

Defendant Summoned: Return - - - Appeals and Writs of Error.

nature of a quo warranto, in the name of the People of the State of Illinois; and if such court or judge shall be satisfied that there is probable ground for the proceeding, the court or judge may grant the petition, and order the information to be filed and process to issue. When it appears to the court or judge that the several rights of divers parties to the same office or franchise may properly be determined on one information, the court or judge may give leave to join all of such persons in the same information, in order to try their respective rights to such office or franchise.

DEFENDANT SUMMONED: RETURN.] § 2. On the filing of such information, the clerk of the court shall issue a summons in like form as other summons, commanding the defendant to appear at the return term thereof, to answer the relator in an information in the nature of a quo warranto. If the information is filed in vacation, the summons shall be made returnable on the first day of the next succeeding term; if in term time, it may be made returnable on any day of the same term, not less than five days after the date of the writ, as shall be directed by the court.

HOW SERVED.] § 3. The summons may be served in the same manner as other summons in suits at law, but if any defendant resides, or is out of the state, he may be served with a copy of the information in the same manner and with like effect, and the service may be proved in the same way as provided in the case of bills in chancery.

JUDGMENT NIL DICIT.] § 4. Every defendant who shall be summoned or served with a copy of the information as required in this act, shall be held to demur or plead to the information on the return day of the summons, or when served with a copy of the information at the expiration of the time required to be given, or within such further time as may be granted by the court, or in default thereof, judgment may be taken nil dicit.

TIME TO PLEAD.] § 5. The court in which any information, as aforesaid, is filed, may allow the relator or any defendant such convenient time to plead, reply or demur, as it shall deem just and reasonable.

DEFENDANT GUILTY: THE JUDGMENT.] § 6. In case any person or corporation against whom any such information is filed is adjudged guilty, as charged in the information, the court may give judgment of ouster against such person or corporation from the office or franchise, and fine such person or corporation for usurping, intruding into or unlawfully holding and executing such office or franchise, and also give judgment in favor of the relator for the costs of the prosecution: *Provided*, that instead of judgment of ouster from a franchise for an abuse thereof, unless the court is of the opinion that the public good demands such judgment, the court may fine the person or corporation found guilty, in any sum not exceeding \$25,000., for each offense. Whenever judgment is given for any defendant in such information, the person or corporation to whom judgment is given shall recover costs against the relator.

APPEALS AND WRITS OF ERROR.] § 7. Appeals and writs of error may be taken and prosecuted in the same manner and upon the same terms, and with like effect as in other civil cases.

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TRANSPORTATION OF PASSENGERS AND FREIGHT.

An act to prevent extortion and unjust discrimination in the rates charged for the transportation of passengers and freights on railroads in this state, and to punish the same and prescribe a mode of procedure and rules of evidence in relation thereto, and to repeal an act entitled "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 freights on said roads," approved April 7, A. D. 1871. Approved 2 May 1873. In force 1 July 1873.

1. RATES FAIR AND REASONABLE.] § 1. If any 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 hereafter be enacted, or any railroad corporation organized or which may hereafter be organized under the laws of any other state, and doing business in this state, shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight, of any description, or for the use and transportation of any railroad car upon its track, or any of the branches thereof, or upon any railroad within this state which it has the right, license, or permission to use, operate, or control, the same shall be deemed guilty of extortion, and upon conviction thereof shall be dealt with as hereinafter provided.

2. UNJUST DISCRIMINATIONS.] § 2. If any such railroad corporation aforesaid shall make any unjust discrimination in its rates or charges of toll, or compensation, for the transportation of passengers or freight of any description, or for the use and transportation of any railroad car upon its said road, or upon any of the branches thereof, or upon any railroads connected therewith, which it has the right, license, or permission to operate, control or use, within this state, the same shall be deemed guilty of having violated the provisions of this act, and upon conviction thereof shall be dealt with as hereinafter provided.

3. UNJUST DISCRIMINATIONS DEFINED.] § 3. If any such railroad corporation shall charge, collect, or receive, for the transportation of any passenger, or freight of any description, upon its railroad, for any distance, within this state, the same, or a greater amount of toll or compensation than is at the same time charged, collected, or received for the transportation, in the same direction, of any passenger, or like quantity of freight of the same class, over a greater distance of the same railroad; or if it shall charge, collect, or receive, at any point upon its railroad, a higher rate of toll or compensation for receiving, handling or delivering freight of the same class and like quantity, than it shall, at the same time, charge, collect, or receive at any other point upon the same railroad; or if it shall charge, collect, or receive for the transportation of any passenger, or freight of

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any description, over its railroad, a greater amount as toll or compensation than shall, at the same time, be charged, collected, or received by it for the transportation of any passenger, or like quantity of freight of the same class, being transported in the same direction, over any portion of the same railroad, of equal distance; or if it shall charge, collect, or receive from any person or persons, a higher or greater amount of toll or compensation than it shall, at the same time, charge, collect, or receive from any other person or persons for receiving, handling, or delivering freight of the same class and like quantity, at the same point upon its railroad; or if it shall charge, collect, or receive from any person or persons, for the transportation of any freight upon its railroad, a higher or greater rate of toll or compensation than it shall, at the same time, charge, collect, or receive from any other person or persons, for the transportation of the like quantity of freight of the same class, being transported from the same point, in the same direction, over equal distances of the same railroad; or if it shall charge, collect, or receive from any person or persons, for the use and transportation of any railroad car or cars upon its railroad, for any distance, the same or a greater amount of toll or compensation than is at the same time charged, collected, or received from any other person or persons, for the use and transportation of any railroad car of the same class, or number for a like purpose, being transported in the same direction, over a greater distance of the same railroad; or if it shall charge, collect, or receive from any person or persons, for the use and transportation of any railroad car or cars upon its railroad, a higher or greater rate of toll or compensation than it shall, at the same time, charge, collect, or receive from any other person or persons, for the use and transportation of any railroad car or cars of the same class or number for a like purpose, being transported from the same point, in the same direction, over an equal distance of the same railroad; all such discriminating rates, charges, collections, or receipts, whether made directly, or by means of any rebate, drawback, or other shift or evasion, shall be deemed and taken, against such railroad corporation, as prima facie evidence of the unjust discriminations prohibited by the provisions of this act, and it shall not be deemed a sufficient excuse or justification of such discriminations on the part of such railroad corporation, that the railway station or point at which it shall charge, collect, or receive the same or less rates of toll or compensation, for the transportation of such passenger or freight, or for the use and transportation of such railroad car the greater distance, than for the shorter distance, is a railway station or point at which there exists competition with any other railroad or means of transportation. This section shall not be construed so as to exclude other evidence tending to show any unjust discrimination in freight and passenger rates.

4. BRANCH ROADS: COMMUTATION TICKETS.] The provisions of this section shall extend and apply to any railroad, the branches thereof, and any road or roads which any railroad corporation has the right, license, or permission to use, operate, or control, wholly or in part within this state: *Provided however*, that nothing herein contained shall be so construed as to prevent railroad corporations from issuing commutation, excursion or thousand-mile tickets, as the same are now issued by such corporations.

5. PENALTIES: JURY TRIAL.] § 4. Any such railroad corporation guilty of extortion, or of making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railroad cars, or in receiving, handling, or delivering freight, shall, upon conviction thereof, be fined in any sum not less than \$1,000., nor more than \$5,000., for the first offense; and for the second offense not less than \$5,000., nor more than \$10,000., and for the third offense not less than \$10,000. nor more than \$20,000.; and for every subsequent offense and conviction thereof, shall be liable to a fine of \$25,000.: *Provided*, that in all cases under this act either party shall have the right of trial by jury.

6. HOW RECOVERED: FORM OF VERDICT.] § 5. The fines hereinbefore provided for may be recovered in an action of debt, in the name of the People of the State of Illinois, and there may be several counts joined in the same declaration as to extortion and unjust discrimination, and as to passenger and freight rates, and rates for the use and transportation of railroad cars, and for receiving, handling or delivering freights. If, upon the trial of any cause instituted under this act, the jury shall find for the people, they shall assess and return with their verdict, the amount of the fine to be imposed upon the defendant, at any sum not less than \$1,000., nor more than \$5,000., and the court shall render judgment accordingly; and if the jury shall find for the people, and that the defendant has been once

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before convicted of a violation of the provisions of this act, they shall return such finding with their verdict, and shall assess, and return with their verdict the amount of the fine to be imposed upon the defendant, at any sum not less than \$5,000., nor more than \$10,000.; and the court shall render judgment accordingly; and if the jury shall find for the people, and that the defendant has been twice before convicted of a violation of the provisions of this act, with respect to extortion or unjust discrimination, they shall return such finding with their verdict, and shall assess and return with their verdict, the amount of the fine to be imposed upon the defendant, at any sum not less than \$10,000., nor more than \$20,000.; and in like manner for every subsequent offense and conviction, such defendant shall be liable to a fine of \$25,000.: *Provided*, that in all cases under the provisions of this act, a preponderance of evidence in favor of the people shall be sufficient to authorize a verdict and judgment for the people.

7. SUIT BY PARTY AGGRIEVED.] § 6. If any such railroad corporation shall, in violation of any of the provisions of this act, ask, demand, charge or receive of any person or corporation, any extortionate charge or charges for the transportation of any passengers, goods, merchandise or property, or for receiving, handling or delivering freights, or shall make any unjust discrimination against any person or corporation in its charges therefor, the person or corporation so offended against may, for each offense, recover of such railroad corporation, in any form of action, three times the amount of the damages sustained by the party aggrieved, together with cost of suit and a reasonable attorney's fee, to be fixed by the court where the same is heard, on appeal or otherwise, and taxed as a part of the costs of the case.

8. SUITS BY R. R. COMMISSIONERS.] § 7. It shall be the duty of the railroad and warehouse commissioners to personally investigate and ascertain whether the provisions of this act are violated by any railroad corporation in this state, and to visit the various stations upon the line of each railroad for that purpose as often as practicable; and whenever the facts in any manner ascertained by said commissioners shall, in their judgment warrant such prosecution, it shall be the duty of said commissioners to immediately cause suits to be commenced and prosecuted against any railroad corporation which may violate the provisions of this act, such suits and prosecutions may be instituted in any county in this state through or into which the line of the railroad corporation sued for violating this act may extend. And such railroad and warehouse commissioners are hereby authorized, when the facts of the case presented to them shall, in their judgment, warrant the commencement of such action, to employ counsel to assist the attorney-general in conducting such suit on behalf of the state. No such suits commenced by said commissioners shall be dismissed, except said railroad and warehouse commissioners and the attorney-general shall consent thereto.

9. SCHEDULES OF MAXIMUM RATES.] § 8.¹ The railroad and warehouse commissioners are hereby directed to make, for each of the railroad corporations doing business in this state, as soon as practicable, a schedule of reasonable maximum rates of charges for the transportation of passengers and freights, and cars on each of said railroads; and said schedule shall, in all suits brought against any such railroad corporations, wherein is in any way involved the charges of any such railroad corporation, for the transportation of any passenger, or freight, or cars, or unjust discrimination in relation thereto, be deemed and taken, in all courts of this state, as prima facie evidence that the rates therein fixed are reasonable maximum rates of charges for the transportation of passengers, and freights, and cars, upon the railroads for which said schedules may have been respectively prepared. Said commissioners shall, from time to time and as often as circumstances may require, change and revise said schedules.

10. THEIR PUBLICATION AND EFFECT.] When any schedules shall have been made or revised, as aforesaid, it shall be the duty of said commissioners to cause publication thereof to be made for three successive weeks, in some public newspaper published in the city of Springfield, in this state. All such schedules, heretofore or hereafter made, purporting to be printed and published, as aforesaid, shall be received and held, in all such

¹ By an act of 26 March 1874, in force 1 July 1874, the original § 8 of this act was "so amended as to read as" given above.

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suits, as prima facie the schedules of said commissioners, without further proof than the production of the schedule desired to be used as evidence with a certificate of the railroad and warehouse commissioners that the same is a true copy of a schedule prepared by them for the railroad company or corporation therein named, and that the same has been published as required by law, stating the name of the paper in which the same was published together with the date of such publication.

NOTE. There is no § 9.

13. RULES OF EVIDENCE.] § 10. In all cases under the provisions of this act, the rules of evidence shall be the same as in other civil actions, except as hereinbefore otherwise provided.

14. FINES RECOVERED.] All fines recovered under the provisions of this act shall be paid into the county treasury of the county in which the suit is tried, by the person collecting the same, in the manner now provided by law, to be used for county purposes.

15. REMEDIES CUMULATIVE.] The remedies hereby given shall be regarded as cumulative to the remedies now given by law against railroad corporations, and this act shall not be construed as repealing any statute giving such remedies.

16. SUITS TAKE PRECEDENCE.] Suits commenced under the provisions of this act shall have precedence over all other business, except criminal business.

17. "RAILROAD CORPORATION" DEFINED.] § 11. 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 whole or in part, in this state; and the provisions of this act shall apply to all persons, firms and companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon any of the lines of railways in this state, (street railways excepted,) the same as to railroad corporations hereinbefore mentioned.

18. REPEAL.] § 12. An act entitled "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 April 7th A. D. 1871,¹ is hereby repealed, but such repeal shall not affect nor repeal any penalty incurred or right accrued under said act prior to the time this act takes effect, nor any proceedings or prosecutions to enforce such rights or penalties.

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An act to amend an act entitled "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 March 1, 1872.² Approved 26 Apr. 1873. In force 1 July 1873.

§ 1. Section number 27 of an act entitled "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 March 1, 1872, be amended so as to read as follows, viz:

19. REPEALS.] § 27. That an act entitled "An act to amend an act [entitled 'an act] to provide for a general system of railroad incorporations,' approved November 5, 1849," approved February 13, 1857,³ and also, all of an act entitled "An act to provide for a general system of railroad incorporations," approved November 5, 1849,⁴ except the sections of the last named act numbered 34, 35, 36, 37, 38,⁵ 39, 40, 41, 42 and 45, and all laws in conflict with the provisions of this act, * * are hereby repealed:

20. SAVING CLAUSE.] *Provided, however,* that all general laws of this state in relation to railroad corporations, 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

¹ Gross' Stats. Vol. 2, 304 §§ 146-150.

² Gross' Stats. Vol. 2, 311 §§ 195, 196.

³ Gross' Stats. Vol. 1, 544 § 52, Proviso.

⁴ Gross' Stats. Vol. 1, 541-549 §§ 39-71.

⁵ The provisions of this section were materially changed by act 27 Feb. 1869. Gross Stats. Vol. 1, 549 § 76.

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railroad incorporations organized under this act. The repeal of the acts and parts of acts mentioned in this section shall not be construed so as to affect any rights acquired thereunder; but all corporations formed, or attempted to be formed, under such acts or parts of acts, notwithstanding any defects or omissions in their articles of association, may, if they will adopt or have adopted this act, be entitled to proceed thereunder, and have all the benefits of this act; and all such corporations that have adopted or that will adopt this act are hereby declared legal and valid corporations, within the provisions of this act, from the date of the filing of their respective articles of association. And the fixing of the terminal by any such corporation shall have the same effect as if fixed by the general assembly:

21. FURTHER LIABILITY.] *Provided*, that all corporations to which this act shall apply shall be held liable for, and shall carry out and fulfil all contracts made by them, or for, or on their behalf, or of which they have received the benefit, whether such corporation, at the time of the making of such contract or contracts, was organized, or had attempted to organize, under the general laws of the state of Illinois, or not; whether said contract was for right of way, work and labor done, or materials furnished, or for the running of trains, or carrying passengers or freight upon such road, or upon any other road in connection therewith. And if such corporation has or does take possession of or use such right of way, labor or material so furnished by other persons or corporations it shall be evidence of its acceptance of such contract so entered into by such person or corporation with said persons or corporations for its benefit.

22. DAMAGES: BREACH OF CONTRACT.] And upon said corporation failing to pay said sum as it ought equitably to pay for such right of way, labor or materials, or fail to carry out such contracts as aforesaid, so made with persons or corporations, it shall be held liable in an action at law or in chancery for the recovery of the value of said right of way, labor or materials, and for damages for non-fulfilment of such contract, in any court of competent jurisdiction in any county through which the road of such corporation may be located:

23. EFFECT OF THIS ACT.] *And, provided, further*, that this act shall not in any manner legalize the subscription of any township, county or city, to the capital stock of any railroad company, nor authorize the issuing of any bonds by any township, city or county in payment of any subscription or donation.

An act to enable railroad companies to borrow money, and to mortgage their property and franchises therefor. Approved 7 May 1873. In force 1 July 1873.

24. BORROW MONEY: ISSUE BONDS: MORTGAGES.] § 1. Every railroad company organized under any law or laws of this state, in force before the first day of March, A. D. 1872, is hereby empowered from time to time to borrow such sums of money as may be necessary for completing, furnishing, improving or operating any such railroad, 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 hereinafter provided — shall be necessary to the validity of any such mortgage; and the order or resolution for such mortgage shall be recorded as provided in this act; and the directors of such corporation shall be empowered, in pursuance of 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 regulation as may be provided in the by-laws of such corporation.

25. CONCURRENCE OF STOCKHOLDERS.] § 2. The concurrence of the holders of at least two-thirds in amount of the capital stock of such corporation in the creation of any such debt and the execution of any such mortgages, shall be made manifest by the votes cast by such stockholders, in person or by proxy, on the passage of appropriate orders or resolutions at a meeting of the stockholders of such corporation, called by the directors thereof for such purpose.

26. NOTICE OF SPECIAL MEETING.] § 3. The directors of such corporation shall give notice of such meeting by causing written or printed notices thereof, to be either personally served upon or duly mailed (postage prepaid) to such stockholders whose names and address shall be known to said directors; such notice to be so mailed at least 60 days before the time fixed for such meeting. The said notices shall state the time and place of

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such meeting and the purpose thereof, as well as the amount of the proposed indebtedness. The said directors shall also cause like notices to be inserted in some newspaper published in each county through which said road shall run, (if any newspaper shall be published therein) at least 60 days prior to the day appointed for such meeting.

27. ORDER OR RESOLUTION RECORDED.] § 4. When such meeting shall be held, the resolution or order authorizing the creation of such indebtedness, and the execution of the mortgage to secure the same, together with the result of the vote thereon, shall be recorded in the office of the recorder of deeds of each county through which said road shall run, and shall also be recorded in the office of the secretary of state.

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An act in relation to Fencing and Operating Railroads. Approved 31st March 1874. In force 1 July 1874.

FENCING OF RAILROADS.] § 1. Every railroad corporation shall within six months after any part of its line is open for use, erect and thereafter maintain fences on both sides of its road, or so much thereof as is open for use, suitable and sufficient to prevent cattle, horses, sheep, hogs or other stock, from getting on such railroad, (except at the crossings of public roads and highways, and within the limits of cities and incorporated towns and villages), with gates or bars at the farm crossings of such railroad, which farm crossings shall be constructed by such corporation when and where the same may become necessary for the use of the proprietors of the lands adjoining such railroad, and shall also construct, where the same has not already been done, and thereafter maintain at all road crossings now existing, or hereafter established, cattle guards, suitable and sufficient to prevent cattle, horses, sheep, hogs, and other stock from getting on such railroad; and when such fences or cattle guards are not made as aforesaid, or when such fences or cattle guards are not kept in good repair, such railroad corporations shall be liable for double the amount of all damages which may be done by the agents, engines or cars of such corporation, to such cattle, horses, sheep, hogs or other stock thereon; but when such fences and guards have been duly made and kept in good repair, such railroad corporation shall not be liable for any such damages, unless negligently or wilfully done.

KEPT CLEAR OF COMBUSTIBLE MATERIAL.] § 1½. It shall be the duty of all railroad corporations to keep their right of way clear from all dead grass, dry weeds, or other dangerous or combustible material, and for neglect shall be liable to the penalties named in section one.

ANIMALS EXCLUDED: INJURING FENCE, ETC.] § 2. If any person shall ride, lead or drive any horse or other animal, upon the track or lands of such railroad corporation, and within such fences or guards (except to cross at farm or road crossings) without the consent of the corporation; or shall tear down or otherwise render insufficient to exclude stock, any part of such fence, guards, gates or bars; or shall leave the gates or bars at farm crossings open or down; or shall leave horses, or other animals, standing upon farm or road crossings, he shall be liable to a penalty of not less than \$10., nor more than \$100., to be recovered in an action of debt, before any court having competent jurisdiction thereof, in the name of such railroad corporation, and for the use of the school fund in the county, and shall pay all damages which shall be sustained thereby, to the party aggrieved.

FENCE BUILT OR REPAIRED.] § 3. Whenever a railroad corporation shall neglect or refuse to build or repair such fence, gates, bars or farm crossings, as provided in this act, the owner or occupant of the lands adjoining such railroad, or over or through which the railroad track is or may be laid, may give notice in writing, to such corporation, or the lessees thereof, or the persons operating such railroad, to build such fence, gate, bars, or farm crossings within 30 days (or repair said fence, gate, bars, or farm crossings, as the case may be, within 10 days) after the service of said notice. Such notice shall describe the lands on which said fence, gate, bars or farm crossings are required to be built or repaired. Service of such notice may be made by delivering the same to any station agent of said railroad corporation or the persons operating such railroad.

REFUSING TO BUILD OR REPAIR.] § 4. If the party so notified shall refuse to build or repair such fence, gates, bars or farm crossings, in accordance with the provisions of this act, the owner or occupant of the land required to be fenced, shall have the right to

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enter upon the land and track of said railroad company, and may build or repair such fence, gates, bars or farm crossings, as the case may be, and the person so building or repairing such fence, gates, bars or farm crossings, shall be entitled to double the value thereof from such corporation, or party actually occupying or using such railroad, to be recovered with interest, at one per cent. per month, as damages from the time such fence, gates, bars or farm crossings were built or repaired, in any court of competent jurisdiction, together with costs to be taxed by the court.

SIGN BOARDS AT PUBLIC CROSSINGS.] § 5. Every railroad corporation shall cause boards well supported by posts, or otherwise, to be placed and constantly maintained upon each public road or street, when the same is crossed by its railroad on the same level. Said boards shall be elevated so as not to obstruct the travel and to be easily seen by travelers. On each side of said board shall be painted in capital letters, of at least the size of nine inches each, the words, "Railroad Crossing" or "Look out for the Cars." This section shall not apply to streets in cities or incorporated towns or villages, unless such railroad corporation shall be required to put up such boards by the corporate authorities of such cities, towns or villages: *Provided*, that when warning boards have already been erected under existing laws, the maintenance of the same shall be a sufficient compliance with the requirements of this section.

ENGINE BELL AND WHISTLE.] § 6. Every railroad corporation shall cause a bell of at least 30 pounds' weight, and a steam whistle placed and kept on each locomotive engine, and shall cause the same to be rung or whistled by the engineer or fireman, at the distance of, at least, 80 rods from the place where the railroad crosses or intersects any public highway, and shall be kept ringing or whistling until such highway is reached.

INJURING ANIMALS: FRIGHTENING TEAMS.] § 6½. Any engineer or person having charge of and running any railroad engine or locomotive, who shall wilfully or maliciously kill, wound or disfigure any horse, cow, mule, hog, sheep, or other useful animal, shall, upon conviction, be fined in the sum of not less than the value of the property so killed, wounded or disfigured, or confined in the county jail for a period of not less than 10 days; and any such engineer or fireman, or other person, who shall wantonly or unnecessarily blow the engine whistle, so as to frighten any team, shall be liable to a fine of not less than \$10. nor more than \$50.

ALARM BEFORE STARTING TRAIN.] § 7. If any engineer on any railroad shall start his train at any station, or within any city, incorporated town or village, without ringing the bell or sounding the whistle a reasonable time before starting, he shall forfeit a sum not less than \$10., nor more than \$100., to be recovered in an action of debt in the name of the People of the State of Illinois, and such corporation shall also forfeit a like sum, to be recovered in the same manner.

HIGHWAY AND STREET CROSSINGS.] § 8. Hereafter, at all of the railroad crossings of highways and streets in this state, the several railroad corporations in this state shall construct and maintain said crossings and the approaches thereto, within their respective rights of way, so that at all times they shall be safe as to persons and property.

FAILING TO CONSTRUCT AND MAINTAIN.] § 9. Whenever any railroad corporation shall neglect to construct and maintain any of its crossings and approaches, as provided in § 8 of this act, it shall be the duty of the proper public authorities, having the charge of such highways or streets, to notify in writing, the nearest agent of said railroad corporation of the condition of said crossing or approaches and direct the same to be constructed, altered or repaired in such manner as they shall deem necessary, for the safety of persons and property.

AFTER NOTICE GIVEN.] § 10. If any railroad corporation of this state shall after having been notified, as provided in § 9 of this act, neglect or refuse to construct, alter or repair such crossing or approaches within 30 days after such notice, then the said public authorities shall forthwith cause such construction, alteration or repairs to be made.

PENALTY FOR NEGLECT.] § 11. Said railroad corporation, shall be holden for all necessary expenses incurred in making such construction, alteration and repairs; and in addition thereto, shall be liable to a fine of \$100. for such neglect to comply with the requirements of this act, which fine shall be enforced by the said public authorities, in the name of the People of the State of Illinois, before any court of competent jurisdiction in the county. Such fine when collected, to be paid into the treasury of the authorities enforcing the fine.

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AT DRAW BRIDGE OR RAILROAD CROSSING.] § 12. All trains run upon any railroad in this state which crosses any stream or harbor, by swing or draw bridge, or which intersects or crosses, or is intersected or crossed by any other railroad upon the same level, shall be brought to a full stop, at a distance not less than 200 feet, nor more than 400 feet from the draw in every such bridge, or from the point of intersection or crossing of such road and in plain sight of the same, before such draw, intersection or crossing is passed by any such train.

FULL STOP: PENALTY FOR FAILURE.] § 13. Every engineer violating the provisions of the preceding section, shall, for each offense, forfeit \$100., to be recovered in an action of debt, in the name of the People of the State of Illinois, or by any person who may sue for the same; and the corporation, on whose road such offense is committed, shall forfeit the sum of \$200. to be recovered in like manner.

TRAIN OBSTRUCTING HIGHWAY.] § 14. No railroad corporation shall obstruct any public highway, by stopping any train upon, or by leaving any car or locomotive engine standing on its track, where the same intersects or crosses such public highways, except for the purpose of receiving or discharging passengers, or to receive the necessary fuel and water, and in no case to exceed 10 minutes for each train, car or locomotive engine.

THROWING STONES, ETC. Any person who shall throw any stone or other hard substance at any railroad car, train, or locomotive, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not more than \$200., and shall stand committed to the county jail, until such fine and costs shall be paid.

OBSTRUCTING HIGHWAY: PENALTY.] § 15. Every engineer or conductor violating the provisions of the preceding section, shall for each offense, forfeit the sum of not less than \$10. nor more than \$100., to be recovered in an action of debt, in the name of the People of the State of Illinois, for the use of any person who may sue for the same; and the corporation on whose road the offense is committed, shall be liable for the like sum.

NOTE. There is no § 16.

MINORS CLIMBING ON CARS.] § 17. No person or minor shall climb, jump, step, stand upon, cling to, or in any way attach himself to any locomotive engine, or car, either stationary or in motion, upon any part of the track of any railroad, unless in so doing, he shall be acting in compliance with law, or by permission under the lawful rules and regulations of the corporation then owning or managing such railroad.

EMPLOYEE TO ENTER COMPLAINT.] § 18. Whenever any officer, agent or employee of any railroad corporation shall have any information that any person or minor has violated any of the provisions of the preceding section, and has thereby endangered himself, or caused reasonable alarm to others, said officer, agent or employee, shall, without unnecessary delay, make complaint of such offense against such person or minor, before some justice of the peace.

PENALTY AGAINST MINOR.] § 19. Any person or minor who shall violate any of the provisions of § 17 of this act shall be punished by a fine not exceeding \$25., to be recovered in an action of debt, in the name of the People of the State of Illinois, before a justice of the peace; or upon conviction, by imprisonment in the county jail, or other place of confinement, for a period not exceeding 12 hours.

SECTIONS 17, 18 AND 19 POSTED AT STATIONS.] § 20. The several railroad corporations in this state, shall without unnecessary delay, cause printed copies of the three preceding sections of this act, to be kept posted in conspicuous places, at all their stations along their lines of railroad in this state. Every railroad corporation that shall neglect to post, and keep posted, such notices as required by this section shall, for each offense, forfeit the sum of \$50., to be recovered in an action of debt, in the name of the People of the State of Illinois.

PASSENGER CARS IN THE REAR.] § 21. In no train shall freight, merchandise, or lumber cars, be run in the rear of passenger cars, and if such cars, or any of them, shall be so run, the officer or agent who so directed, or knowingly suffered such arrangement to be made, shall each be deemed guilty of a misdemeanor, and punished accordingly.

ADVERTISED TRAINS: FREIGHT AND PASSENGERS RECEIVED AND DISCHARGED.] § 22. Every railroad corporation in this state shall furnish, start and run cars for the transportation of such passengers and property as shall, within a reasonable time previous thereto, be ready, or be offered for transportation, at the several stations on its railroad, and at the junctions of other railroads, and at such stopping places, as may be established

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for receiving and discharging way passengers and freight; and shall take, receive, transport and discharge such passengers and property, at, from, and to such stations, junctions and places on and from all trains advertised to stop at the same for passengers and freight respectively, upon the due payment, or tender of payment, of tolls, freight or fare, legally authorized therefor, if payment shall be demanded.

UNREASONABLE REFUSAL: PENALTY.] § 23. In case of the refusal of such corporation, or its agents, to take, receive, and transport any person or property, or to deliver the same within a reasonable time, at their regular or appointed time and place, and according to the provisions of the preceding section of this act, such corporation shall pay to the party aggrieved treble the amount of damages sustained thereby, with costs of suit; and in addition thereto, said corporation shall forfeit a sum of not less than \$25., nor more than \$1,000. for each offense, to be recovered in an action of debt, in the name of the People of the State of Illinois. The treble damages for the use of the party aggrieved, and the forfeiture for the use of the school fund of the county in which the offense is committed.

TEXAS OR CHEROKEE CATTLE.] § 23½. In any suit brought for a violation of "An act concerning the transportation of Texas or Cherokee cattle," approved April 16, 1869, the consignor of any live stock, the bringing of which into this state shall constitute the offense created by this act, if he be a citizen of this state, and if not the consignee, if he shall have knowledge of, and consent to such consignment, of any such live stock, shall be made a joint defendant with any railroad or transportation company which may be sued for the offense aforesaid, and the said consignor or consignee, shall suffer jointly any penalty passed upon any such railroad or transportation company for any violation of the act aforesaid. Any action brought for a violation of the act aforesaid, must be commenced within the 18 months next succeeding the bringing of the cattle into this state, on account of which the action may be brought. Any railroad company who shall transport any Texas, Cherokee or diseased cattle in violation of the aforesaid act, without knowing them to be such, may recover from any consignor or consignee any sum of money it may be compelled by the judgment of any court to pay for the transportation of such cattle, and the record of the judgment against the said company shall, in any suit against any such consignor or consignee, be evidence of the amount of damages to be recovered, with interest from the time of payment: *Provided*, that nothing in this section shall be construed to affect any right existing or suit pending.

SPEED OF TRAINS IN CORPORATE LIMITS.] § 24. Whenever any railroad corporation shall by itself or agents, run any train, locomotive engine, or car, at a greater rate of speed, in or through the incorporated limits of any city, town or village, than is permitted by any ordinance of such city, town, or village, such corporation shall be liable to the person aggrieved, for all damages done the person or property by such train, locomotive engine, or car; and the same shall be presumed to have been done by the negligence of said corporation, or their agents; and in addition to such penalties as may be provided by such city town or village, the person aggrieved by the violation of any of the provisions of this section shall have an action against such corporation so violating any of the provisions to recover a penalty of not less than \$100. nor more than \$200., to be recovered in any court of competent jurisdiction, said action to be an action of debt in the name of the People of the State of Illinois, for the use of the person aggrieved; but the court or jury trying the case may reduce said penalty to any sum, not less however than \$50., where the offense committed by such violation may appear not to be malicious or wilful: *Provided*, that no such ordinance shall limit the rate of speed in any case to less than four miles per hour.

RECEIVING AND DISCHARGING PASSENGERS AT STATIONS.] § 25. Every railroad corporation shall cause its passenger trains to stop upon the arrival at each station advertised by such corporation, as a place for receiving and discharging passengers upon and from such trains a sufficient length of time to receive and let off such passengers with safety.

BRAKEMEN ON PASSENGER TRAINS.] § 26. No railroad corporation shall run or permit to be run upon its railroad, any train of cars moved by steam power, for the transportation of passengers, unless there is placed upon the train one trusty and skilful brakeman for every two cars in the train, or unless the brakes are efficiently operated by power applied from the locomotive.

BRAKEMEN ON FREIGHT TRAINS.] § 27. No railroad corporation shall run, or permit

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to be run upon its railroad, any train of cars for the transportation of merchandise or other freight, without a good and sufficient brake attached to the rear or hindmost car of the train, and a trusty and skilful brakeman stationed upon said car, unless the brakes are efficiently operated by power applied from the locomotive.

VIOLATING §§ 25, 26 AND 27.] § 28. If any railroad corporation shall violate any of the provisions of the three preceding sections it shall be liable to the person aggrieved for all damages done to person or property by reason thereof, with costs of suit; and in addition thereto said corporation shall forfeit a sum of not less than \$100., nor more than \$500., for each offense, to be recovered in an action of debt, in the name of the People of the State of Illinois, for the use of any person aggrieved before any court of competent jurisdiction.

CHECKS FOR BAGGAGE: 100 POUNDS.] § 29. Every railroad corporation, when requested shall give checks or receipts to passengers for their ordinary baggage when delivered for transportation on any passenger train, which baggage shall in no case, exceed 100 pounds in weight for each passenger, and shall deliver such baggage to any passenger upon the surrender of such checks or receipts. Any such corporation wilfully refusing to comply with the requirements of this section, shall pay a fine of not less than \$10., nor more than \$100., which may be recovered before any court of competent jurisdiction, in an action of debt, in the name of the People of the State of Illinois for the use of the person aggrieved: *Provided*, that no passenger shall be entitled to receive checks or receipts for any baggage, unless he shall have paid or tendered the lawful rate of fare for his transportation, to the proper agent of such corporation.

DAMAGING BAGGAGE: ARREST: FINE.] § 30. Any person employed by a railroad corporation in this state, who shall wilfully, carelessly or negligently break, injure or destroy any baggage, shall be liable for the amount of damage to the owner thereof, and may be arrested, and on conviction before a justice of the peace, be fined in any sum not exceeding \$200. and held in custody, or confined in the county jail until such fine shall be paid: *Provided*, that the remedy hereby given against such employee, shall not lessen the liability of such corporation.

REFUSING TO PAY FARE: PASSENGER PUT OFF.] § 31. If any passenger on any railroad car or train shall refuse upon reasonable demand, to pay his lawful fare; or shall upon such car or train use abusive, threatening, vulgar, obscene or profane language, thereon; or shall so conduct himself as to make his presence offensive or unsafe to passengers thereon, it shall be lawful for the conductor of the train to remove, or cause to be removed, such passenger from the train at any regular station; but if such conductor shall use, cause or permit to be used, unreasonable force or violence, he shall be liable for all damages to the person injured thereby: *Provided*, that the recovery and satisfaction of damages, under the provisions of this section, shall not lessen the liability of, or the amount of the damages that such corporation may be liable to for such acts.

EMPLOYEES' BADGE.] § 32. Every conductor, baggage master, brakeman, or other servant of any railroad corporation in this state, employed on a passenger train, or about the passenger depots, shall wear upon his hat or cap, a badge which shall indicate his office. No conductor, without such badge shall demand or be entitled to receive from any passenger any fare, toll or ticket, or exercise any of the powers of his office; and neither shall any other of said officers, or servants, without such badge, be authorized to meddle or interfere with any passenger, his baggage or property.

LIMIT COMMON LAW LIABILITY.] § 33. That whenever any property is received by any railroad corporation to be transported from one place to another, within or without this state, it shall not be lawful for such corporation to limit its common law liability safely to deliver such property at the place to which the same is to be transported, by any stipulation, or limitation expressed in the receipt given, for the safe delivery of such property.

AXE, BUCKETS, ETC., IN PASSENGER CAR.] § 34. That every railroad corporation shall furnish each car used for the transportation of passengers, with one woodman's axe, one hand saw, one sledge hammer, and two leather buckets, said articles to be kept in good repair, ready for instant use, and in some convenient place in such car, easy of access in case of collision or other accident.

AUTOMATIC COUPLINGS.] § 34½. It shall be the duty of all railroad corporations operating any railroad in this state, to provide such of their passenger cars as are used in

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trains with some suitable automatic coupling, or other coupling which will secure personal safety, within one year from the time this law goes into effect, and any company refusing or neglecting to provide such automatic coupling, or other couplings which will secure personal safety, for each passenger car so used in trains, shall be liable to a fine of not less than \$25, nor more than \$50.

FLAGMEN AT CROSSINGS.] § 35. In all cases where the public authorities having charge of any street, over which there shall be a railroad crossing, shall notify any agent of the corporation, owning, using or operating such railroad, that a flagman is necessary at such crossing, it shall be the duty of such railroad company, within 60 days thereafter, to place and retain a flagman at such crossing, who shall perform the duties usually required of flagmen; and such flagman is hereby empowered to stop any and all persons from crossing a railroad track when in his opinion, there is danger from approaching trains, or locomotive engines; and any railroad company refusing or neglecting to place flagmen as required by this section, shall be liable to a fine of \$100. per day, for every day they shall neglect or refuse to do so; and it is hereby made the duty of such public authorities having charge of such street, to enforce the payment of such fine by suit, in the name of the town or municipal corporation wherein such crossing shall be situate, before any court of competent jurisdiction in the county, and the prosecuting attorney shall attend to the prosecution of all suits as directed by said public authorities. All the moneys collected under the provisions of this act, shall be paid into the treasury of the town or municipal corporation in whose name such suit shall have been brought: *Provided*, that when any railroad company is required to keep a flagman at a crossing, it shall have the right to erect and maintain in the highway or street crossed a suitable house for the shelter of such flagman, the same to be so located as to create the least obstruction to the use of such street or highway and afford the best view of the railroad track in each direction from such crossing.

PENALTY FOR VIOLATING THIS ACT.] § 36. If any railroad corporation or any of its agents, servants or employees, shall violate any of the provisions of this act, such corporation, agent, servant or employee shall, severally, unless otherwise herein provided, be liable to a fine of not less than \$10. nor more than \$200. to be recovered in an action of debt, in the name of the People of the State of Illinois, for the use of any person aggrieved, before any court of competent jurisdiction.

"CORPORATION" DEFINED.] § 37. The word "corporation," as used in this act, shall be construed to include all companies, lessees, contractors persons, or association of persons, owning, operating or using any railroad in this state.

HORSE CARS: STREET RAILROADS.] § 38. This act shall not apply to horse cars or street railroads.

ACTS REPEALED.] § 39. The following acts and parts of acts are hereby repealed, to-wit: An act entitled "An act to regulate the duties and liabilities of railroad companies" approved February 14th, 1855¹; an act entitled "An act relating to fencing railroads, and [service] of process in relation thereto" approved April 5th, 1869²; an act entitled "An act to amend the railroad law," approved February 27th, 1869³; sections 27, 34, 35, 36, 37, 38, 39, 40 and 41, of an act entitled "An act to provide for a general system of railroad incorporations" approved November 5th, 1849⁴; an act entitled "An act to subject railroad companies to pay damages for violating city or town ordinances," approved February 16th, 1865⁵; and an act entitled "An act to protect the lives and property of persons at railroad crossings of the public highways," approved March 31st, 1869.⁶ The repeal of said acts, or parts of acts, shall not be construed to affect any right existing or suit pending under the same, at the time when this act shall go into effect.

¹ Gr. St. 539 §§ 25-27.

⁴ Id. 548 §§ 65, 72-75, 78-80.

² Id. 540 §§ 28-30.

⁶ Id. 553 §§ 99-101.

³ Id. 549 §§ 76, 77.

⁵ Id. 558 §§ 117-126.