

RAILROADS.

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XI. Railroad and Warehouse Commission.

XI. RAILROAD AND WAREHOUSE COMMISSION.

An act to establish a board of railroad and warehouse commissioners, and prescribe their powers and duties. Approved 12 April, 1871. In force 1 July, 1871.

127. APPOINTMENT OF COMMISSIONERS.] § 1. A commission, which shall be styled "Railroad and Warehouse Commission," shall be appointed as follows: Within 20 days after this act shall take effect, the governor shall appoint three persons as such commissioners, who shall hold their office until the next meeting of the general assembly, and until their successors are appointed and qualified. At the next meeting of the general assembly, and every two years thereafter, the governor, by and with the advice and consent of the senate, shall appoint three persons as such commissioners, who shall hold their offices for the term of two years from the 1st day of January, in the year of their appointment, and until their successors are appointed and qualified.

128. WHO MAY BE COMMISSIONERS.] § 2. No person shall be appointed as such commissioner who is, at the time of his appointment, in any way connected with any railroad company or warehouse, or who is directly or indirectly interested in any stock, bond or other property of, or is in the employment of any railroad company or warehouseman. And no person appointed as such commissioner shall, during the term of his office, become interested in any stock, bond, or other property of any railroad company or warehouse, or in any manner be employed by or connected with any railroad company or warehouse. The governor shall have power to remove any such commissioner at any time, in his discretion.

129. OATH AND BOND REQUIRED.] § 3. Before entering upon the duties of his office, each of the said commissioners shall make and subscribe and file with the secretary of state, an affidavit in the following form:—

"I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of commissioner of railroads and warehouses, according to the best of my ability."

And shall enter into bonds, with security to be approved by the governor, in the sum of \$20,000., conditioned for the faithful performance of his duty as such commissioner.

130. COMPENSATION OF COMMISSIONERS.] § 4. Each of said commissioners shall receive for his services a sum not exceeding \$3,500. per annum, payable quarterly. They shall be furnished with an office, office furniture, and stationery at the expense of the state, and shall have power to appoint a secretary, to perform such duties as they shall assign to him. Said secretary shall receive for his services a sum not exceeding \$1,500. per annum. The office of the said commissioners shall be kept at Springfield, and all sums authorized to be paid by this act shall be paid out of the state treasury, and only on the order of the governor: *Provided*, that the total sum to be expended by said commissioners for office-rent and furniture and stationery, shall in no case exceed the total sum of \$800. per annum.

131. ALLOWED TO PASS.] § 5. The said commissioners have the right of passing in the performance of their duties concerning railroads, on all railroads and railroad trains in this state.

132. ANNUAL REPORT OF EACH COMPANY.] § 6. Every railroad company incorporated or doing business in this state, or which shall hereafter become incorporated, or do business under any general or special law of this state, shall, on or before the first day of September, A. D. 1871, and on or before the same day in each year thereafter, make and transmit to the commissioners appointed by virtue of this act, at their office in Springfield, a full and true statement, under oath of the proper officers of said corporation, of the affairs of their said corporation as the same existed on the first day of the preceding July, specifying:

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1. The amount of capital stock subscribed, and by whom.
2. The names of the owners of its stock, and the amounts owned by them respectively, and the residence of each stockholder, as far as known.
3. The amount of stock paid in, and by whom.
4. The amount of its assets and liabilities.
5. The names and place of residence of its officers.
6. The amount of cash paid to the company on account of the original capital stock.
7. The amount of funded debt.
8. The amount of floating debt.
9. The estimated value of the road-bed, including iron and bridges.
10. The estimated value of rolling stock.
11. The estimated value of stations, buildings, and fixtures.
12. The estimated value of other property.
13. The length of single main track.
14. The length of double main track.
15. The length of branches, stating whether they have single or double track.
16. The aggregate length of siding and other tracks not above enumerated.
17. The number of miles run by passenger trains during the year preceding the making of the report.
18. The number of miles run by freight trains during the same period.
19. The number of tons of through freight carried during the same time.
20. The number of tons of local freight carried during the same time.
21. Its monthly earnings for the transportation of passengers during the same time.
22. Its monthly earnings for the transportation of freight during the same time.
23. Its monthly earnings from all other sources respectively.
24. The amount of expense incurred in the running and management of passenger trains during the same time.
25. The amount of expense incurred in the running and management of freight trains during the same time; also, the amount of expense incurred in the running and management of mixed trains during the same time.
26. All other expenses incurred in the running and management of the road during the same time, including the salaries of officers, which shall be reported separately.
27. The amount expended for repairs of road and maintenance of way, including repairs and renewal of bridges and renewal of iron.
28. The amount[s] expended for improvement, and whether the same are estimated as a part of the expenses of operating or repairing the road, and, if either, which.
29. The amount expended for motive power and cars.
30. The amount expended for station houses, buildings, and fixtures.
31. All other expenses for the maintenance of way.
32. All other expenditures, either for management of road, maintenance of way, motive power and cars, or for other purposes.
33. The rate of fare for passengers for each month during the same time, through and way passengers separately.
34. The tariff of freights, showing each change of tariff during the same time.
35. A copy of each published rate of fare for passengers and tariff of freight in force, or issued for the government of its agents during the same time.
36. Whether the rate of fare and tariff of freights in such published lists are the same as those actually received by the company during the same time; if not, what were received.
37. What express companies run on its roads, and on what terms, and on what conditions; the kind of business done by them, and whether they take their freights at the depots or at the office of such express companies.
38. What freight and transportation companies run on its road, and on what terms.
39. Whether such freight and transportation companies use the cars of the railroad or the cars furnished by themselves.
40. Whether the freight or cars of such companies are given any preference in speed or order of transportation, and if so, in what particular.
41. What running arrangements it has with other railroad companies, setting forth the contracts for the same.

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133. OTHER INTERROGATORIES.] § 7. The said commissioners may make and proceed to such railroad companies any additional interrogatories, which shall be answered by such companies in the same manner as those specified in the foregoing section.

134. SCOPE OF THE ACT.] § 8. Sections 6 and 7 of this act shall apply to the president, directors, and officers of every railroad company now existing, or which shall be incorporated or organized in this state, and to every lessee, manager, and operator of any railroad within this state.

135. STATEMENT BY WAREHOUSEMAN.] § 9. It shall be the duty of every owner, lessee, and manager of every public warehouse in this state, to furnish in writing, under oath, at such times as such railroad and warehouse commissioners shall require and prescribe, a statement concerning the condition and management of his business as such warehouseman.

136. ANNUAL REPORT BY COMMISSIONERS.] § 10. Such commissioners shall, on or before the first day of December in each year, and oftener, if required by the governor so to do, make a report to the governor of their doings for the preceding year, containing such facts, statements, and explanations as will disclose the actual workings of the system of railroad transportation and warehouse business in their bearings upon the business and prosperity of the people of this state, and such suggestions in relation thereto, as to them may seem appropriate, and particularly: first, whether in their judgment the railroads can be classified in regard to the rate of fare and freight to be charged upon them, and, if so, in what manner; second, whether a classification of freight can also be made, and, if so, in what manner. They shall also, at such times as the governor shall direct, examine any particular subject connected with the condition and management of such railroads and warehouses, and report to him, in writing, their opinion thereon, with their reasons therefor.

137. FURTHER DUTIES OF COMMISSIONERS.] § 11. Said commissioners shall examine into the condition and management, and all other matters concerning the business of railroads and warehouses in this state, so far as the same pertain to the relation of such roads and warehouses to the public and to the accommodation and security of persons doing business therewith; and whether such railroad companies and warehouses, their officers, directors, managers, lessees, agents and employees, comply with the laws of this state now in force or which shall hereafter be in force concerning them.

COMMISSIONERS SHALL PROSECUTE.] And whenever it shall come to their knowledge, either upon complaint or otherwise, or they shall have reason to believe that any such law or laws have been or are being violated, they shall prosecute or cause to be prosecuted all corporations or persons guilty of such violation. In order to enable said commissioners efficiently to perform their duties under this act, it is hereby made their duty to cause one of their number, at least once in six months, to visit each county in the state in which is or shall be located a railroad station, and personally inquire into the management of such railroad and warehouse business.

138. CANCELLATION OF WAREHOUSE LICENSES.] § 12. Said commissioners are hereby authorized to hear and determine all applications for the cancellation of warehouse licenses in this state, which may be issued in pursuance of any laws of this state, and for that purpose to make and adopt such rules and regulations concerning such hearing and determination as may from time to time by them be deemed proper. And if, upon such hearing, it shall appear that any public warehouseman has been guilty of violating any law of this state concerning the business of public warehousemen, said commissioners may cancel and revoke the license of said public warehouseman, and immediately notify the officer who issued such license of such revocation and cancellation. And no person whose license as a public warehouseman shall be canceled or revoked, shall be entitled to another license, or to carry on the business in this state of such public warehouseman, until the expiration of six months from the date of such revocation and cancellation, and until he shall have again been licensed: *Provided*, that this section shall not be so construed as to prevent any such warehouseman from delivering any grain on hand at the time of such revocation or cancellation of his said license. And all licenses issued in violation of the provisions of this section shall be deemed null and void. — [As to revocation of licenses, see also Ch. 106, § 27.]

139. COMMISSIONERS MAY EXAMINE FULLY.] § 13. The property, books, records, accounts, papers and proceedings of all such railroad companies, and all public ware-

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housemen, shall at all times, during business hours, be subject to the examination and inspection of such commissioners, and they shall have power to examine, under oath or affirmation, any and all directors, officers, managers, agents and employees of any such railroad corporation, and any and all owners, managers, lessees, agents and employees of such public warehouses, and other persons, concerning any matter relating to the condition and management of such business.

140. POWER AS TO WITNESSES.] § 14. In making any examination as contemplated in this act, or for the purpose of obtaining information pursuant to this act, said commissioners shall have the power to issue subpoenas for the attendance of witnesses, and may administer oaths. In case any person shall wilfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court of any county, upon application of the said commissioners, to issue an attachment for such witness, and compel such witness to attend before the commissioners and give his testimony upon such matters as shall be lawfully required by such commissioners, and the said court shall have power to punish for contempt, as in other cases of refusal to obey the process and order of such court.

141. WITNESS NOT OBEYING SUBPENA.] § 15. Any person who shall wilfully neglect or refuse to obey the process of subpoena issued by said commissioners, and appear and testify as therein required, shall be deemed guilty of a misdemeanor, and shall be liable to an indictment in any court of competent jurisdiction, and, on conviction thereof, shall be punished for each offense by a fine of not less than \$25. nor more than \$500., or by imprisonment of not more than thirty days, or both, in the discretion of the court, before which such conviction shall be had.

142. PENALTIES AGAINST RAILROAD COMPANIES, THEIR OFFICERS AND AGENTS.] § 16. Every railroad company, and every officer, agent, or employee of any railroad company, and every owner, lessee, manager, or employee of any warehouse who shall wilfully neglect to make and furnish any report required in this act, at the time herein required, or who shall wilfully and unlawfully hinder, delay or obstruct said commissioners in the discharge of the duties hereby imposed upon them, shall forfeit and pay a sum of not less than \$100. nor more than \$5,000. for each offense, to be recovered in an action of debt in the name and for the use of the people of the state of Illinois; and every railroad company, and every officer, agent or employee of any such railroad company, and every owner, lessee, manager, or agent or employee of any public warehouse shall be liable to a like penalty for every period of 10 days it or he shall wilfully neglect or refuse to make such report.

143. DUTY OF ATTORNEY GENERAL AND STATE'S ATTORNEYS.] § 17. It shall be the duty of the attorney general, and the state's attorney, in every circuit or county, on the request of said commissioners, to institute and prosecute any and all suits and proceedings which they, or either of them, shall be directed by said commissioners to institute and prosecute for a violation of this act, or any law of this state concerning railroad companies or warehouses, or the officers, employees, owners, operators or agents of any such companies or warehouses.

144. CONCERNING PROSECUTIONS.] § 18. All such prosecutions shall be in the name of the people of the state of Illinois, and all moneys arising therefrom shall be paid into the state treasury by the sheriff or other officer collecting the same, and the state's attorney shall be entitled to receive for his compensation from the state treasury, on bills to be approved by the governor, a sum not exceeding 10 per cent. of the amount received and paid into the state treasury as aforesaid: *Provided*, this act shall not be construed so as to prevent any person from prosecuting any qui tam action as authorized by law, and of receiving such part of the amount recovered in such action, as is or may be provided under any law of this state.

145. PRIVATE DAMAGES.] § 19. This act shall not be so construed as to waive or affect the right of any person injured by the violation of any law in regard to railroad companies or warehouses from prosecuting for his private damages in any manner allowed by law.

XII. Transportation of Freight.

XII. TRANSPORTATION OF FREIGHT.

An act to prevent unjust discriminations and extortions in the rates to be charged by the different railroads in this state for the transportation of freight on said roads. Approved 7 April, 1871. In force 1 July, 1871.

146. FREIGHTS TO BE UNIFORM.] § 1. No railroad corporation organized or doing business in this state, under any act of incorporation or general law of this state, now in force or which may be hereafter enacted, shall charge or collect for the transportation of goods, merchandise or property, on its said road, for any distance, the same nor any larger or greater amount, as toll or compensation, than is, at the same time, charged or collected for the transportation of similar quantities of the same class of goods, merchandise or property over a greater distance upon the same road, nor shall such corporation charge different rates for receiving, handling or delivering freight, at different points on its road or roads connected therewith which it has a right to use. Nor shall any such railroad corporation charge or collect for the transportation of goods, merchandise or property, over any portion of its road, a greater amount as toll or compensation, than shall be charged or collected by it for the transportation of similar quantities of the same class of goods, merchandise or property, over any other portion of its road of equal distance. And all such rules, regulations or by-laws of any such railroad corporation as fix, prescribe or establish any greater toll or compensation than is hereinbefore prescribed, are hereby declared to be void.

147. "RAILROAD CORPORATION" DEFINED.] § 2. The term "railroad corporation" contained in this act, shall be deemed and taken to mean all corporations, companies or individuals, now owning or operating, or which may hereafter own or operate any railroad in this state.

148. RATES OF 1870 STANDARD.] § 3. No railroad corporation shall increase its rates of toll or compensation to be charged for the transportation, receipt, handling or delivery of any property from any point on its line of road, to any other point on its line of road, by reason of any decrease in its rates which may be required to be made under § 1 of this act; nor shall the rate of toll or compensation on any day hereafter, charged or collected for the transportation, receipt, handling or delivery of any property from any point on its line of road, to any other point on its line of road, be greater or more than that charged or collected on the same day and month in the year 1870, for the transportation, receipt, handling or delivery of similar quantities of the same class of property over the same part or portion of said road. Whenever any railroad corporation, as lessee or otherwise, operates any other railroad, in connection with its own road, the provisions of this act as to charges for carrying freight, shall apply to such other road, so operated, in like manner as if the same were a part of the line of road owned by the corporation operating the same; and for such purpose, all lines of railroad operated by the same company, shall be considered as one and the same road.

149. PENALTY FOR VIOLATION.] § 4. Any railroad corporation which shall fix, demand, take or receive from any person or persons, any greater toll or compensation for the transportation, receipt, handling or delivery of goods or merchandise, in violation of the provisions of this act, shall forfeit and pay for any such offense, any sum not exceeding \$1,000., and costs of suit, including a reasonable attorney's fee, to be taxed by any court where the same is heard by appeal or otherwise; to be recovered in an action of debt by the party aggrieved, in any court having jurisdiction thereof. And any officer, agent or employee of any such railroad corporation, who shall knowingly and wilfully violate the provisions of this act, shall be liable to the penalties prescribed in this section.

150. FORFEITURE OF FRANCHISES.] § 5. Any wilful violation of any of the provisions of this act, on the part of any railroad corporation, shall be deemed and taken a forfeiture of its franchises; and such corporation so offending, may be proceeded against by the state's attorney in any circuit or county through or into which its road may run, by scire facias, or upon information in the nature of a quo warranto, to judgment of ouster and final execution.

Repealed Laws 73 1870

XIII. Transportation of Passengers.

XIII. TRANSPORTATION OF PASSENGERS.

An act to establish a reasonable maximum rate of charges for the transportation of passengers on railroads in this state. Approved 15 April, 1871. In force 1 July, 1871.

151. RATES OF FARE LIMITED.] § 1. All railroad corporations organized or doing business in this state, under the laws or authority thereof, shall be limited to the rates of compensation for the transportation of passengers which are herein prescribed.

152. CLASSIFICATION OF RAILROADS.] § 2. All railroads in this state shall be classified according to the gross amount of their respective annual earnings per mile, as follows: Class A shall include all railroads whose gross annual earnings per mile shall be \$10,000. or more. Class B shall include all railroads whose gross annual earnings per mile shall be \$8,000., or any sum in excess thereof less than \$10,000. Class C shall include all railroads whose gross annual earnings per mile shall be \$4,000., or any sum in excess thereof less than \$8,000. Class D shall include all railroads whose gross annual earnings per mile shall be any sum less than \$4,000.

153. LAWFUL RATES OF FARE.] § 3. All railroad corporations, according to their classification as herein prescribed, shall be limited to compensation per mile for the transportation of any person, with ordinary baggage, not exceeding 100 pounds in weight, as follows: Class A, two and one-half cents. Class B, three cents. Class C, four cents. Class D, five and one-half cents: *Provided*, that no such corporation shall charge, demand, or receive any greater compensation per mile, for the transportation of children 12 years of age, or under, than half the rates above prescribed: *And provided also*, a charge of 10 cents may be added to the fare of any passenger when the same is paid upon the cars, if a ticket might have been procured within a reasonable time before the departure of the train.

154. ACT TO BE POSTED UP.] § 4. All railroad corporations shall keep posted in a conspicuous place in their depots, a printed copy of this act, with a table of distances between each and every station of their road, and a statement showing the class to which its road belongs.

155. PENALTY FOR A VIOLATION.] § 5. Any railroad corporation which shall charge, demand, or receive any greater compensation for the transportation of any passenger than is authorized by this act, shall be liable to the party aggrieved in the sum of \$500., and the same may be recovered, together with all costs of suit and a reasonable attorney's fee, to be taxed by the court, in an action of debt in any court having competent jurisdiction.

156. FORFEITURE OF FRANCHISES.] § 6. If any final judgment shall be recovered against any such corporation, under the provisions of § 5 of this act, a fifth time, such corporation shall be deemed to have forfeited all its rights, privileges and franchises; and it shall be the duty of the state's attorney in any circuit or county through or into which its road may run, to proceed against such railroad corporation so violating any provision of this act, upon information, in the nature of quo warranto, to judgment of ouster and final execution. And in addition to the procedure herein provided, such corporation may be proceeded against in such other manner as may be provided by law.

157. STREET RAILROADS EXCEPTED.] § 7. This act shall not be held to apply to any city or street railroad.

XIV. STATE TAXES.

An act defining the duties of the Auditor of Public Accounts under § 1 of "An act to fund and provide for paying railroad debts of counties, townships, cities and towns," in force 16 April, 1869. See §§ 105-116 of this Chapter. Became a law 28 April, 1871. In force 1 July, 1871.

158. APPORTIONMENT OF THE SURPLUS.] § 1. Whenever the valuations of property, as shown by the assessment returns of two or more corporations, embrace the same surplus valuation, the auditor of public accounts, in determining the amount due by virtue of said act of 16 April 1869, to the county, the township, the city or town, shall distribute the tax on such surplus valuation in equal proportions, between such corporations; that is to say, should the valuation of the county show a surplus of \$3,000., the township a surplus of \$3,000., the town or city a surplus of \$3,000., each shall be entitled to the proportion

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of \$1,000. Any excess of such surplus valuation, in either of said corporations, and not embraced in the surplus valuation of either of the other, shall be apportioned to such corporation; or, if in either two of such corporations, and none in the third, such amount shall be equally divided between such two corporations.

159. TAX ON RAILROAD PROPERTY.] § 2. The tax on the property of railroads aided, appropriated in § 1 of said act of 16 April 1869, shall be apportioned by the auditor, between counties, townships, cities and towns, in similar cases, in the same manner as the surplus tax is required to be apportioned by § 1 of this act: *Provided*, that the amount of surplus tax shall be deducted from the amount of state tax on the railroads aided, in each corporation, so that no county, township, city or town, shall receive both the surplus and railroad tax; or when the amount of surplus tax exceeds the amount of state tax on railroads aided, in any corporation, then, in such case, no state tax on railroads aided, shall be placed to the credit of such county, township, city or town.

XV. ORGANIZATION.

An act to provide for the incorporation of associations that may be organized for the purpose of constructing railways, maintaining and operating the same; for prescribing and defining the duties and limiting the powers of such corporations when so organized. Approved 1 March 1872. In force 1 March 1872.

160. INCORPORATION.] § 1. Any number of persons, not less than five, may become an incorporated company for the purpose of constructing and operating any railroad in this state.

161. ORGANIZATION.] § 2. Such persons shall organize by adopting and signing articles of incorporation which shall be recorded in the office of the recorder of deeds in each county through or into which such railway is proposed to be run, and in the office of the secretary of state.

162. ARTICLES OF INCORPORATION.] § 3. Such articles shall contain: *First*. The name of the proposed corporation. *Second*. The places from and to which it is intended to construct the proposed railway. *Third*. The place at which shall be established and maintained the principal business office of such proposed corporation. *Fourth*. The time of the commencement and the period of the continuance of such proposed corporation. *Fifth*. The amount of the capital stock of such corporation. *Sixth*. The names and places of residence of the several persons forming the association for incorporation. *Seventh*. The names of the members of the first board of directors, and in what officers or persons the government of the proposed corporation and the management of its affairs shall be vested. *Eighth*. The number and amount of shares in the capital stock of such proposed corporation.

163. CORPORATE POWERS DEFINED.] § 4. When the articles shall have been filed and recorded as aforesaid, the persons named as corporators therein, shall thereupon become and be deemed a body corporate, and shall thereupon be authorized to proceed to carry into effect the objects set forth in such articles, in accordance with the provisions of this act. As such body corporate they shall have succession, and in their corporate name may sue and be sued, plead and be impleaded; the said corporation may have and use a common seal, which it may alter at pleasure; may declare the interests of its stockholders transferable; establish by-laws, and make all rules and regulations deemed necessary for the management of its affairs in accordance with law. A copy of any articles of incorporation filed and recorded in pursuance with this act, or of the record thereof, and certified to be a copy by the secretary of state, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

164. LIMITATION — RENEWAL.] § 5. No such corporation shall be formed to continue more than 50 years in the first instance, but such corporation may be renewed from time to time, in such manner as may be provided by law, for periods not longer than 50 years: *Provided*, that three-fourths of the votes cast at any regular election for that purpose, shall be in favor of such renewal, and those desiring a renewal shall purchase the stock of those opposed thereto at its current value.

165. THE BY-LAWS.] § 6. A copy of the by-laws of the corporation, duly certified, shall be recorded as provided for the recording of the articles of association in § 2 of this act. And all amendments and additions thereto, duly certified, shall also be recorded as herein provided, within 90 days after the adoption thereof.

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166. PUBLIC BUSINESS OFFICE.] § 7. Every such corporation organized under the provisions of this act, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of all its stock shall be made, and in which shall be kept for public inspection, books, wherein shall be recorded the amount of capital stock subscribed and by whom, the names of the owners of its stock, the number of shares held by each person, and the number by which each of said shares is respectively designated, and the amounts owned by them respectively, the amount of stock paid in, and by whom, the transfers of said stock, the amount of its assets and liabilities, and the names and places of residence of all its officers.

167. BOARD OF DIRECTORS — CLASSIFICATION.] § 8. All the corporate powers of every such corporation shall be vested in and be exercised by a board of directors, who shall be stockholders of the corporation, and shall be elected at the annual meetings of stockholders at the public office of such corporation within this state. The number of such directors, the manner of their election, and the mode of filling vacancies, shall be specified in the by-laws, and shall not be changed except at the annual meetings of the stockholders. The first board of directors shall classify themselves by lot in such manner that there shall be, as nearly as practicable, three directors in each class. Those belonging to the first class shall go out of office at the end of one year, those of the second class at the end of two years, and in like manner those of each class shall go out of office at the expiration of a number of years corresponding to the number of his class; and all vacancies occurring by reason of expiration of term shall be filled by election for a term of years equal to the number of classes.

168. CALLED MEETING — POWERS OF.] § 9. A meeting may be called at any time during the interval between such annual meetings, by the directors, or by the stockholders owning not less than one-fourth of the stock, by giving 30 days' public notice of the time and place of such meeting in some newspaper published in each county through or into which the said railway shall run, or be intended to run, provided there be a newspaper published in each of the counties aforesaid; and if, at any such special meeting so called, a majority in value of the stockholders equal to two-thirds of the stock of such corporation, shall not be represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business; and if, within said three days, two-thirds in value of such stock shall not be represented at such meeting, then the meeting shall be adjourned, and a new call may be given and notified as hereinbefore provided.

169. REGULAR MEETINGS — STATEMENTS — INTEREST.] § 10. At the regular annual meeting of the stockholders of any corporation organized under the provisions of this act, it shall be the duty of the president and directors to exhibit a full, distinct and accurate statement of the affairs of the said corporation; and at any meeting of the stockholders, or a majority of those present in person or by proxy may require similar statements from the president and directors, whose duty it shall be to furnish such statements when required in manner aforesaid; and at all general meetings of the stockholders, a majority in value of the stockholders of any such corporation may fix the rates of interest which shall be paid by the corporation for loans for the construction of such railway and its appendages, and the amount of such loans. At any special meeting, by a two-thirds vote in value of all the stock, such stockholders may remove any president, director, or other officer of such corporation and elect others instead of those so removed. All stockholders shall, at all reasonable hours, have access to and may examine all the books, records, and papers of such corporation.

170. FAILURE TO HOLD ELECTION.] § 11. In case it shall happen, at any time, that an election of directors shall not be made on the day designated by the by-laws of such corporation for that purpose, the corporation, for such cause, shall not be dissolved, if within 90 days thereafter the stockholders shall meet and hold an election for directors in such manner as shall be provided by the by-laws of such corporation: *Provided*, that it shall require a majority in value of the stock of such corporation to elect any member of such board of directors, and a majority of such board of directors shall be citizens and residents of this state.

171. PRESIDENT — SUBORDINATE OFFICERS.] § 12. There shall be a president of such corporation, who shall be chosen by and from the board of directors, and such other subordinate officers as such corporation, by its by-laws, may designate, who may be elected

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or appointed, and shall perform such duties and be required to give such security for the faithful performance thereof as such corporation, by its by-laws, shall require, provided that it shall require a majority of the directors to elect or appoint any officer.

172. PAYMENTS ON STOCK.] § 13. The directors of such corporation may require the subscribers to the capital stock of such corporation to pay the amount by them respectively subscribed, in such manner and in such instalments as they may deem proper. If any stockholder shall neglect to pay any instalment as required by a resolution or order of such board of directors, the said board shall be authorized to declare such stock and all previous payments thereon forfeited for the use of the corporation; but the said board of directors shall not declare such stock so forfeited until they shall have caused a notice in writing to be served on such stockholder personally, or by depositing the same in a post-office, properly directed to the post-office address of such stockholder, or if he be dead, to his legal representatives, with necessary postage for its transmittal properly prepaid, stating therein that in accordance with such resolution, or order, he is requested to make such payment, at a time and place and in the manner to be specified in such notice, and that if he fails to make the same in the manner requested, his stock and all previous payments thereon will be forfeited for the use of such corporation; and thereafter such corporation, should default in payment be made, may sell the same and issue new certificates of stock therefor: *Provided*, that the notice as aforesaid shall be personally served or duly deposited, as above required, at least 60 days previous to the day on which such payment is required to be made.

173. STOCK TRANSFERS — COMPANY FUNDS.] § 14. The stock of such corporation shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of such corporation. But no shares shall be transferable until all previous calls thereon shall have been paid; and it shall not be lawful for such corporation to use any of the funds thereof in the purchase of its own stock, or that of any other corporation, or to loan any of its funds to any director or other officer thereof, or to permit them or any of them to use the same for other than the legitimate purposes of such corporation.

174. CAPITAL STOCK INCREASED.] § 15. In case the capital stock of any such corporation shall be found insufficient for constructing and operating its road, such corporation may, with the concurrence of two-thirds in value of all its stock, increase its capital stock, from time to time, to any amount required for the purpose aforesaid. Such increase shall be sanctioned by a vote, in person or by proxy, of two-thirds in amount of all the stock of such corporation, at a meeting of such stockholders called by the directors of the corporation for such purpose, by giving notice in writing to each stockholder, to be served personally or by depositing the same in a post-office, directed to the post-office address of each of said stockholders severally, with necessary postage for the transmittal of the same prepaid, at least 60 days prior to the day appointed for such meeting, and by advertising the same in some newspaper published in each county through or into which the said road shall run or be intended to run (if any newspaper shall be published therein), at least 60 days prior to the day appointed for such meeting.

175. NOTICE — SPECIAL MEETING.] Such notice shall state the time and place of the meeting, the object thereof, and the amount to which it is proposed to increase such capital stock, and at such meeting the corporate stock of such corporation may be so increased, by a vote of two-thirds in amount of the corporate stock of such corporation, to an amount not exceeding the amount mentioned in the notices so given. Should the directors of any such corporation desire at any time to call a special meeting of the stockholders, for any other necessary purpose, the same may be done in the manner in this section provided, and if such meeting be attended by the owners of two-thirds in amount of the stock, in person or by proxy, any other necessary business of such corporation may be then transacted, except the altering, amending or adding to the by-laws of such corporation: *Provided*, such business shall have been specified in the notices given. And the proceedings of any such meeting shall be entered on the journal of the proceedings of such corporation. Every order or resolution increasing the capital stock of any such corporation shall be duly recorded as required in § 2 of this act.

176. LIABILITY DEFINED.] § 15½. No person holding stock in any such corporation as executor, administrator, guardian, or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such corpo-

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tion; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly.

177. LIABILITY — UNPAID STOCK.] § 16. Each stockholder of any corporation formed under the provisions of this act, shall be held individually liable to the creditors of such corporation to an amount not exceeding the amount unpaid on the stock held by him, for any and all debts and liabilities of such corporation, until the whole amount of the capital stock of such corporation so held by him shall have been paid.

178. ACQUIRING LANDS — RIGHT OF WAY.] § 17. If any such corporation shall be unable to agree with the owner for the purchase of any real estate required for the purposes of its incorporation, or the transaction of its business, or for its depots, station buildings, machine and repair shops, or for right of way or any other lawful purpose connected with or necessary to the building, operating or running of said road, such corporation may acquire such title in the manner that may be now or hereafter provided for by any law of eminent domain.

179. MATERIALS TAKEN.] § 18. Any such corporation may, by their agents and employees, enter upon and take from any land adjacent to its road, earth, gravel, stone, or other materials, except fuel and wood, necessary for the construction of such railway, paying, if the owner of such land and the said corporation can agree thereto, the value of such material taken and the amount of damage occasioned thereby to any such land or its appurtenances; and if such owner and corporation cannot agree, then the value of such material, and the damage occasioned to such real estate, may be ascertained, determined and paid in the manner that may now or hereafter be provided by any law of eminent domain, but the value of such materials, and the damages to such real estate, shall be ascertained, determined and paid for before such corporation can enter upon or take the same.

180. FARTHER CORPORATE POWERS.] § 19. Every corporation formed under this act, shall, in addition to the powers hereinbefore conferred, have power:

SURVEYS.] First. To cause such examination and survey for its proposed railway to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damages which shall be occasioned thereby.

181. DONATIONS.] Second. To take and hold such voluntary grants of real estate and other property as shall be made to it, in aid of the construction and use of its railway, and to convey the same when no longer required for the uses of such railway, not incompatible with the terms of the original grant.

PROPERTY.] Third. To purchase, hold and use all such real estate and other property as may be necessary for the construction and use of its railway, and the stations and other accommodations necessary to accomplish the object of its incorporation, and to convey the same when no longer required for the use of such railway.

182. CONSTRUCTION.] Fourth. To lay out its roads, not exceeding 100 feet in width, and to construct the same; and for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the railway; and to cut down any standing trees that may be in danger of falling upon or obstructing the railway, making compensation therefor in manner provided by law.

CROSSINGS.] Fifth. To construct its railway across, along or upon any stream of water, water-course, street, highway, plank road, turnpike or canal, which the route of such railway shall intersect or touch; but such corporation shall restore the stream, water-course, street, highway, plank road and turnpike thus intersected or touched, to its former state, or to such state as not unnecessarily to have impaired its usefulness, and keep such crossing in repair: *Provided*, that in no case shall any railroad company construct a road-bed without first constructing the necessary culverts or sluices, as the natural lay of the land requires for the necessary drainage thereof.

183. LIMITATIONS.] Nothing in this act contained shall be construed to authorize the erection of any bridge, or any other obstruction, across or over any stream navigated by steamboats, at the place where any bridge or other obstructions may be proposed to be placed, so as to prevent the navigation of such stream; nor to authorize the construction of any railroad upon, or across any street in any city, or incorporated town or village, without the assent of the corporation of such city, town or village: *Provided*, that in case

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of the constructing of said railway along highways, plank roads, turnpikes or canals, such railway shall either first obtain the consent of the lawful authorities having control or jurisdiction of the same, or condemn the same under the provisions of any eminent domain law now or hereafter in force in this state.

184. [CONNECTIONS.] *Sixth.* To cross, intersect, join and unite its railways with any other railway before constructed, at any point in its route, and upon the grounds of such other railway company with the necessary turnouts, sidings and switches, and other conveniences, in furtherance of the objects of its connections; and every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the corporation owning such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in manner prescribed by law.

185. [TRANSPORTATION.] *Seventh.* To receive and convey persons and property on its railway, by the power and force of steam or animals, or by any mechanical power.

[FIXTURES.] *Eighth.* To erect and maintain all necessary and convenient buildings and stations, fixtures and machinery, for the construction, accommodation and use of passengers, freights and business interests, or which may be necessary for the construction or operation of said railway.

[COMPENSATION.] *Ninth.* To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, subject, nevertheless, to the provisions of any law that may now or hereafter be enacted.

186. [BORROWING.] *Tenth.* From time to time, to borrow such sums of money as may be necessary for completing, finishing, improving or operating any such railway, and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its corporate property and franchises to secure the payment of any debt contracted by such corporation for the purposes aforesaid; but the concurrence of the holders of two-thirds in amount of the stock of such corporation, to be expressed in the manner and under all the conditions provided in § 15 of this act, shall be necessary to the validity of any such mortgage; and the order or resolution for such mortgage shall be recorded as provided in § 2 of this act; and the directors of such corporation shall be empowered, in pursuance to any such order or resolution, to confer on any holder of any bond for money so borrowed, as aforesaid, the right to convert the principal due or owing thereon into stock of such corporation, at any time not exceeding 10 years after the date of such bond, under such regulations as may be provided in the by-laws of such corporation.

187. [PERSONAL PROPERTY.] § 20. The rolling stock and all other movable property belonging to any such corporation, shall be considered personal property, and shall be liable to execution and sale, in the same manner as the personal property of individuals.

188. [ACTUAL VALUES.] § 21. No such corporation shall issue any stock or bonds, except for money, labor or property actually received and applied to the purposes for which such corporation was organized. All stock dividends and other fictitious increase of the capital stock or indebtedness of any such corporation shall be void.

189. [CONSOLIDATIONS.] § 22. No such corporation shall consolidate its capital stock with any other railway owning a parallel or competing line. And in no case shall any consolidation take place, except upon 60 days' notice thereof given, which notice shall be given in manner and form as prescribed in § 15 of this act.

190. [DIRECTORS' REPORT.] § 23. The directors of every such corporation shall annually make a report, under oath, to the auditor of public accounts, and to such other officers as may be designated by law, of all its actings and doings, which, in part, shall include such matters relating to such corporations as may be now or hereafter prescribed by law.

191. [RIGHTS RESERVED.] § 24. The general assembly shall have power to enact, from time to time, laws to prevent and correct abuses, and to prevent unjust discriminations and extortions in the rates of freight and passenger tariff; and to establish reasonable maximum rates of charges for the transportation of persons or property on any railway that may be constructed under the provisions of this act, and to enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of the property and franchises of any such corporation.

192. [RIGHT TO VOTE.] § 25. In all elections for directors or managers of such

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railway corporations, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors, multiplied by the number of his shares of stock, shall equal; or to distribute them, on the same principle, among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

193. LOWERING RATES.] § 25½. In all cases when any corporation organized under this act to induce aid in its construction, either by donation or subscription to its capital stock, shall desire to fix the rates for any period of time for the transportation of passengers or freight, such corporation may adopt a resolution fixing such rates, and the time for which the same is to be fixed, and have the same recorded in the office of the recorder of deeds in the several counties through which said road is proposed to be run; and during the time for which they are fixed, said rates shall in no case be amended by said corporation or its successors: *Provided*, that said rates shall not exceed the rates allowed by law.

194. LIMITATIONS.] § 26. If any railway corporation organized under this act shall not, within two years after its articles of association shall be filed and recorded as provided in § 2 of this act, begin the construction of its road, and expend thereon 25 per cent. on the amount of its capital, within five years after the date of its organization, or shall not finish the road and put it in operation within ten years from the time of filing its articles of association, as aforesaid, its corporate existence and powers shall cease.

195. REPEAL.] § 27. An act entitled "An act to amend 'an act to provide for a general system of railroad incorporations,' approved 5 Nov. 1849,"¹ approved 13 Feb. 1857; and also all of an act entitled "An act to provide for a general system of railroad incorporations"² approved 5 Nov. 1849, except the sections of the last named act, numbered 34, 35, 36, 37, 38, 39, 40, 41, 42 and 45, and all laws in conflict with the provisions of this act * * are hereby repealed:

196. SAVING CLAUSE.] *Provided, however,* that all general laws of this state in relation to railroad incorporations, and the powers and duties thereof, so far as the same are not inconsistent with the provisions of this act, shall remain in force and be applicable to railroad incorporations organized under this act. The repeal of the acts and parts of acts mentioned in this section, shall not be construed as to affect any rights acquired thereunder; but all corporations formed under such acts or parts of acts may, if they will adopt this act, be entitled to proceed thereunder, and have all the benefits of this act. And the fixing of the terminus by any such corporation shall have the same effect as if it had been fixed by the general assembly.

197. EMERGENCY.] § 28. Whereas there is no sufficient law for the organization of railroads in this state, and an emergency therefore exists, requiring this law to go into effect at once: Therefore this act shall take effect from and after its passage.

XVI. STATE TAXES: BONDS RETURNED.

An act to require state and county treasurers to deliver up bonds and coupons issued in aid of railroad or other corporations, which have been paid, to any person or persons who may be authorized by any county, town or city to receive the same. Approved, 7 March 1872. In force 1 July 1872. — Consult on this subject §§ 105 to 116, and §§ 158 and 159 of this chapter. See also Vol. 1, 150 §§ 32 to 42.

198. BONDS AFTER PAYMENT.] § 1. The treasurer of state, and all county treasurers in the state, at whose office any county, town or city bonds or coupons are made payable by law, which have been issued in aid of any railroad or other corporation or in payment of the stock of any such railroad or other corporation in this state, shall, at least once in each year, after this act shall be in force, if so requested by the proper authorities of any such county, town or city, account to and with any person designated by any such county, town or city, for any and all money that may have come to his or their hands for the payment of any bonds or coupons, so issued as aforesaid, and shall, upon such accounting, deliver up to such person so designated by any of the counties, towns or

¹ See Vol. 1, 544 § 52, *Proviso*.

² See Vol. 1, 544 etc.

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cities aforesaid, any and all bonds or coupons that he or they may have fully paid off and discharged out of the money coming into their hands for such purpose, and to take a voucher for all such bonds or coupons so delivered.

199. FEES ALLOWED.] § 2. There shall be allowed and paid out to the county treasurers, and to the county, town and city collectors for collecting, receiving and paying out any and all taxes levied for the payment of any such bonds or coupons or interest on the same, the amount of one-half per centum, as fees for such service, and no more for such amount so paid out: *Provided*, if any of the above officers are now or may be hereafter paid a salary for the performance of these duties, then they shall not be paid any other compensation whatsoever.

200. REPEAL.] § 3. All laws in conflict with this act are hereby repealed.

XVII. UNION DEPOTS.

*An act authorizing the formation of union depots and stations for railroads in this state. Approved 3 April 1827.
In force 1 July 1872.*

201. FORMATION OF COMPANY.] § 1. In order to facilitate the public convenience and safety in the transmission of goods and passengers from one railroad to another, and to prevent the unnecessary expense, inconvenience and loss attending the accumulation of a number of stations, any number of persons, not less than five, are hereby authorized to form themselves, or any three or more railroad companies may themselves form or join individuals in forming a corporation for the purpose of constructing, establishing and maintaining a union station for passenger or freight depots or for both, in any city, town, or place in this state, with the necessary offices and rooms convenient for the same and appurtenances thereto, and for that purpose may make and sign articles in which shall be stated the number of years the same is to continue, the city, town or place in which the same is to be located, the amount of the capital stock of said company, which shall not exceed \$3,000,000.: the amount of each share of stock, the names and places of residence of its directors, which shall not be less than five nor exceed fifteen, who shall manage its affairs for the first year and until others are chosen in their place, and shall also state the amount of stock taken by each subscriber.

202. PETITION TO CIRCUIT COURT.] § 2. Any association of persons or corporation, desiring to become incorporated under the provisions of this act, may present their articles of association to the circuit court of the county in which such city or place is, or to the judge thereof in vacation, with the petition from such members for a certificate of incorporation under the provisions of this act, to which petition shall be added or appended a certificate of at least three railroad companies who have tracks leading into said city, town or place, stating its public utility, and that they expect to make arrangements for its use when it shall be constructed, signed by the president of their respective companies.

203. CERTIFICATE OF INCORPORATION.] § 3. If the circuit court, or any judge thereof in vacation, shall be satisfied that said certificate has been signed by such companies, then the said court or judge, upon filing the said petition, articles and certificate aforesaid with the clerk of the court, shall grant to the said association a certificate of incorporation, which may be in the following form, to-wit:

Whereas A, B, and C, etc., (stating the names) have filed in the office of the clerk of the circuit court their articles of association in compliance with the provisions of an act entitled An act authorizing the formation of union depots and stations for railroads in this state, approved (stating day of approval), with their petition of incorporation, under the name and style of They are therefore hereby declared a body politic and corporate by the name and style aforesaid, with all the powers, privileges and immunities granted in the act above named. By order of circuit court (or judge thereof) Attest
clerk of circuit court of county

And thereupon, upon filing* the same or a certified copy thereof, in the office of the secretary of state, the said association from the time of such filing shall be a corporation under the laws of this state.

204. GENERAL CORPORATE POWERS.] § 4. Every corporation formed under this act, in addition to the general powers conferred by the laws of this state in relation to corporations, shall have power, 1. To take and hold such real estate as they may acquire either by conveyance to said corporations, and such as it may acquire under the pro-

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visions of this act by condemnation. 2. To take, occupy and condemn any land and real estate, or any interest therein needed for the establishment of such union station or depot, and necessary approaches thereto, and the same proceedings shall be had therefor as are now, or may hereafter be, provided by law concerning the condemnation of lands for or by railroad companies in the state, so far as such laws are applicable to the purposes of this act, and when so condemned the said land, and any interest therein, shall belong to such corporation for the purposes of this act. 3. With the consent of the corporate authorities of the city, town or place in which said station or depot is to be constructed, to have the right to lay the necessary track or tracks over, upon or under such streets or roads of said city, town or place, as may be necessary to make the necessary connections with railroads proposing to use said union depot, and may, with such consent, also construct such station or depot under, over or upon any such streets or roads. 4. From time to time to borrow such sums of money as may be necessary for the construction, completion and finishing or repairing of such station or depot, and to issue and dispose of their bonds for such amounts at such prices as they shall think proper, and to mortgage their corporate property and franchise for the purpose of securing the same. 5. To open, from time to time, books of subscription to the remainder of the capital stock not taken by the subscribers to the articles of association.

205. ELECTION OF DIRECTORS.] § 5. After the directors named in the articles of incorporation shall have served for one year, there shall be an annual election of directors, to be conducted in the manner prescribed in the constitution of this state: the directors so elected shall serve for the ensuing year, and notices of such election, appointing a time and place, shall be given by the directors as originally constituted for the first annual election, and thereafter by their successors in office, which notice shall be published not less than 20 days previous thereto, in some newspaper published in the English language in the city, town or place in which said station or depot is located.

206. No DISCRIMINATION.] § 6. There shall be no discrimination against or in favor of any railroad company using or desiring to use the said union depot, but the terms, conditions and regulations adopted for the use of the same shall, so far as practicable, be uniform and apply alike to all railroads using, or desiring to use, said union depots.

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An act to protect contractors, sub-contractors and laborers in their claims against railroad companies, or corporations, contractors or sub-contractors. Approved 3 April 1872. In force 1 July 1872.

207. LIEN OF A CONTRACTOR.] § 1. All persons who may have furnished, or who shall hereafter furnish to any railroad corporation now existing, or hereafter to be organized under the laws of this state, any fuel, ties, material, supplies, or any other article or thing necessary for the construction, maintenance, operation or repair of such roads, by contract with said corporation, or who shall have done and performed, or shall hereafter do and perform any work or labor for such construction, maintenance, operation or repair by like contract, shall be entitled to be paid for the same as part of the current expenses of said road; and in order to secure the same, shall have a lien upon all the property, real, personal and mixed, of said railroad corporation as against such railroad, and as against all mortgages or other liens which shall accrue after the commencement of the delivery of said articles, or the commencement of said work or labor: *Provided*, suit shall be commenced within six months after such contractor or laborer shall have completed his contract with said railroad corporation, or after such labor shall have been performed or material furnished.

208. LIEN OF SUB-CONTRACTOR.] § 2. Every person who shall hereafter, as sub-contractor, material man, or laborer, furnish to any contractor with any such railroad corporation any fuel, ties, materials, supplies, or any other article or thing, or who shall do and perform any work or labor for such contractor in conformity with the terms of any contract, express or implied, which such contractor may have made with any such railroad corporation, shall have a lien upon all the property, real, personal and mixed, of said railroad corporation: *Provided*, such sub-contractor, material man or laborer shall have complied with the provisions of this act. But the aggregate of all liens hereby authorized

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shall not, in any case, exceed the price agreed upon in the original contract to be paid by such corporation to the original contractor: *And provided further*, that no such lien shall take priority over any existing lien.

209. THE NOTICE REQUIRED.] § 3. The person performing such labor, or furnishing such material, shall cause a notice, in writing, to be served on the president or secretary of such railroad corporation, substantially as follows, viz:

To . . . , president (or secretary, as the case may be) of the . . . : You are hereby notified that I am (or have been) employed by . . . as a laborer (or have furnished supplies, as the case may be) on or for the . . . , and that I shall hold all the property of said railroad (or railway, as the case may be) company to secure my pay.

210. OF WRITTEN CONTRACTS.] If there shall be a contract in writing between the original contractor and sub-contractor, material man or laborer, a copy of such contract, if the same can be obtained, shall be served with such notice and attached thereto, which notice shall be served at any time before or within 20 days after the completion of such sub-contract or such labor: *Provided*, that no lien shall attach in favor of any person performing such labor or furnishing material until such notice shall have been served as above, or filed for record as hereinafter provided.

211. NOTICE FILED WITH CLERK.] § 4. If neither the president or the secretary of such railroad corporation shall reside or can be found in the county in which the sub-contract was made, or labor performed, the laborer, or person furnishing labor or material, shall file said notice in the office of the clerk of the circuit court; and the clerk of the circuit court shall file and keep a record of said notice, and cause a copy of the same to be mailed to the president or secretary of said company, for which he shall receive the sum of 25 cents, and said clerk shall keep a list of the names of the persons so claiming lien, and the names of the corporations against which such liens are claimed.

212. SUIT COMMENCED.] § 5. If the money due the person having given notice as aforesaid, shall not be paid within 10 days after the money shall become due and payable, then such person may commence suit therefor, in any court having jurisdiction of the amount claimed to be due, against the corporation with which the original contract was made; or he may commence suit, as aforesaid, against such railroad, corporation and original contractor jointly, and execution to issue as in other cases.

213. FILING A TRANSCRIPT.] If execution, issued on judgment obtained before a justice of the peace, shall be returned not satisfied, a transcript of such judgment may be taken to the circuit court, and spread upon the records thereof, and shall have all the force and effect of judgments obtained in the circuit court, and execution issued thereon as in other cases.

214. ATTORNEY'S FEE ALLOWED.] § 6. Whenever any suit, so brought, shall be determined in favor of the plaintiff, the court shall allow, if before a justice, \$5., if in a court of record, \$20., attorney's fees to be taxed as costs.

215. CONTRACT NOT COMPLETED.] § 7. Should the original contractor in any case fail to complete his contract, any person entitled to a lien, as aforesaid, may file his petition in any court of record, in any county through which the road may be constructed against the railroad corporation and the contractors, setting forth the nature of his claim, and the amount due as near as may be, the fact that the contractor has failed to complete his contract. The clerk of said court shall thereupon cause a notice to be published for four successive weeks in a newspaper printed in the county, setting forth that said petition has been filed, and the time when the writ issued on the same shall have been made returnable, and all persons entitled to liens under this act may enter their appearance and interplead in said cause, and have their claims adjudicated; and it shall be the duty of the court, in case the petitioner or claimants, or either of them, establish their claims, to enter a decree against the said corporation and original contractor, for the amount to which the persons so establishing their claims are respectively entitled, and such decrees shall have the same force and effect as decrees in other cases.

216. THREE MONTHS' LIMITATION.] § 8. The lien hereby created shall continue for three months from the time of the performance of the sub-contract, or doing of the work or furnishing the material as aforesaid, except when suit shall be commenced by petition as aforesaid, and in such cases all liens shall be barred by decree entered in such cause.

217. FORMER ACT REPEALED.] § 9. That an act entitled "An act in relation to the lien of operatives and others on the property of railroad corporations within this state,"¹

¹ See Vol. 1, 536 §§ 6 and 7.

XIX. Crossings.

approved 22 Feb. 1861, is hereby repealed; saving, however, all rights and causes of action existing under said statute hereby repealed.

XIX. CROSSINGS.

An act to prevent injury to persons or property at railroad junctions or crossings. Approved 9 April 1872. In force 1 July 1872.

218. TRAIN SHALL STOP.] § 1. Engineers or other persons having control of and running railroad trains upon any of the railroads in this state, shall, and are hereby required, on approaching any railroad junction or railroad crossing, to cause the train to come to a full stop at a distance of at least 200 feet before entering upon said junction or crossing, and not more than 1000 feet from the same, and if practicable, within said limits, to stop in full view of said junction or crossing.

219. PENALTY FOR VIOLATION.] § 2. If any engineer or other person having direction and control of any railroad train running upon any railroad in this state, shall fail or neglect to comply with the provisions of § 1 of this act, he shall, on conviction thereof, be fined in any sum not exceeding \$200., to be recovered in an action of debt in any court of this state having competent jurisdiction; and such engineer or other person so offending shall be jointly and severally bound with the company owning said railroad for any and all injuries and damages to any person or persons, or to the property of any person or persons, by reason of a failure or neglect to comply with the provisions of § 1 of this act, in such action as may be suited to the nature of the injury or damage complained of, before any court in this state having competent jurisdiction thereof.

220. LIBERAL CONSTRUCTION.] § 3. This act shall be taken and construed to be a public act, and shall have a liberal construction for the accomplishment of its provisions.