the said railroad and its conveniences, appurtenances, and appendages may be laid out or located be made before the said company, or any person under their direction or employ shall enter upon or break ground in the premises, except for the purpose of surveying and laying out said railroad and its conveniences, appurtenances and appendages, and of locating the same, unless the consent of the owner or owners of such lands be first had and obtained.

100. SEC. 12. That when any company incorporated under this act or its agents cannot agree with the owner or owners of such required lands for materials, or the use or purchase thereof, or when by the legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the land or materials so required for the use of such company incorporated under this act in the construction of said road, shall be given in writing, under oath or affirmation of some engineer or proper agent of the company, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, if known, and their residence, if the same can be ascertained, to one of the justices of the supreme court of this state, who shall cause any company incorporated under this act to give notice thereof to the persons interested, if known and in this state, or if unknown and out of this state, to make publication thereof as he shall direct, for any term not less than ten days, and to assign a particular time and place for the appointment of the commissioners hereinafter named, at which time, upon satisfactory evidence to him of the service or publication of such notice aforesaid, he shall appoint under his hand and seal three disinterested, impartial and judicious freeholders, residents in the county in which the land or materials in controversy lie or the owners reside, commissioners to examine and appraise the said land or materials and to assess the damages, upon such notice to be given to the persons interested as shall be directed by the justice making such appointment, to be expressed therein, not less than ten days; and it shall be the duty of said commissioners (having first taken and subscribed an oath or affirmation before some person duly authorized to administer an oath, faithfully and impartially to examine the matter in question and to make a true report according to the best of their skill and understanding), to meet at the time and place appointed and to proceed to view and examine the said land or materials, and to make a just and equitable estimate or appraisal of the value of the same, and an assessment of damages to be paid by the company for such lands or materials and damages aforesaid, which report shall be made in writing under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter together with the aforesaid description of the land or materials, and the appointment and oaths or affirmations aforesaid, in the clerk's office of the county in which the land or materials are situate, to remain of record therein and thereupon and on payment or tender of payment of the amount awarded as hereinafter provided, the said company is hereby empowered to enter upon and take possession of the said lands or materials for the purposes aforesaid, and the said report or a copy thereof certified by the clerk of said county and proof of payment or tender of the amount awarded shall at all times be considered as plenary evidence of the right of any company incorporated under this act, to have, hold, use, occupy, possess and enjoy the said land or materials, or of the said owner or owners to recover the amount of said valuation, with interest and costs in an action of debt in any court of competent jurisdiction, in a suit to be instituted against the company if they shall neglect or refuse to pay the same for twenty days after demand made of their treasurer, and shall from time to time constitute a lien upon

Proviso.

Proceedings when company and owner of lands cannot agree.

Appointment of commissioners.

Meeting of commissioners.

Report of, filing.

On payment or tender of amount awarded company may enter upon lands.

the property of the company in the nature of a mortgage; and the said justice of the supreme court shall upon application of either party, and on reasonable notice to the others, tax and allow such costs, fees and expenses to the justice of the supreme court, commissioners, clerks and other persons performing any of the duties prescribed in this section as he shall think equitable and right, which shall be paid by the company; *provided always*, that should any company incorporated under this act, or the owner or owners of any of the land or materials, feel aggrieved by the decision of the commissioners aforesaid, he, she or they may appeal to the next circuit court in the county wherein the said land or material may be.

Proviso.

101. SEC. 13. That every appeal from the decision of the commissioners appointed under the preceding section shall be made in writing and in the form of a petition to said court, and filed with the clerk of the said circuit court of the county wherein the land or materials appraised by the said commissioners shall be, and notice in writing of such appeal shall be given to the opposite party within ten days after the filing thereof, which proceeding shall vest in the circuit court full right and power to hear and adjudge the same, and to direct a proper issue for the trial of said controversy to be formed between the said parties, and to order a jury to be struck and a view of the premises to be had, and the said issue to be tried at the next term of said court to be holden in the said county upon the like notice and in the same manner as other issues in the said court are tried; and it shall be the duty of the said jury to assess the value of the said land or materials and damages sustained, and if they shall find a greater sum than the said commissioners shall have awarded in favor of the said owner or owners, then judgment thereon with costs shall be entered against any company incorporated under this act and execution awarded therefor; but if the said jury shall be applied for by the owner or owners and shall find a less sum than the said company shall have offered or the said commissioners shall have awarded, then costs shall be paid by the said applicant or applicants, and either deducted out of said sum found by the said jury or execution awarded therefor as the court shall direct; but such application shall not prevent the company from taking the said land upon filing the report aforesaid; *provided*, that in no case whatever shall said company incorporated under this act enter upon or take possession of any land of any person or persons for the purpose of actually constructing said railroad or of making any erection or improvements whatever or otherwise appropriating said lands to the use of any company incorporated under this act until they have paid to the party or parties entitled to receive the same the amount assessed by the commissioners as the value of such land or damages, in case the report of the commissioners is not appealed from, or if the same is appealed from, then the amount which shall be found by the jury by whom the issue shall be tried; but in case the party or parties entitled to receive the amount assessed by the commissioners in case there shall be no appeal, and in case of appeal the amount found by the jury, shall refuse upon tender thereof being made to receive the same, or shall be out of the state or under any legal disability, then the payment of the amount assessed or found as aforesaid into the circuit court of the county wherein the said lands lie, shall be deemed a valid and legal payment; *and further*, that the party or parties entitled to receive the amount assessed by the commissioners may, upon tender thereof being made, receive the same without being barred thereby from his or her appeal from the report of the commissioners; and on such tender or payment of the money into court, in case it be refused as aforesaid, or in case the said company incorporated under this act shall appeal from the finding of said commissioners, then the said company, upon payment of the amount so assessed or found as aforesaid into said circuit court, shall be empowered to enter upon and take possession of the said lands and proceed with the work of constructing its road.

Appeals to be made in writing and filed with clerk of circuit court.

Proceedings on appeal.

P. L. 1877, p. 192.

Proviso.

102. SEC. 14. That it shall be the duty of any company incorporated under this act to construct and keep in repair good and sufficient bridges and passages over, under and across the said railroad where any public or other road now or hereafter laid, shall cross the same, so that the passage of carriages, horses and cattle on the said road shall not be

Shall keep in repair and maintain bridges over public roads, &c.

impeded thereby; and also where the road shall intersect any farm or lands of any individual, to provide and keep in repair suitable and convenient wagon ways over, under and across the said railroad, and shall also construct and maintain suitable and proper cattle guards at all road crossings; *provided*, that in case said railroad shall cross any street or highway in any city, it shall be either above or below the grade thereof, at such distance as shall not interfere with the free and uninterrupted use of said streets or highways; *provided further*, that the common council of any city may grant permission to said company to cross such streets or highways at grade, if they shall deem it to be to the best interest of said city.

103. SEC. 15. That any company incorporated under this act, shall have power to have constructed, or to purchase with the funds of the company, all machinery, engines, wagons, carriages or cars for transportation of persons or any species of property on the said railroad, and any such company shall have power and be authorized to demand and receive such sums of money for the transportation of persons and property on said railways and their connections, and for any other services connected with the business of transportation on or over said railways or to and from the same as it from time to time shall think reasonable and proper; *provided*, that said company shall not charge more than three cents per mile for carrying each passenger, and tickets for passengers shall be good until used, but no charge shall be required in the aggregate to be less than ten cents, nor shall said company charge more than ten cents per mile per ton for the transportation of any description of property; *provided*, that any company formed under the provisions of this act shall not be entitled to charge or receive any greater sum of money for freight upon goods, wares or merchandize transported between way stations, or between a terminal station and a way station than they charge and receive for freight upon such goods, wares, and merchandize between the terminal stations of such railroad, and the said railroad with its appendages, and the lands over which the same shall pass, and all the work and improvements, and all other property whatsoever belonging to the company shall be and are hereby declared to be vested in the said company, and its successors, for and during the continuance of its charter.

104. SEC. 16. That the president and directors of any company incorporated under this act shall declare and make such dividends as they may deem prudent and proper from time to time, out of the net profits of the said railroad.

105. SEC. 17. That any company incorporated under this act may purchase, have and hold real estate at or near the commencement and termination of the said road, or at any other point on the line of the said road where the directors may think proper to establish a depot, not exceeding ten acres at each place, and may also erect and build thereon houses, warehouses, workshops and such other buildings and improvements as they may deem expedient for the safety of their property, and for other necessary uses appertaining to their business, and receive the rents and emoluments thereof, and may build and maintain over such streams as the road may cross, such piers and bridges as they may deem expedient; and that all lands, tenements, hereditaments and real estate acquired by any such company not used by it for the immediate use and occupancy of its rails, tracks, depot and freight buildings shall be subject to the same tax as the property of individuals, and said tax shall be assessed, levied and collected by the authorities where the same may lie, in the same manner as other taxes are levied, assessed and collected, any law, custom or usage to the contrary, notwithstanding; and that it shall be lawful for any corporation incorporated under this act at any time during the continuance of its charter to lease its road, or any part thereof, to any other corporation or corporations of this or any other state, or to unite and consolidate as well as merge its stock, property, and franchises and road with those of any other company or companies of this or any other state, or to do both; and such other company and companies are hereby authorized to take such lease, or to unite, consolidate as well as merge its stock, property, franchises and road with said company, or to

do both, and after such lease or consolidation the company or companies so acquiring said stock, property, franchises, and road, may use and operate such road and their own roads, or all or any of them and transport freights and passengers over the same, and take compensation therefor, according to the provisions and restrictions contained in this act, notwithstanding any special privilege heretofore granted, or hereafter to be granted to another corporation for the transportation of freights and passengers between any points on the lines of said roads or any other points within or without this state; *provided, however*, that nothing in this act shall authorize any railroad companies incorporated under a special act of the legislature, to charge for transportation of freight or passengers over the roads constructed under said special act more than they may be authorized to charge by the provisions of their respective acts of incorporation.

Proviso.

106. SEC. 18. That if any person shall wilfully impair, injure, destroy or obstruct the use of the railroad enjoyed under the provisions of this act or of any of their necessary works, wharves, bridges, carriages, or machines, such person or persons so offending, shall forfeit and pay to such company incorporated under this act, the sum of fifty dollars, to be by them recovered in any court having competent jurisdiction, in an action of debt; *and further*, shall be liable for all damages sustained.

Penalty for injury to property.

107. SEC. 19. That as soon as any railroad or any part thereof, is in operation, the president of the said company shall file, under oath or affirmation, a statement of the amount of the cost of the said railroad, including equipment, appendages and all expenses, in the office of the comptroller of the state, and annually thereafter on the first Monday of January of each year, he shall, under oath or affirmation, make a statement to the comptroller of the state, of the cost, equipment, appendages and expenses of said road, including the cost of road bed; and after the said railroad or any part thereof shall be in operation, the said corporation shall pay to the treasurer of this state a tax of one-half of one per centum on the cost, equipments and appendages of said road, including the cost of road bed, to be paid annually thereafter on the first Monday of January of each year, and such other taxes as may be assessed from time to time by a general law, applicable to all railroads over which the legislature shall have power for that purpose, at the time of the passage of such law or laws, and the said corporation shall be regularly assessed and pay tax for the value of its real estate, (excepting the road bed one hundred feet in width), improvements thereon, and personal property as now taxed in the city or cities, township or townships wherein it lies, at the same time and rate, and in the same manner, for the same purposes, and by the same person or persons, as the other taxes assessed in said city or cities, township or townships.

Statement of cost of road shall be filed with comptroller.

State tax.

108. SEC. 20. That any company incorporated under this act, shall have power to borrow such sum or sums of money, from time to time, not to exceed in the whole its paid up capital stock, as shall be necessary to build, construct or repair their road, and furnish all necessary engines and other equipments for the uses and objects of said company, and to secure the repayment thereof by the execution, negotiation and sale of any bond or bonds, and secured by mortgage on said lands, privileges, franchises and appurtenances of and belonging to the said company; *provided*, that said company shall not plead any statute or statutes against usury in any court of law or equity in any suit instituted to enforce the payment of any bond or mortgage executed under the provisions of this section; *and provided further*, that said bonds shall constitute a first lien on the railroad, its cars, real estate and franchises, and the proceeds of said bonds shall be used for the purpose of aiding in the construction of said railroad.

May borrow money and issue bonds therefor.

Proviso.

109. SEC. 21. That whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike, or plank road, such highway, turnpike or plank road may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plank road desirable, with a view to a more easy

Proceedings when additional lands are taken.

ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plank road, on such new line as may be deemed requisite by the directors, unless the lands so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands, the same, when so taken, shall become a part of such intersecting highway, turnpike or plank road, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plank road may be held for highway purposes.

Conductors,
brakeman, &c.,
to wear badge.

110. SEC. 22. That every conductor, baggage master, engineer, brakeman, or other servant of any railroad corporation employed in a passenger train or at stations for passengers, shall wear upon his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed; no conductor or collector without such badge shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

May connect
with other rail-
roads.

111. SEC. 23. That companies whose roads shall be constructed under the provisions of this act shall have the right to connect their roads with any railroads within this or any other state upon such terms as may be agreed upon by those who have the management of said roads, and in case of a failure of an agreement on the part of those having the management of said roads within this state, then and in that case either of said parties may apply to the supreme court within the jurisdiction in which said connection is proposed to be made, whose duty it shall be to appoint three disinterested citizens as herein provided for the condemnation of land, who shall determine and fix said terms, which, when approved by said court, shall be conclusive, and thereupon said companies shall be required to carry said terms into effect; and all companies whose railroads are or shall hereafter be crossed, intersected, or joined, shall receive from each other and forward to their destination all goods, merchandize, and other property intended for points on their respective roads, with the same despatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandize, and other property received at and forwarded from the same point for individuals and other corporations.

Proceedings
when agreement
cannot be made
for carrying the
mails of the U. S.

112. SEC. 24. That any such corporation shall, when applied to by the postmaster general, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandize transported in their merchandize trains, and a fair compensation for the post office car; and in case the postmaster general shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof for the service, to be fixed as aforesaid.

Proceedings in
case of refusal to
pay fare.

113. SEC. 25. That if any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling house, as the conductor shall elect on stopping the train; *provided*, that no passenger shall be put off on any bridge or in any dangerous place.

Proviso.

Notice to be
made of the time
of starting and
running cars.

114. SEC. 26. That every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall within a

reasonable time previous thereto be offered for transportation at the place of starting, and the junctions of other railroads, and at usual stopping places established for receiving and establishing way passengers and freights for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises.

115. SEC. 27. That a check shall be affixed to every parcel of baggage when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture, so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; *and further*, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train, and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him to prove the contents and value of said baggage.

Checks for baggage.

116. SEC. 28. That in forming a passenger train, baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars; and if they or any of them shall be so placed, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor and be punished accordingly.

Lumber or freight cars not to be placed in rear of passenger cars.

117. SEC. 29. That a bell shall be placed on each locomotive engine and rung at the distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street, and be kept ringing until it shall have crossed such road or street; or a steam whistle shall be attached to each locomotive engine and be sounded at least eighty rods from the place where the railroad shall cross any such road or street, except in cities, and be sounded at intervals until it shall have crossed such road or street, under a penalty of twenty dollars for every neglect of the provisions of this section, to be paid by the corporation owning the railroad, to be sued for by any informer within ten days after such penalty was incurred; one-half thereof to go to the informer and the other half to go to the county; and said corporation shall also be liable for all damages which shall be sustained by any person by reason of such neglect.

Bell on locomotive to be rung at street and road crossings.

118. SEC. 30. That every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street, where the same is crossed by the railroad on the same level; said boards shall be elevated so as not to obstruct the travel and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words "look out for the locomotive;" but this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets.

Sign boards to be erected.

119. SEC. 31. That if any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

Penalty for intoxication while in charge of engine &c.

120. SEC. 32. That every corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with openings or gates or bars therein, and farm crossings of the road for the use of proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings suitable and sufficient to prevent cattle and animals from getting on to the railroad; until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agent or engines to cattle, horses or other animals thereon; and after such fences and guards shall be duly made and main-

Fences to be kept up and maintained, and cattle guards at road crossings.

tained, the corporation shall not be liable for any such damages, unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards other than at farm crossings, without the consent of the corporation, he shall, for every such offence, forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved; it shall not be lawful for any person other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

Company not liable for injury to passengers riding on platform.

Proviso.

121. SEC. 33. That in case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside of its passenger cars then on the train, such company shall not be liable for the injury; *provided*, said company at the time furnished seats inside its passenger cars sufficient for the proper accommodation of its passengers.

Time for commencement and completion of road.

Proviso.

122. SEC. 34. That the said company shall commence the proposed road within six months from the date of their organization, and if the said proposed road be not more than fifty miles in length, the said company shall open and complete at least one track of said road, within two years from the date of commencement, as aforesaid; and if the said road shall exceed fifty miles in length, the said company shall have an additional six months to complete their road for each twenty miles more than the fifty miles aforesaid; *provided*, the road shall be opened for public use in all cases when fifty miles of the track are laid; *provided further*, that any company organized under this act and failing to comply with the provisions of this section, shall thereby forfeit the franchises given it by this act; *provided further*, that if any company now or hereafter organized under said entitled act has been or shall be restrained, prevented or enjoined by the order of any court or judge thereof or by any proceedings whatever at law or in equity from prosecuting the work on its road or from opening or completing its said road the time during which any such company has been or shall be so restrained, prevented or enjoined shall not be taken or computed as any part of the time allowed and limited in said section for the opening and completion of said road or of any part or section of such road.

P. L. 1877, p. 50.

Penalty for violation of certain provisions of this act.

123. SEC. 35. That any company, association, person or persons, violating or neglecting to comply with any of the provisions of the first or second sections of this act, shall be liable to a penalty of two hundred and fifty dollars for each and every offence, to be sued for and recovered in the name of the state of New Jersey; one-half of which fines when recovered, shall be paid to the informer, and the other half into the county treasury, where the action shall be tried or the conviction had.

Power to build viaducts over navigable streams, &c.

124. SEC. 36. That it shall be lawful for any company incorporated under this act, in addition to the power hereinbefore given, to build viaducts over any navigable or other rivers, streams or bay of water which said railroad may cross, putting in such viaduct a pivot draw with two openings, each of no less width than the widest opening of any viaduct or bridge now built over any such river, stream or bay of water at right angles to the main channel, located at a point convenient for navigation, and such company shall at all times, when such river, stream or bay is navigable, for the safety of persons navigating the same, cause to be kept a red light at each outer side of said draws, and a white light on each inner side of said draws, which shall be lighted every evening at or before sunset, and be kept lighted till daylight, and shall also keep or cause to be kept, a suitable person or suitable persons at each of said bridges to open the draws for the free passage of all vessels with standing masts or pipes; and for each and every neglect to keep such light, and to open the draws when necessary, the said company shall forfeit and pay the sum of one hundred dollars, to be recovered with costs, in any court having jurisdiction thereof, by any persons who shall sue for the same, within six months after the time of such neglect; *provided*, that corporations formed under this act shall not take any land under water

Proviso.

belonging to this state until the consent of the riparian commissioners shall first be had and obtained, who are hereby authorized to convey the same on receiving such compensation as they may fix; *provided further*, that no corporation organized under this act shall be authorized to take, use or occupy by condemnation any lands belonging to the state of New Jersey, or any franchise, lands, or located route of any bridge, railroad, canal, turnpike, or other corporation chartered for the purpose of facilitating transportation, except for the purpose of crossing said lands or route of said corporation, and except the lands of such other corporations not necessary for the purposes of their franchises; *and provided further*, that a railroad may be located or constructed under this act on the surveyed route or location of any other railroad, with the consent of such corporation, and not otherwise; *and provided further*, that no railroad under this act shall cross another railroad at a less angle than twenty degrees; *provided, however*, that this supplement shall apply only to railroads already built and now in operation and which shall desire to change a crossing now existing.

P. L. 1877, p. 98.

125. SEC. 37. That the governor, the chancellor, vice chancellor, the justices of the supreme court and the judges of the court of errors of this state, secretary of state, state treasurer, comptroller of the treasury, clerk in chancery, clerk of the supreme court, adjutant general, quartermaster general, state librarian, state prison keeper and superintendent of public schools of New Jersey, while traveling for the purpose of discharging the duties of their offices, and the members and officers of both houses of the legislature of this state shall pass and repass free of charge on the railroad of any company incorporated under this act.

Who may ride free.

126. SEC. 38. That no franchise heretofore granted to construct a railroad, or to build or establish bridges or ferries, or operate any line of travel, and take tolls or fares therefor, shall hereafter continue to be or be construed to remain exclusive, and that no like franchise hereafter granted shall be or be construed to be exclusive, unless in such grant heretofore made or hereafter to be made it be so expressly provided, and the provisions of the second section of the act entitled "An act to prevent accidents on railways," approved March thirtieth, one thousand eight hundred and sixty-nine, shall not be considered to extend to or to affect in any way or manner corporations which may be formed under this act; all corporations organized under this act shall be subject to all general laws, now or hereafter to be passed, regulating railroads and their operations.

Franchise heretofore or hereafter to be granted not to be exclusive.

127. SEC. 39. That this act shall be deemed a public act and shall take effect immediately, and the legislature may alter, amend or repeal the same, but such repeal or alteration shall not affect any corporations heretofore organized, unless the act making such repeal or alterations shall so expressly declare.

Legislature may alter, amend or repeal act.

Supplement.

Approved March 9, 1877.

P. L. 1877, p. 173.

128. SEC. 1. That whenever the location of the route of any railroad incorporated under this act shall have been made, it shall be lawful to relocate any part of said railroad which is not built, in the same manner and under the same conditions as though the part to be relocated had never been located; *provided, however*, that if such change shall be made in any part of the route located, it shall be incumbent upon the company making such change to first secure the consent of any stockholder or subscriber who holds stock, on the condition of such location, before such change of location shall be made; *and provided further*, that no railroad constructed under this act shall change the location in any city except to comply with an ordinance of the common council of said city already passed; *and provided further*, that no change of location shall be made where the right of any company to cross the land of any person or persons is the subject of litigation; *provided*, that any such relocation shall be made within twelve months from the time of original location.

Route of railroad re-located.

Proviso.

X. General canal law.

An act to authorize the formation of canal companies and to regulate the same.

P. L. 1877, p. 127.

Approved March 9, 1877.

Number of persons that may form a company.

Proviso.

129. SEC. 1. That any person or persons, not less than seven, may form a company for the purpose of constructing, maintaining and operating a canal for the purpose of transportation of goods, merchandise or passengers upon water; *provided, however,* that said canal shall not exceed three miles in length, and for that purpose may make and sign articles of association, in which shall be stated the name of the company, the number of years the same is to continue, the places or points from and to which the said canal is to be constructed, and the name of the county or counties in this state through or in or into which it is made or intended to be made, the amount of capital stock of the company, which shall not be less than ten thousand dollars for every mile, or fraction thereof, of said canal constructed or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of seven directors of the company, a majority of whom shall be residents of this state, who shall manage its affairs for the first year and until others are chosen in their places; each subscriber to said capital stock shall subscribe his name, place of residence and the number of shares of stock he agrees to take in said company; on compliance with the provisions of the next section and section five of this act, such articles of association may be filed in the office of the secretary of state, who shall endorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and upon tendering the said articles to the secretary of state to be filed, the persons who have subscribed such articles of association shall be a corporation by the name specified in such articles of association; every corporation formed under this act in addition to the general powers set forth in an act entitled "An act concerning corporations," approved April seventh, eighteen hundred and seventy-five, shall have power:

May make surveys.

I. To cause such examination and surveys for its proposed canal to be made as may be necessary to the selection of the most advantageous route, and for such purposes by its officers and servants to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto.

May purchase and hold real estate.

II. To purchase, hold and use all such real estate and other property as may be necessary in the construction, operation and maintenance of said canal, necessary for the full and free enjoyment of said canal.

Construct canal.

III. To construct said canal, as hereby provided, and to take such land as may be necessary therefor within the limits hereinafter provided.

Charge tolls.

IV. To use and let to others to use said canal and to charge tolls.

Other necessary acts.

V. To do any other act necessary for the full and free use and enjoyment by any such canal company of the franchises hereby granted.

Certificate not to be filed with secretary of state until certain amount of stock is subscribed.

130. SEC. 2. That such articles of association shall not be filed and recorded in the office of the secretary of state until at least five thousand dollars of stock for every mile or fraction thereof of said canal proposed to be made is subscribed thereto, and ten per centum paid thereon in good faith and in cash, to the directors named in said articles of association, nor until there is endorsed thereon, or annexed thereto, an affidavit made by at least five of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per centum paid in cash thereon, as aforesaid.

Certified copy to be presumptive evidence.

131. SEC. 3. That a copy of any articles of association filed and recorded in pursuance of this act, or of the records thereof, with a copy of the affidavit aforesaid, endorsed thereon or annexed thereto, and certified to be a copy by the secretary of state, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Subscriptions to balance of capital stock may be received after articles of association are filed.

132. SEC. 4. That when such articles of association and affidavit, and such other prerequisites as may be hereinafter mentioned are filed and recorded in the office of the secretary of state, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, continue to receive subscriptions until the whole capital

stock is subscribed; at the time of subscribing every subscriber shall pay to the directors ten per centum on the amount subscribed by him in money, and no subscription shall be received or taken without such payment.

133. SEC. 5. That there shall be a board of seven directors of every corporation formed under this act to manage its affairs; said directors shall be chosen annually by a majority of the votes of the stockholders, voting at such election in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places; in the election of directors each stockholder shall be entitled to one vote for each share of stock held by him or her; vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation; the inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association; no person shall be a director unless he shall be a stockholder owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen; at every election of directors the books and papers of such company shall be exhibited to the meeting; *provided*, a majority of the stockholders present shall require it. Election of directors. Proviso.

134. SEC. 6. That the directors shall appoint one of their number president; they may also appoint a secretary and treasurer, and such other officers and agents as shall be prescribed by the by-laws, and shall establish and fix such salaries to them, and to the president, and secretary, and treasurer, as to the said board of directors shall appear proper. Officers.

135. SEC. 7. That the directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed in such manner and in such instalments as they may deem proper; if any stockholder shall neglect to pay any instalment as required by resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post office, properly directed to him at the post office nearest his usual place of residence, stating that he is required to make such payments at the time and place specified in said notice, and that if he fail to make the same his stock and all previous payments thereon will be forfeited for the use of the company, which notice shall be served as aforesaid at least thirty days previous to the day on which such payment is required to be made; *provided*, that if said company shall not declare such stock forfeited, then such neglecting stockholder shall be individually liable to said company for the amount unpaid upon the stock so held by him until the whole amount of the capital stock so held by him shall be paid to the company. Subscriptions to capital may be paid in instalments. Proviso.

136. SEC. 8. That the stock of every company formed under this act shall be deemed personal estate, and be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable until all previous calls thereon shall have been fully paid in. Stock transferable.

137. SEC. 9. That in case the capital stock of any company formed under this act, is found to be insufficient for constructing and operating its canal, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purpose of constructing, maintaining and operating its canal; such increase may be sanctioned by a vote in person or by proxy of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders called by the directors of the company for that purpose, by a notice in writing to each stockholder to be served on him personally or by depositing the same properly folded and directed to him at the post office nearest his usual place of residence, in the post office at least twenty days prior to such meeting; such notice must state the time and place of the meeting and its object, and the amount to which it is proposed to increase the capital stock; the proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the Capital stock may be increased.

amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

May enter upon lands, &c., for the purpose of exploring, surveying, &c.

138. SEC. 10. That any canal constructed under the provisions of this act shall not exceed one hundred feet in width; and it shall be lawful for said company, its agents, engineers, superintendents or others in its employ, to enter at all times upon all lands or waters for the purpose of exploring, surveying, leveling and laying out the route or routes of said canal and of locating the same, doing no unnecessary injury to private or other property, and within such limitations as have been hereinbefore provided; and when the route or routes of such canal shall have been determined upon, and survey of such route or routes, location or locations deposited in the office of the secretary of state, then it shall be lawful for every corporation formed under this act, upon payment or tender of such compensation as is hereinafter provided, by its officers, agents, engineers, superintendent, workmen and other persons in their employ, to construct, maintain and operate a canal between the points named in the articles of association, commencing at or within and extending within, to or into any town or village named as the place of the *termini* of such canal, and for that purpose to enter upon, take possession of, have, hold, use, occupy, possess and enjoy, and to excavate and dig out any lands and dredge out any waters, and to erect embankments, bridges and all other necessary works, and to do all other things which may be suitable or necessary for the completion, repairs or management of said canal; and the construction, completion, repairs and management of said works, buildings and structures hereinbefore mentioned, and for the conveyance of freight and passengers to and from the terminus of said canal, and on the land of said company adjacent to said canal by steam or other motive power; and for the construction, completion and repairs of such other works as may be hereinafter mentioned; and it shall be lawful for said company, its officers, agents, engineers, superintendents, workmen and other persons in their employ at any time to enter upon and take possession of, have, hold, use and occupy all and singular such waters and streams as may be useful for said canal, subject to such compensation as is hereinafter directed; *provided, however*, that no property now used by canals already constructed and in operation in this state shall be taken, nor shall any canal be cut into or in any way interfered with, unless the consent of the companies by whom said canals are maintained and operated shall be first had and obtained; *and provided also*, that the payment or tender of payment of all damages for the occupancy of all lands, whether covered by water or not, through, under or upon which the said canal and its conveniences, appurtenances, appendages, works and structures adjacent to said canal may be laid out or located or constructed, be made before the said company or any person under their direction or employ shall enter upon or break ground in the premises, except for the purpose of surveying and laying out said canal and its conveniences, appurtenances and appendages, and the works and structures on lands of the company adjacent to said canal, and of locating the same unless the consent of the owner or owners of such land be first had and obtained.

Proviso.

Proceedings when company and owners cannot agree.

139. SEC. 11. That when the said company, or its agents, cannot agree with the owner or owners of such required lands or materials, for the use or purchase thereof, or when, by reason of the legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the land or materials so required for the use of said company shall be given in writing, under the oath or affirmation of some engineer, or proper agent of the company, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, if known, and their residence, if the same can be ascertained, to one of the justices of the supreme court of this state, who shall cause the said company to give notice thereof to the person interested, if known, and in this state, or if unknown, or out of this state, to make publication thereof, as he shall direct, for any time not less than ten days, and to assign a particular time and place for the appointment of the commissioners hereinafter named, at which time and place, upon satisfactory evidence to him of the publication or service of such notice aforesaid, he shall appoint,

under his hand and seal, three disinterested, impartial and judicious freeholders, residents in the county in which the lands or materials in controversy lie, or the owners reside, commissioners to examine and appraise the land or materials, and to award the damages upon such notice to be given to the person interested, as shall be directed by the justice making such appointment, to be expressed therein, not less than ten days; and in case of the refusal or inability to act, of either of the commissioners so appointed, the said justice may appoint another without further notice; and it shall be the duty of the said commissioners (having first taken and subscribed an oath or affirmation, before some person duly authorized to administer an oath, faithfully and impartially to examine the matter in question, and to make a true report according to the best of their skill and understanding) to meet at the time and place appointed, and proceed to view and examine the said land or materials, and to make a just and equitable estimate or appraisal of the value of the same, and assessment of damages as shall be paid by the said company for such lands or materials, and damages aforesaid, which report shall be made in writing, under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter, together with the aforesaid description of the land or materials, and the appointment and oaths or affirmations aforesaid, in the clerk's office of the county in which the lands or materials are situated, to remain on record therein; which report, or a copy thereof, certified by the clerk of the said county, shall at all times be considered as plenary evidence of the right of the said company to have, hold, use, occupy, possess and enjoy the said lands or materials, or of the said owner or owners to recover the amounts of said valuation, with interest and costs, in an action of debt in any court of competent jurisdiction, in a suit to be instituted against the company, if they shall neglect or refuse to pay the same for twenty days after the demand made of their treasurer, and shall, from time to time, constitute a lien upon the property of the company in the nature of a mortgage; and the said justice of the supreme court shall, on application of either party, and on reasonable notice to the other, tax and allow such costs, fees and expenses to the justice of the supreme court, commissioners, clerks and other persons performing any of the duties prescribed in this section, as they shall think equitable and right, which shall be paid by said company.

140. SEC. 12. That in case the said company or the owner or owners of the said lands or materials shall be dissatisfied with the report of the commissioners named in the preceding section, and shall apply to the justice of the supreme court at the next term after the filing of the said report, the court shall have the power, upon good cause shown, to set the same aside, and thereupon to direct a proper issue for the trial of the said controversy to be formed between the said parties, and to order a jury to be struck, and a view of the premises or material to be had, and the said issue to be tried at the next circuit court to be holden in the said county, upon the like notice and in the same manner as other issues in the said court are tried; and it shall be the duty of the said jury to assess the value of the said lands or materials and damages sustained, and if they shall find a greater sum than the commissioners shall have awarded in favor of the said owner or owners, then judgment thereon, with costs, shall be entered against the company, and execution awarded therefor; but if the said jury shall be applied for by the said owner or owners, and shall find the same or a less sum than the company shall have offered or the said commissioners awarded, then the said costs to be paid by said applicant or applicants, and either deducted out of the said sum found by the said jury or execution awarded therefor, as the court shall direct; but such application shall not prevent the company from taking the said land or materials upon filing the aforesaid report, the value and damages being first paid, or upon a refusal to receive the same upon a tender thereof, or the owners thereof being under any legal disability, the same being first paid into the court of chancery.

Proceedings in case company or owners are dissatisfied.

141. SEC. 13. That it shall be the duty of the said company to construct and keep in repair good and sufficient bridges and passages over or under the said canal, where any public or other road shall cross the same, so

Bridges to be constructed and kept in repair.

that the passage of carriages, horses and cattle on the said road shall not be impeded thereby; and also where the said canal shall intersect any farm lands of any individual, to provide and keep in repair suitable wagon ways over or under the said canal, but the canal company may decline to build bridges to connect any farm lands cut by said canal, in which event a justice of the supreme court may appoint commissioners to assess the damages to the owner of said land, as provided in section fourteen of this act.

May borrow money and issue bonds.

142. SEC. 14. That any company incorporated under this act shall have power to borrow such sum or sums of money, from time to time, not to exceed in the whole its paid up capital stock, as shall be necessary to build, construct and repair their canal, and the works and structures on the lands adjacent to said canal, and to secure the payment thereof by the execution, negotiation, and sale of any bond or bonds, and secured by mortgage on said lands, privileges, franchises and appurtenances of and belonging to the said company; *provided*, that said bonds shall constitute a lien on the canal, its real estate and franchises, and the proceeds of said bonds shall be used for the purposes above specified.

Proviso.

May make contracts and agreements with other corporations.

143. SEC. 15. That it shall be lawful for the said canal company, at any time during the period named in its articles of association for the continuance of the same, to make contracts and engagements with any other corporation, or with individuals, for transporting or conveying any kind of goods, produce, merchandise, freight or passengers, and to enforce the fulfillment of such contract.

May purchase and construct boats, &c., and necessary machinery.

144. SEC. 16. That any company incorporated under this act shall have power to have constructed or to purchase with the funds of the company all boats, machinery and other property necessary for the business to be carried on upon, and upon the lands adjacent to the said canal, and any such company shall be authorized to demand and receive such sums of money for the transportation of persons and property on its said lands and canal, and for any other services connected with its business of transportation, as it shall from time to time think reasonable and proper; and the said canal, with the appendages and appurtenances to said canal, and the lands over and on which the same shall be constructed, and all works, and structures, and improvements, and all other property whatsoever belonging to the company, shall be and are hereby declared to be vested in the said company and its successors [and] assigns, for and during the continuance of the time limited by its articles of association for the continuance of said company, and any extension of said time which may hereafter be granted.

Dividends.

145. SEC. 17. That the president and directors of any company incorporated under this act shall declare and make such dividends as they may deem prudent and proper from time to time out of the net profits of the said canal and its appendages and appurtenances, and the works, structures and improvements adjacent to said canal and on the property of the said company.

Statement of the costs and expenses to be made.

146. SEC. 18. That as soon as any canal or any part thereof is in operation, the president of said company shall file, under oath or affirmation, a statement of the cost of the said canal, including equipments and all expenses, in the office of the comptroller of the state, and annually thereafter, on the first Tuesday in January of each year, he shall, under oath or affirmation, make a statement to the comptroller of the state of the cost, equipment, appendages and expenses of said canal, and after the said canal, or any part thereof, shall be in operation, the said corporation shall pay to the treasurer of this state a tax of one-half of one per centum on the cost, equipments and appendages of said canal.

State tax.

Roads may cross over or under canal.

147. SEC. 19. That whenever the route of said canal shall cross a highway, turnpike or plank road, such highway, turnpike or plank road may be, by said company, carried over or under the canal, as may be found most expedient.

Canal not authorized in city.

148. SEC. 20. That the provisions of this bill shall not be construed as authorizing the construction of any canal within the limits of any incorporated city.

XI. Miscellaneous acts.

An act fixing the transit duty on low priced articles on railroads.

Approved March 9, 1859.

P. L. 1859, p. 253.

149. SEC. 1. That the transit duty on lime, wood, stone, ashes, manure, lumber, coal, iron ore and similar low priced articles, shall be two cents per gross ton, in lieu of the transit duty now required by law, to be paid on similar property carried over any railroad in this state; *provided*, that this shall not be construed to impose any such duty where none is now required, or increase any such duty where it is now less than two cents.

Transit duty on
lime, wood, etc.

An act to authorize the treasurer of this state to submit to the supreme court all questions, as to arrearages, due or to become due to the state, from incorporated companies, for taxes and transit duties.

Approved March 15, 1861.

WHEREAS, differences of opinion have arisen, and are liable to arise hereafter, between the treasurer of this state and the several railroad, canal and other companies or incorporations, in respect to the annual amounts due and to grow due from said companies or incorporations to the state, for taxes and transit duties under their respective charters and the supplements thereto; therefore,

150. SEC. 1. That in all cases where any railroad, canal or other company or incorporation, existing under the laws of this state, shall neglect or refuse upon notice to pay to the treasurer the full amount he shall believe to be due to the state, for taxes or transit duties, from said company or incorporation, and the said company or incorporation shall be willing to submit the question upon a case mutually to be agreed upon by and between said company or incorporation and the said treasurer, aided by the attorney-general, to the supreme court, the said treasurer is hereby authorized and required to agree upon the facts in writing, to be signed by him and the president or other presiding officer or officers of said company or incorporation, and submit the same to the judgment of the supreme court; and the said treasurer is authorized and required to receive from the company or incorporation such amount (if anything) as may be found due by the judgment of said court, and to give a full acquittance and discharge therefor and from all further demand for such tax and transit duties as may be in controversy; and the said judgment, when entered against said company or incorporation, shall have the same force and effect as other judgments, and may be collected by execution as in other cases, *provided always*, that either party shall be at liberty to treat such cases stated as a special verdict, and bring a writ of error to the judgment of said court.

State treasurer
may submit to
supreme court
questions as to
arrearages for
taxes and transit
duties.

An act better to secure the safety of travelers on railroads.

Approved April 6, 1865.

P. L. 1865, p. 867.

151. SEC. 1. That it shall be the duty of every railroad company in the state of New Jersey, carrying passengers on the same, under any charter heretofore granted, or that may hereafter be granted, to provide against accident and injuries to any passenger, and to that end to cause to be applied to all their passenger cars which they now use or hereafter may use upon their railroad, at each end of each of said cars, an apron or other connection similar to that in use upon many of the passenger cars of the Camden and Amboy railroad company, and which shall cover the space between the platforms of said cars, and be sufficient to prevent the fall of any person or persons between said cars; and that such provision and application shall be made by the fourth day of July next ensuing, upon all cars that may or shall be used after that date, and already built or may be built before that date, and to all cars thereafter built, such provision and application shall be made before they shall be used upon their railroad; *provided*, that any new invention which shall be approved by the governor of this state for the above purpose may be substituted in the place of the apron aforesaid.

Duty of railroad
companies to ap-
ply aprons at end
of each car, etc.

Penalty for neglect or refusal.

152. SEC. 2. That any railroad company that shall be guilty of neglect or refusal to comply with the provisions of this act, shall, for every such violation thereof, forfeit and pay to the state of New Jersey the sum of three hundred dollars, to be recovered and sued for in any court of competent jurisdiction in this state, in any county through or in which said railroad may run, by the prosecutor of pleas of such county, but in the name of and for the use of the state.

An act to prevent accidents on railroads.

P. L. 1869, p. 806.

Approved March 30, 1859.

No railroad to be constructed upon bridge on Delaware without legislative act.

[SEC. 1 incorporated in revised act. See *ante*, Sec. 67].

153. SEC. 2. That hereafter no railroad shall be laid upon any bridge across the Delaware river intended for public travel, unless special authority for that purpose be given by legislative act, particularly designating the bridge to be subjected to such use.

A further supplement to an act entitled "An act to prevent the taking of unlawful toll or fare on canals and railways," passed March twelfth, eighteen hundred and thirty-nine.

P. L. 1872, p. 60.

Approved April 1, 1872.

Preamble.

WHEREAS, the evils recited in the preamble of the act of which this is a supplement, have greatly increased since the passage of said act; therefore,

Penalty for taking unlawful toll or fare by incorporated companies.

154. SEC. 1. That any incorporated company or companies in this state which is or are, or shall be authorized by law to take toll, or to charge for the transportation of passengers, goods, wares, or merchandize, which shall, directly or indirectly, through or by any agent, director, or other officer whatever, take or demand of any passenger or person, under any pretence whatever, more than the charge, toll rates, or fare allowed by law, shall forfeit and pay the sum of one hundred dollars for each and every such offence, to be recovered in an action of debt, by any person who may sue for the same, the one-half to the prosecutor, and the other half to the use of the state, before any court of competent jurisdiction, together with the costs of prosecution.

Pending suits not to be affected.

155. SEC. 2. That all penal suits now pending in any of the courts of this state, whether pending under the said act, passed March twelfth, eighteen hundred and thirty-nine, or under the act amendatory thereof, approved March seventeenth, eighteen hundred and seventy, shall, each and all of them, be determined under the law as it stood at the time said penal suits or actions were commenced, and all penalties and forfeitures under either the said act, passed March twelfth, eighteen hundred and thirty-nine, or under the said act amendatory thereof, shall be recoverable as fully, to all intents and purposes, as though no subsequent amendment or repeal of either of said acts by any law or laws of this state had been made or enacted.

Repealer.

156. SEC. 3. That the act entitled "A supplement to an act to prevent the taking of unlawful toll or fare on canals and railways," passed March twelfth, eighteen hundred and thirty-nine, and which said supplement was approved April sixth, eighteen hundred and seventy-one, and all acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

An act concerning reports and taxes of railroad and canal companies in this state.

P. L. 1873, p. 128.

Approved April 3, 1873.

Comptroller to compile and submit to the legislature a report containing the names of railroad and canal companies in this state, and amount of tax paid.

157. SEC. 1. That the comptroller of this state be and he is hereby directed to cause to be compiled and submitted to the legislature at its next annual session, a report containing the names of all railroad and canal companies now in operation in this state, under acts of incorporation granted by the legislature, together with the terms and provisions under which the said companies are required to pay tax to the state; what companies, if any, have failed to pay the taxes imposed upon them by their charters; the amount of property reported by the several

railroad and canal companies for the year one thousand eight hundred and seventy-two; the amount and per centage of tax paid thereon, and what legislation, if any, is necessary and practicable to secure the payment of tax from any company or companies which may be delinquent, or whose charters are not sufficiently explicit to determine the amount of their annual tax; and the said comptroller is hereby authorized to employ such assistance as he may deem necessary in the examination of said charters, and in preparing said compilation at an expense to be determined by the governor and comptroller.

A further supplement to an act entitled "An act to prevent injuries by fire from locomotive engines on railroads, and to provide for compensation therefor," approved April sixth, anno domini, eighteen hundred and sixty-five.

Approved March 27, 1874. P. L. 1874, p. 112.

158. SEC. 1. That the provisions of the second section of the supplement to the act entitled "Supplement to an act entitled 'An act to prevent injuries by fire from locomotive engines on railroads, and to provide compensation therefor,'" approved April sixth, one thousand eight hundred and sixty-five, which said supplement was approved April fourth, eighteen hundred and seventy-three, shall apply only where the cause of action upon which a suit is brought arose or accrued since the fourth day of July, eighteen hundred and seventy-three.(1)

Act shall apply to suits in which the cause of action arose since July 4th.

159. SEC. 2. That so much of the act to which this is a supplement as is inconsistent with the provisions of this act be, and the same is hereby repealed, and that this act shall take effect immediately.

Repealer.

An act for the relief of citizens on the line of any railroad that has or may hereafter fail or neglect to operate.

Approved February 12, 1874. P. L. 1874, p. 12.

160. SEC. 1. That if any railroad company in this state has or may hereafter fail or neglect to run daily trains on any part of its road for the space of ten days, then the chancellor of this state, upon petition of any citizens of this state, and due proof of the facts, shall speedily appoint a receiver, which said receiver, by order of the chancellor, shall be and is hereby empowered and required to take possession of all the real and personal property of said company, and to operate said road and transact the ordinary business thereof in the transportation of freight and passengers for such time as the chancellor may direct, and all expenses incurred thereby shall be a first lien on all the earnings thereof prior to any other claim, and the surplus, if any, be distributed as the chancellor may direct.

If company fail to run trains on any part of its road for ten days, chancellor may appoint receiver.

161. SEC. 2. That whenever the chancellor shall appoint a receiver of any railroad company, said receiver shall apply all unincumbered personal effects and all moneys which may be transferred to him at the time of entering upon his duties as such receiver, toward the payment of wages at that time due the employes of said company, and the chancellor may from time to time make such orders as he may deem proper to equitably carry out the provisions of this section; *provided*, that no such payments shall be made for more than two months' wages.(a)

Receiver to apply personal effects and moneys toward payment of wages due.

A further supplement to the act entitled "An act empowering railroad companies to employ a police force," approved March twenty-second, eighteen hundred and sixty-five.

Approved March 19, 1874. P. L. 1874, p. 45.

162. SEC. 1. That the provisions of the act to which this is a supplement are hereby so extended as to apply in all things to all the railroad corporations of this state, on which transportation is carried on either by horse or other motive power.

Act extended to all railroad companies.

(a) What may be investigated on petition for a receiver, of this act is superior to wages afterwards accruing, *Williamson v. N. J. Southern R. R. Co.*, 1 *Stew.* 277. *In re Long Branch R. R. Co.*, 9 *C. E. Gr.* 398, 402; 11 *C. E. Gr.* 539. An encumbrance existing at the time of the passage

(1) The supplement of April 4, 1873, referred to in this act was incorporated in the Revised act and constitutes sections 15, 16, 17 of said act.

An act to authorize any city of this state to enter into contracts with railroad companies whose roads enter their corporate limits, whereby said companies may re-locate, change or elevate their railroads, and when necessary for that purpose, to vacate, change the grade of or alter the lines of any streets or highways therein.

P. L. 1874, p. 45.

Approved March 19, 1874.

City authorities may contract with railroad companies for relocating or changing tracks.

May alter and vacate streets.

163. SEC. 1. That the proper municipal authorities respectively, of any city of this state, be and they are hereby authorized and empowered to enter into such contracts with any of the railroad companies whose roads enter their cities respectively, to secure greater safety to persons and property therein, whereby the said railroad companies may re-locate, change or elevate their railroads within said cities, or either of them, as in the judgment of such municipal authorities respectively, may be best adapted to secure the safety of lives and property, and promote the interests of said cities respectively, and for that purpose shall have power to vacate, alter the lines and change the grades of any streets or highways therein, and to do all such acts as may be necessary and proper to effectually carry out such contracts; and any such contracts, made by any railroad company or companies, as aforesaid, with said cities, or either of them, are hereby fully ratified and confirmed.

An act to authorize railroad companies to charge and collect an excess of ten cents, where fare is paid in the cars.

P. L. 1874, p. 120.

Approved March 27, 1874.

Railroad companies may charge ten cents when fare is paid on the train.
Proviso.

164. SEC. 1. That it shall be lawful for any railroad company owning or operating a railroad in this state, to demand and collect an excess charge of ten cents, over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage; *provided, however*, that it shall be the duty of such company to give to any passenger paying such excess a receipt or other evidence of such payment, and which shall entitle the holder thereof to have such excess charge refunded, upon delivery of the same at any ticket office of the said company, upon the line of their railroad.

An act respecting railroads sold under mortgage.

P. L. 1875, p. 101.

Approved April 9, 1875.

Proceedings when any railroad is sold or conveyed under the decree of the court of chancery to form a new corporation.

165. SEC. 1. That whenever any railroad in this state, of any corporation created by or under any law or laws of this state, shall be sold or conveyed under or by virtue of any decree or decrees of the court of chancery of this state, or of the circuit court of the United States, in and for the district of New Jersey, sitting in equity, and execution or executions issued thereon, to satisfy any mortgage debt or debts or other incumbrances thereon, and the purchaser or purchasers thereof shall, in the manner provided by the statute in such cases made and provided, have formed a new body politic and corporate, and shall have made, and filed with the secretary of state at Trenton, a certificate of the organization of such corporation, and whenever the new corporation so formed shall have acquired title to the railroad property and franchises aforesaid, pursuant to any plan or agreement for the re-adjustment of the respective interests therein of the mortgage creditors, other creditors and stockholders of the company theretofore owning such property and franchises, and for the representation of such interests of the creditors and stockholders in the bonds, debts or stock of the new corporation so formed, then and in such case the said new corporation shall be authorized and have the power to issue its bonds and stock in conformity with the provisions of such plan or agreement; and the said new corporation may, at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former company, upon such terms as may be approved by a majority of the agents or trustees entrusted with the carrying out of the plan or agreement of reorganization aforesaid; and for the purposes of such plans and of such settlements, the said new corporation may and shall be authorized to establish preferences in respect

to the payment of dividends in favor of any portion of its said capital stock, and to divide such stock into classes; *provided nevertheless*, that nothing herein contained shall be held to authorize the issue of capital stock by the said new company to an aggregate amount exceeding the maximum amount of such stock mentioned in the certificate of incorporation filed by such new corporation.

166. SEC. 2. That the charter and franchises of any railroad company in this state, whose property shall have been mortgaged, and against whom proceedings shall have been or shall be taken to foreclose such mortgage, and to sell the mortgaged property, shall subsist and continue during the pendency of such proceedings, and shall enure to the benefit of the purchaser or purchasers of the mortgaged property, under decree in such proceedings, any provision of law heretofore made to the contrary notwithstanding.

Proviso.

Charter and franchises to enure to benefit of purchaser of mortgaged property.

An act concerning the sale of railroads, canals, turnpikes, bridges, and plank roads.

Approved March 25, 1875. P. L. 1875, p. 41.

167. SEC. 1. That whenever any railroad, canal, turnpike, bridge, plank road of any corporation created by or under any law of this state, shall be or has been sold and conveyed, under and by virtue of any process or decree of any court of this state, or the United States, or of any power or authority duly granted or conferred in and by any mortgage or deed in the nature thereof, the person or persons for or on whose account such railroad, canal, turnpike or plank road may be purchased, shall and are hereby constituted a body politic and corporate, and shall be vested with all the right, title, interests, property, possession claim and demand in law and equity, of, in and to such railroad, canal, turnpike, bridge or plank road with its appurtenances, with all the rights, powers, immunities, privileges and franchises of the said corporation which may have been granted to or conferred thereupon by statute or statutes, in force at the time of such sale and conveyance, and subject to all the restrictions imposed upon such corporation by any such act or acts, except so far as the same are modified hereby, but the provisions of this act shall, notwithstanding anything therein contained to the contrary, extend and apply to any case in which a railroad, canal, turnpike, bridge or plank road or any corporation created by or under any law of this state has been sold and conveyed before the passage of this act in the manner hereinbefore described.

Purchasers to be constituted a body corporate.

P. L. 1877, p. 146.

168. SEC. 2. That the person or persons for or on whose account any such railroad, canal, turnpike, bridge or plank road, may have been purchased, shall meet within thirty days after the conveyance made by virtue of said process or decree shall have been delivered, at the county town of any one of the counties, through which the said railroad, canal, turnpike, bridge, or plank road may run, public notice of the time and place of such meeting having been given at least once a week for two weeks, in at least one newspaper published in each of the counties in or through which the said railroad, canal, turnpike, bridge or plank road may run, and organize said new corporation by electing a president and board of six directors, to continue in office until the first Monday of May succeeding such meeting, when, and annually thereafter, on the said day, a like election for a president and six directors shall be held, to serve for one year.

New corporation, how organized.

169. SEC. 3. That at such meeting so held, the said person or persons shall adopt a corporate name and corporate seal, determine the amount of the capital stock thereof, and shall have power and authority to make and issue certificates therefor, to the purchaser or purchasers aforesaid, to the amount of their respective interests therein, in shares of fifty dollars each.

Amount of capital stock, to be in shares of fifty dollars each.

170. SEC. 4. That the said corporation may then, or at any time thereafter, create and issue preferred stock to such an amount and at such times as they may deem necessary, and from time to time issue bonds at a rate of interest not exceeding seven per centum, to any amount not exceeding their capital stock.

May issue preferred stock, and interest bearing bonds.

Certificate of organization to be made, and filed of record in office of secretary of state.

171. SEC. 5. That it shall be the duty of such new corporation, within one month after its organization, to make a certificate thereof, under its common seal, attested by the signature of its president, specifying the date of such organization, the name so adopted, the amount of capital stock, and the name of its president and directors, and transmit the said certificate to the secretary of state, at Trenton, to be filed in his office, and there remain of record; and a certified copy of such certificate so filed shall be evidence of the corporate existence of said new corporation; *provided*, that nothing contained in this act shall divest or in any manner impair the lien of any prior mortgage or other encumbrance upon the property or franchises conveyed under the sale of said property or franchises, when by the terms of the process or decree under which the sale has been made, or by operation of law, the said sale is made subject to the lien of any such prior mortgage or other encumbrance.

Proviso.

An act concerning railroad corporations.

P. L. 1877, p. 48.

Approved March 6, 1877.

Mode for acquiring title to lands adjoining railroad.

172. SEC. 1. That it shall be lawful for any railroad corporation, owning or operating a railroad within this state, to take and acquire title, in the manner prescribed by the act under which such railroad may have been originally constructed, or by any supplement to said act, to all such lands adjoining their road as constructed on their right of way as located, as, in the judgment of the directors of such company, the exigencies of business may demand for the erection of freight and passenger depots, and all other legitimate purposes of said company; and said corporations are hereby for this purpose again invested with all the powers, privileges and franchises given in their acts of incorporation, and in the various supplements thereto, for taking and acquiring title to lands required for their use; *provided*, that no more than one hundred feet in width for the main track of any road shall be taken for the right of way, except where from the depth of cut or the height of embankment more is necessary to be taken.

Proviso.

An act to provide for the better protection of passengers upon railroads, and to insure the prompt transportation and delivery of freights.

P. L. 1877, p. 107.

Approved March 9, 1877.

Preamble.

WHEREAS, strikes by locomotive engineers and other railroad employes, and the abandonment by them of their engines and trains at points other than their schedule destination, endangers the safety of passengers and subjects shippers of freights to great inconvenience, delay and loss; therefore,

Penalty for being engaged in or inciting others to strike.

173. SEC. 1. That if any locomotive engineer or other railroad employe upon any railroad within this state, engaged in any strike, or with a view to incite others to such strike, or in furtherance of any combination or preconcerted arrangement with any other person to bring about a strike, shall abandon the locomotive engine in his charge, when attached either to a passenger or freight train, at any place other than the schedule or otherwise appointed destination of such train, or shall refuse or neglect to continue to discharge his duty, or to proceed with said train to the place of destination as aforesaid, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

Penalty for lending aid to any strike or strikes.

174. SEC. 2. That if any locomotive engineer or other railroad employe within this state, for the purpose of furthering the object of or lending aid to any strike or strikes organized or attempted to be maintained on any other railroad, either within or without this state, shall refuse or neglect, in the course of his employment, to aid in the movement over and upon the tracks of the company employing him of the cars of such other railroad company, received therefrom in the course of transit, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

175. SEC. 3. That if any person, in aid or furtherance of the objects of any strike upon any railroad, shall interfere with, molest or obstruct any locomotive engineer or other railroad employé engaged in the discharge and performance of his duty as such, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

Penalty for molesting or obstructing any locomotive engineer.

176. SEC. 4. That if any person or persons, in aid or furtherance of the objects of any strike, shall obstruct any railroad track within this state, or shall injure or destroy the rolling stock or any other property of any railroad company, or shall take possession of or remove any such property, or shall prevent or attempt to prevent the use thereof by such railroad company or its employés, or shall, by offer of recompense, induce any employé of any railroad company within this state to leave the service of such company while in transit, every such person offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars, and may be imprisoned not more than one year, at the discretion of the court.

Penalty for obstructing any track, &c.

An act to extend the time for the completion of railroads whose charters shall expire by limitation during the years eighteen hundred and seventy-seven and eighteen hundred and seventy-eight, where work has been performed on said railroads and money expended thereon.

Approved March 9, 1877. P. L. 1877, p. 217.

177. SEC. 1. That whenever the time limited for the completion of any railroad authorized to be constructed within this state under special acts shall expire during the years eighteen hundred and seventy-seven and eighteen hundred and seventy-eight, such time shall be and the same hereby is extended for a further period of three years; *provided, however*, that this act shall not apply unless money has been actually expended in surveys and location of route, acquiring rights of way or construction; *and provided further*, that the provisions of this act shall not apply to any railroad of this state where the same has been sold by a receiver of the court of chancery, and the purchaser or purchasers thereof, or his or their assigns, have failed or shall fail to complete the railway within the time limited by the provisions of its charter.

Time for completion of road extended.

Proviso.

An act enabling certain corporations to hold real estate in adjoining states.

Approved March 7, 1866. P. L. 1866, p. 256.

178. SEC. 1. That it shall be lawful for any railroad, canal, or transportation company, incorporated by this state, to lease, purchase, hold and convey any real estate that may be necessary for the purpose of carrying on their business in any of the adjoining states, the laws of such state or states not prohibiting.

Any railroad or canal company may hold real estate in an adjoining state.

Recognizances.

1. Every recognizance to remain in force until cause determined, &c.
2. Record of same to be kept by clerk.
3. Forfeited recognizances.
4. Court to order entry of discharge of recognizances.

An act respecting recognizances.

Approved April 6, 1876. P. L. 1876, p. 88.

1. That every recognizance entered into before any court having criminal jurisdiction in this state, shall remain in full force and effect until the cause in which said recognizance shall be entered into, shall be finally determined, or the same discharged by order of the court.

Every recognizance to remain in force until cause determined, etc.