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71. Street railway companies may construct and operate street railways upon and along turnpike roads within the limits of towns or boroughs.
72. Turnpike or plank road companies may sell, assign, &c., portion of road to railway company.
73. Track constructed on road not to obstruct travel on turnpike, &c.
74. Repealer.
75. Turnpike companies may construct and operate street railways on road of turnpike company.
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77. Repealer.
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85. Time limited for completion of railroads extended.
86. Period of existence extended.
87. Repealer.
88. Cable, electric and horse railroad companies to make annual returns to state board of assessors.
89. Statements to be filed and copies printed.
90. Statement for 1888 to be made.
91. Penalty for neglecting to make return.
92. Repealer.
93. Amended by section 95.
94. Consolidated company subject to same taxation and assessed in same manner as provided by law.
95. Horse or other street railway companies may merge and consolidate.
96. Repealer.
97. Time for completing street railroads further extended for a period of two years.
98. Corporation may increase capital stock.
99. Street railway companies authorized to lease their property and franchises.
100. Proceedings where any stockholder does not assent to such lease.
101. Lessee may purchase, sell, assign, &c., capital stock, &c., and, while owner thereof, may exercise rights same as natural owners.
102. Lessee may increase its capital stock.
103. Lessee may borrow money, issue bonds, &c.

104. Shall not plead statute against usury in any suit to enforce payment of bonds.
105. Repealer.
106. Unlawful to lay or construct street or horse railroad without consent of governing body having control of streets, &c.
107. On attempt to construct street railroad without consent of governing body, attorney-general shall, upon application, apply to court of chancery for order to forfeit charter.
108. Repealer.
109. Street railway company, &c., authorized to merge and consolidate with motor company, &c.
110. Conditions, &c., under which consolidation shall be made.
111. Upon filing agreement with secretary of state, deemed one corporation.
112. When rights, &c., of each corporation deemed to be transferred, &c.
113. Suits may be brought against new company.
114. Proceedings when any stockholder shall refuse to convert his stock into that of consolidated company.
115. Consolidated company may issue bonds and create a mortgage.
116. Repealer.
117. Any company owning street railway, &c., authorized to lease upon such conditions as may be agreed upon.
118. Proceedings when any stockholder objects to making such lease.
119. Repealer.
120. Persons authorized to organize corporation to construct machinery, &c., for supplying motive power to street railways. Powers.
121. Further powers of such corporations
122. They shall make and file certificate. What to contain.
123. Fees upon filing certificate.
124. Limit of time for filing certificates. Penalty.
125. Upon making extension or new line, shall file description and map thereof. Time for building same.
126. Upon petition of directors of company to governing body, &c., for location of tracks, notice to be given of time and place of meeting and resolution or ordinance to be passed.
127. Upon failure to acquire right to locate tracks, may file an amended description.
128. Proceedings when directors have petitioned board of aldermen, &c., upon filing amended description of route.
129. When lawful to relocate line.
130. Lawful to use as much of highway as necessary.
131. When state treasurer shall repay money.
132. When lawful to take more lands, &c.
133. Proceedings where company cannot agree with owner of lands or materials, &c.
134. When company not liable to pay amount awarded.
135. Corporation authorized to lease property, &c., of other corporations.
136. Proceedings when any stockholder shall resist or object to making lease, &c.
137. Any corporation may consolidate with any other corporation, &c.
138. Conditions, &c., of consolidation.
139. Upon filing certificate with secretary of state, to be deemed one corporation.
140. When rights, privileges, &c., deemed to be transferred.
141. Suits may be brought against new company.
142. Proceedings where stockholder refuses to convert his stock into that of consolidated company.
143. How capital stock may be increased.
144. Consolidated company may issue bonds and create a mortgage.
145. Consolidated company authorized to borrow money, issue bonds and mortgages, &c.
146. Corporation may borrow money, issue bonds and mortgages, &c.
147. No corporation issuing bonds shall plead any statute against usury.
148. May issue stock to pay for real estate, &c.
149. When limit of time to perform certain duties shall not be computed.
150. Corporation may change gauge of track.
151. Any consent required may be given by resolution or ordinance and have force of contract.
152. Repealer.
153. Corporation, how organized.
154. Company to have all powers, rights and privileges without regard to certificate filed.
155. Street railway company authorized to construct road on turnpike in counties of the second class.
156. Board of commissioners, &c., shall on petition, by resolution or ordinance, locate track.
157. When necessary, company authorized to construct road by ordinance or resolution of governing body.
158. Company must conform to the law.
159. Repealer.
160. When charters may be declared void.
161. Repealer.
162. Plan or system to be approved before construction is begun.
163. Repealer.
164. No railroad to be constructed except by consent of governing body to be obtained by petition. Proceedings to obtain consent.
165. Act shall not apply to previous grants after work has been commenced.
166. Company may change gauge of tracks.

#### An act concerning street railway companies.

P. L. 1873, p. 333.

Approved April 5, 1873.

Certain companies heretofore organized may extend tracks.

Proviso.

1. That any corporation heretofore organized under any special act of the legislature of this state, and empowered to lay railroad tracks and operate a street railway company, and the time limited by their act for commencing building their railroad has not expired, shall have power, by and with the consent of three-quarters of the stockholders, to extend its tracks, if deemed necessary for the successful transaction of its business, in any county and into any county adjoining the one in which such company was authorized and empowered to operate; *provided*, the consent of the township committee, or board of aldermen, or common council, or other municipal authority of any city, town or township, or any other corporation, upon the streets or roads of which it is proposed to lay such tracks, shall first have been had and obtained. (a)

(a) This act is not limited in its application to companies whose charters limit the time for commencing the building of

their roads. *West Jersey Traction Co. v. Camden Horse R. E. Co.*, 7 Dick. 452.

## STREET RAILWAYS.

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**An act to provide for the better protection of the drivers of horse cars on street passenger railroads in the cities and towns of this state.**

Approved March 3, 1882.

P. L. 1882, p. 43.

2. SEC. 1. That hereafter all horse car passenger railroads in the cities and towns of this state shall provide a proper seat upon the front platform of each car, for the use of the driver on such car when driving the same, under reasonable restrictions by the company operating such car as to the use of the said seat in going up or down grade or otherwise.

Horse car railroads to provide seats for drivers of cars.

3. SEC. 2. That any such company failing to comply with the requirements of the first section of this act shall be liable to a penalty of twenty-five dollars for each day any car belonging to them shall be in use without such seat, to be recovered in an action of debt before any justice of the peace or district court in the county or city where such railroad may be, by any person suing for the same; one-half of said forfeiture to be paid to the county treasury of the county where such suit is brought and one-half to the person who shall prosecute the same to effect.

Penalty for failure to comply with requirements of act.

**An act to regulate fares on horse cars in cities of the first class in this state.**

Approved March 23, 1882.

P. L. 1882, p. 201.

4. SEC. 1. That it shall not be lawful for any horse car railroad company, whether organized under general laws or special charter, owning or operating, whether as lessees or otherwise, any horse railroad in cities of the first class in this state to charge or collect more than five cents for each passenger for the whole distance carried, within the limits of any municipal corporation of this state, under penalty of one hundred dollars for each and every offense, to be recovered in an action of debt by any person who may sue for the same in any court of competent jurisdiction, one-half, with the costs of prosecution, to go to the prosecutor, and the other half to the use of the municipal corporation within the limits whereof said offense shall be committed.

In cities of first class, horse car fares not to exceed five cents.

Penalty.

5. SEC. 2. That all acts and parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

**An act concerning horse railroads.**

Approved March 23, 1883.

P. L. 1883, p. 241.

6. SEC. 1. That it shall be lawful for horse railroad companies, by a vote of a majority (in value) of all the stockholders thereof, to increase their capital stock to any amount not greater than double the number of shares authorized by law at the time such increase shall be made, and to dispose of the shares representing such increase as their respective boards of directors shall determine to be for the best interests of said company.

Horse railroad companies may increase capital stock.

7. SEC. 2. That any company availing itself of the provisions of this act shall immediately thereafter file in the office of the secretary of state, under its corporate seal and attested by its president and secretary, a statement setting forth the amount of its capital stock as originally authorized, the amount to which it shall have been increased, and the number of shares representing the increase of capital as authorized by the stockholders.

Statement to be filed in office of secretary of state.

**An act concerning street railroad companies.**

Approved March 6, 1886.

P. L. 1886, p. 69.

8. SEC. 1. That whenever any horse or street railroad company of this state shall have paid, or shall pay out of its net earnings, from time to time, its mortgage bonds or other funded debt, or shall have applied and used, or shall apply and use, such net earnings for the extension of its road, the laying of additional tracks, or to the purchase of lands for the necessary uses of said company and the improvements thereof, such company may increase its existing authorized capital in an amount equal to the

Horse or street railroad companies may increase capital stock.

Statement of increase to be filed.

amount paid for, or on account of, any such bonds or other debt, and to the actual cost of any such extension and improvements; and upon making any such increase of its capital stock, such company shall, within three months thereafter, file with the secretary of state a written statement, sworn to and subscribed by its president and treasurer, showing the amount of such increase, the amount so paid on account of its bonds or other debt and the cost of said extension and improvements.

9. SEC. 2. [Amended by Sec. 10, *post.*]

Supplement.

Approved March 11, 1893.

P. L. 1893, p. 241.

10. SEC. 1. That section two of the act entitled "An act concerning street railroad companies," approved March sixth, one thousand eight hundred and eighty-six, be and the same is hereby amended so that said section shall read as follows:

Street or horse railway company authorized to use electric motors or grip cables.  
Proviso.

[That any street or horse railway company in this state may use electric or chemical motors, or grip cables, as the propelling power of its cars, instead of horses; *provided*, it shall have first obtained the consent of the township committee, or the municipal authorities having charge of the public streets or highways on which it is proposed to use such motors or grip cables, which consent may be granted by ordinance.](a)

Municipal board, &c., by ordinance, may authorize use of poles in public streets.

11. SEC. 2. That the municipal board, or any county public road board, or other authorities having the charge or control of any streets, highways or avenues in any city, county, town or township of this state, may, when they deem it proper, authorize the use of poles located, or to be located, in the public streets or highways with wires strung thereon for the purpose of supplying the motors with electricity, and when a board grants such authority it may in such case prescribe the manner in which and the places where such poles shall be located, and the manner in which the wires shall be strung thereon, and the same may be authorized and prescribed by ordinance.

Consent heretofore granted valid.

12. SEC. 3. That any consent heretofore granted, contingent or otherwise, whether by resolution or in any other way by any municipality to any street or horse railway company to use electric or chemical motors or grip cables as the propelling power of its cars, of the construction and character in such ordinance or resolution specified, or of which the plan of construction has been or may be in any way assented to or approved by such municipal authorities, shall be as valid and effectual as if the same had been granted pursuant to the provisions of this act to the extent authorized by this act; *provided, however*, that no such consent heretofore granted shall be validated by virtue of anything in this act contained, without the assent and approval of the state board of commissioners of electrical subways first had and obtained.

Proviso.

Duties of commissioners of electrical subways not curtailed.

13. SEC. 4. That nothing in this act contained shall curtail, abridge or otherwise interfere with any of the powers and duties of the state board of commissioners of electrical subways.

Repealer.

14. SEC. 5. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

An act to enable street car or horse railroad companies to provide better accommodation to the public, by using what is now known as the cable system for motive power on elevated roads.

P. L. 1886, p. 126.

Approved March 26, 1886.

Street or horse railroad companies may operate elevated railroads.

15. SEC. 1. That any and every street car or horse railroad, or railway company, or railway or railroad company now operating a street railroad by horse power, incorporated under the laws of this state, in order to afford more rapid, safe and comfortable means of transporting passengers than is

(a) See *Green v. Trenton*, 25 Vr. 92. *Halsey v. Newark*, 25 Vr. 102. *Trustees v. Subway Commissioners*, 26 Vr. 437. *Halsey v. Rapid Transit Street Railway Co.*, 2 Dick. 382, 390. *Faterson*

*Railway Co. v. Grundy*, 6 Dick. 228. *West Jersey Traction Co. v. Camden Horse R. R. Co.*, 7 Dick. 467

possible on a surface road, be and the same hereby is and are authorized and empowered to construct, maintain and operate within the limits of the territory in which such company or companies is and are authorized by law to construct, maintain and operate surface roads, one or more elevated railroads, with necessary stations and stairways over the streets or highways in such city or cities, town or towns, township or townships; *provided*, that the cars on such elevated road or roads shall be propelled by means of a wire rope or cable, to be put and kept in motion by stationary steam power, located at such convenient point or points as may be necessary for the purpose, beyond the limits of any street or public highway, and not by locomotive steam engines; *and provided further*, that such elevated roads shall be constructed in such manner, in regard to the position of supporting posts or pillars, and in regard to elevation above the street or highway over which they are to be constructed, as not to interfere with the use of any public sewer, water pipe or any other public work, nor with ordinary public travel thereon, except to such extent as may be unavoidable in carrying out the provisions of this act; *and provided further*, that no elevated railroad shall be constructed over any street or highway unless the consent, in writing, of the owners of at least one half of the property fronting on such street or highway be first had and obtained, and unless all damage, if any, done to property fronting on such street, the owner or owners of which have not given their consent, be first ascertained and paid in the manner hereinbefore provided; *and provided, also*, that the consent of the municipal authorities of the city, town or township in which such road is proposed to be built, be first had and obtained.

Proviso.

Proviso.

Proviso.

Proviso.

16. SEC. 2. That when any such company or companies, or their agents, cannot agree with the owner or owners thereof for the use, grant or purchase of any land or materials, or easement or easements, or the right to pass along the street in front of any property which may be required for the purpose of executing this act, or when by reason of the absence or legal incapacity of such owner or owners no such agreement can be made, a particular description of the land, materials or easements or right of passage so required for the use of such company or companies in the construction, maintenance and operation of said road or roads, and the necessary appurtenances thereto, shall be given in writing under the oath or affirmation of some engineer or proper agent of the company or companies, and also the name or names of the occupant or occupants, if any there be, and 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 making such application to give notice thereof to the person or persons 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 term not less than five days, and to assign and designate a particular time and place for the appointment of the commissioners hereinafter provided for, at which time and place, upon satisfactory evidence to him of the service or publication of the notice aforesaid, he shall appoint, under his hand and seal, three disinterested, impartial and judicious freeholders, residents in the county in which the lands, materials or easements in controversy lie, commissioners to examine and appraise the lands, materials or easements, or right of passage, 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 five 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 and materials or easements, 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, materials or easements, or right of passage, and damages aforesaid, which report shall be made in writing under the hands and seals of said commissioners,

Proceedings in case company and owner cannot agree as to the purchase of land, &c.

Justice of the supreme court to appoint commissioners.

Commissioners to take oath, view the lands, &c., and to make report.

When company  
may enter on  
lands, &c.

or any two of them, and filed within ten days thereafter, together with the aforesaid description of the lands, materials or easements, and the appointment and oaths or affirmations, in the clerk's or register's office of the county in which the lands, materials or easements 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, materials or easements, or right of passage, 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 such company to have, hold, use, occupy, possess and enjoy the said lands, materials or easements, or right of passage, 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 such company or the owner or owners of any of the land, materials or easements, 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, material or easement, or right of passage may be.

Proviso.

Proceedings in  
case of appeal.

17. SEC. 3. That every appeal from the decision of the commissioners appointed under the preceding section shall be 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, easement or materials appraised by 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, easement, or right of passage or materials and damages sustained, and if they shall find a greater sum than the said commissioners shall have awarded in favor of said owner or owners, then judgment thereon, with costs, shall be entered against such company, 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; (a) but such application shall not prevent the company from taking the said land or easement upon filing the report aforesaid; *provided*, that in no case whatever shall any company under this act enter upon or take possession of any land of any person or persons for the purpose of actually constructing such elevated railroad, or of making any erection or improvements whatever, or otherwise appropriating said lands or easements or right of passage to the use of any such company mentioned in 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, easements 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 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

Proviso.

(a) A writ of error will lie to review the judgment of a circuit court rendered, in pursuance of a statute, upon the verdict of a jury, on appeal from an award of commissioners estimating

damages under the power of eminent domain. *Sullivan v. North Hudson R. R. Co.*, 22 Vr. 518.

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 on such tender or payment of the money into court in case it be refused as aforesaid, or in case such company as mentioned in 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 easements and proceed with the work of constructing its road.

**18. SEC. 4.** That if such company shall, within six months after the filing of the report of said commissioners, in case there be no appeal, and within six months after the entry of the verdict on appeal, give notice, in writing, to said owner or owners, that the said company has determined not to proceed with the construction of such elevated road, then, and in that case, said company shall not be liable to pay the damages awarded as aforesaid to said owner or owners, but only such costs, expenses and reasonable counsel fees as such owner or owners may have necessarily incurred and expended in conducting said proceedings, the same to be taxed by one of the justices of the supreme court, on five days' notice, in writing, to the opposite party; and when such costs and expenses are taxed as aforesaid, such taxation of costs and expenses may be filed with the clerk of the county in which such proceedings are had, and a rule for judgment thereon may be entered in the minutes of the circuit court of such county, on which execution may issue pursuant to the law and practice of said court.

When company  
not liable to pay  
damages.

#### Supplement.

Approved April 6, 1888.

P. L. 1888, p. 388.

**19. SEC. 1.** That when any company or companies mentioned in the first section of the act to which this is a supplement, shall have determined to construct, maintain and operate an elevated railroad over the street or streets, highway or highways, in any city, town or townships in which by the said act they are authorized to construct, maintain and operate the same, and having obtained the consent in writing of the owner or owners of at least one-half of the lands fronting on or bounded by such street or streets, highway or highways through and over which such elevated road is proposed to be built, and having also obtained the consent of the municipal authorities of the city, town or township in which such road is proposed to be built, and such company cannot by agreement procure the consent of the owner or owners of other lands fronting on or bounded by such street or streets, highway or highways; it shall be lawful for the said company to make application in writing under the oath or affirmation of some engineer or proper agent of the company or companies, to one of the justices of the supreme court of this state, having given previous notice for at least ten days of such intended application, and also of the day on which, and the place where, such intended application is intended to be made, by advertisements under the hand of the president of said company, and set up at ten public places in the county in which said road is proposed to be built, five of which notices shall be set up at public places along each of the streets, avenues or highways in and through which said elevated railroad is proposed to be built, and a like advertisement shall also be published in at least three newspapers published and circulating in the county in which said elevated road is proposed to be built, at least once a week for two weeks successively, the first publication thereof to be made at least ten days prior to the date of making said application; and the said justice when applied to as aforesaid, on due proof being made that the advertisements have been set up and published according to law, on which the judgment of said justice shall be final and conclusive, is hereby authorized and required to appoint under his hand and seal three disinterested, impartial and judicious freeholders, residents in the county in which said elevated railroad is proposed to be built, commissioners to examine and appraise the easements or right of passage required for such proposed

Proceedings in  
case company  
unable to procure  
consent of owners  
of lands.

elevated railroad upon and over the street or streets, avenue or avenues, highway or highways, in front of all lands, the owner or owners of which have not consented thereto and mentioned in the said application or petition, and to assess the damages sustained or which will be sustained by the owner or owners of each and every separate lot or parcel of land fronting on or bounded by any street, avenue or highway through, upon or over which said proposed elevated railroad is to be built, the owner or owners of which have not consented thereto as aforesaid; and said justice shall have power to fill any vacancy in said board of commissioners which may occur by reason of refusal to serve, by death, resignation or otherwise.

Commissioners to  
take oath.

**20. SEC. 2.** That within ten days after their appointment each of said commissioners shall take and subscribe an oath or affirmation before some officer duly authorized to administer an oath, that he will faithfully and impartially examine the matters in question, and make a just and true report according to the best of his skill and understanding; which application or petition, order of appointment and said commissioners' oaths of office shall be filed in the office of the county clerk of the county in which such road is proposed to be built.

Application, &c.,  
filed in county  
clerk's office.

Proceedings when  
commissioners  
are appointed.

**21. SEC. 3.** That within twenty days after their appointment the said commissioners shall meet at some convenient place in such county; and they shall cause previous notice of the time and place of their said first meeting to be given by advertisements under the hands of said commissioners and set up at ten public places in such county, five of which notices shall be set up at public places along each of the streets or highways in and through which said elevated railroad is proposed to be built, at least ten days before the time appointed for said meeting, which advertisements shall contain a description of the route of such proposed elevated railroad, and also a statement that said commissioners will proceed to appraise the damages which the respective owners of lands along the route of said railroad, who have not consented thereto, have sustained or will sustain by reason of the building and operation of such road; and a like advertisement shall also be published in at least three newspapers published and circulating in such county, at least once a week for two weeks successively; the first publication of which notice in each of said papers shall be made at least ten days before the time appointed for said meeting, and upon due proof before said commissioners that said advertisements have been set up and published according to law, it shall be the duty of said commissioners to proceed to view and examine the lands fronting on or bounded by the street or streets, highway or highways through which such elevated railroad is proposed to be built, and after having heard the parties interested therein they shall make a just and equitable estimate or appraisal of the value of the easements required for such elevated railroad, and an assessment of damages to each separate lot or parcel of land to be paid by such company for such easements or right of passage, and damages aforesaid to the owner or owners of each separate lot or parcel of land who have not consented to the building of such elevated road, which report shall be made in writing under the hands and seals of the said commissioners or any two of them, to which shall be annexed a map or maps showing the route of such elevated railroad and each lot or parcel of land fronting on or bounded by such street or highway, and each lot or parcel of land shown on said map shall be designated by a number; and to said report shall also be annexed a plan of such proposed elevated structure, which report shall, within ten days after the signing thereof, be filed in the county clerk's office of said county, and after filing said report said commissioners, within not less than fifteen days nor more than thirty days, shall meet at a convenient place in said county to hear and consider objections to said report, and said commissioners shall cause notice of the filing of said report, and of the time and place of said meeting to hear objections to said report, by advertisements under their hands, to be set up in ten public places in said county at least ten days before the time appointed for said meeting, which advertisement shall also be published in at least three newspapers published and circulating in said county, at least once a week for two weeks successively; the

first publication of said notice shall be made at least ten days before the time appointed for said meeting ; and thereupon said commissioners shall have power to alter and amend their report in any respect they may deem necessary, or as equity and justice may require ; and after said commissioners shall have filed their amended report in said clerk's office, or shall have filed their certificate that they do not desire to make any alteration or amendment to their said report, the said company shall apply to a justice of the supreme court to appoint a time and place when and where he will sit to hear a motion to confirm the report of said commissioners, and said justice shall order at least ten days' notice to be given of the time and place appointed for hearing said motion, which notice shall be posted and published in the same manner as hereinbefore directed for the posting and publishing of the notice of the meeting of said commissioners ; all objections to the confirmation of said report shall be made in writing and filed in the county clerk's office at least two days before the time appointed to hear said motion ; and the said justice, having heard the parties interested on such report and the objections thereto, may confirm the said report in all things, or refer the same back to said commissioners to be reformed, corrected or amended in such respects as said justice may deem equitable and just, and if the said report of said commissioners be confirmed by said justice, or if, pursuant to the direction of said justice, the same be reformed, corrected or amended by said commissioners, upon filing of said report reformed, corrected or amended as aforesaid, the same shall be taken and considered as confirmed, and remain of record in said clerk's office ; and thereupon and on payment or tender of payment of the respective amounts assessed and awarded as herein provided, the said company is hereby empowered to take possession of the easements or right of passage required for the purpose aforesaid and to proceed with the erection of such elevated railroad, but in case the party or parties entitled to receive any of the respective amounts so awarded shall refuse, upon tender thereof being made, to receive the same, or shall be out of the state, or under any legal disability, or in case there be any doubt as to who is legally entitled to receive any of the respective sums so awarded, then the payment of the respective amounts awarded as aforesaid into the circuit court of the county wherein said report is filed shall be deemed valid and legal payment, and the said report or a copy thereof, certified by the clerk of said county, and proof of the payment or tender of the several amounts so awarded or payment of the same into court as aforesaid, shall at all times be considered as plenary evidence of the right of any such company to have, hold, use, occupy, possess and enjoy the said easements or right of passage ; and the said justice of the supreme court shall, upon application of any party interested, and on such reasonable notice to the others as he may direct, tax and allow such costs, fees and expenses to the justice of the supreme court, commissioners, clerks and other persons as he shall think equitable and right, which shall be paid by the company.

**22. SEC. 4.** That for the purpose of acquiring any land, materials or other necessary thing, except the easement or right of passage through or over any street or highway, for the use or purchase of which such company cannot agree with the owner or owners thereof, such company may proceed in accordance with the provisions of the act to which this is a supplement.

How lands, &c., other than easement or right of passage may be acquired.

**23. SEC. 5.** That in case said company shall, within six months after the confirmation of said report, determine not to proceed with the construction of such elevated road, and file a notice to that effect in the clerk's office of said county, then, and in that case, said company shall not be liable to pay the money awarded to said owner or owners, but only such costs, expenses and reasonable counsel fees as are provided for in the fourth section of the act to which this is a supplement.

Company determining not to construct road, not liable for money awarded.

Liable for costs, &c.

**24. SEC. 6.** That any railroad company now or hereafter incorporated under any law of this state may exercise all the powers and enjoy all the privileges, rights and franchises conferred by this act and the act to which this is a supplement, and that the cars on such elevated road or roads

Company may exercise powers and enjoy privileges of act.

How cars propelled.

shall be propelled by means of a wire rope or cable, to be put and kept in motion by stationary steam power located at such convenient point or points, as may be necessary for the purpose, beyond the limits of any street or public highway, or by electricity or by other motive power.

Repealer.

**25. SEC. 7.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, that this shall be deemed a public act and shall take effect immediately.

**An act to provide for the incorporation of street railway companies and to regulate the same.**

P. L. 1886, p. 185.

Approved April 6, 1886.

Seven or more persons may form corporation.

**26. SEC. 1.** That seven or more persons may associate themselves together by articles in writing for the purpose of forming a corporation to construct, maintain and operate a street railway for the transportation of passengers.

Articles of association, and what they shall set forth.

**27. SEC. 2.** That the articles of association shall state the name of the company, the number of years the same is to continue, the points to and from which the road is to be constructed, the length of such road as near as may be, the name of each municipality, township and county in this state through, in or into which it is 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 intended to be constructed, and a proportionate sum, as near as may be, for fractions of a mile, and the number of shares of which said capital stock shall consist, and the names and residences of at least seven directors, who shall serve for one year and until their successors shall have been chosen, and a majority of whom shall be inhabitants of the municipalities through which said road is intended to be constructed and operated; each subscriber to such articles of incorporation shall subscribe thereto his place of residence and the number of shares of stock which he agrees to take in said company; on compliance with the requirements of the third section of this act, such articles of association may be tendered to the secretary of state, to be filed in his office, and it shall be his duty to indorse thereon the day and year they were filed and record the same in a book to be provided by him for that purpose; upon so tendering the said articles of association, after the doing of the things required by the third section of this act, the persons who shall have so subscribed such articles of association, and all persons who shall thereafter become stockholders in such company, shall be and remain a corporation by the name specified in such articles of association.

Amount of capital stock.

Articles to be filed and recorded.

When deemed a corporation.

Articles not to be filed or recorded until \$2,000 of stock for every mile is paid in and deposited with the state treasurer, &c.

**28. SEC. 3.** That such articles of association shall not be tendered to the secretary of state, nor filed and recorded in his office, until at least two thousand dollars of stock for every mile of railroad and a proportionate sum for every fraction of a mile thereof proposed to be constructed shall have been subscribed and paid for in good faith and in cash to the directors named in said articles of association, nor until the said directors shall have deposited the said moneys so subscribed and paid to them with the treasurer of the state of New Jersey, who shall hold the same subject to be repaid to the directors or treasurer of the said company in sums of two thousand dollars for each mile of said road upon the construction of which it shall be proved to his satisfaction that the said company have expended the sum of two thousand dollars, nor until there is indorsed on such articles of association, 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 paid in cash as aforesaid, whether the same be full payment on said stock or installments thereon only, and that it is intended in good faith to construct, maintain and operate the road mentioned in such articles of association or as its route may be designated by the authorities of the municipalities and townships in or through which it is intended to operate the road, and such affidavit shall be recorded with the articles of association as aforesaid.

Affidavit required.

**29. SEC. 4.** That a copy of the 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 state, shall be presumptive evidence of the incorporation of the company named therein and of the facts therein stated.

Copy of articles to be evidence of incorporation.

**30. SEC. 5.** That every railway company incorporated under this act shall be deemed to have power :

Powers.

I. To have succession by its corporate name for the period limited in its charter or certificate of incorporation ;

To have succession.

II. To sue and be sued, complain and defend in any court of law or equity ;

To sue, &c.

III. To make and use a common seal and alter the same at pleasure ;

Common seal.

IV. To hold, purchase, receive and convey such real and personal property as the purposes of the corporation shall require ;

Hold property.

V. To appoint such subordinate officers and agents as the business of the corporation shall desire, and to allow them a suitable compensation ;

Appoint officers, &c.

VI. To make by-laws not inconsistent with the constitution or laws of the United States or of this state, fixing and altering the number of its directors for the management of its property, the regulation and government of its affairs, with penalties for the breach thereof not exceeding twenty dollars ;

To make by-laws, &c.

VII. To wind up and dissolve itself upon the payment and settlement of all its lawful liabilities and debts and the performance of its duties, upon filing a certificate to that effect in the office of the secretary of state, signed and sworn to by the president and directors of the company ;

To wind up and dissolve.

VIII. To have all other powers necessary to the performance of its duties under this act.

Other necessary powers.

**31. SEC. 6.** That at all meetings of any company incorporated under this act absent stockholders may vote by proxy, authorized in writing ; and every company may determine by its by-laws the manner of calling and conducting all meetings, what number of shares shall entitle the stockholders to one or more votes, what number of stockholders shall attend either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting in order to constitute a quorum ; and if the quorum shall not be so determined by the company, a majority of the stockholders in interest, represented either in person or by proxy, shall constitute a quorum.

Manner of voting at meetings of company, &c.

**32. SEC. 7.** That the directors shall be the governing board of any such company, and shall consist of not less than seven in number, and they shall be chosen annually by the stockholders at such time and place as shall be provided by the by-laws of the company, and shall hold their office for one year and until others are chosen and qualified in their stead ; and one of the directors shall be chosen president, either by the directors or by the stockholders, as they shall be directed by the by-laws.

Number of directors and term of office.

President, how elected.

**33. SEC. 8.** [Amended by Secs. 51 and 55, *post.*]

**34. SEC. 9.** That no street railway company incorporated under this act shall begin to build its road until it has filed in the office of the secretary of state a certificate signed and sworn to by its president, treasurer and secretary, and a majority of its directors, stating that the full amount of capital stock has been unconditionally subscribed by responsible parties, and that fifty per centum of the par value of each share thereof has been actually paid in cash.

When company may begin to build road.

**35. SEC. 10.** [Amended by Sec. 56, *post.*]

**36. SEC. 11.** [Amended by Secs. 52 and 59, *post.*]

**37. SEC. 12.** [Amended by Sec. 53, *post.*]

**38. SEC. 13.** That the directors of any street railway company incorporated hereunder may, from time to time, assess such sums of money, not in excess of their par value, on all the shares of stock subscribed, but not paid up, as they shall think proper, and may direct the same to be paid to the treasurer, who shall give written notice thereof to the subscriber ; if the subscriber neglects to pay his assessment for thirty days after such notice, the directors may transfer the rights under such subscription to any person

Directors may assess subscribers to capital stock not to exceed value of stock. Transfer or sale of defaulting subscriber's shares.

who subscribes for the same and pays the assessment due, or may order the treasurer, upon giving notice of the same, to sell such shares by public auction to the highest bidder; if the shares of the subscriber do not sell for a sum sufficient to pay his assessments, with interest and charges of sale, he shall be liable to the corporation for the deficiency; if such shares sell for more, he shall be entitled to the surplus remaining.

When certificates of stock to be issued. How transferred.

**39. SEC. 14.** That no certificate of stock in any street railway company formed under this act shall be issued until the par value thereof is actually paid in cash; the shares are to be transferred by a conveyance in writing, recorded by the secretary or treasurer in books kept in his office; on making the transfer and surrendering the old certificate, a new one shall be granted.

Liability of directors.

**40. SEC. 15.** That the directors of every street railway company formed under this act shall be jointly and severally liable, to the extent of its capital stock, for all its debts and contracts until the whole amount of its capital stock, as originally fixed by the articles of incorporation, shall be paid in, and a certificate stating the amount thereof so fixed and paid in shall be signed and sworn to by its president, secretary, treasurer and a majority of its directors, and filed in the office of the secretary of state.

Capital stock insufficient for constructing and operating road may be increased.

**41. SEC. 16.** That in case the capital stock of any company formed under this act shall be found to be insufficient for constructing and operating this road, such company may, with the concurrence of two-thirds in amount of holdings 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 and extensions; 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 in the company.

How increased.

Companies may borrow money and issue bonds secured by mortgage, &c.

**42. SEC. 17.** That any company incorporated under this act shall have power to borrow such sums or sum of money from time to time, not to exceed in the whole its capital stock, as shall be necessary to build, construct or repair its road and branches, and furnish all necessary property and equipments for the use and objects of said company, and to secure the payment thereof by the execution, negotiation and sale of any bond or bonds secured by mortgage on its property, appurtenances, privileges and franchises; but no such company shall plead any statute or statutes against usury in any suit or action instituted to enforce payment of any bond or mortgage executed under the provisions of this section; such mortgage, when given, shall constitute a lien on all the franchises and property, both real and personal, of the company, and the proceeds of such bond or bonds shall be used only for the purpose of aiding in the construction, repair or equipment of the road, its branches and appurtenances; and upon the diversion of such proceeds from said uses the directors of said company shall become jointly and severally liable for the debts of the company in an amount equal to the sum of money so diverted and misapplied.

Proceeds of bonds sold, how used.

Railway companies to keep in repair streets, roads and bridges.

**43. SEC. 18.** That every street railway company incorporated under this act shall keep in repair, to the satisfaction of the local authorities, the paving, upper planking or other surface material of the portions of streets, roads and bridges occupied by its tracks, and if such tracks occupy unpaved streets or roads, shall, in addition, so keep in repair eighteen inches on each side of the portion occupied by its tracks; *provided*, that nothing in this section shall be deemed to affect or repeal existing provisions of any

Proviso.

municipal charter or any ordinance or regulation heretofore passed and adopted.

44. SEC. 19. That the board of aldermen, common council or township committee may from time to time establish such reasonable regulations as to the rate of speed, mode of use of the tracks and removal of snow and ice therefrom within their municipality or township as the interest and convenience of the public may require, and may enforce the same by lawful penalties.

Regulations as to rate of speed, use of tracks, &c.

45. SEC. 20. That whoever willfully and maliciously obstructs a street railway company incorporated under this act, in the legal use of its railway track, or so delays the passage of the cars thereon or aids in or abets such obstruction, detention or delay, shall be punished by a fine not exceeding fifty dollars or by imprisonment not exceeding ten days.

Penalty for obstructing railroad.

46. SEC. 21. That any street railway company incorporated under this act may from time to time establish regulations for the use of its road, cars and property, and may establish the rate or rates of fare on all passengers and property transported in its cars.

Regulations for use of road, &c.

47. SEC. 22. That all penalties prescribed by this act and incurred by any street railway company incorporated hereunder shall be sued for in its own name and to its own use by the municipality or township in which the act or omission of such company complained of has been committed or suffered.

Penalties against company, by whom sued for.

48. SEC. 23. That any street railway company heretofore incorporated, either by special act or under general laws, and now controlling and operating a street railway, may come under and be subject to the provisions of this act, and continue its existence and operation in the same manner as if formed under the same, if such company shall make and execute a certificate under the hands of the president and directors of the company, which certificate shall state that the said company desires to come under the provisions and liabilities of this act, and which shall be duly acknowledged or proved in the manner prescribed for the acknowledgment or proof of conveyances of real property, and shall be filed in the office of the secretary of state; and upon the filing of such certificate as aforesaid, the said company shall be deemed to be duly incorporated under this act and to be free from the liabilities and provisions of the act or acts under which it was formerly incorporated; *provided, however*, that nothing in this section contained shall be held to affect any transaction, liability or debts of any such company, done, accrued or contracted before the filing of said certificate; *and provided, further*, that if such company filing said certificate shall be at such time as it shall file the same, operating a railway not entirely completed over its designated route, it shall forthwith, and before proceeding further to complete the same, pay to the state treasurer the sum of two thousand dollars per mile and proportionate sums for fractions of a mile, to insure the completion within one year from the date of filing said certificate with the secretary of state of so much of said company's railway, the route of which has been lawfully designated but not actually built upon and operated; upon failure to deposit the said security as aforesaid, the designation of so much of said company's route as shall be unoccupied by its road shall be null and void, whether the same be designated by special statute or otherwise.

Companies heretofore incorporated may become subject to the provisions of this act.

Certificate to be filed in office of secretary of state.

Proviso.

Proviso.

49. SEC. 24. That no company not organized under a special charter or under this act, or now actually owning, controlling and operating a street railway, shall hereafter construct or operate any street railway or any branch or extension thereof in or on any of the streets or highways of any municipality or township of this state.

What companies shall not construct or operate street railway.

#### Supplement.

Passed May 4, 1886.

P. L. 1886, p. 339.

50. SEC. 1. That the act to which this is a supplement shall apply to all avenues, streets, roads and alleyways laid out by private individuals in towns or villages, and parts adjacent thereto, which are not under the control of aldermen, town councils or township committees, and where there

Act to apply to all avenues, streets, roads, &c., laid out by private individuals.

is any doubt as to such control, and in such cases the signatures of a majority of the property-holders fronting on such avenues, streets, roads or alleyways, attested as provided for in said act, and duly filed in the clerk's office of the county in which such railway is proposed to be laid, shall be a sufficient grant for that purpose; *provided*, that this shall not apply to avenues, streets, roads or alleyways now controlled by any township, plank road, railway or other corporations, without their consent, as provided in said act.

Proviso.

Amendatory act.

P. L. 1888, p. 541.

Approved April 24, 1888.

51. SEC. 1. [Amended by Sec. 55, *post.*]

52. SEC. 2. [Amended by Sec. 59, *post.*]

53. SEC. 3. That section twelve of said act be and the same is hereby amended so as to read as follows :

Company failing to acquire right to locate tracks, may file amended certificate.

[That if any street railway company incorporated under this act shall fail to acquire from the board of aldermen, common council, board of commissioners, township committee or other governing body of any municipality or township, within the bounds of which it shall seek the right to construct its road, the right to locate its track or any satisfactory operative portion thereof, as the same shall be described in the certificate of incorporation, it may file an amended certificate of incorporation with the secretary of state, describing a new route, on paying to the state treasurer moneys at the rate of two thousand dollars per mile for any excess of length in the new route over the old one, such moneys to be held and disposed of by the state treasurer in the manner and at the times prescribed by the third and tenth sections of this act; and if the new route shall be shorter than the old, the state treasurer shall forthwith refund to the said company or its treasurer, a proportionate amount of the money so held by him for the said difference in length; *provided*, such difference shall exceed one-half mile; or the said company may certify to the state treasurer in writing, under the oaths of its president, secretary, treasurer and a majority of the board of directors, the failure of the municipal or township authorities to grant such operative route, and thereupon the state treasurer shall refund to said company the moneys deposited by it with him as aforesaid, and the charter of said company shall thereupon become null and void.]

Pay moneys to state treasurer.

When treasurer to refund moneys.

Proviso.

Locations granted by certain municipal authorities valid.

54. SEC. 4. That whenever the location of the tracks of any street railway company heretofore incorporated under the act referred to in the title of this act, has been granted by any board of commissioners or other governing body of any municipality or township wherein the same is located, the location thus granted shall be deemed and taken to be the true location of the tracks of said railway, and shall be as valid and effectual as if the same had been granted by a board of aldermen, common council or township committee designated in said act; *provided*, an acceptance thereof shall have been filed with the secretary of state, as provided by section eight of said act; *and provided further*, that this act shall not apply, unless money shall have been actually expended in the construction of said railway, or some portion thereof.

Proviso.

Proviso.

Supplement.

P. L. 1889, p. 100.

Approved March 27, 1889.

55. SEC. 1. That section eight of the act entitled "An act to provide for the incorporation of street railway companies and to regulate the same," approved April sixth, one thousand eight hundred and eighty-six, be and the same is hereby amended so as to read as follows :

Governing body of municipality to give notice of time and place of hearing application for location, &c.

[That the board of aldermen, common council or township committee of any municipality or township, upon the petition of the directors of any company incorporated under this act, or a majority thereof, for a location of the tracks of its railway therein, conformably to the route designated in their articles of incorporation, or for an extension of the same, shall give notice to all parties interested, by publication in one or more newspapers published and circulated in said municipality, or, if none be published

there, then by posting in five of the most public places in such municipality or township, at least fourteen days before their meeting, of the time and place at which they will consider such application for location; and, after hearing, they shall pass an ordinance refusing such location or extension or granting the same, or any portion thereof, under such lawful restrictions as they may deem the interests of the public require; and the location or extension thus granted shall be deemed and taken to be the true location or extension of the tracks of the railway, if an acceptance thereof, in writing, by said directors, shall be filed with the secretary of state within thirty days after receiving notice thereof, and a copy thereof delivered to the clerk or other equivalent officer of the municipality or township; *provided*, that no street railway shall be constructed in the same street or highway in which a street railway may then be constructed and operated within one thousand feet of said railway, nor parallel thereto within less than two blocks thereof, for a distance greater than two hundred feet, without the written consent of the company then operating said railway, except to cross the same; but it shall and may be lawful to construct a street railway for a distance not greater than three hundred feet in any street or highway in which a street railway may be then constructed, in case the portion of said street or highway in which it is proposed to construct a new road is within two hundred feet of a passenger depot of any steam railroad, and is also a street or highway connecting two other streets or highways, in both of which it is proposed to construct said new road or extension; and in such case it shall not be necessary to obtain and file, as hereinafter provided, the consent of the owners of property fronting on that portion of said street or highway in which said street railway is already constructed as aforesaid; *provided, always*, that nothing herein contained shall be deemed to authorize the construction of any street railway upon any road lawfully built or controlled by any turnpike, plank road or toll road company, without the written consent of such turnpike, plank road or toll road company; *and provided, further*, that such ordinance shall not be passed or adopted until the company applying for a location of route shall file with the clerk of the board of aldermen, or other body to which application is made, the written consent of the owners of at least one-half of the property fronting on such portion of the street or highway through which such railway is to be made, which written consent shall be acknowledged by the subscribers thereto as deeds entitled to be recorded; *provided*, that the consent as aforesaid of any executor or administrator having power to sell real estate, shall be a sufficient consent for the lands which he has such power to sell; if the route thus accepted be shorter than the route designated in the certificate of incorporation, a proportionate part of the moneys paid to the state treasurer upon filing the certificate of incorporation shall be forthwith refunded by the treasurer to said company; but none of such money shall be refunded as aforesaid for any distance in length of route less than half a mile.]

56. SEC. 2. That section ten of said act be and the same is hereby amended so as to read as follows:

[That if any street railway company incorporated under this act shall not build and put in operation at least one-half of its road within two years after the passage of the ordinance establishing its route by the local authorities, its corporate power shall thereupon cease, and any moneys paid by it to the state treasurer as a guarantee of good faith, under section three of this act, shall be forfeited to the use of the state, excepting such parts thereof as may have been refunded by the treasurer, for portions of the road built; *provided*, that if any company incorporated under this act shall be restrained, by the order of any court having jurisdiction, from constructing its road or extension, after the route thereof has been duly located, then the time during which such restraint exists shall not be computed as any portion of the time allowed by this act for the construction and putting into operation of said road.]

Shall pass ordinance refusing or granting the same.

Proviso.

Proviso.

Proviso.

Proviso.

When corporate powers shall cease.

Proviso.

Powers, rights, &c., conferred upon companies heretofore organized.

**57. SEC. 3.** That all the powers, rights and privileges conferred by the provisions of this act shall apply to and be enjoyed as well by any street railway company heretofore organized under the act to which this act is a supplement, as by any such company hereafter to be so organized thereunder.

Repealer.

**58. SEC. 4.** That all acts or parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

Supplement.

P. L. 1890, p. 82.

Approved March 18, 1890.

**59. SEC. 1.** That section eleven of the act entitled "An act to provide for the incorporation of street railway companies, and to regulate the same," approved April sixth, one thousand eight hundred and eighty-six, be and the same is hereby amended so that said section shall read as follows :

Governing body of municipality may authorize street railways to extend location of tracks.

[That the board of aldermen, common council or township committee of any municipality or township may, from time to time, under such restrictions as they deem the interests of the public may require, and under the restrictions contained in the eighth section of this act, upon petition, authorize a street railway company, whose tracks have been located, and whose charter has been duly accepted, or its lessees and assigns, to extend the location of its tracks within or into their municipality or township ; and such extended location shall be deemed to be the true location of the tracks of the company, if the acceptance thereof, in writing, is filed in the office of the secretary of state within thirty days after the passage of such ordinance ; and the said company shall, at the time of such acceptance, file therewith a certificate of the length of such extension, sworn to by the president, treasurer and secretary, and the majority of the directors of said company, and shall, at the same time, pay to the state treasurer the sum of two thousand dollars for each mile of the said extension, and a proportionate sum for each fraction over or under a mile ; such moneys shall be refunded to the company, or forfeited to the use of the state, at the times and in the manner provided in the third and tenth sections of this act ; and the building of such extension shall not be commenced until the foregoing requirements shall have been complied with.]

Acceptance of location to be filed.

Amount to be paid to state treasurer.

Supplement.

P. L. 1890, p. 113.

Approved March 24, 1890.

Board of commissioners authorized to grant or refuse location of tracks, &c.

**60. SEC. 1.** That the board of commissioners or other authority having control of the streets and highways in any borough or other municipality in this state, shall have all the powers in relation to the location of the tracks of the railway of any company organized under the act to which this is a supplement or the supplements thereto, as are conferred by said act or supplements upon the board of aldermen or common council of any municipality ; and where application for a location of the tracks of its railway or an extension thereof is made by any company to any board, committee or other authority having control of the streets and highways in any borough or township, such board, committee or other authority shall consider said application and grant or refuse the location or extension petitioned for, or any portion thereof, by a motion or resolution duly passed for this purpose ; *provided*, such location or extension shall in no case be granted unless the company applying therefor shall have made the deposit with the state treasurer required by the act to which this act is a supplement.

Proviso.

Repealer.

**61. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

## Supplement.

Passed March 2, 1891.

P. L. 1891, p. 64.

**62. SEC. 1.** That whenever any company has been organized under the provisions of the act to which this is a supplement, and has constructed and operated its street railway pursuant to the articles of association of such company and the provisions of said act, and has also purchased and operated a turnpike road under the provisions of an act entitled "An act relating to street railways within incorporated towns and boroughs in this state," approved April thirtieth, one thousand eight hundred and eighty-seven, and the street railway, turnpike, franchises and property of such company have been sold and conveyed under and by virtue of a decree of the court of chancery of this state to satisfy any debts of such company, it shall be lawful for the purchasers or owners thereof, not less than three in number, to associate themselves together by articles in writing for the purpose of forming a company to maintain and operate such street railway and turnpike.

Upon sale of franchise, not less than three purchasers may form a company to maintain and operate street railway and turnpikes.

**63. SEC. 2.** That the articles of association shall state the name of the company, the number of years the same is to continue, which shall not be more than fifty years, the points between which said street railway and turnpike have been constructed and operated and are to be maintained and operated, the length of such street railway and turnpike, as near as may be, the name of each municipality, township and county through which said street railway and turnpike extend, the amount of the capital stock of the company, the number of shares into which said capital stock shall be divided and the names and residences of the directors.

Articles of association and what they shall set forth.

**64. SEC. 3.** That the capital stock of any company to be organized under this act shall be and hereby is fixed and limited as follows: where the street railway, turnpike, franchises and property of any company organized under the act to which this is a supplement have been sold as aforesaid free and clear of all incumbrances, the capital stock of any company to be organized under this act shall not exceed the sum for which such street railway, turnpike, franchises and property were sold, and may be issued as full paid; where such street railway, turnpike, franchises and property have been sold as aforesaid subject to a mortgage indebtedness thereon, the capital stock of any company to be organized under this act shall not exceed the sum for which such street railway, turnpike, franchises and property were sold and the sum of such mortgage indebtedness, and may be issued as full paid to the extent of the sum for which such street railway, turnpike, franchises and property were sold, and upon the payment or satisfaction of such mortgage indebtedness, or any part thereof, the residue of such capital stock may be issued as full paid or retained as treasury stock and sold for the benefit of the company; *provided, however,* that of said residue of said capital stock none shall be at any time issued or sold in excess of the amount which said mortgage indebtedness has been reduced by payment or satisfaction.

Amount of capital stock.

Proviso.

**65. SEC. 4.** That the said articles of association shall also state the amount of the capital stock of the company, and shall be signed by the persons associating themselves together for the purpose of forming said company, and the signing thereof acknowledged as required in the case of deeds for real estate.

Articles to be signed by the persons associating themselves.

**66. SEC. 5.** That there shall not be less than three directors of said company, a majority of whom shall be inhabitants of this state; the first board of directors shall be chosen by the persons associating themselves together to form the company, and shall be named in the articles of association; successors to the first board of directors shall be elected by the stockholders of the company at the first annual meeting of the company and annually thereafter; directors shall hold office until the annual meeting next after their appointment or election and until others are chosen and qualified in their stead.

Number of directors and term of office.

Articles to be filed.

**67. SEC. 6.** That the said articles of association, when signed and acknowledged as aforesaid, shall be filed in the office of the secretary of state, and thereupon the persons who shall have subscribed the same, and all persons who may become stockholders of said company, shall be and remain a corporation by the name specified in such articles of association, and shall be vested with all the rights, powers, immunities, privileges and franchises of corporations organized under the act to which this is a supplement, and subject to all the restrictions and conditions imposed upon any corporation organized under said act, except so far as the provisions of said act are modified or changed hereby.

Repealer.

**68. SEC. 7.** That all acts and parts of acts inconsistent with this act shall be and hereby are repealed, and that this act shall take effect immediately.

A supplement to an act entitled "An act to provide for the incorporation of street railway companies, and to regulate the same," approved April sixth, one thousand eight hundred and eighty-six, and the several acts amendatory and supplementary thereto.

P. L. 1891, p. 465.

Approved April 16, 1891.

Street railway company authorized to lay and operate railway with assent of governing body.

**69. SEC. 1.** That any street railway company, incorporated under any general law of this state, may apply to the board of aldermen or governing body of any city for location of the tracks of its railway therein conformably to the route designated in their articles of incorporation, and with the assent of such board or governing body, shall have power to lay and operate such railway in any of the streets or avenues of said city with such permission; *provided*, such railway is more than half a mile in length, notwithstanding a street railway may be then constructed and operated within a thousand feet or less of said proposed railway, and notwithstanding that such proposed railway shall be parallel with a street railway within or less than two blocks therefrom, and it shall not be necessary for such company to obtain the written consent of the company then operating such railway within such thousand feet or within two blocks thereof; *provided*, the terminus of said proposed railway at each end is not within one-half mile of the terminus of any street railway at each end, then constructed and being operated; *and provided, further*, that not more than one-sixth of said proposed railway shall be constructed parallel to any road already constructed, and then being operated, and not more than one-sixth of any such proposed road shall be allowed to be constructed within less than two blocks of any road then constructed and operated, and in no case shall such proposed road be allowed upon any portion of a street or avenue where a road is now constructed and operated.

Proviso.

Proviso.

Proviso.

Repealer.

**70. SEC. 2.** That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

An act relating to street railways within incorporated towns and boroughs in this state.

P. L. 1887, p. 240.

Approved April 30, 1887.

Street railway companies may construct and operate street railways upon and along turnpike roads within the limits of towns or boroughs.

**71. SEC. 1.** That any street railway company duly organized pursuant to the law may construct and with horses may operate street railways for the transporting of passengers and chattels for hire upon and along such portion of any turnpike road as enters and is located within the limits of any incorporated town or borough in this state, and upon and along such portion of such turnpike as extends outside such limits for the distance of thirteen hundred yards in either direction, after having obtained the consent of the owners of such turnpike so to do; *provided*, that an ordinance or resolution authorizing the construction of such railway shall have been first passed or adopted by the commissioners of any such town or borough, and that the written consents of not less than two-thirds of all the persons owning lands abutting on such portion of such turnpike in each and every incorporated town or borough shall have been first obtained and filed in the office of the clerk of the county wherein such portion of such turnpike is situate.

Proviso.

**72. SEC. 2.** That any turnpike or plank road company may sell, convey, assign and by written instrument of conveyance transfer and set over to any such street railway company any such portion of any such turnpike or plank road, together with all rights, title and interest to and in such turnpike or plank road, together with all franchises and appurtenances thereto pertaining, including the right to impose and collect tolls thereon, whereof such turnpike or plank road company shall be seized enfranchised or invested, and any such street railway company may purchase, acquire title to, and hold and enjoy the same, and may become invested and enfranchised with, and may exercise all such franchises and rights, to the same extent, and fully and in similar manner, as theretofore held, enjoyed and exercised by such turnpike or plank road company, and subject to the same penalties and liabilities thereto attached for failure to maintain such road in good condition and repair; *provided*, that the provisions of this section shall not take effect until the provisions of the first section shall have been fully complied with.

Turnpike or plank road companies may sell, assign and convey portion of road, &c.

Upon purchase, railway companies to be invested with all rights, &c.

Proviso.

**73. SEC. 3.** That the track and roadbed of any such street railway upon such turnpike road shall be constructed in such manner as shall offer no unnecessary obstruction to travel upon such turnpike, and where any repairs thereto may afterwards become necessary it shall be the duty of such street railway company to make the same without delay, and if not so made, and after five days' notice shall have been given to such company, the commissioners of the town or borough wherein such repairs may be necessary may cause the same to be made at the expense and charge of such street railway company; nothing in this act contained shall apply to any street railway within any city of this state, and the property of such street railway company shall be liable to distraint therefor.

Track constructed on road not to obstruct travel on turnpike, &c.

Act not to apply.

**74. SEC. 4.** That all laws and parts of laws conflicting herewith, in so far as they conflict herewith, are hereby repealed, and that this act shall take effect immediately.

Repealer.

#### Supplement.

Passed March 31, 1890.

P. L. 1890, p. 166.

**75. SEC. 1.** That any turnpike company may construct and operate a street railway upon and along the roadbed of such turnpike company; *provided*, that an ordinance or resolution shall have been first passed by the board of commissioners, common council or other governing body of any city, incorporated town or borough, if any, within or through the limits whereof such turnpike shall lie or extend, authorizing such construction.

Turnpike companies may construct and operate street railways on road of turnpike company.

**76. SEC. 2.** That such company may obtain and operate additional right of way for and by their street railway, having been thereto authorized as aforesaid, and may acquire such necessary land by purchase or condemnation, as in and by their original acts of incorporation may have been provided.

May obtain additional right of way and acquire lands.

**77. SEC. 3.** That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

**An act to authorize horse railroad companies incorporated under the laws of this state to merge and consolidate their corporate franchises and other property.**

Approved February 21, 1888.

P. L. 1888, p. 74.

**78. SEC. 1.** That it shall be lawful for any horse railroad company or corporation organized under the laws of this state to merge and consolidate its capital stock, franchises and property, with those of any other horse railroad company or companies having lines of railway in the same county, which consolidation shall be made under the conditions, provisions, restrictions and with the powers hereafter in this act mentioned and contained, that is to say:

Lawful for horse railroad company to consolidate with other companies having lines in same county.

Directors may enter into joint agreement for consolidation.

I. The directors of the several corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of the company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation; the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence; the number of shares of the capital stock; the amount or par value of each share, and the manner of converting the capital stock of each of the said companies into the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said companies or railroads;

Agreement to be submitted to the stockholders of each company, &c.

II. Said agreement shall be submitted to the stockholders of each of said companies or corporations at a meeting thereof, called separately, for the purpose of taking the same into consideration; due notice of the time and place of holding such meeting, and the object thereof, shall be delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the company, and also by a general notice published in some newspaper in the city where such company has its principal office or place of business; at said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken by each company separately, for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy, and if three-fourths of all the votes of all the stockholders of each company voting separately shall be for adoption of said agreement, then that fact shall be certified thereon by the secretary of the respective companies, under the seal thereof; and the agreement so adopted or a certified copy thereof shall be filed in the office of the secretary of state, and shall, from thence, be deemed and taken to be the agreement and act of consolidation of the said companies; and a copy of said agreement and act of consolidation, duly certified by the secretary of state, under the seal thereof, shall be evidence of the existence of said new corporation.

Agreement or copy to be filed in office of secretary of state.

Copy evidence.

When agreement perfected and filed, parties to be deemed one corporation.

**79. SEC. 2.** That upon the making and perfecting the agreement and act of consolidation, as provided in the preceding section, and filing the same or a copy with the secretary of state as aforesaid, the several corporations parties thereto shall be deemed and taken to be one corporation, by the name provided in said agreement and act, possessing all rights, privileges and franchises, and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated; and if there shall be any difference in gauge or width of track of said railroads so consolidated, the same may be changed and harmonized as the board of directors shall prescribe.

Gauge of track may be changed.

When act of consolidation consummated, rights, property, &c., vested in new corporation.

**80. SEC. 3.** That upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges, and franchises of each of said corporations, parties to the same, and all property, real, personal and mixed, and all debts, due on whatever account, as well as of stock subscriptions, shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all property, all rights of way, and all and every other interests shall be effectually the property of the new corporation as they were of the former corporations, parties by said agreement, and the title to real estate, either by deed or otherwise under the laws of this state, vested in either of such corporations, shall not be deemed to revert, or be in any way impaired by reason of this act; *provided, however,* that all rights of creditors and all liens upon the property of either of said corporations shall be preserved unimpaired, and the respective corporations may be deemed to continue in existence to preserve the same; and all debts, liabilities and duties of either of said companies shall thenceforth attach to said new corporation, and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

Proviso.

**81. SEC. 4.** That suits may be brought and maintained against such new company in any of the courts of this state, in the same manner as against other railroad companies therein.

Suits may be brought against new company.

**82. SEC. 5.** That such consolidated company and all its real estate and other property shall be subject to taxation and assessed in the manner provided by law for the taxation and assessment of the property of other horse railroad companies.

Subject to taxation as other horse railroad companies.

**83. SEC. 6.** That any stockholder of any company hereby authorized to consolidate with any other, who shall refuse to convert his stock into the stock of the consolidated company may, at any time within thirty days after the adoption of the said agreement of consolidation by the stockholders as in this act provided, apply by petition, to the court of common pleas of the county in which the chief office of said company may be kept, or to a judge of said court in vacation, if no such court sits within said period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed consolidation, and whose award or that of a majority of them, when confirmed by the said court, shall be final and conclusive, and the person so appointed shall also appraise said stock of such stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said consolidation, and the said company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock as aforesaid the said stockholder shall transfer the stock so held by him to said company, or be retained for the benefit of the remaining stockholders; and in case the value of said stock as aforesaid is not so paid within thirty days from the filing of said award and confirmation by said court and notice to said company, the damages so found and confirmed shall be a judgment against said company, and collected as other judgments in said court are by law recoverable.

How stockholders, refusing to convert stock into new company, may proceed to have damages estimated.

**84. SEC. 7.** That in all cases of merger or consolidation of two or more horse railroad companies under and by virtue of the provisions of this act, the said consolidated company shall have power and authority to issue bonds, with coupons or interest certificates thereto attached, to an amount sufficient to cover all the indebtedness of the companies so merged and consolidated, and to aid in the completion, reconstruction and better equipment of said railroads, to secure the payment of which it shall be lawful for them to create a mortgage covering their corporate franchises, rights, privileges and property, real and personal, and said mortgage shall be a valid lien, when properly executed and recorded, upon the property described; *provided*, that the bonds shall not bear a greater rate of interest than six per centum per annum, and the bonds so issued may be given in lieu, exchange and satisfaction of and for all bonds, coupons or other debts or liabilities against the companies thus merged and consolidated, upon such terms as may be agreed upon by and between the holders of said debts or claims and the board of directors of said consolidated company.

Consolidated company may issue bonds.

How secured.

Proviso.

**An act concerning companies empowered to construct horse railroads.**

Passed April 9, 1889.

P. L. 1889, p. 230.

**85. SEC. 1.** That the time for commencing and completing any railroad of any corporation heretofore organized under any special act of the legislature of this state, and empowered by any supplement to lay railroad tracks and operate a horse railroad whose time limited for commencing and completing the building of such railroad has expired, shall be extended for the further period of two years from the passage of this act; *provided, however*, that this act shall not apply to any corporation, unless such corporation shall first, and as a condition precedent to the exercise of any power granted by this act, file in the office of the secretary of state, an agreement, to be approved by the governor and attorney-general, waiving

Time limited for completion of railroads extended.

Proviso.

all rights to exemption from taxation and from privileges and advantages arising from any law or contract (if any there be), establishing any special mode of taxation of any such corporation, and the further agreement to be bound by any general law of this state, now in existence or that may hereafter be passed, taxing such corporations as are now authorized to be taxed by the legislature of the state, under any general law, and further agreeing that the exercise of any power granted by this act, shall not, in any way, affect the rights of the state (if any there exist), to take the property of such corporation under any existing law of the state; and agreeing further, that all laws affecting such corporation shall be subject to alteration or repeal by the legislature; *and provided further*, that if any street through which said railroad is proposed to be located shall be paved during the extension of time granted by this act, that in such case no railroad track shall be laid down in said street until the company proposing to construct the same shall pay to the proper authorities its pro rata share of the costs of said pavement.

Proviso.

Period of existence extended.

Repealer.

**86. SEC. 2.** That the period of the existence of any such corporation is hereby extended for fifty years from the passage of this act.

**87. SEC. 3.** That any and all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act requiring cable railroad companies, electric railroad companies and horse railroad companies to make annual returns to the state board of assessors.

P. L. 1889, p. 832.

Cable, electric and horse railroad companies to make annual returns to state board of assessors.

Approved May 3, 1889.

**88. SEC. 1.** That from and after the passage of this act every cable railroad company, electric railroad company and horse railroad company, and every corporation owning, using or operating any cable, electric or horse railroad in this state, shall, on the first Tuesday of January in each and every year, return to the state board of assessors of this state a statement or report, subscribed and sworn to by the president or other chief officer of such company, showing the amount of the capital stock of such company issued, the amount actually paid in thereon, and the amount of funded and other debts of said company on the thirty-first day of December next preceding the rendering of said report; also the cost of the said railroad, including its equipment and appurtenances, up to the thirty-first day of December next preceding the rendering of said report; also the amount of the expenditures for repairs, superintendence and management of the same during the year preceding the making of said report, under appropriate heads; said statement or report shall also show the income received by such company, during the year preceding the making of said report, from the carrying of passengers and freight and from all other sources, and shall also show the amount of dividends paid during said year, and the source thereof.

Statements to be filed and copies printed.

**89. SEC. 2.** That the said statements or reports shall be filed by the state board of assessors in their office at Trenton, there to remain as of record, and copies thereof shall be printed in the annual reports made by the said board to the legislature.

Statement for 1888 to be made.

**90. SEC. 3.** That all companies required to make statements or reports to the state board of assessors under and by virtue of this act, shall make the same for the year ending December thirty-first, one thousand eight hundred and eighty-eight, on or before the first day of June, in the year one thousand eight hundred and eighty-nine.

Penalty for neglecting to make return.

**91. SEC. 4.** That if any corporation owning, using or operating any cable railroad, electric railroad or horse railroad in this state, shall willfully neglect to make an annual statement or report as required by this act, such corporation shall forfeit, as a penalty for the failure to make such statement or return, the sum of five thousand dollars, to be recovered, in any proper form of action, in the supreme court, in the name of the state, and paid into the state treasury; it shall be the duty of the said board to certify any such default to the attorney-general of the state, and it shall there-

upon be the duty of the attorney-general to prosecute for such penalty ; any person who shall falsely make any oath required to be made under this act shall be guilty of perjury, and, on conviction thereof, shall be liable to all the penalties prescribed by law therefor.

**92. SEC. 5.** That all acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately. Repealer.

**An act to authorize street railway companies incorporated by or under the laws of this state to merge and consolidate their corporate franchises and other property.**

Approved April 16, 1891. P. L. 1891, p. 455.

**93. SEC. 1.** [Amended by Sec. 95, *post.*]

**94. SEC. 2.** That such consolidated company and all its real estate, franchises and other property shall be subject to taxation and shall be assessed in the manner provided by law from time to time for the taxation and assessment of the real estate, franchises and other property of horse or other street railway companies in this state. Consolidated company subject to same taxation and assessed in same manner as provided by law.

**Amendatory act.**

Approved March 8, 1893. P. L. 1893, p. 129.

**95. SEC. 1.** That section one of the said act [Sec. 93, *ante*] be amended to read as follows :

[That it shall be lawful for any horse or other street railway company or companies or any company or companies owning or operating a railroad operated as a street railway incorporated by or under the laws of this state, to merge and consolidate its corporate franchises and other property with the corporate franchises and other property of any other horse or other street railway company incorporated by or under the laws of this state, which merger and consolidation may be effected in the same manner provided by the statutes of this state for the merger and consolidation of horse railroad companies.] Horse or other street railway companies may merge and consolidate.

**96. SEC. 2.** That all acts and parts of acts inconsistent with or repugnant to this act, to the extent of such inconsistency or repugnancy, be and the same are hereby repealed, and that this act shall take effect immediately. Repealer.

**An act concerning companies empowered to construct horse or street railroads.**

Approved April 8, 1892. P. L. 1892, p. 436.

**97. SEC. 1.** That whenever the time limited for the completion of any horse or street railroad, by any act of this state extending the time for the commencement and completion of the building of such horse railroad, expired during the year eighteen hundred and ninety-one, such time shall be and the same is hereby extended for the further period of two years ; *provided, however,* this act shall not apply unless money has actually been expended in surveys or location of route, or in acquisition of right of way, or in construction ; *and provided, further,* that this act shall not apply to any corporation unless such corporation has heretofore filed or shall file as a condition precedent to the exercise of any power granted by this act in the office of the secretary of state, an agreement approved by the governor and attorney-general waiving all rights of exemption from taxation and from privileges and advantages arising from any law or contract, if any there be, establishing any special mode of taxation of any such corporation, and further agreeing to be bound by any general law of this state now in existence, or that may be hereafter passed taxing such corporations as are now authorized to be taxed by the legislature of this state under any general law, and further agreeing that the exercise of any power granted by this act shall not in any way affect the rights of the state, if any there exist, to take the property of any such corporation under any existing law of this state, and agreeing further that all laws affecting such corporations shall be subject to alteration or repeal by the legislature. Time for completing street railroads further extended for a period of two years. Proviso. Proviso.

Corporation may increase capital stock.

**98. SEC. 2.** That any such corporation is hereby authorized to increase its capital stock to any amount not exceeding double the amount which it is now authorized to issue upon filing with the secretary of state a certificate under the seal of the corporation setting forth the amount and date of such increase, which shall be accompanied by written consent of stockholders owning at least two-thirds in value of the existing capital stock to said proposed increase of capital.

An act to authorize street railway companies, or companies owning railroads operated as street railways to lease their property and franchises to any other street railway company, or railroad company operated as a street railway, and to authorize the lessees to provide for the financial and other management of the property and franchises so leased.

P. L. 1893, p. 123.

Street railway companies authorized to lease their property and franchises.

Approved March 8, 1893.

**99. SEC. 1.** That it shall and may be lawful for any company owning any street railway or railways, or any company owning any railroad company operated as a street railway, whether such lessor company or companies are incorporated under any general or special act of this state, to lease their property and franchises to any other street railway company or railroad operated as a street railway created under the laws of this state and such other company or companies are hereby authorized to take such lease for such term or terms, upon such condition or conditions as to the use and operation of the property of the lessor corporation, the enjoyment of privileges of such lessor corporation according to the provisions and restrictions contained in any general act, or in the acts under which said lessor company was incorporated; and the amount of rent to be paid therefor, and the manner of making payment of said rent, and such other conditions, limitations and restrictions as said lessor and lessee corporations may agree upon; *provided*, that no greater tolls or charges shall be made or demanded by any lessee corporation than were or are authorized to be charged and collected for the same service by the corporation or corporations, lessor or lessors in said lease.

Proviso.

Proceedings where any stockholder does not assent to such lease.

**100. SEC. 2.** That any stockholder of any company or companies whose property and franchises shall be leased under the provisions of this act who shall not assent to such lease, or who shall resist or object to the making thereof, may at any time within thirty days after the making of such lease as in this act provided apply by petition to the circuit court of the county in which the chief office of the lessor corporation may be kept, or to a judge of said court in vacation, if no such court sits within such period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed lease; and whose award, or that of a majority of them, when confirmed by said court, shall be final and conclusive; and the persons so appointed shall also appraise said stock of such stockholder at the full market value thereof without regard to any depreciation or appreciation in consequence of the said lease; and the said lessor company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock as aforesaid the said stockholder shall transfer the stock so held by him to said lessor company to be disposed of by the directors of said company or to be retained for the benefit of the remaining stockholders; and in case the value of said stock as aforesaid is not so paid within thirty days from the filing of said award and confirmation by said court, and notice to said lessor company, the damages so found and confirmed shall be a judgment against said company and collected as other judgments in said court are, by law, recoverable.

The value of said stock, if not paid, shall be a judgment against said corporations

Lessee may purchase, sell, assign, &c., capital stock, &c., and, while owner thereof, may exercise right same as natural owners.

**101. SEC. 3.** That it shall and may be lawful for any corporation or corporations which shall become lessee of any such railroad or railway, under the provisions of this act, to purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the shares of the capital stock, securities, or other evidences of debt issued or created by any other cor-

poration or corporations organized under the law of this state, and to exercise, while owners of such stock, securities, or other evidences of debt, all the rights, powers and privileges, including the right to vote on such stock, which natural persons, being the owners of such stock, securities, or other evidences of debt, might, could or would exercise.

**102. SEC. 4.** That any corporation, so becoming a lessee corporation under and by virtue of the provisions of this act, may increase its capital stock to such amount as may be determined by its board of directors; *provided*, that such corporation shall, previous to issuing of any such stock, file in the office of the secretary of state a certificate, signed by its president and under its corporate seal attested by its secretary, setting forth the amount of the proposed increase of capital stock and the number of shares into which the same is to be divided, and also the assent in writing of stockholders owning at least two-thirds in value of the existing capital stock to said increase of capital stock.

Lessee may increase its capital stock.

Proviso.

**103. SEC. 5.** That any corporation so becoming a lessee corporation under and by virtue of the provisions of this act shall have the right to borrow from time to time such sum or sums of money as may be necessary for the financial and other management of the property, not exceeding at any one time the total amount of authorized capital stock of such lessee corporation, and for the repayment thereof may issue bonds registered or with coupons or interest certificates thereto attached or both, secured by a mortgage or mortgages, covering all the corporate franchises, rights, privileges, assets, real and personal, of such mortgagor corporation, including stock and securities of such corporation or in any other corporation whose stock or securities it owns, which mortgage may be recorded as mortgages of real estates are or hereafter may be by law required to be recorded, in the office of the clerk or register of deeds of the county or counties in which the railway or railways described in said mortgage may be located, and in the office of the clerk or register of deeds of the county in which the principal office of such corporation is situate, and such record or the lodgment of such mortgage in such clerk's or register's office for record shall have the same force, operation and effect as to all judgment creditors, purchasers or mortgagees in good faith, as the record or lodgment for that purpose of mortgages of real estate now have, although such mortgage may not have been executed, proved or recorded as a chattel mortgage.

Lessee may borrow money, issue bonds, &c.

Mortgage may be recorded.

**104. SEC. 6.** That no corporation or corporations issuing bonds under the provisions of this act shall plead any statute or statutes against usury in any court of law or equity in any suit instituted to enforce the payment of such bonds or mortgages.

Shall not plead statute against usury in any suit to enforce payment of bonds.

**105. SEC. 7.** That all acts and parts of acts inconsistent with this act, to the extent of such inconsistency, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to prohibit the laying or construction of any street or horse railroad along the streets of any municipality of this state without the consent of the governing body having the control of the streets in such municipality.

Approved March 9, 1893.

P. L. 1893, p. 144.

**106. SEC. 1.** That hereafter it shall be unlawful for any street or horse railroad company organized under the act entitled "An act to provide for the incorporation of horse or street railway companies, and to regulate the same," approved April sixth, one thousand eight hundred and eighty-six, or any special or local act authorizing or incorporating any street or horse railroad company, to lay or construct any railroad track or tracks, or any extension of the same through or along any street of any municipality of this state without first obtaining the consent of the common council, board of aldermen, board of public works, or other governing body having the control of the public streets, avenues or roads of said municipality, or along the streets of which municipality said railroad company desires or intends to construct its said railroad. (a)

Unlawful to lay or construct street or horse railroad without consent of governing body having control of streets, &c.

(a) See *West Jersey Traction Co. v. Camden Horse R. R. Co.*, 7 Dick. 479.

On attempt to construct street railroad without consent of governing body the attorney-general, upon application, shall apply to court of chancery for order to forfeit the charter.

**107. SEC. 2.** That if any street or horse railroad company, incorporated under any general or special act, shall construct or attempt to construct any railroad through or upon any street, avenue or road of any municipality of this state without first obtaining the consent of the city council, board of aldermen, board of public works, or other governing body having the control of the streets, avenues or roads of said municipality, it shall be the duty of the attorney-general, upon the application of five residents of any municipality wherein said street or horse railroad company shall construct or attempt to construct said railroad, to apply to the court of chancery for an order to forfeit the charter of said street or horse railroad company, which said court of chancery may upon the applications make an order declaring void and of no effect the charter or authority of said railroad company to construct, maintain and operate said railroad, and upon the making and filing of such order the rights of said street or horse railroad company shall be thereupon forfeited and of no force.

Repealer.

**108. SEC. 3.** That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to enable street railway companies, or companies owning railroads operated as street railways to unite and consolidate their corporate franchises and other property with those of traction companies and to prescribe a method therefor.

P. L. 1893, p. 292.

Approved March 14, 1893.

Street railway company authorized to merge and consolidate with motor company, &c.

**109. SEC. 1.** That it shall and may be lawful for any street railway company or other company owning a railroad operated as a street railway, incorporated under any law of this state, to merge and consolidate its property and franchises with those of any motor power company created under any law of this state.

Consolidation made under conditions, provisions, &c.

**110. SEC. 2.** That said consolidation shall be made under the conditions, provisions, restrictions and with the powers hereafter in this act mentioned and contained, that is to say :

Directors prescribe terms and conditions, &c.

I. The directors of the several corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of the company, for the consolidation of said companies and railways, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, who shall be the first directors and officers, and their places of residence, the number of shares of the capital stock, the amount or par value of each share and the manner of converting the capital stock of each of the said companies into the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said companies or railways ;

Agreement submitted to stockholders.

II. Said agreement shall be submitted to the stockholders of each of said companies or corporations at a meeting thereof, called separately, for the purpose of taking the same into consideration ; due notice of the time and place of holding such meeting, and the object thereof, shall be delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the company ; and, also, by a general notice published in some newspaper in the city, town or county where such company has its principal office or place of business ; and at said meeting of stockholders the agreement of the said directors shall be considered, and a vote, by ballot, taken by each company separately, for the adoption or rejection of the same, each share entitling the holder thereof to one vote ; and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders, voting separately, shall be for adoption of said agreement, then that the fact shall be certified thereon by the secretary of the respective companies, under the seal thereof ; and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the secretary of state, and shall, from thence, be deemed and taken to be

Notice of meeting.

Notice published in newspapers.

Vote taken by ballot.

Vote for adoption certified by secretaries, and copy filed.

the agreement and act of consolidation of the said companies ; and a copy of said agreement and act of consolidation, duly certified by the secretary of state, under the seal of his office, shall be evidence of the existence of said new corporation.

Evidence of existence of new corporation.

**111. SEC. 3.** That upon the making and perfecting the agreement and act of consolidation, as provided in the preceding section, and filing the same, or copy, with the secretary of state as aforesaid, the several corporations, parties thereto, shall be deemed and taken to be one corporation, by the name provided in said agreement and act, possessing within this state all rights, privileges and franchises, and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated.

Upon filing agreement with secretary of state, deemed one corporation.

**112. SEC. 4.** That upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges and franchises of each of said corporations, parties to the same, and all property, real, personal and mixed, and all debts, due on whatever account, as well as stock subscriptions and other things in action belonging to each of such corporations, shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed ; and all property, all rights of way, and all and every other interests shall be effectually the property of the new corporation as they were of the former corporations, parties to said agreement ; and the title to real estate, either by deed or otherwise, under the laws of this state vested in either of such corporations shall not be deemed to revert or be in any way impaired by reason of this act ; *provided, however,* that all rights of creditors and all liens upon the property of either of said corporations shall be preserved unimpaired, and the respective corporations may be deemed to continue in existence to preserve the same ; and all debts, liabilities and duties of either of said companies shall thenceforth attach to said new corporation and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

When rights, &c., of each corporation deemed to be transferred, &c.

Title to real estate not impaired. *Proviso.*

**113. SEC. 5.** That suits may be brought and maintained against such new company in any of the courts of this state in the same manner as against other railway companies therein.

Suits may be brought against new company.

**114. SEC. 6.** That any stockholder of any company hereby authorized to consolidate with any other, who shall refuse to convert his stock into the stock of the consolidated company, may, at any time within thirty days after the adoption of the said agreement of consolidation by the stockholders, as in this act provided, apply, by petition, to the circuit court of the county in which the chief office of said company may be kept, or to a judge of said court in vacation, if no such court sits within said period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed consolidation, and whose award, or that of a majority of them, when confirmed by the said court, shall be final and conclusive, and the persons so appointed shall also appraise said stock of such stockholder at the full market value thereof, without regard of any depreciation or appreciation in consequence of the said consolidation, and the said company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock as aforesaid, the said stockholder shall transfer the stock so held by him to said company, to be disposed of by the directors of said company, or be retained for the benefit of the remaining stockholders ; and in case the value of said stock as aforesaid is not so paid within thirty days from the filing of the said award and confirmation by said court, and notice to said company, the damages so found and confirmed shall be a judgment against said company and collected as other judgments in said court are, by law, recoverable.

Proceedings when one stockholder shall refuse to convert his stock into that of consolidated company.

**115. SEC. 7.** That in all cases of consolidation of two or more railway companies under and by virtue of the provisions of this act, the said consolidated company shall have power and authority to issue bonds registered, or with coupons or interest certificates thereto attached, or both, to

Consolidated company may issue bonds and create a mortgage.

an amount sufficient to cover all the indebtedness of the company so merged and consolidated, and to aid in the completion and equipment of said railway, to secure the payment of which it shall be lawful for them to create a mortgage, covering their corporate franchises, rights, privileges and property, real and personal; *provided*, that the bonds shall not bear a greater rate of interest than six per centum per annum; the bonds so issued may be given in lieu, exchange and satisfaction of and for all bonds or other debts against the companies thus merged and consolidated, upon such terms as may be agreed upon by and between the holders of said debts or claims; *provided*, that such 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 any of the provisions of this act.

Proviso.

Proviso.

Repealer.

**116. SEC. 8.** That all acts and parts of acts inconsistent with this act, to the extent of such inconsistency, be and the same are hereby repealed, and that this act shall take effect immediately.

**An act to authorize street railway companies, or companies owning railroads operated as street railways, to lease their property and franchises to traction companies, and to prescribe a method therefor.**

P. L. 1893, p. 296.

Approved March 14, 1893.

Any company owning street railway authorized to lease upon such conditions as may be agreed upon.

**117. SEC. 1.** That it shall and may be lawful for any company owning any street railway or railways or any company owning any railroad operated as a street railway, whether such lessor company or companies are incorporated under any general or special act of this state, to lease their property and franchises to any traction company created under the laws of this state for such term or terms, upon such condition or conditions as to the use and operation of the property of the corporation, the enjoyment of privileges or immunities of such lessor corporation and the amount of rent to be paid therefor, and the manner of making payment of said rent, and such other conditions, limitations and restrictions as said lessor and lessee corporations may agree upon.

Proceedings when any stockholder objects to making such lease.

**118. SEC. 2.** That any stockholder of any company or companies whose property and franchises shall be leased under the provisions of this act, who shall not assent to such lease, or who shall resist or object to the making thereof, may at any time within thirty days after the making of such lease as in this act provided, apply by petition to the circuit court of the county in which the chief office of the lessor corporation may be kept, or to a judge of said court in vacation if no such court sits within such period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed lease, and whose award, or that of a majority of them, when confirmed by the said court shall be final and conclusive; and the persons so appointed shall also appraise said stock of such stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said lease; and the said lessor company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock as aforesaid, the said stockholder shall transfer the stock so held by him to said lessor company, to be disposed of by the directors of said company or to be retained for the benefit of the remaining stockholders; and in case the value of said stock as aforesaid is not so paid within thirty days from the filing of the said award and confirmation by said court, and notice to said lessor company, the damages so found and confirmed shall be a judgment against said company and collected as other judgments in said court are, by law, recoverable.

Repealer.

**119. SEC. 3.** That all acts and parts of acts inconsistent with this act, to the extent of such inconsistency, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to authorize the formation of traction companies for the construction and operation of street railways, or railroads operated as street railways, and to regulate the same.

Approved March 14, 1898.

P. L. 1898, p. 302.

120. SEC. 1. That it shall and may be lawful for three or more persons, one of whom shall be a resident of the state of New Jersey, to associate themselves into a corporation for the construction and operation of motors, cables and other machinery for supplying motive power to street railways, or other railroads operated as street railways, and the necessary apparatus for applying the same; and such corporation when formed in accordance with the provisions of this act shall have power to enter upon any street, road, lane, alley or other highway upon which any street railway, or other railroad operated as a street railway, is now or may hereafter be constructed (with the consent of the owner or owners, lessee or lessees of such railway or of the person or persons operating the same), and make, construct, apply, maintain and operate such railway, motors, cables, electrical or other devices and appliances, with power to erect, construct, apply, maintain and use such tunnels, subways, for cables, poles, wire, conduits or other devices for transmitting and using electrical or other forces, as will provide for the traction of cars on street railways, or other railroads operated as street railways, and to construct lines of street or passenger railway, and all necessary turnouts, sidings and bridges on, along, through or over any street, road, lane, alley, stream or highway, either by extension of existing railways or by the building of new lines thereon, either wholly within or partly within or wholly between or partly within and between cities, towns, boroughs, villages, townships and counties, and the same, when constructed, to equip, maintain, use and operate for the carriage of persons and property for compensation to be made such corporation, and to contract with any other person or persons, natural or artificial, for such construction, equipment, maintenance, use or operation, and to purchase, hold, sell, pledge, mortgage or otherwise dispose of any capital stock or securities of any other corporations owning, using, leasing or operating any street railway or other railroad operated as a street railway, turnpike or plank road, or engaged in the construction or equipment thereof, or in creating or supplying power of any kind for the operation thereof, and to exercise all the rights, powers and privileges in respect to such capital stock and securities, incidental to the use and ownership thereof, which any natural person or persons might, could or would do, and to purchase, hold, sell or otherwise dispose of such real or personal property as may be convenient or necessary for the use of the corporations created under this act, and to pledge or mortgage the same with the franchises of such corporations; *provided*, that no corporation created under this act shall enter upon or use any street, road, lane, alley, or other highway, under color or by virtue of this act, for the extension or construction of new lines of railway, or for the operation thereof, without the consent of the board of aldermen, common council or body having control of streets or highways, or other governing body of the city, town, borough, village, township or county, into or within the limits of which such new line of railways is proposed to be extended, constructed or operated, nor shall any corporation created under this act possess the power to use on any of its railways, within the limits of any street and in the surface thereof, any locomotive or other engine moving on its rails, which is propelled by steam; *provided, further*, that the adoption of any motor or motive power herein authorized to be used, shall not be deemed to preclude change to any other motor or motive power herein authorized, when and as often as the business of such corporation may from time to time in its judgment so require. (a)

Persons authorized to organize corporation to construct machinery, &c., for supplying motive power to street railways.

Powers of corporation, &c.

Proviso.

Proviso.

(a) Under this act, municipal consent to the route of the railway is not a necessary preliminary to an application to the municipal authorities for the location of the tracks. In granting consent to the location of the tracks, the municipal authorities cannot leave it to the discretion of the company to determine whether one or two tracks shall be laid or what part of the street they shall occupy, or where sidings, crossovers and switches shall be built. The municipal board must itself deter-

mine these questions in giving its consent. *Theberath v. Newark*, 28 V. 310. See, also, *West Jersey Traction Co. v. Camden Horse E. E. Co.*, 7 Dick. 479. The common council must give the parties interested a hearing before passing the ordinance granting a location of the track of a street railway company. The location of the tracks and of the poles should be definitely fixed in the ordinance. *Bowman v. Caldwell*, 18 N. J. L. J. 313.

Further powers of such corporation.	<b>121. SEC. 2.</b> That all corporations created under this act shall, in addition to the preceding, possess the following powers, and such other powers as are now, or hereafter may be, conferred upon corporations created under the laws of this state which do not possess the general power of condemning lands, or engaging in the business of insurance or banking or deriving profit from the loan or use of money :
Limit of existence, &c.	I. To have perpetual succession, by its corporate name, for the period limited in its certificate of incorporation, and to make and use a common seal and alter the same at pleasure ;
To sue and be sued, to mortgage or pledge, &c.	II. To sue and be sued in any court of law or equity ;
To appoint officers, &c.	III. To mortgage or pledge by way of mortgage, any or all of its property or franchises, or both ;
To make by-laws, &c.	IV. To appoint such officers and agents as the business of such corporation shall require, upon such suitable compensation as may be agreed ;
To have other powers.	V. To make by-laws, not inconsistent with the constitution and laws of this state, or of the United States, for the regulation of the election of its directors, the government of its affairs, the transfer of its stock, and to prescribe and enforce penalties for the breach thereof, not exceeding twenty dollars ;
They shall make and file certificate.	VI. To have all other powers necessary to the performance of its duties and the exercise of its privileges imposed or conferred by this act.
Name assumed to designate company.	<b>122. SEC. 3.</b> That whenever three or more persons shall desire to create themselves and their associates into a corporation under this act, they shall make and file a certificate in writing, to be executed and acknowledged as deeds for the conveyance of lands in this state now are or hereafter may be required to be executed and acknowledged, which certificate shall set forth :
Place of principal office.	I. The name assumed to designate such company and to be used in its business and dealings ;
Amount of capital stock, &c.	II. The place in this state where the principal office of such company is to be located ;
Paid to state treasurer.	III. The total amount of capital stock of such company, which shall not be less than one hundred thousand dollars ; the amount with which they shall commence business, which shall not be less than twenty-five thousand dollars ; the number of shares into which the said capital stock is divided, and the par value of each share, which last-mentioned sum shall be paid to the treasurer of the state of New Jersey upon filing said certificate, and withdrawn from the treasury as hereinafter provided ;
Names and residences of stockholders.	IV. The names and residences of the stockholders and the number of shares held by each ;
Period of existence.	V. The period at which such corporation shall commence and terminate, which shall not exceed one hundred years ;
Common or preferred stock.	VI. Such provisions relating to common or preferred stock, or limitations upon the exercise of the powers of the corporation, the directors and stockholders, that the parties signing the same desire ; <i>provided</i> , such limitations shall not attempt to exempt the corporation, its directors or stockholders from the performance of any duty imposed by law ; which certificate, when executed and acknowledged as aforesaid, shall be recorded in the office of the clerk of the county where the principal office of such corporation is to be located, and after being so recorded shall be filed in the office of the secretary of state ; the said certificate, or a copy thereof, duly certified by said clerk or secretary, shall be evidence in all courts and places, and upon the execution, acknowledgment, record and the filing thereof, as aforesaid, and the payment of said money to the treasurer of the state as aforesaid, the said persons so associated, their successors and assigns, shall be, from the time of the commencement fixed in the said certificate and until the expiration of the time therein expressed, incorporated into a company by the name mentioned in the said certificate ;
Proviso.	<i>provided</i> , that the legislature may at any time dissolve any corporation created by this act, or change, alter, modify, repeal or suspend this act at its discretion.
Proviso.	

**123. SEC. 4.** That upon filing with the secretary of state of this state any certificate of organization or incorporation of any corporation created under this act there shall be paid by the corporation named in such certificate to the secretary of state, for the use of the state, the sum of twenty-five dollars for all corporations having an authorized capital not exceeding one hundred thousand dollars, and the sum of one-fifth of one dollar per thousand upon the largest amount of capital authorized by its certificate of organization or incorporation by any such corporation having an authorized capital exceeding one hundred thousand dollars.

Fees upon filing certificate.

**124. SEC. 5.** That if any corporation created under this act shall, in the exercise of powers conferred by this act, enter upon any railway for the purpose of operating the same, it shall within ten days thereafter file in the office of the secretary of state a certificate under its corporate seal, attested by its president or other head officer, setting forth the name of the corporation under which such entry shall have been made, the date of such entry and the period of time during which the possession and operation of such railway is to continue, together with a description and map of the route of the railway so entered upon, and in default of the filing of such certificate, description and map as aforesaid, such corporation shall forfeit and pay to the state of New Jersey the sum of one hundred dollars for each day after the expiration of said ten days during which such default shall continue, which sum may be recovered in an action of debt, prosecuted in the name of the state by the attorney-general in any court of competent jurisdiction, and the judgment recovered therein shall be a first and paramount lien on all property and assets of such corporation.

Limit of time for filing certificates.

Penalty for violation.

**125. SEC. 6.** That whenever any corporation created under this act desires to extend any existing railway or to build any new line of railway, in the exercise of powers conferred by this act, such corporation shall, before beginning the construction of such extension or new line, file in the office of the secretary of state a description of the route of such extension or new line showing the termini of such extension or new line, together with a map exhibiting the same with the courses and distances thereof, and upon filing such description and map such corporation shall thereby secure the exclusive right to build such extension or new line for a period of six months, and thereafter for the additional period of two years, if within said six months such corporation shall have begun in good faith, to construct such extension or new line, and shall have diligently pursued such construction to the completion of such extension or new line within the period of the two years and six months aforesaid, to be computed from the day of the filing of such description and map; *provided, however*, that such corporation shall have obtained the consent of the board of aldermen, common council, or the body having control of streets and highways or other governing body of any city, town, village, township or county as to the location of the route of such extension or new line.

Upon making extension or new line, shall file description and map thereof.

Time for building same.

Proviso.

**126. SEC. 7.** That the board of aldermen, common council, or the body having control of streets or highways, or other governing body of any city, town, borough, village, township or county, upon the petition of the directors of any company incorporated under this act, or a majority thereof, for a location of the tracks of any extension or new line of its railway conformably to the route designated in description of the route of such extension or new line, and the map exhibiting the same filed as aforesaid in the office of the secretary of state shall give notice to all parties interested by publication in one or more newspapers published and circulated in said municipality, or if none be published there, then by posting in five of the most public places in such municipality or township, at least fourteen days before their meeting, of the time and place at which they will consider such application for location, and after hearing they shall either pass a resolution refusing such location or pass a resolution or ordinance, as may be necessary or proper, granting the said location or any part thereof, under such lawful restrictions as they deem the interests of the public may require, and the location thus granted shall be deemed and taken to be the true location of the tracks of the railway, if an acceptance thereof in writing

Upon petition of directors of company to governing body, &c., for location of tracks notice to be given of time and place of meeting, and resolution or ordinance to be passed.

by said directors shall be filed with the secretary of state within thirty days after receiving notice thereof, and a copy thereof delivered to the clerk or other equivalent officer of the municipality or township.

Upon failure to acquire right to locate tracks, file an amended description.

**127. SEC. 8.** That whenever any corporation organized under this act shall fail to acquire from the board of aldermen, the common council, or the body having control of the streets and highways, or other governing body of any city, town, borough, village, township or county within the limits of which it shall seek to construct its road, the right to locate its track or any satisfactory operative portion thereof, it may file with the secretary of state an amended description of the route of such extension or new line, showing the termini of such extension or new line, together with a map exhibiting the same with the courses and distances thereof, and upon filing such amended description and maps such corporation shall thereby secure the exclusive right to build such extension or new line for a period of six months from the day of the filing of such amended description and map; *provided, however,* that such corporation shall have obtained the consent of the board of aldermen, common council, or body having control of streets and highways, or other governing body of any city, town, borough, village, township or county, as to location of the route of such amended description of the route of such extension or new line.

Proviso.

Proceedings when directors petitioned board of aldermen, &c., upon filing amended description of route.

**128. SEC. 9.** That the board of aldermen, common council, or the body having control of streets, highways or other governing body of any city, town, borough, village, township or county, upon the petition of the directors of any company incorporated under this act, or a majority thereof, for a location of the tracks of any extension or new line of its railway conformably to the route designated in the amended description of the route of such extension or new line, and the map exhibiting the same filed as aforesaid in the office of the secretary of state, shall give notice to all parties interested by publication in one or more newspapers published and circulated in said municipality, or if none be published there, then by posting in five of the most public places in such municipality or township at least fourteen days before the meeting, of the time and place at which they will consider such application for location in accordance with such amended description, and after hearing they shall either pass a resolution refusing such amended location or pass a resolution or ordinance, as may be necessary or proper, granting the said amended location or any part thereof, under such lawful restrictions as they deem the interests of the public may require, and the location thus granted shall be deemed and taken to be the true location of the tracks of the railway if any acceptance thereof in writing by said directors shall be filed with the secretary of state within thirty days after receiving notice thereof and a copy thereof delivered to the clerk or other equivalent officer of the municipality or township.

Notice to be given of time and place of meeting.

Pass resolution or ordinance.

Acceptance to be filed.

When lawful to relocate line

**129. SEC. 10.** That when the location of the route of the extension of any railway or of any new line shall have been made, under the provisions of this act, it shall and may be lawful for the corporation so locating the same, at any time before such extension or new line shall have been completely constructed, to relocate the same or any part thereof, in accordance with the provisions of this act, applicable to the original location thereof, in the same manner and under the same conditions as though the extension or new line, or the part of such extension or new line to be relocated, had never been located.

Lawful to use as much of highway as necessary.

**130. SEC. 11.** That it shall and may be lawful for any corporation created under this act, to use, for the purpose of locating, constructing, maintaining and operating any extension of any railway, or any new line of railway, and for the purpose of erecting, maintaining and using poles, wires, conduits or other devices and appliances for the transmission or application of any motive power, so much of the area of any highway, along which any turnpike or plank road shall be built and in use as shall be necessary for such purposes; *provided,* that the consent of the corporation owning such turnpike or plank road, or if it be an ordinary highway, that of the board of aldermen, the common council, or the body having control of streets or highways, or other governing body of any city, town,

Proviso.

borough, village, township, or county within the limits of which such highway may be situate, shall have been first had or obtained.

**131. SEC. 12.** That the treasurer of state of New Jersey, shall hold the said sum of twenty-five thousand dollars, with which any corporation organized under this act shall commence business, and so paid to said treasurer as hereinbefore provided, subject to be repaid to the directors or treasurer of the said company, when it shall be proven to his satisfaction, that the said corporation has expended an amount equal to or in excess of twenty-five thousand dollars in the accomplishment of the aims and purposes named in the certificate of incorporation of such corporation.

When state treasurer shall repay money.

**132. SEC. 13.** That it shall and may be lawful for any company organized under this act to take so much land or material as may be necessary for the construction of any railway built under the provisions of this act, either as an extension of the line of an existing railway or a new line, not exceeding sixty feet in width, except where a greater amount shall be required for the slopes of cuts and embankments, and such easements in lands lying within or without the limits of any street, road, lane, alley or other highway as may be necessary for the accomplishment of the objects of said company, or such lands or materials as may be required for the purpose of locating and constructing all necessary works, buildings, conveniences and equipments for the construction and operation of such machinery, engines, boilers or appliances, including the erection of poles for the support of wires and conduits or the making of tunnels or subways for the production or supply of any of the motive power authorized to be used under this act, and for any of the said purposes to enter at all times upon all lands lying within or without the limits of any street, road, lane, alley or other highway for the purpose of exploring and surveying the same and of locating the right of way thereon and the necessary easements, works, buildings, conveniences, equipments and appliances aforesaid or any of them, doing no unnecessary injury to private or other property; and when the location or locations of such right of way, easements, works, conveniences, equipments and appliances shall have been determined upon and a survey of such 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 hereafter provided by its officers, agents, engineers, superintendents, workmen and other persons in their employ, to enter upon, take possession of, hold, have, use and occupy any lands or materials so surveyed, and to do all other things which may be suitable or necessary for use of such land or materials and the enjoyment of said easements or the construction of such right of way, works, buildings, conveniences, equipments and appliances aforesaid, and each and every of them, and for the maintenance, repair or operation thereof, and of every part thereof; *provided, always*, that the payment or tender of the payment of all damages for the occupancy of all lands upon which the said right of way, easements, works, buildings, conveniences, equipments and appliances of such company may be located or the use of materials shall 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 works, right of way, easements, buildings, conveniences, equipments and appliances and of locating the same, unless the consent of the owner or owners of such lands be first had and obtained.

When lawful to take more lands.

May enter upon lands within or without the limits.

Where survey deposited.

When may enter and take possession of lands.

Proviso.

**133. SEC. 14.** That when any company incorporated under this act, or its agents, cannot agree with the owner or owners of lands or materials required for any of the purposes aforesaid, or for 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 for any of the purposes aforesaid, 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

Proceedings when company cannot agree with owner of lands or materials, &c.

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 in controversy lies or the owners reside, commissioners to examine and appraise the said land required for any of the purposes aforesaid 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 lands 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, and after filing said report said commissioners, within not less than fifteen days nor more than thirty days, shall meet at a convenient place in said county to hear and consider objections to said report, and said commissioners shall cause notice of the filing of said report, and of the time and place of said meeting to hear objections to said report, by advertisements under their hands, to be set up in ten public places in said county at least ten days before the time appointed for said meeting, which advertisement shall also be published in at least three newspapers published and circulated in said county at least once a week for two weeks successively; the first publication of said notice shall be made at least ten days before the time appointed for said meeting; and thereupon said commissioners shall have power to alter and amend their report in any respect they may deem necessary, or as equity and justice may require; and after said commissioners shall have filed their certificate that they do not desire to make any alteration or amendment to their said report, the said company shall apply to a justice of the supreme court to appoint a time and place when and where he will sit to hear a motion to confirm the report of said commissioners, and said justice shall order at least ten days' notice to be given to the time and place appointed for the hearing said motion, which notice shall be posted and published in the same manner as hereinbefore directed for the posting and publishing of the notice of the meeting of said commissioners to hear objections to said report; all objections to the confirmation of said report shall be made in writing and filed in the county clerk's office at least two days before the time appointed to hear said motion; and the said justice having heard the parties interested on such report and the objections thereto, may confirm the said report in all things, or refer the same back to said commissioners to be reformed, corrected or amended in such respects as said justice may deem equitable and just, and if the said report of said commissioners be confirmed by said justice, or if, pursuant to the direction of said justice, the same be reformed, corrected or amended as by said commissioners upon filing of said report reformed, corrected or amended as aforesaid, the same shall be taken and considered as confirmed, and remain of record in said clerk's office; and thereupon and on payment or tender of payment of the respective amounts assessed and awarded as herein provided, the said company is hereby

empowered to take possession of the lands and easements in said report mentioned required for any of the purposes aforesaid, and to have, hold, use, occupy, possess and enjoy the same for any or all of said purposes ; but in case the party or parties entitled to receive any of the respective amounts so awarded shall refuse, upon tender thereof being made, to receive the same, or shall be out of the state, or under any legal disability, or in case there be any doubt as to who is legally entitled to receive any of the respective sums so awarded, then the payment of the respective amounts awarded as aforesaid into the circuit court of the county wherein said report is filed shall be deemed valid and legal payment, and the said report or a copy thereof, certified by the clerk of said county, and proof of the payment or tender of the several amounts so awarded or payment of the same into court as aforesaid, shall at all times be considered as plenary evidence of the right of such company to have, hold, use, occupy, possess and enjoy the said lands for the purposes aforesaid or any of them ; and said justice of the supreme court shall, upon application of any party interested, and on such reasonable notice to the others as he may direct, tax and allow such fees and expenses to the justice of the supreme court, commissioners, clerks, and other persons as he shall think equitable and right, which shall be paid by the company.

**134. SEC. 15.** That in case said company shall within six months after the confirmation of said report, determine not to proceed with the construction of such railway, or shall decide not to use said lands or any part thereof for any of the purposes aforesaid, and file a notice to that effect in the clerk's office of said county, then, and in that case, said company shall not be liable to pay the money awarded to said owner or owners, but only such costs, expenses and reasonable counsel fees as are hereinbefore provided for in the preceding section of this act.

When not liable to pay amount awarded.

**135. SEC. 16.** That any corporation created under this act may lease the property and franchises of any other corporation owning or operating any street railway or other railroad operated as a street railway, or any turnpike or plank road, or any motor power or traction company, and such other corporation and corporations are hereby authorized to make such lease and after such lease the corporation created under this act may use and operate the franchises and property of such corporation or corporations so leased upon such compensation to be made to the lessee company as such respective lessor corporation may have been entitled to demand from persons using or traveling in or upon the property of such lessor corporation ; *provided*, that all rights of creditors and all liens upon the property of the corporation lessor, and all privileges and immunities of such lessor corporation shall be preserved unimpaired to the same extent as if such lease had not been made ; and all debts, liabilities and duties of such lessor corporation shall thenceforth attach to the lessee corporation, and be enforced against or be enjoyed by it to the same extent and in the same manner as they were enforceable against or enjoyed by the lessor corporation ; *and provided further*, that no greater tolls or charges shall be made or demanded by any corporation created under this act than were or are authorized to be charged and collected for the same service by the corporation or corporations, lessor or lessors in said lease.

Corporation authorized to lease property, &c., of other corporations.

Proviso.

Proviso.

**136. SEC. 17.** That any stockholder of any company whose property and franchises shall have been leased to a corporation created under this act who shall not assent to lease, or who shall resist or object to the making thereof, may at any time within thirty days after the making of such lease as in this act provided apply by petition to the circuit court of the county in which the chief office of the lessor corporation may be kept or to a judge of said court in vacation, if no such court sits within such period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed lease ; and whose award, or that of a majority of them, when confirmed by the said court, shall be final and conclusive ; and the persons so appointed shall also appraise said stock of such stockholder at the full market value thereof without regard

Proceedings when any stockholder shall resist or object to making lease, &c.

to any depreciation or appreciation in consequence of the said lease ; and the lessor company may at its election either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock as aforesaid, the said stockholder shall transfer the stock so held by him to said lessor company to be disposed of by the directors of said company or to be retained for the benefit of the remaining stockholders ; and in case the value of said stock as aforesaid is not so paid within thirty days from the filing of the said award and confirmation by said court, and notice to said lessor company, the damages so found and confirmed shall be a judgment against said company, and collected as other judgments in said court are, by law, recoverable.

Any corporation may consolidate with any other corporation, &c.

**137. SEC. 18.** That any corporation created under this act may unite and consolidate its stock, property, franchises and railway with those of any other corporation owning or operating any street railway, or railroad operated as a street railway, or any turnpike or plank road, and such consolidated company may continue from time to time to unite and consolidate its stock, property, franchises and railway with those of any other corporation or corporations of this state owning or operating any street railway or railroad operated as a street railway, turnpike or plank road.

Conditions, &c., of consolidation.

**138. SEC. 19.** That such consolidation or consolidations shall be made under the conditions, provisions, restrictions and with the powers hereafter in this act mentioned and contained, that is to say :

Directors to enter into joint agreement.

I. The directors of the several corporations proposing to consolidate may enter into a joint agreement under the corporate seal of the respective companies for the consolidation of said companies and railways, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence, the amount and number of shares of the capital stock, the par value of each share and the manner of converting the capital stock of each of the said companies into the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said companies and railways ;

Agreement to be submitted to stockholders.

Notice to be given.

II. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting thereof, called separately, for the purpose of taking the same into consideration ; due notice of the time and place of holding such meetings, and the object thereof, shall be delivered to such persons respectively, or sent to them by mail when their post-office address is known to the company, and also, by a general notice published in some newspaper in the city, town or county where such company has its principal office or place of business ; and at said meeting of stockholders the agreement of the said directors shall be considered and a vote, by ballot, taken by each company separately, for the adoption or rejection of the same, each share entitling the holder thereof to one vote ; and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders, voting separately, shall be for adoption of said agreement, then that fact shall be certified thereon by the secretary of the respective companies under the seal thereof and a certificate under the seal of the company signed by the secretary and president certifying to the fact of consolidation, the name to be used by such consolidated company under and by virtue of the provisions of this act, and the amount of the authorized capital stock of such consolidated company shall be filed in the office of the secretary of state, and shall from thence be deemed and taken to be the evidence of the agreement and act of consolidation of the said companies ; and a copy of said certificate duly certified by the secretary of state, under the seal of his office, shall be evidence of the existence of said new corporation.

Vote by ballot.

Certificate of result, &c., to be filed.

Upon filing certificate with secretary of state, to be deemed one corporation.

**139. SEC. 20.** That upon the making and perfecting the agreement and act of consolidation as aforesaid and filing the said certificate or a copy with the secretary of state as aforesaid, the several corporations parties

thereto, with the amount of capital stock set out in said certificate, shall be deemed and taken to be one corporation by the name provided in said agreement and act, possessing within this state all rights, privileges and franchises and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated.

**140. SEC. 21.** That upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges and franchises of each of said corporations parties to the same, and all property, real, personal and mixed, and all debts due on whatever account, as well as stock subscriptions and other things in action belonging to each of such corporations, shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed; and all property, all rights of way and all and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to said agreement; and the title to real estate, either by deed or otherwise, under the laws of this state vested in either of such corporations shall not be deemed to revert or be in any way impaired by reason of this act; *provided, however*, that all rights of creditors and all liens upon the property of either of said corporations shall be preserved unimpaired, and the respective corporations may be deemed to continue in existence to preserve the same; and all debts, liabilities and duties of either of said companies shall thenceforth attach to said new corporation and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

When the rights, privileges, &c., deemed to be transferred.

Proviso.

**141. SEC. 22.** That suits may be brought and maintained against such company in any of the courts of this state in the same manner as against other railroad companies therein.

Suits may be brought against new company.

**142. SEC. 23.** That any stockholder of any company hereby authorized to consolidate with any other, who shall refuse to convert his stock into the stock of the consolidated company, may at any time within thirty days after the adoption of the said agreement of consolidation by the stockholders, as is in this act provided, apply, by petition, to the circuit court of the county in which the chief office of said company may be kept, or to a judge of said court in vacation, if no such court sits within the said period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed consolidation, and whose award, or that of a majority of them, when confirmed by the said court, shall be final and conclusive, and the persons so appointed shall also appraise said stock of such stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said consolidation, and the said company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock as aforesaid, the said stockholder shall transfer the stock so held by him to said company, to be disposed of by the directors of said company, or to be retained for the benefit of the remaining stockholders, and in case the value of said stock as aforesaid is not so paid within thirty days from the filing of the said award and confirmation by said court and notice to said company the damages so found and confirmed shall be a judgment against said company, and collected as other judgments in said court are, by law, recoverable.

Proceedings where stockholder refuses to convert his stock into that of consolidated company.

Award final and conclusive when confirmed.

When the award shall be a judgment.

**143. SEC. 24.** That the corporation created or consolidated under this act may increase its capital stock to such amount as may be determined by its board of directors; *provided*, that such corporation shall, previous to the issuing of any such stock, file in the office of the secretary of state of this state a certificate, signed by its president and under its corporate seal, attested by its secretary, setting forth the amount of the proposed increase of capital stock and the number of shares into which the same is to be divided, and also the assent in writing of stockholders owning at least two-thirds in value of the existing capital stock to said proposed increase of capital stock.

How capital stock may be increased.

Proviso.

Consolidated company authorized to issue bonds, and create a mortgage.

**144. SEC. 25.** That in all cases of consolidation of two or more railway companies under and by virtue of the provisions of this act, the said consolidated company shall have power and authority to issue bonds, registered or with coupons or interest certificates thereto attached, or both, to an amount sufficient to cover all indebtedness of the company so consolidated, and to aid in the completion and equipment of said railway, to secure the payment of which it shall be lawful for them to create a mortgage covering their corporate franchises, rights, privileges, property, assets, real and personal; *provided*, that the bonds shall not bear a greater rate of interest than six per centum per annum; the bonds so issued may be given in lieu, exchange and satisfaction of and for all bonds or other debts against the companies thus consolidated, upon such terms as may be agreed upon by and between the holders of said debts or claims.

Proviso.

Consolidated company authorized to borrow money, and issue bonds and mortgages.

**145. SEC. 26.** That in all cases of such consolidation under and by virtue of the provisions of this act that said companies shall have the right to borrow from time to time such sum or sums of money as may be necessary for the accomplishment of the objects of such corporation not exceeding at any one time the total amount of the authorized capital stock of such corporation, and for the repayment thereof may issue bonds registered or with coupons or interest certificates thereto attached, or both, secured by a mortgage or mortgages covering all the corporate franchises, rights, privileges, immunities, assets, real and personal, of such mortgagor corporation.

Corporation may borrow money, and issue bonds and mortgages.

**146. SEC. 27.** That any corporation created under this act may borrow from time to time such sum or sums of money as may be necessary for the accomplishment of the objects of such corporation not exceeding at any one time the total amount of the authorized capital stock of such corporation, or any increase thereof, and to secure the repayment thereof, or of any part or portion thereof, may issue bonds registered or with coupons or interest certificates thereto attached, or both, secured by a mortgage of any or all of its franchises, real estate or personal property, including stocks and securities of such corporation or of any other corporation whose stocks or securities it owns, which mortgage may be recorded as mortgages of real estate are or hereafter may be by law required to be recorded in the office of the clerk or register of deeds of the county or counties in which the railway or railways described in said mortgage may be located, and in the office of the clerk or register of deeds of the county in which the principal office of such corporation is situate, and such record or the lodgment of such mortgage in such clerk's or register's office for record shall have the same force, operation and effect as to all judgment creditors, purchasers or mortgagees in good faith, as the record of lodgment for that purpose of mortgages of real estate now have, although such mortgage may not have been executed, proved or recorded as a chattel mortgage.

Mortgages to be recorded.

No corporation issuing bonds shall plead any statute against usury.

**147. SEC. 28.** That no corporation or corporations issuing bonds under the provisions of this act shall plead any statute or statutes against usury in any court of law or equity in any suit instituted to enforce the payment of such bonds or mortgages.

May issue stock to pay for real estate, &c.

**148. SEC. 29.** That the directors of any company incorporated under this act may purchase and hold real and personal property necessary and convenient for the business of such company, and also the stocks and securities of other corporations, and issue stock to the amount of the value thereof, in payment therefor, and the stock so issued shall be declared and be taken to be full-paid stock, and shall not be liable to any further call, neither shall the holder thereof be liable for any further payments or assessments upon such stock; and such stocks shall have legibly stamped upon the face thereof, "issued for property purchased," and in all statements and reports of the company to be published, such stock shall not be reported or stated as being issued for cash paid into the company, but shall be reported according to the fact.

How stocks stamped.

When limit of time to perform certain duties shall not be computed.

**149. SEC. 30.** That whenever any company incorporated under this act shall have a duty imposed upon it, or a privilege which it is authorized to exercise, and there is a limited time within which such duty is to be discharged or such privilege exercised, and such company may be restrained

by the decree, order or writ of any court from the discharge of such duty, or prevented by the omission of any board of aldermen, common council or body having control of streets or highways, or other governing body of any city, town, borough, village, township or county to give any consent required by this act; for the exercise of any privilege conferred by this act, then so much of the time aforesaid during which such restraint exists, or such omission continued, shall not be computed, as any portion of the time limited for the discharge of such duty or the exercise of such privilege.

**150. SEC. 31.** That any corporation created under this act, whether by consolidation or otherwise, may change the gauge or width of track of any railway consolidated therewith or leased thereto.

Corporation may change gauge of track.

**151. SEC. 32.** That any consent required by this act to be given by any public body may be given by a resolution or ordinance of such body, which consent, when accepted by any corporation created under this act in a writing under its corporate seal, filed with the clerk of such body, or in the office of the clerk of the county in which such body exists, shall have the force and effect of a contract.

Any consent required may be given by resolution or ordinance, and have force of contract.

**152. SEC. 33.** That all acts and parts of acts inconsistent with this act, to the extent of such inconsistency, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

#### Supplement.

Approved May 16, 1894.

P. L. 1894, p. 359.

**153. SEC. 1.** That whenever three or more persons desiring to create themselves into a corporation under the act to which this is a supplement, have made a certificate, in writing, in which it is set forth that such persons have formed themselves into a corporation under said act, and have executed, acknowledged and filed said certificate, and paid to the treasurer of the state of New Jersey the amount with which said company was to commence business as required by the provisions of said act, the said persons, so associated, their successors or assigns, shall, from the time of the commencement fixed in said certificate and until the expiration of the time therein expressed, be incorporated into a company by the name mentioned in said certificate for all the purposes mentioned and set forth in said act, and such corporation shall, from the time of commencement fixed in said certificate, be possessed of all the powers, rights and privileges granted by said act to any corporation organized thereunder.

Corporation, how organized.

**154. SEC. 2.** That whenever any certificate of incorporation or articles of association of any company organized under the provisions of the act to which this is a supplement shall contain a description or designation of a line of railway or the routes or length of the same as proposed to be constructed and operated by said company, such description or designation shall not limit or restrict the powers of such company, but such company shall be possessed of all the powers, rights and privileges granted to all corporations organized under said act, with the same force and effect as if said description or designation had not been inserted in said certificate or articles of association, and any such company having heretofore applied to the proper municipal authority in any city, town, borough, village, township or county in this state, and having been granted a location to build, maintain and operate a railway conformably to the route or routes designated in the description of the route or routes of such railway or extension thereof, and its map or maps exhibiting the same filed in the office of the secretary of state, such company shall have the power and authority to build, maintain and operate a railway, with the necessary appliances therefor, in accordance with the provisions of the act to which this is a supplement, in, along and upon any street or highway in accordance with such location granted as aforesaid, notwithstanding any description, designation or limitation of any line of railway or route or length thereof contained in the certificate of organization or articles of association of such company.

Company to have all powers, rights and privileges without regard to certificate.

**An act to authorize and regulate the construction of street railways upon turnpikes.**

P. L. 1893, p. 342.

Street railway company authorized to construct road on turnpike in counties of second class.

Board of commissioners, &c., shall on petition, by resolution or ordinance, locate track.

Proviso.

When necessary, company authorized to construct road by ordinance or resolution of governing body.

Company must conform to the law.

Repealer.

Approved March 16, 1893.

**155. SEC. 1.** That any duly-incorporated street railway company of this state may construct and operate a street railway upon and along the roadbed of any turnpike company located within counties of the second class in this state, which shall have granted or conveyed such right or privilege to such street railway company. (a)

**156. SEC. 2.** That the board of commissioners, common council, township committee or other governing body or bodies of any city, incorporated town, borough or township within or through the limits whereof such turnpike shall lie or extend shall, upon the petition of such street railway company and proof of the granting of such permission or right of way by the turnpike company, by resolution or ordinance, locate the track or tracks of such street railway company upon the roadbed of such turnpike company; *provided*, such governing body may require the surrender by said turnpike company of its toll and other turnpike franchises as a condition upon which such location shall be made.

**157. SEC. 3.** That in case said turnpike lies within the boundaries of any incorporated city, town, borough or borough commission in whole or in part, it shall be necessary for such company to be first authorized by ordinance or resolution of the governing body of such city, town, borough or borough commission before the construction of such street railroad within the corporate limits of such city, town, borough or borough commission.

**158. SEC. 4.** That after such location shall have been made as herein provided, such street railway company shall in other respects conform to the law concerning horse and street railways.

**159. SEC. 5.** That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

**An act concerning street railroads.**

P. L. 1894, p. 182.

When charters may be declared void.

Repealer.

Approved May 1, 1894.

**160. SEC. 1.** That any corporation having heretofore been authorized and empowered to construct a railroad in any of the streets of any village in this state, and not having exercised such right for a period of ten years or more, such corporation shall proceed to construct and complete its road within one year from and after the passage of this act, or, upon failure or neglect so to do, all such rights acquired by any such corporation as aforesaid shall cease, determine and be void.

**161. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

**An act to regulate the construction of street railroads.**

P. L. 1894, p. 183.

Plan or system to be approved before construction is begun.

Repealer.

Approved May 1, 1894.

**162. SEC. 1.** That any person or corporation now having the right, or hereafter acquiring the right to lay down and construct a railroad in any of the streets within the corporate limits of any village in this state shall, before proceeding with the construction of said railroad, submit to the governing body of any such village the plan or system proposed to be used, which plan or system must be approved of by said governing body of any such village before such person or corporation shall be permitted to proceed with the laying down and constructing of any such railroad.

**163. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

(a) See *Stillwell v. Atlantic Highlands, &c., Ry. Co.*, 18 N. J. L. J. 308.

An act to regulate the construction and maintenance of street  
railroads in this state.

Approved May 16, 1894.

P. L. 1894, p. 374.

**164. SEC. 1.** That in addition to the provisions or restrictions now required by law, no street railroad shall, from and after the passage of this act, be constructed in, over and upon any street, avenue, highway, land or other public place in any municipality, town, township, village or borough of this state, except upon the consent of the governing body of such municipality, town, township, village or borough, which consent shall only be granted upon a petition of the corporation desiring to construct, operate or maintain a street railroad upon any of the streets, avenues, lanes, highways or public places of such municipality, town, township, village or borough, filed with the clerk thereof, nor shall such permission be granted until public notice of such application shall have been given by publication in one or more newspapers published or circulating in said municipality, town, township, village or borough, to be designated by said governing body, and by posting in five of the most public places in such municipality, town, township, village or borough, for at least fourteen days before the meeting of the governing body thereof at which said application shall be considered, which notice shall specify the name of the corporation presenting such petition, the date of filing the same, the character of the road intended to be constructed, operated or maintained, the motive power to be used thereon, and the street or streets, or other public places through which the same shall extend; that upon the date fixed by such notice, or upon such subsequent date as the hearing of said petition may be adjourned to, by the governing body of such municipality, town, township, village or borough, said municipality, town, township, village or borough may, by ordinance, and not otherwise, grant, or by resolution may refuse permission to construct, maintain or operate such street railroad as prayed for in said petition, or in their discretion may consent to the construction, maintenance or operation of such street railway upon part of the streets, highways or public places designated in such petition or notice, and refuse permission to construct, maintain or operate said street railway upon the remainder of such streets or public places, and the location thus granted by the governing body of such municipality, town, township, village or borough shall be deemed and taken to be the true location of the tracks of said street railway, if an acceptance thereof in writing by the corporation making such petition shall be filed with the secretary of state within thirty days after receiving notice thereof, and a copy thereof delivered to the clerk or other equivalent officer of such municipality, town, township, village or borough; *provided, however,* that such petition for the designation of route, construction, maintenance or operation of a street railway company shall not be granted by the governing body of any municipality, town, township, village or borough in this state, until there be filed with the clerk of such municipality, town, township, village or borough, or other equivalent officer, the consent in writing of the owner or owners of at least one-half in amount in lineal feet of property fronting on such street, highway, avenue or other public place, or upon the part of such street, highway, avenue or other public place through which permission to construct, operate and maintain a street railway is asked, and any such consent may be signed by an attorney in fact thereunto duly authorized and by the executor or trustee of any deceased owner or owners; *provided, however,* that if any consents have been heretofore obtained to the location of the tracks and the construction and operation of any such railway in, along or upon any street, road or highway in this state, and have been filed with the clerk of any municipality, town, township, village or borough wherein any application by any such railway company is now pending for the necessary consent and permission to locate its tracks and to construct and operate its railway, such consents, under any application made under this act, shall have the same force and

No railroad to be constructed except by consent of governing body to be obtained by petition.

Notice of application must be advertised in newspapers and posted.

Notice shall specify name, &c.

Grant must be by ordinance.

Acceptance must be filed with secretary of state.

Proviso.

Proviso.

effect and be entitled to be considered and counted the same as any consents obtained, given and filed after the passage of this act. (a)

Act shall not apply to previous grants after work has commenced.

**165. SEC. 2.** That the provisions of this act shall not apply to any case in which a location has heretofore been granted, and the work of construction commenced, as provided for under any existing law; and all applications pending shall be proceeded with in conformity with the provisions of this act.

**An act relating to street railways.**

Approved February 19, 1895.

P. L. 1895, p. 92.

Company may change gauge of tracks.

**166. SEC. 1.** That it shall be lawful for any street railway company which now uses the tracks of another street railway company as a part of its route to change the gauge or width of its tracks to conform to the gauge or width of the tracks of the company whose tracks it so uses as a part of its route.

(a) See *Stillwell v. Atlantic Highlands, &c., Ry. Co.*, 18 N. J. L. J. 809. *Bowman v. Caldwell*, 18 N. J. L. J. 313.

## Sureties.

**An act to enable the surety upon the bond of any trustee, committee, guardian, assignee, receiver, executor or administrator to require his principal to account and give a new bond and permit the making of an order to discharge such security from liability for the future acts of such principal and regulating the procedure thereupon.**

Approved May 8, 1894.

P. L. 1894, p. 222.

Surety upon bond of any trustee, &c., may require his principal to account and give a new bond, and may be discharged from liability of future acts.

**1.** That from and after the passage of this act, the surety, or the representative of any surety, upon the bond of any trustee, committee, guardian, assignee, receiver, executor or administrator, may apply, by petition to the court wherein said bond is directed to be filed or which may have jurisdiction of such trustee, committee, guardian, assignee, receiver, executor or administrator, praying to be relieved from further liability as such surety for the acts or omissions of the trustee, committee, guardian, assignee, receiver, executor or administrator, which may occur after the date of the order relieving such surety to be granted as herein provided for and to require such trustee, committee, guardian, assignee, receiver, executor or administrator to show cause why he should not account and said surety be relieved from such future liability as aforesaid and said principal be required to give a new bond; and thereupon, upon filing of said petition, said court shall issue such order returnable at such time and place and to be served in such manner as said court shall direct and may restrain such trustee, committee, guardian, assignee, receiver, executor or administrator from acting except in such manner as it may direct to preserve the trust estate; and upon the return of such order to show cause if the principal in the bond account in due form of law and file a new bond duly approved then said court must make an order releasing said surety filing the petition as aforesaid, from liability upon the bond for any subsequent act or default of the principal; and in default of said principal thus accounting and filing such new bond said court must make an order directing such trustee, committee, guardian, assignee, receiver, executor or administrator to account in due form of law and that if the trust fund or estate shall be found or made good and paid over or properly secured such surety shall be discharged from any and all further liability as such for the subsequent acts or omissions of the trustee, committee, guardian, assignee, receiver, executor or administrator after the date of such surety being so relieved or discharged and discharging such trustee, committee, guardian, assignee, receiver, executor or administrator.