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A. S. Foreman

Dec 3, 1885

COMPILATION

OF THE

STATUTES OF WEST VIRGINIA,

RELATING TO THE FORMATION OF

CORPORATIONS AND JOINT STOCK COMPANIES,

FOR

*Manufacturing, Mining, Insuring, Banking, Railroad, Telegraph,
Telephone, Express, Educational, Literary, Scientific, Benevolent,
Medical, Mercantile, Gymnastic, and other purposes.*

IN FORCE JUNE 1, 1885.

HENRY S. WALKER,
Secretary of State.



CHARLESTON:
JAMES B. TANEY, PUBLIC PRINTER,
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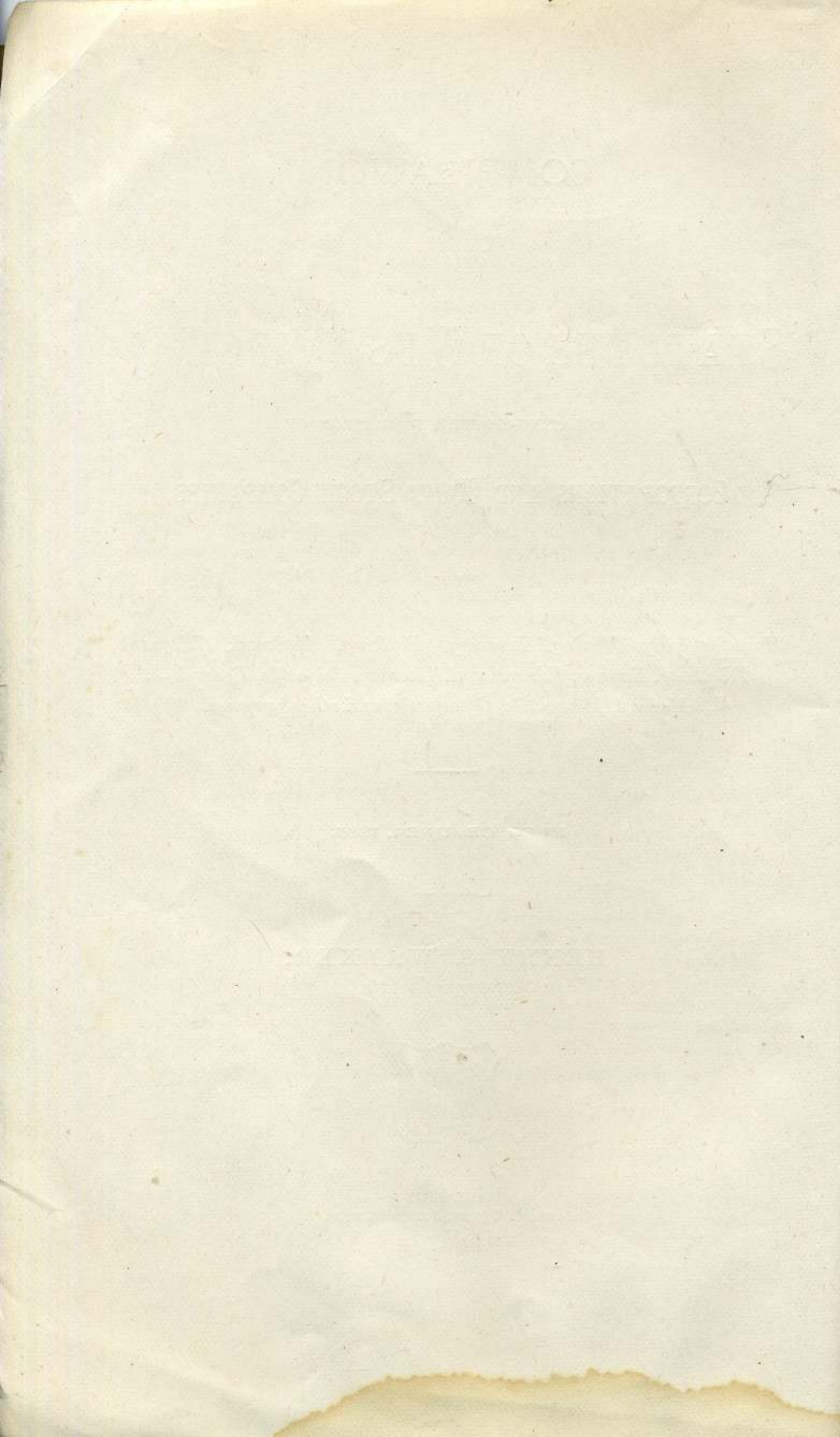
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OF CORPORATIONS GENERALLY.

GENERAL POWERS OF CORPORATIONS.—Every corporation as such shall have succession by its corporate name for the time limited in its charter or by law ; and if no time be limited, perpetually. It shall have a common seal, and may renew or alter the same at pleasure. It may sue and be sued, plead and be impleaded, contract and be contracted with by simple contract or specialty, purchase, hold, use and grant estate, real and personal ; appoint officers and agents, prescribe their powers, duties and liabilities, take bond and security from any of them, and fix and pay their compensation ; and make ordinances, by-laws and regulations for the government of its council, board, officers and agents, and the management and regulation of its property and business. [Code, ch. 52, § 1.]

RESTRICTIONS ON CORPORATE POWERS.—The powers mentioned in the preceding section, or otherwise granted to any corporation, shall be limited by the purposes for which it is incorporated, and no corporation shall engage in transactions or business not proper for those purposes ; nor shall corporate powers be exercised in violation of any law of the state. [Code, ch. 52, § 2.]

CANNOT PURCHASE REAL ESTATE IN ORDER TO RESELL.—Unless specially authorized, no corporation shall purchase real estate in order to sell the same for profit, or hold more real estate than is proper for the purposes for which it is incorporated, subscribe for or purchase the stock, bonds or securities of any joint stock company, or become surety or guarantee for the debt or default of such company. [Code, ch. 52, § 3, amended Acts, 1871, ch. 86. Re-enacted Acts, 1872, ch. 163.]

CERTAIN CORPORATIONS MAY LAY OUT TOWNS.—Nevertheless, a mining, manufacturing, oil, salt or internal improvement company may lay out a town not to include more than six hundred and forty acres, at or near their works, and sell lots therein ; and any corporation may take real estate, stock, bonds and securities in payment, in whole or in part, of any debt, *bona fide*, owing to it, or as a security therefor, or may purchase the same if deemed necessary to secure

or obtain payment of any such debt, in whole or in part, and may manage, use and dispose of what has been so taken or purchased, as a natural person might do; and any corporation may compromise or purchase its own debt, and establish and manage a sinking fund for that purpose, and any manufacturing company may, with the assent of the holders of two-thirds of its stock, had by a vote at a stockholders' meeting, subscribe for or purchase the stock, bonds or securities of any corporation formed for the purpose of manufacturing or producing any articles or material used in the business of such joint stock company, or dealing in any articles or materials manufactured or produced by such joint stock company, or constructing a railroad, or other work of internal improvement, through or into the county in which the principal place of business of such joint stock company may be, or operating a railroad or other work of internal improvement so constructed, and may, with the like assent, become surety for or guarantee the debt of such corporation, or in any manner aid it in carrying on its business. [Code, ch. 52, § 4, as amended by Acts 1881, ch. 16.]

WHEN CORPORATIONS MAY ENTER UPON LANDS.—Any company incorporated for a work of internal improvement may, by its officers, servants, or agents, enter upon lands for the purpose of examining the same, and surveying and laying out such as may seem fit to any officer or agent authorized by it, provided no injury be done to the owner or possessors of the land. But no company shall, under the authority of this section, throw open fences or enclosures on any land, or construct its work through the same, or in any way injure the property of the owner or possessor, without his consent, or until the same may have been legally appropriated to the use of the company, as is provided by the laws of the state of West Virginia relating to the condemnation and appropriation of private property for the use of companies incorporated for internal improvements. But no company under this act shall invade the dwelling house of any person, or any space within sixty feet thereof without the consent of the owner, unless it be absolutely necessary for the construction of such road by reason of its passing through a narrow gorge, defile or narrow space: *Provided*, That this act shall not apply to any city or incorporated town. *And provided further*, That any company, which may have heretofore actually commenced the location of its road, may invade any space twenty feet from the dwelling house of any person, or invade a nearer space, or such house, when by the reason of the location of such road in or through a narrow gorge, defile or narrow space, or along or near to any stream, river or bluff, such invasion is necessary for the construction of such road. [Code, ch. 52, § 5, as amended by Acts 1883, ch. 30.]

HOW MUCH LAND CORPORATIONS MAY ACQUIRE.—The land acquired by any company incorporated for a work of internal improvement along its line generally, shall not exceed one hundred feet in width, except in deep cuts and fillings, and then only so much more shall be acquired as may be reasonably necessary therefor; the land which

it may acquire for buildings or for an abutment along its line generally shall not exceed three acres in any one parcel; and the land which it may acquire for buildings or other purposes of the company at the principal termini of its work, or at any place or places within five miles of such termini, shall not exceed fifteen acres in any one parcel; but in the case of a railroad company, an amount of land not exceeding forty acres in any one parcel may be acquired for its main depots, machine shops and other necessary purposes connected with the business of said company. [Code, ch. 52, § 6.]

PROCEEDINGS OF A COMPANY TO TAKE LAND WITHOUT THE OWNERS CONSENT.—If the president and directors of a company incorporated for a work of internal improvement cannot agree on the terms of purchase with those entitled to lands wanted for the purpose of the company, five disinterested freeholders shall be appointed by the circuit court of the county in which such land, or the greater part thereof, shall lie (three of whom may act,) for the purpose of ascertaining a just compensation for such land. Lands owned by one internal improvement company, but not necessary for the enjoyment of its franchise, may be taken for the purposes of another internal improvement company, in the same manner as land owned by others; but where such lands are claimed to be necessary to the enjoyment of such franchise, the court appointing such freeholders may, before proceeding further, determine upon a report of such freeholders or otherwise, whether such necessity exists. [Code, ch. 52, § 7, as amended by Acts 1881, ch. 16.]

NOTICE OF APPLICATION FOR SUCH APPOINTMENT.—When it is intended to apply for such appointment, notice shall be given and commissioners appointed, and the proceedings thereon shall be the like in all respects as are prescribed by chapter forty-two of this act. [Code, ch. 52, § 8.]

COMPANY TO PROVIDE WAGON WAYS.—For every person, through whose land the road or canal of a company passes, it shall provide wagon ways across the road or canal from one part of the said land to the other, and keep such ways in good repair. [Code, ch. 52, § 9.]

COMPANY NOT TO OCCUPY STREETS IN A TOWN WITHOUT ITS ASSENT.—No company shall occupy, with its works, the streets of the inhabited part of any city, town or village, until the corporate authority thereof shall have assented to such occupation, unless such assent be dispensed with by special provisions of law. [Code, ch. 52, § 10, as amended by Acts, 1881, ch. 16.]

HOW ONE WORK MAY BE CROSSED BY, ALTERED TO SUIT, OR CONNECTED WITH ANOTHER.—If any railroad, turnpike or canal company deem it necessary in the construction of their work, or any branch or siding thereof, to cross any other railroad, turnpike or

canal, or any state or county road, at grade or otherwise, it may do so provided its work be so constructed as not to impede the passage or transportation of persons or property along the same. If any such company desire that the course of any other railroad, turnpike, canal, or state road, or any stream which is not a public highway, should be altered to avoid the necessity of any crossing, or of frequent crossings, or to facilitate the crossing thereof, or the construction of a parallel work, the alteration may be made in such manner as may be agreed between the company desiring such alteration, and the other railroad, turnpike or canal company, or the board of public works in the case of a state road, or the owners of the land to be affected by the alteration of the course of such stream. In case the parties interested fail to agree upon such crossing or alteration as is desired, the company desiring it may bring its suit in equity, and in such suit the court may, in a proper case, decree that such or any proper crossing or alteration may be made upon payment of damages, to be ascertained as provided in chapter forty-two of the code; and the company desiring such crossing or alteration may thereupon proceed under said chapter to obtain the right to make such crossing or alteration. If such crossing or alteration as is allowed by this section shall cause damage to any company, or to the owner of any lands, the railroad, turnpike or canal company first mentioned, shall pay such damages. But any county road may be altered by any such company for the purpose aforesaid, whenever it shall have made an equally convenient road in lieu thereof. [Code, ch. 52, § 11, as amended by Acts 1881, ch. 16.]

RIGHT RESERVED BY LEGISLATURE.—The Legislature reserves the right to provide for connecting with one work of internal improvement any other work at such point, as may seem to it proper. [Code, ch. 52, § 12.]

CONNECTION OF TWO OR MORE RAILROADS IN CITIES, ETC.—In every city, town or village in this state, where two or more railroads do now, or shall hereafter terminate, and said railroad company or companies shall make application to the corporate authorities thereof for permission to connect their roads within the corporate limits of said city, town or village, subject to the municipal regulations thereof, and if the same shall be refused, it shall be lawful in all such cases for said railroad company or companies to make such connection outside of the limits of such city or town by the most direct and practical route, and to procure the right of way, as provided for in chapter forty-two of this act. [Code, ch. 52, § 13.]

HOW COMPANY MAY TAKE MATERIALS FROM LANDS.—A company incorporated for any work of internal improvements, may, by its officers, agents or servants, enter upon any convenient lands for the purpose of obtaining therefrom wood, stone, gravel or earth, to be used in constructing such work, or in repairing, enlarging or altering the same. But the company shall not cut down any fruit tree,

or any tree preserved in any field or lot for shade or ornament, nor take part of any fence or building, nor take any of the said things from any lot in such town. Before taking any of the said things, the company, unless it agree therefor with those having right thereto, shall give to the tenant of the freehold, or his tenant for years, at least ten days' notice in writing, that at a certain time and place, to be specified in this notice, application will be made to a justice to appoint commissioners to ascertain what will be a just compensation for the same. At such time and place the justice shall appoint three disinterested freeholders as commissioners, who, after being sworn, shall view the premises, and report in writing the extent to which wood, stone, gravel or earth is proposed to be taken, the nature of the injury which may be done in cutting, quarrying, digging or carrying away the same, and what will be a just compensation therefor. The notice in writing, certificate of commissioners having been sworn, and their report, shall be forthwith returned to the circuit court of the county. If upon such report being so returned, either party file exceptions thereto and demand that the question of compensation be tried by a jury, proceeding shall thereafter be had in the case as prescribed in chapter forty-two of the code. But if neither party demand a trial by jury, and good cause be shown against the report, or if the commissioners can not agree, or fail to report within a reasonable time, the court may, as often as to it seems proper, appoint other commissioners, who shall act and report in the manner before prescribed. If the report be confirmed, then upon the payment to the person entitled thereto, or into court, of the sum so ascertained, the company may take and carry away the wood, stone, gravel or earth for which such compensation may have been allowed; and though the report may not be confirmed, yet upon the payment into court of the sum therein mentioned, it may proceed in like manner as if the report had been confirmed and payment made of the sum thereby ascertained. Upon the coming in of a new report, after such payment into the court, the court, if it affirm the report, shall render judgment in like manner as in cases provided for in chapter forty-two of the code. From the time of any such judgment against the company, its right so to cut, quarry, dig, take or carry away, shall be suspended until the said judgment shall be satisfied. [Code, ch. 52, § 14, as amended by Acts 1881, ch. 16.]

HOW COMMISSIONERS IN CASE OF PLANK-ROAD COMPANY SHALL PROCEED.—It shall be the duty of the commissioners appointed under the preceding section at the instance of any company authorized to construct a plank-road, if required so to do by the tenant of the freehold, or his tenant for years, to enquire in the first place, whether under all the circumstances of the case it be reasonable and proper that the company should be allowed to take for its uses the timber or other material it is proposed to condemn. If the opinion of the commissioners on this point be adverse to the company, they shall report the same, with the reason on which it is founded, to the circuit court of the county, and unless said report be reversed and

annulled, neither the commissioners nor the company shall have the power to proceed further under the section aforesaid. If the opinion of the commissioners on such preliminary question be favorable to the company, and the tenant of the freehold and his tenant for years, if there be such, acquiesce therein, they shall proceed to discharge the other duties for which they were appointed. But if there be not such acquiescence, the commissioners shall report their opinion, with their reasons therefor, to the court aforesaid, and shall not proceed further in the discharge of their duties, unless their report shall be confirmed. [Code, ch. 52, § 15.]

DUTY OF SHERIFF.—In any case, in which any company may be entitled under this chapter to enter upon any lands, the sheriff or other officer, whenever required by such company, shall attend and remove by force if necessary. [Code, ch. 52, § 16.]

DISPOSITION OF ITS PROPERTY WHEN THE CORPORATION IS DISSOLVED.—When any corporation shall expire, or be dissolved, or its corporate rights and privileges shall have ceased, it may wind up its affairs in the manner prescribed by section fifty-nine of chapter fifty-three of this act. [Code, ch. 52, § 17.]

ACTIONS AND PROCESS AGAINST A CORPORATION.—In any action brought against a corporation, if it be in the circuit court, process shall be issued as provided in chapter one hundred and twenty-four of this act; or if the action be brought before a justice, process shall be issued as provided in chapter fifty of this act.* [Code, ch. 52, § 18.]

SERVICE OF ATTACHMENTS.—Attachments may be served upon a company or corporation, as garnishee, in the manner prescribed by the preceding section, and in chapter one hundred and six of this act. [Code, ch. 52, § 19.]

PROCESS MAY BE SERVED ON DEPOT OR STATION AGENT.—Provided that when any suit is brought against a railroad company under the two preceding sections, the agent on whom process may be served, shall be construed to include a depot or station agent in the actual employment of the company, residing in the county or township wherein the action is brought. [Code, ch. 52, § 20.]

ADDITIONAL POWERS OF CORPORATIONS.—In addition to the powers enumerated in this chapter, and those expressly or by necessary implication given by any other law, every corporation shall have such powers, and such only, as are necessary or proper to the exercise of the powers so enumerated or given. [Code, ch. 52, § 21.]

USURIOUS CONTRACTS OF A CORPORATION.—No corporation shall interpose the defense of usury in any suit or proceeding at law or in

*Vide. Acts 1881, ch. 8.

chancery; nor shall any bond, note, debt or contract of a corporation be set aside, impaired, or adjudged invalid, by reason of anything contained in the laws prohibiting usury. [Code, ch. 52, § 22.]

EXISTING CORPORATIONS RETAIN THEIR PRIVILEGES AND LIABILITIES.—Corporations now existing shall continue to exercise and enjoy their powers and privileges according to their respective charters and the laws now in force, and shall continue subject to all the liabilities to which they are now subject, except so far as such powers, privileges and liabilities are modified or controlled by this act. [Code, ch. 42, § 23.]

OF JOINT STOCK COMPANIES.

DEFINITIONS.—The words “joint stock company” include every corporation having a joint stock or capital divided into shares owned by the stockholders respectively. [Code, ch. 53, § 1.]

When the word “by-law” is used in this chapter, it is to be understood as if immediately followed by the words “adopted by the stockholders in general meeting assembled.” [Code, ch. 53, § 2.]

NO JOINT STOCK COMPANIES SHALL BE INCORPORATED UNDER SPECIAL CHARTER.—No corporation shall hereafter be created by special charter; and no act shall be passed granting special privileges to any joint stock company heretofore or hereafter incorporated under the provisions of chapter fifty-four of this code, or any other general law of this state, and no joint stock company shall be authorized to engage in any business other than that which is proper under its charter; except that a mining, manufacturing, oil, salt or internal improvement company may lay out a town not to include more than six hundred and forty acres, at or near their works, and sell lots therein, and any corporation may take real estate, stock, bonds and securities in payment, in whole or in part, of any debt, *bona fide*, owing to it, or as a security therefor, or may purchase the same if deemed necessary to secure or obtain payments of any such debt, in whole or in part, and may manage, use and dispose of what has been so taken or purchased, as a natural person might do; and any corporation may compromise or purchase its own debt, and establish and manage a sinking fund for that purpose, and any manufacturing company may, with the assent of the holders of two-thirds of its stock, had by a vote at a stockholders’ meeting, subscribe for or purchase the stock, bonds or securities of any corporation formed for the purpose of manufacturing or producing any articles

or material used in the business of such joint stock company, or dealing in any articles or materials manufactured or produced by such joint stock company, or constructing a railroad or other work of internal improvement, through or into the county in which the principal place of business of such joint stock company may be, or operating a railroad or other work of internal improvement so constructed, and may, with the like assent, become surety for or guarantee the debts of such corporation, or in any manner aid it in carrying on its business. [Code, ch. 53, § 3, as amended by Acts 1882, ch. 96.]

FORMER CHARTERS UNDER WHICH ORGANIZATIONS HAVE NOT BEEN MADE TO BE DEEMED EXTINGUISHED.—All existing charters or grants of special or exclusive privileges under which organizations shall not have taken place, or which shall not have been in operation within two years from the twenty-second day of August, one thousand eight hundred and seventy two, shall have no validity or effect whatever. *Provided*, that nothing herein shall prevent the execution of any *bona fide* contract heretofore lawfully made in relation to any existing charter or grant in this state. [Code, ch. 53, § 4, as amended by Acts, 1882, ch. 96.]

All rights, powers and privileges heretofore granted by the general assembly of Virginia, or by the legislature of this state to any joint stock company, which are not rendered invalid and of no effect by the preceding section, are hereby preserved to it. [Code, ch. 53, § 5, as amended by Acts 1882, ch. 96.]

WITHIN WHAT TIME COMPANY MUST BE ORGANIZED.—Where a certificate of incorporation has been or shall hereafter be issued for a joint stock company under a general law, such company must be organized and commence its proper corporate business within one year after the date of such certificate; otherwise the certificate shall be of no effect. [Code, ch. 53, § 6.]

DISSOLUTION OF CORPORATION BY SUSPENSION OF BUSINESS.—If a joint stock company, whether organized under special charter or general law, suspend its proper corporate business at any time for two years continuously, its corporate rights and privileges shall cease. [Code, ch 53, § 7.]

RIGHT OF LEGISLATURE TO ALTER OR REPEAL CHARTERS.—Where the legislature has the right to alter or repeal the charter or certificate of incorporation heretofore granted to any joint stock company, or to alter or repeal any law relating to such company, nothing contained in this chapter shall be construed to surrender or impair such right. And the right is hereby reserved to the legislature to alter any charter or certificate of incorporation hereafter granted to a joint stock company, and to alter or repeal any law applicable to such company. But in no case shall such alteration or repeal affect

the right of the creditors of the company to have its assets applied to the discharge of its liabilities, or of its stockholders to have the surplus, if any, which may remain after discharging its liabilities, and the expenses of winding up its affairs, distributed among themselves in proportion to their respective interests. [Code, ch. 53 § 8, as amended by Acts 1882, ch. 96.]

WHAT COMPANIES ARE SUBJECT TO THIS CHAPTER.—Every joint stock company heretofore organized, and which has commenced its proper corporate business under special charter or general law, shall remain subject to the laws now in force applicable thereto, unless it accepts the provisions of this chapter, or shall be declared subject thereto by act of the legislature. [Code, ch. 53, § 9.]

Every joint stock company which shall be hereafter organized or commence its proper corporate business, or which shall accept the provisions of this chapter, or be declared subject thereto by act of the legislature, shall, so far as it is not otherwise expressly provided, have the rights, power and privileges, and be subject to the regulations, restrictions and liabilities specified in this and the preceding chapter. [Code, ch. 53, § 10, as amended by Acts 1882, ch. 96.]

CORPORATE NAME.—No joint stock company shall adopt the same name which is being used at the time by another corporation in this state. [Code, ch. 53, § 11.]

If the stockholders of a joint stock company desire to change the name thereof, and pass, in general meeting, a resolution to that effect, stating the name by which it is intended the corporation shall be thereafter known, and cause such resolution to be certified under its common seal and the signature of its president to the secretary of state, the secretary shall issue, under his hand and the great seal of the state, a certificate reciting the resolution and declaring that the corporation is to be thereafter known by the new name so adopted; and such certificate shall be evidence of the change of name therein specified. Notice of every such change of name shall be published by such corporation in some newspaper of general circulation in the county where the principal office of such corporation is, once a week for four successive weeks immediately thereafter. [Code, ch. 53, § 12.]

The seventeenth, eighteenth, nineteenth and twentieth sections of chapter fifty-four of this code, shall be applicable to such certificates of change of name. [Code, ch. 53, § 13, as amended by Acts 1882, ch. 96.]

EFFECT OF CHANGE OF NAME.—No contract, right or liability, previously existing or inchoate, or suit, motion or proceeding then pending shall be affected by such change of name. [Code, ch. 53, § 14.]

THE CAPITAL STOCK.—The capital stock shall be divided into shares of such amount each as may be prescribed by the charter of incorporation; but every share shall be of same amount. [Code, ch. 53, § 15.]

PREFERRED STOCK.—The stockholders in general meeting may, by resolution or by-law, provide for or authorize the issuing of preferred stock, on such terms and conditions, and with such regulations respecting the preference to be given to such stock over the other stock in relation to future dividends or otherwise, as they may deem proper. *Provided*, That the maximum capital of the corporation shall not be exceeded, and that notice be first published at least once a week for four weeks successively in some newspaper of general circulation in the county wherein the principal office or place of business of the corporation is situated, of the intention to offer such resolution or by-law. [Code, ch. 53, § 16.];

NUMBER OF STOCKHOLDERS.—There shall not be less than five stockholders. If the number be at any time reduced below five, and so remain for six months continuously, the corporation shall be dissolved. [Code, ch. 53, § 17.]

STOCK OWNED BY THE CORPORATION.—If the corporation acquire shares of its own stock, it may either extinguish or sell the same. If extinguished, it shall operate to that extent as a reduction of the amount of its capital stock. No vote shall be given on any stock while owned by the corporation. [Code, ch. 53, § 18.]

WHO DEEMED THE OWNER OF STOCK.—The person in whose name shares of stock stand on the books of the corporation shall be deemed the owner thereof, so far as the corporation is concerned. Code, ch. 53, § 19.]

STOCK DEEMED PERSONAL ESTATE.—The shares shall be deemed personal estate, and as such shall pass to the legal representative or transferee of the stockholder, and be subject to legal process. Code, ch. 53, § 20.]

TRANSFER-BOOK.—A transfer-book shall be kept by the corporation, in which the shares shall be assigned under such regulations, if there be any, as may have been prescribed by the by-laws. [Code, ch. 53, § 21.]

TRANSFER OF STOCK.—No share shall be transferred without the consent of the board of directors, until the same is fully paid up, or security given to the satisfaction of the board for the residue remaining unpaid. And where bond and security have been given to the corporation for any sum remaining unpaid upon stock, no transfer shall effect the validity of such bonds and security. [Code, ch. 53 § 22.]

SUBSCRIPTIONS TO THE CAPITAL, ETC.—Before a corporation is organized, shares may be disposed of as prescribed by the sixteenth section of chapter fifty-four of this code, or by the charter. After it is organized, the disposal of additional shares to increase the capital stock shall be subject to the order and direction of the board of directors for the time being, so that the maximum capital be not exceeded. [Code, ch. 53, § 23, as amended by Acts 1882, ch. 96.]

STOCK NOT TO BE SOLD AT LESS THAN PAR TO INCREASE CAPITAL STOCK.—In no case shall stock be sold or disposed of at less than par in order to increase the capital of any such corporation beyond the maximum fixed by its charter. But nothing herein contained shall be so construed as to prevent any mining corporation, subject to the provisions of this chapter, from issuing stock or bonds and negotiating the sale of the same in payment of real and personal estate for the use of such corporation, and for its other corporate purposes and business, at such price and upon such terms and conditions as may be agreed on by the owners, directors or stockholders of such corporation. And any subscriber to the capital stock of any such mining corporation may pay for such stock by the transfer and conveyance to such corporation of real or personal property, or both, necessary for the uses and purposes of the corporation, upon such terms as may be mutually agreed upon. [Code, ch. 53 § 24, as amended by Acts 1882, ch. 69.]

HOW SUBSCRIPTIONS TO BE PAID.—At least ten per cent. of the par value of each share shall be paid at the time of subscription, and the residue as required by the board of directors or the commissioners having control of the subscription. [Code, ch. 53, § 25.]

WHEN STOCK TO BE REGARDED AS TAKEN.—No stock shall be regarded as taken, or the person subscribing therefor considered entitled to the same, until the first instalment is paid thereon. [Code, ch. 53, § 26.]

APPORTIONMENT OF STOCK.—If more than the amount necessary to make up the maximum capital, or the amount of capital to be disposed of be at any time subscribed, the subscription shall be reduced to the proper amount by deducting the excess from the largest subscriptions, in such manner that no subscription shall be reduced while any one remains larger. [Code, ch. 53, § 27.]

FAILURE TO PAY SUBSCRIPTIONS.—If any person who has received a sum of money on a subscription to the capital stock of a corporation fail to account for and pay over the same as the board of directors may require, or if any stockholder fail to pay any instalment upon his shares when required by the board, the corporation may recover from him the principal sum due, with interest thereon at the rate of ten per cent. per annum, by motion on ten days' notice, or by action before any justice or court having jurisdiction. [Code, ch. 53, § 28.]

WHEN COMPANY MAY SELL DELINQUENT STOCK.—Or, in case of a stockholder failing to pay any instalment upon his shares when required by the board of directors, the said shares may, by order of the board, after four weeks' notice in a newspaper of general circulation in the county, wherein the principal office or place of business of such corporation is situated, be sold at public auction for cash, and be transferred to the purchaser by such persons as the board shall appoint for the purpose. In such case there shall be paid out of the proceeds of the sale the expenses of advertising and selling, and the whole residue remaining unpaid upon said stock; and the surplus, if any, shall be paid to the delinquent stockholder. [Code, ch. 53, § 29.]

WHEN CORPORATION MAY RECOVER FROM DELINQUENT STOCKHOLDER.—If there be no sale for want of bidders, or if the sale do not produce enough to pay the expenses and the whole residue remaining unpaid on the said stock, the corporation may recover from such stockholder whatever may remain unpaid, with interest at the rate of ten per cent. per annum from the time it was due until payment, by action or motion as aforesaid. [Code, ch. 53, § 30.]

SECURITY FOR UNPAID INSTALMENTS OF STOCK.—A corporation, the stock of which is not fully paid up, may, by by-law, require each stockholder to give security to the satisfaction of its board of directors for the payment, at such times and in such instalments as the board may direct, of the residue remaining unpaid on his stock. In such case the security may be given by bond, with one or more sureties, or by pledge of other stocks or securities, or by deed of trust or mortgage on real estate, or in any other manner satisfactory to the board and not prohibited by such by-law. [Code, ch. 53, § 31.]

INSUFFICIENT OR DOUBTFUL SECURITY.—When security is taken from stockholders for the unpaid residue of their stock, according to the preceding section, the board of directors shall, from time to time, examine the said securities to ascertain the sufficiency thereof. And if in any case they deem the security insufficient or doubtful, they shall require other security in lieu thereof; and so, from time to time thereafter, whenever they find the security insufficient or doubtful. [Code, ch. 53, § 32.]

FAILURE TO GIVE SATISFACTORY SECURITY.—If any stockholder being thereto required, according to either of the two preceding sections, fail to give security satisfactory to the board of directors for the unpaid residue of his stock, the corporation may recover from him, by motion on ten days' notice, or by action before any justice or court having jurisdiction, the whole unpaid residue of the stock, with interest thereon at the rate of ten per cent. per annum from the time of such failure, until payment; or the board of directors, at their option (having first given not less than two weeks' notice to the stockholder of their intention so to do), may declare

the stock in regard to which such failure occurred, to be forfeited to the corporation. [Code, ch. 53, § 33.]

FAILURE TO PAY INSTALMENT.—If any stockholder, having given security as aforesaid, fail to pay the unpaid residue of his stock or any instalment thereof, when thereto required by the board of directors, the corporation may recover the amount in arrear, with interest thereon at the rate of ten per cent. per annum from the time of such failure until payment, from the person liable on such security, or any one or more of them, by motion or action as aforesaid; or by the sale or collection of the stocks or securities pledged, or enforcement of the deed of trust or mortgage, or other securities, given as aforesaid; or in the manner specified in the twenty-ninth and thirtieth sections of this chapter. And if it proceed in any of the modes above mentioned, it shall not be thereby precluded from resorting to the others for the recovery of so much as may remain unpaid. [Code, ch. 53, § 34, as amended by Acts 1882, ch. 96.]

CERTIFICATES OF STOCK.—The board of directors may cause to be issued, if demanded, to any person appearing on the books of the corporation to be the owner of any shares of its stock a certificate therefor under the corporate seal, to be signed by the president and such other officer, if any, as the board may direct, which certificate shall show the amount paid on each share. [Code, ch. 53, § 35.]

CERTIFICATE TO BE SURRENDERED ON TRANSFER OF STOCK.—A stockholder, to whom such certificate has been issued, shall not be allowed to transfer the shares therein mentioned, or any part thereof, without delivering up the said certificate to the corporation to be cancelled, unless the same be lost or destroyed, or sufficient cause be shown, to the satisfaction of the board of directors, why it cannot be produced. [Code, ch. 53, § 36.]

SALE, ETC., OF STOCK WITH DELIVERY OF CERTIFICATE TO PURCHASER.—If any person, for valuable consideration, sell, pledge or otherwise dispose of any shares belonging to him to another, and deliver to him the certificate for such shares, with the power of attorney authorizing the transfer of the same on the books of the corporation, the title of the former shall vest in the latter so far as may be necessary to effect the sale, pledge or other disposal of the said shares, not only as between the parties themselves, but also as against the creditors of, and subsequent purchaser from the former, but subject nevertheless to the provisions contained in the nineteenth section of this chapter. [Code, ch. 53, § 37.]

LOST CERTIFICATE.—When a person to whom a certificate has been issued, alleges it to have been lost, he shall file in the office of the corporation, first, an affidavit setting forth the time, place and circumstances of the loss, to the best of his knowledge and belief;

second, proof of his having advertised the same in a newspaper of general circulation, published near the principal office of the corporation, once a week for four weeks; and, third, a bond to the corporation, with one or more sufficient sureties, conditioned to indemnify the corporation and all persons against any loss in consequence of a new certificate being issued in lieu of the former. And thereupon the board of directors shall cause to be issued to him a new certificate, or duplicate of the certificate alleged to be lost. [Code, ch. 53, § 38.]

DIVIDENDS ON STOCK.—The board may, from time to time declare dividends of so much of the net profits as they deem it prudent to divide. If any stockholder be indebted to the corporation, his dividend, or so much thereof as is necessary, may be applied to the payment of the debt, if the same be then due and payable. [Code, ch. 53, § 39.]

DIVIDEND DECLARED OUT OF THE CAPITAL.—If the board declare a dividend by which the capital of the corporation shall be diminished, all the members present who do not dissent therefrom and cause said dissent to be entered on the record of their proceedings, shall be jointly and severally liable to the creditors of the corporation for the amount the capital may have been so diminished; and may be decreed against therefor on a bill in equity filed by any creditor; and, moreover, every stockholder who has received any such dividend shall be liable to the creditors for the amount of capital so received by him. [Code, ch. 53, § 40.]

THE MEETINGS OF THE STOCKHOLDERS.—An annual meeting of the stockholders of every corporation, subject to this chapter, shall be held at such time as may be prescribed by the by-laws, or, if there be no such by-law, then on the fourth Tuesday of January. A general meeting of the stockholders may be called at any time by the board of directors, or by any number of the stockholders holding together at least one-tenth of the capital. Notice of the annual or any other general meeting shall be given in such manner as the by-laws may direct, or, if there be no such by-law, by advertising the same once a week for two weeks at least in some newspaper of general circulation published near the principal office or place of business of the company. [Code, ch. 53, § 41.]

QUORUM.—The number of stockholders, or amount of stock necessary to constitute a quorum at a meeting of stockholders, and the mode of transacting business at such meetings, may be prescribed by the by-laws. If there be no such by-law the majority of the stock must be present, in person or by proxy, to constitute a meeting. But if a sufficient number do not attend at the time and place appointed, those who do attend may adjourn from time to time until a meeting is regularly constituted. Every meeting of the stockholders may adjourn from time to time till its business is completed. [Code, ch. 53, § 42.]

LIST OF STOCKHOLDERS TO BE HUNG UP IN PRINCIPAL OFFICE.—A list of stockholders, showing the number of shares and votes to which each is entitled, shall, for one month before every annual meeting, be hung up in the most public room at the principal office or place of business of the corporation; but the failure to do so shall not affect the validity of the proceedings of such meeting. [Code, ch. 53, § 43.]

MODE OF VOTING.—In all elections for directors or managers of incorporated companies, whether in other respects governed by this chapter or not, 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. And on any other question to be determined at any meeting of stockholders, if a vote by stock be demanded upon such question by any stockholder, every stockholder may, in person or by proxy, give the following vote on whatever stock he may hold in the same right, that is to say, one vote for every share of stock held in such company. [Code, ch. 53, § 44, as amended by Acts 1872-3, ch. 181, and Acts 1882, ch. 96.]

PROXY.—No officer or director of a corporation shall vote as the proxy of a stockholder thereof. [Code, ch. 53, § 45.]

ANNUAL REPORT OF DIRECTORS.—The board of directors shall make a report to the stockholders, at the annual meeting, of the condition of the corporation. The report shall show the property and funds belonging to the corporation, and the estimated value thereof, the debts due to it, distinguishing such as are known to be good from those considered to be doubtful or hopeless, the debts and liabilities of the corporation; the amount of capital paid in; and the estimated surplus or deficiency, as the case may be. It shall also state the amount of dividend declared, and the losses incurred, or profits accruing during the preceding year. The board shall furnish to each stockholder requiring it, a true copy of such report, together with a list of the stockholders and their places of residence. [Code, ch. 53, § 46, as amended by Acts 1882, ch. 96.]

BOOKS, PAPERS, &c.—The property and funds, books, correspondence and papers of the corporation, in the possession or control of any officer or agent thereof, shall, at all times, be subject to the inspection of the board, or a committee thereof appointed for the purpose, or of any committee appointed for the purpose by a general meeting of the stockholders. The minutes of the resolutions and proceedings of the board, shall, for thirty days before the annual meet-

ing of the stockholders, be open to the inspection of any stockholder. They shall be produced when required by the stockholders at any general meeting. [Code, ch. 53, § 47.]

MEETINGS OF THE STOCKHOLDERS.—The annual meeting and other meetings of the stockholders, within this state, shall be held at such place as may be prescribed by the by-laws, or if there be no such by-law, then at the principal office or place of business of the corporation. Notice of the place of meeting shall be given in the manner prescribed by the forty-first section of this chapter. [Code, ch. 53, § 48, as amended by Acts 1882, ch. 96.]

BOARD OF DIRECTORS.—For every corporation subject to this chapter there shall be a board of directors, who shall have power to do, or cause to be done, all things that are proper to be done by the corporation. The stockholders may in general meeting, by a by-law, prescribe the number of which the board shall consist; but unless a different number be so prescribed, there shall be five directors. They may also, by a by-law, prescribe the qualifications of directors; but, if it be not otherwise provided, every director must be a resident of this state and a stockholder. The directors shall be elected at the annual meeting of the stockholders, or as soon thereafter as practicable, and shall hold their office until their successors are elected and qualified. The stockholders in general meeting may remove any director and fill the vacancy; but any vacancy not caused by such removal may be filled by the board. A majority of the board shall constitute a quorum, unless it be otherwise provided in the by-laws; and if the number of the board be reduced at any time so as to interrupt the proper and efficient management of the business of the corporation, a general meeting of the stockholders may be called to elect new directors, or to take such order in the premises as they may deem proper. [Code, ch. 53, § 49.]

PRESIDENT.—As soon as may be, after their election, the board of directors shall choose one of their own body president of the corporation, who shall act as such till his successor is qualified, without ceasing, however, to be a member of the board. During the absence of the president the board may appoint a president *pro tempore*, who for the time, shall discharge the official duties of the president. [Code, ch. 53, § 50.]

MEETINGS OF THE BOARD.—The board shall hold meetings at such time as they see fit, or the president shall require. They may, by resolution, prescribe when and where their regular meetings shall be held, how special meetings shall be called, and what notice of their meetings shall be given. [Code, ch. 53, § 51.]

RECORD OF PROCEEDINGS.—They shall keep a record of their proceedings, which shall be verified by the signature of the president or president *pro tempore*. No member of the board shall vote on a

question in which he is interested otherwise than as a stockholder, except the election of a president, or be present at the board while the same is being considered; but if his retiring from the board in such case reduce the number present below a quorum, the question may nevertheless be decided by those who remain. On any question the names of those voting each way shall be entered on the record of their proceedings, if any member at the time require it. [Code, ch. 53, § 52, as amended by Acts 1882, ch. 96.]

OFFICERS AND AGENTS.—The board of directors shall appoint such officers and agents of the corporation as they may deem proper, and prescribe their duties and compensation; but there shall be no compensation for services rendered by the president or any director, unless it be allowed by the stockholders. The officers and agents so appointed shall hold their places during the pleasure of the board; and if required by the board, or the by-laws, shall give bond, payable to the corporation, in such penalties and with such conditions and security as the board may approve. [Code, ch. 53, § 53.]

BOOKS OF ACCOUNT.—The board of directors shall cause regular and correct books of account to be kept, and to be settled and balanced once at least every six months. [Code, ch. 53, § 54.]

BY-LAWS.—The board of directors, in the exercise of their powers, shall be subject to such by-laws and regulations, not inconsistent with the laws of this state, as the stockholders may pass from time to time in general meeting. [Code, ch. 53, § 55.]

VOLUNTARY DISSOLUTION.—The stockholders may at any time in general meeting resolve to discontinue the business of the corporation, the majority of the capital stock being represented and voted in favor of such discontinuance; and may divide the property and assets that may remain after paying all debts and liabilities of the corporation. Public notice of such resolution shall be immediately given by advertisement in some newspaper of general circulation, published near the principal office or place of business of the corporation, once a week for six weeks at least before any dividend of the capital shall be made; and the said resolution shall be forthwith certified by the president under his hand and the common seal of the corporation to the secretary of state, who shall preserve the same in his office, and deliver a copy to the clerk of the house of delegates, to be printed and bound with the acts of the legislature. As soon as practicable after such resolution is passed, the stockholders shall cause ample funds and assets to be set apart, either in the hands of the trustees or otherwise, to secure the payment of all debts and liabilities of the corporation; and any creditor who supposes his claim not to be sufficiently secured thereby, whether such claim be then due or thereafter to become due, may on bill in chancery, if sufficient cause therefor be shown, obtain an

injunction to prevent the distribution of the capital, and a decree against any stockholder for the amount of the capital received by him; and if necessary or proper in the case, the court may appoint a receiver to take charge of and administer the property and assets of the corporation. [Code, ch. 53, § 56.]

PROCEEDINGS IN EQUITY TO DISSOLVE A CORPORATION.—If not less than one-third in interest of the stockholders of a corporation desire to wind up its affairs, they may apply by a bill in chancery to the circuit court of the county in which the principal office or place of business of such corporation is situated, or if there be no such office or place of business in this state, to the circuit court of the county in which the other stockholders, or any one or more of them reside or are found, or in which the property of such corporation or any part of it may be, setting forth in the bill the grounds of their application; and the court may thereupon proceed according to the principles and usages of equity to hear the matter, and if sufficient cause therefor be shown, to decree a dissolution of the corporation, and make such orders and decrees, and award such injunctions in the cause as justice and equity may require. [Code, ch. 53, § 57.]

RECEIVER.—When a corporation expires, or is dissolved, or before its expiration, or dissolution, upon sufficient cause being shown therefor, such court as is mentioned in the preceding section, may, on application of a creditor or stockholder, appoint one or more persons, to be receivers, to take charge of, and administer, its assets; and whether such receiver be appointed or not, may make such orders and decrees, and award such injunctions in the cause, as justice and equity may require. This section shall apply to corporations, heretofore or hereafter, chartered by another state, which may have done business and acquired property, or contracted debts in this state, and any of whose creditors, or stockholders, or their personal representatives, reside herein; and the circuit court of any county wherein such creditor, stockholder, or personal representative, may reside, or where such assets or property, or part thereof may be, or where the person owing such debts, or having such property in possession, may reside, shall afford such relief as is prescribed in this and the next section. [Code, ch. 53, § 58, as amended by Acts 1885, ch. 39.]

EFFECT OF DISSOLUTION OR EXPIRATION OF A CORPORATION.—When a corporation shall expire or be dissolved, its property and assets shall, under the order and direction of the board of directors then in office, or of the receiver or receivers appointed for the purpose by such circuit court as is mentioned in the fifty-seventh section of this chapter, be subject to the payment of the liabilities of the corporation, and the expenses of winding up its affairs; and the surplus, if any, then remaining, to distribution among the stockholders according to their respective interests. And suits may be brought continued or defended, the property, real or personal, of the corporation be conveyed or transferred under the common seal or other-

wise, and all lawful acts be done in the corporate name in like manner and with like effect as before such dissolution or expiration; but so far only as shall be necessary or proper for collecting the debts and claims due to the corporation, converting its property and assets into money, prosecuting and protecting its rights, enforcing its liabilities, and paying over and distributing its property and assets, or the proceeds thereof, to those entitled thereto. [Code, ch. 53, § 59, as amended by Acts 1882, ch. 96.]

EXAMINATION OR REPORT REQUIRED BY THE LEGISLATURE.—Every corporation subject to this chapter shall exhibit its books, papers and property to such agents or committees as the Legislature may from time to time appoint to examine the same; and when required by the Legislature, shall report thereto a full, fair and detailed exhibit of its property, liabilities and condition, verified by the oath of the president, and of the secretary or principal book-keeper. [Code, ch. 53, § 60.]

SERVICE OF PROCESS OR NOTICE.—Process on, or notice to a corporation may be served as is provided in section seven of chapter one hundred and twenty-four of this code. [Code, ch. 53, § 61, as amended by Acts 1882, ch. 96.]

QUANTITY OF LAND WHICH A CORPORATION MAY HOLD.—No corporation subject to this chapter, whether incorporated under special charter or general law, shall hold more than one hundred acres of land; except that a company for mining iron, lead or copper ore, and manufacturing the same into metal, may hold ten thousand acres for every charcoal blast furnace, and three thousand acres for every other furnace; companies for mining and selling coal, ten thousand acres each; other mining companies, salt companies and oil companies, three thousand acres each; other manufacturing companies, one thousand acres each; and a springs company, fifteen hundred acres; nor shall any corporation, subject to this chapter, hold more than five acres in any incorporated town or city, except as provided in the fourth section of chapter fifty-two of this code, and except that societies formed to promote agriculture or stock raising, may hold not exceeding thirty acres in any incorporated town or city. But nothing in this section contained shall be construed to prevent any company heretofore incorporated from holding such number of acres of land, in addition to the number herein prescribed, as may be authorized by its charter. But any such springs company now owning or occupying the real estate of a former springs company may take, hold and use the same, notwithstanding the quantity thereof shall exceed fifteen hundred acres. [Code, ch. 53, § 62, as amended by Acts 1882, ch. 96.]

PRESERVATION OF THE PEACE, ETC., AT WATERING PLACES.—Every incorporated springs company may adopt by-laws, rules and regulations for the preservation of the peace and good order within the boundary lines of its real estate, and for the arrest of persons violat-

ing the penal laws of the state within said lines. And the board of directors of any such corporation may, from time to time, appoint such number of police officers as may be deemed necessary to carry into effect the objects and purposes of this section; and the officers so appointed shall have all the powers within the territory for which he is appointed, in criminal cases, as a constable of a district has under the law. [Acts 1882, ch. 96, § 63.]

Of the Incorporation of Joint Stock Companies Without Special Charter.

TO WHAT CHAPTERS SUCH COMPANIES SHALL BE SUBJECT.—Joint stock companies, incorporated under this chapter, shall be subject to the provisions of the fifty-second and fifty-third chapters of the code, so far as the same are applicable. [Code, ch. 54, § 1.]

THE PURPOSES FOR WHICH THEY MAY BE FORMED.—Such companies may be incorporated for the following purposes:

- I. For manufacturing, mining or insuring.
- II. For constructing and maintaining lines of magnetic telegraph, telephones, lines of piping or tubing for the transportation of oils or other fluids; and carrying on the business properly pertaining to such works and improvements.
- III. For establishing hotels and springs companies, gas works, water works, cemeteries, or building and loan associations, and transacting the business properly pertaining thereto.
- IV. For universities, colleges, academies, seminaries, schools, or institutes, for the purpose of teaching any branch or branches of useful information or learning, or promoting religion, morality, military science or discipline; or the diffusion of knowledge, including library companies and literary and scientific associations.
- V. For agricultural and industrial societies.
- VI. For benevolent associations, societies and orders, including orphan, blind, and lunatic asylums and hospitals, lodges of free and accepted masons, independent order of odd fellows, improved order of red men, sons of temperance, good templars and knights of pythias, and all other associations, societies and orders of like character.
- VII. For gymnastic purposes.
- VIII. For railroads and other works of internal improvement.
- IX. For banks of issue and circulation, and of discount and deposit, and for savings institutions.
- X. And for any other purpose or business useful to the public for which a firm or copartnership may be lawfully formed in this state. [Code, ch. 54, § 2, as amended by Acts 1883, ch. 58.]

FORMATION OF CORPORATIONS FOR CERTAIN PURPOSES PROHIBITED.—But this chapter shall not be construed to authorize the incorporation

of any church or religious denomination, or of any company the object or one of the objects of which is to purchase lands and re-sell the same for profit. [Code, ch. 54, § 3, as amended by Acts 1881, ch. 17.]

CAPITAL STOCK.—The capital stock shall be divided into shares, as prescribed by the fifteenth section of chapter fifty-three of the code. [Code, ch. 54, § 4.]

LIMITATION OF CAPITAL.—The capital of a corporation formed under this chapter, except for railroad or canal purposes, shall not exceed one million dollars. [Code, ch. 54, § 5, as amended by Acts 1881, ch. 17.]

MODE OF INCORPORATION AND DURATION.—Any number of persons, not less than five, desiring to become a corporation for any purpose or business designated in the second section, except for railroad purposes, shall sign an agreement to the following effect:—"The undersigned agree to become a corporation by the name of (here insert the name by which it is intended the corporation shall be known) for the purpose of (here describe fully and particularly the purpose for which the corporation is to be formed, and the kind of business intended to be carried on by it,) which corporation shall keep its principal office or place of business at —, in the county of —, and is to expire on the — day of —. And for the purpose of forming the said corporation, we have subscribed the sum of — dollars to the capital thereof, and have paid in on said subscription the sum of — dollars; and desire the privilege of increasing the said capital, by the sale of additional shares, from time to time, to — dollars in all. The capital so subscribed is divided into shares of — dollars each, which are held by the undersigned, respectively, as follows, that is to say: By (here insert the name of each incorporator, with his residence and the number of shares held by him.) And the capital to be hereafter sold is to be divided into shares of the like amount. Given under our hands this — day of —." [Code, ch. 54, § 6.]

TEN PER CENT. OF STOCK MUST BE PAID IN.—No person shall be included as a corporator in any such agreement, by reason of any stock subscribed for by him, unless he has in good faith paid to the person who may have been appointed or agreed upon to receive the same for the intended corporation, at least ten per cent. of the par value of said stock. [Code, ch. 54, § 7.]

AGREEMENT MUST BE ACKNOWLEDGED.—The agreement shall be acknowledged by the several corporators before a justice, notary or judge; and such acknowledgment shall be certified by the officers before whom they are made. The affidavits of at least two of the corporators named in the agreement shall be annexed thereto, to the effect that the amount therein stated to have been paid on the capital has been in good faith paid in, for the purposes and business of the

intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of the corporation. [Code, ch. 54, § 8, as amended by Acts 1882, ch. 97.]

CERTIFICATE OF SECRETARY OF STATE.—The agreement, with the acknowledgments and affidavits aforesaid, shall be delivered to the secretary of state, who shall thereupon issue to the said corporators his certificate, under the great seal of the state, to the following effect: “I, A— B—, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits has been this day delivered to me; which agreement is in the words and figures following: (here insert.) Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the — day of — a corporation by the name and for the purposes set forth in the said agreement. Given under my hand and the great seal of the said state at —, this — day of —.” [Code, ch. 54, § 9.]

EFFECT OF CERTIFICATE OF INCORPORATION.—When a certificate of incorporation shall be issued by the secretary of state pursuant to this chapter, the corporators named in the agreement recited therein, and who have signed the same, and their successors and assigns, shall, from the date of the said certificate until the time designated in the said agreement for the expiration thereof, unless sooner dissolved according to law, be a corporation by the name and for the purposes and business therein specified. And the said certificate of incorporation shall be received as evidence of the existence of the incorporation as aforesaid. Any corporation organized for any one or more of the purposes mentioned in the first and tenth subdivisions of the second section of this chapter, may, by resolution, concurred in by a majority of all the stockholders, representing a majority of the capital stock, and entered upon its records at a meeting specially called for the purpose, of which all the stockholders shall have had notice, agree to and adopt a new agreement, so as to enlarge or diminish the objects and purposes, within the limits of said two subdivisions of section two, for which such corporation may have been organized; or, so as to increase or diminish the number of its shares of capital stock by consolidating or subdividing the same, but so that in no case shall any fractional share or shares of unequal value be created. A copy of such resolution containing such new agreement, when acknowledged by such majority of the stockholders in the manner prescribed by the eighth section of this chapter, shall be delivered to the secretary of state, who shall thereupon issue his certificate in the form prescribed in the ninth section of this chapter, so far as the said form may be found applicable; and from thence such corporation shall be subject to such new agreement and certificate. And all the provisions of this chapter shall apply to such new certificates and to the corporations receiving the same in like manner as to original

agreements and certificates of incorporation, except as herein otherwise provided. [Code, ch. 54, § 10, as amended by Acts 1881, ch. 17.]

DURATION OF CORPORATION.—No corporation formed under this chapter, except life insurance companies and such as are formed exclusively for the purposes mentioned in the fourth, fifth, sixth, seventh, eighth and ninth clauses of the second section, shall continue for more than fifty years from the date of its certificate of incorporation. Any corporation heretofore formed under the general laws of this state and now in existence, may extend the time of its continuance beyond that limited in the agreement for its formation for such additional time, not exceeding fifty years, as it may desire, in the manner following: The stockholders of such corporation may, at a general or special meeting, adopt a resolution to extend the time of the continuance of such corporation, for such time not exceeding fifty years, as may be decided upon by said stockholders, a majority of the stock of such company being represented by the holders thereof, in person or by proxy, and voting for such resolution; but notice of the intention to offer such resolution must have been given by advertisement, published once a week for four successive weeks, in some newspaper of general circulation printed in this state. When such resolution shall have been adopted by any corporation, the president thereof, shall, under his signature and the common seal of the company, certify the resolution to the secretary of state, and the secretary, under his hand and the great seal of this state, shall issue to the company adopting such resolution a certificate reciting the resolution and declaring the proposed extension to be authorized by law, which certificate shall be received in all courts and places as evidence of the extension of the continuance of such corporation, and of the authority for the same. The provisions of section seventeen, eighteen, nineteen and twenty of this chapter shall apply to such certificate. [Code, ch. 54, § 11 as amended by Acts 1882, ch. 97.]

EXISTING CORPORATIONS MAY ACCEPT THIS CHAPTER.—The stockholders of any incorporated joint-stock company now existing in this state (banks of circulation and companies incorporated for the construction of works of internal improvement excepted) may, by resolution in general meeting, accept the provisions of this and the preceding chapter of the code. And thereupon a copy of the resolution shall be filed with the secretary of state, together with a statement showing the name by which the corporation had theretofore been known, and the name, whether it be the same or a different one, by which it is intended it should be known thereafter; the business to be carried on; the place where such business is to be carried on, and where the principal office is to be kept; the time when the corporation is to expire, subject to the limitation contained in the eleventh section of this chapter; the amount of the whole capital; the amount of the capital paid in; the amount to which it is intended to reserve the privilege of increasing the same,

and the par value of each share; which copy and statement shall be certified by the president under his hand and the common seal of the corporation. And the secretary of state shall thereupon issue a certificate of incorporation under his hand and the great seal of the state, reciting the said resolution and statement, and declaring the said corporation to be thereafter, until the time mentioned in the said statement for the expiration thereof, a corporation by the name which it is intended it should thereafter bear, and for the purpose and business therein set forth, unless sooner dissolved according to law. Certificates of incorporation issued pursuant to this section shall be received as evidence of the existence of the corporations as therein declared; and the said corporations shall no longer be under their former charters, but shall have all the rights, privileges and powers conferred by this and the fifty-second and fifty-third chapters of the code, and shall be subject to the liabilities, restrictions and regulations therein prescribed. [Code, ch. 54, § 12.]

MAY CHANGE THE PAR VALUE OF THE STOCK.—A corporation, at the time when it accepts the provisions of this chapter, may change the par value of its shares, as the stockholders thereof in general meeting, or the board of directors under authority given them by the stockholders, may determine; in which case the statement to be filed as aforesaid with the secretary of state shall show the proposed change, and the same shall have effect from the date of the certificate of incorporation. [Code, ch. 54, § 13.]

TERM OF OFFICE OF THE FIRST DIRECTORS.—When a certificate of incorporation is issued pursuant to the twelfth section, the board of directors and officers then in office may continue to act in their respective capacities until the next annual meeting of the stockholders, and thereafter until their successors have been chosen and qualified, or until a general meeting, called pursuant to the forty-first section of chapter fifty-three of the code, shall elect a new board or make such order in the matter as they deem right. [Code, ch. 54, § 14.]

FIRST MEETING OF STOCKHOLDERS.—When a certificate of incorporation is issued under the ninth section, the incorporators named in the agreement recited therein, or a majority of them, shall appoint the time and place for holding a general meeting of the stockholders to elect a board of directors, make by-laws, and transact any other business which may lawfully be done by the said stockholders in general meeting. The time appointed for the meeting shall not be less than twenty-one nor more than ninety days from the date of the certificate, and at least two weeks' notice of such meeting shall be given by advertisement in the manner prescribed in the forty-first section of chapter fifty-three of the code. [Code, ch. 54, § 15.]

SALE OF ADDITIONAL STOCK BEFORE ORGANIZATION.—After a certificate of incorporation has been issued pursuant to the ninth section, and before a board of directors have been elected or qualified,

additional shares of the capital stock may be disposed of, so that the maximum capital be not exceeded in such manner, on such terms, at such times and places, and under the superintendence of such persons as the corporation named in the agreement recited in such certificate, or those holding a majority of the shares, may appoint, but subject to the provision of the twenty-third and the four following sections of chapter fifty-three of the code. [Code, ch. 54, § 16.]

RECORDATION, PUBLICATION AND OFFICIAL COPIES OF CERTIFICATES OF INCORPORATION.—The secretary of state shall carefully preserve in his office the agreements, resolutions and statements mentioned in the sixth and twelfth sections; and cause to be accurately recorded in a well-bound book to be kept in his office all certificates of incorporation and certificates of change of name, which he shall issue under this or the preceding chapter. If he omit to record any such certificate, or if any error be discovered in the record thereof, he shall forfeit not less than ten or more than fifty dollars. At the beginning of every regular session of the legislature he shall deliver to the clerk of the house of delegates accurate copies of every certificate of incorporation not before reported by him, and it shall be the duty of such clerk to cause the same to be printed and bound with the acts of the session. If the said secretary or clerk fail herein, the party so in default shall forfeit not less than one nor more than fifty dollars. [Code, ch. 54, § 17; as amended by Acts 1881, ch. 17.]

SECRETARY'S FEES.—The secretary shall charge a fee of four dollars for every such certificate issued by him; and for recording the original or issuing a certified copy, a fee of fifty cents, or in lieu thereof fifteen cents for every hundred words; which fees shall be paid at the time the service is rendered by the person at whose instance it was done. [Code, ch. 54, § 18, as amended by Acts 1879, ch. 39.] *

CERTIFIED COPY OF CERTIFICATE EQUIVALENT AS EVIDENCE TO THE ORIGINAL.—The secretary may at any time issue a copy of such certificate, and such copy certified under his hand and also the copy printed with the acts of the legislature shall as evidence be equivalent to the original. [Code, ch. 54, § 19.]

CERTIFICATE SHALL BE RECORDED IN COUNTY CLERK'S OFFICE.—The company shall cause the said certificate, within three months after it has been issued, or a copy thereof certified as aforesaid, to be delivered for record to the clerk of the county court in which the principal office or place of business of such company is kept, and the clerk of the county court shall record the same in his office. If such company fail herein, it shall be fined not exceeding one thousand dollars. [Code, ch. 54, § 20, as amended by Acts 1881, ch. 17.]

* See Code; chapter 137, section 1.

INCREASE OR REDUCTION OF THE NUMBER OF SHARES OR THE PAR VALUE OF THE STOCK.—Any corporation formed, or which may hereafter be formed, or which has accepted or may accept the provisions of this chapter, may, by resolution at any general or special meeting of the stockholders thereof, make such increase or reduction in the number of shares of its capital stock, or the par value of each share, as may be decided upon by said stockholders, a majority of the stock of such company being represented by the holders thereof, and such holders being present either in person or by proxy, and voting for such increase or reduction. *Provided*, that notice be given by advertisement, published four successive weeks, in some newspaper of general circulation printed in this state, of the intention to offer such resolution. [Code, ch. 54, § 21, as amended by Acts 1882, ch. 87.]

SUCH INCREASE OR REDUCTION TO BE CERTIFIED TO THE SECRETARY OF STATE.—When such increase or reduction shall have been made by any such company, the president thereof shall, under his signature and the common seal of the company, certify the resolution to the secretary of state, and the secretary of state, under his hand and the great seal of this state, shall issue to the company so making such increase or reduction a certificate reciting the resolution and declaring the proposed increase or reduction to be authorized by law, which certificate shall be received in all courts and places as evidence of the change in the number of par value of the shares of the capital stock of such company, and of the authority to increase or reduce the same. [Code, ch. 54, § 22, as amended by Acts 1882, ch. 97.]

MEETINGS OF PRINCIPAL OFFICE.—The stockholders or directors of any corporation formed under or accepting the provisions of this chapter, may hold meetings for the transaction of the lawful business of the corporation, including the first general meeting for purposes of organization out of this state, and may keep their principal office in any state or territory of the United States, or in the District of Columbia. But no meeting shall be held out of this state without the concurrence of persons holding a majority in value of the stock of the company, nor without reasonable notice. [Code, ch. 54, § 23, as amended by Acts 1882, ch. 97.]

POWER OF ATTORNEY TO ACCEPT SERVICE OR PROCESS.—Every such corporation shall, within thirty days after organizing, by power of attorney duly executed, appoint some person residing in the county in this state wherein its business is conducted, to accept service on behalf of said corporation, and upon whom service may be had of any process or notice, and to make such return for and on behalf of said corporation to the assessor of the county or district wherein its business is carried on, as is required by the forty-first section of the twenty-ninth chapter of the code. The said power of attorney shall be filed and recorded in the office of the clerk of the county court of the county in which the attorney resides; and the admis-

sion to record of such power of attorney shall be deemed evidence of compliance with the requirements of this section. Any such corporation failing to comply with said requirements shall forfeit not less than two hundred nor more than five hundred dollars for each year such failure continues; and shall, moreover, during the continuance of such failure, be deemed a non-resident of this state; and its property, real and personal, shall be liable to attachment in like manner as the property of non-resident defendants. [Code, ch. 54, § 24.]

TAXATION OF CORPORATIONS.—He (the assessor) shall ascertain from the proper officers or agents of all incorporated companies in his district (except railroad, and foreign insurance, telegraph, bank and express companies), the actual value of the capital employed or invested by them in their trade or business (exclusive of real estate and property exempt by law from taxation), and enter the same in his personal property book. The real estate of such companies shall be assessed and entered in the land book as in other cases. The value of the capital shall be estimated by taking the aggregate value of all the personal property of the company, not exempt from taxation, where ever situated, including their money, credits and investments, whether in or out of the state, and deducting from the said aggregate what they owe to others as principal debtors. If a company have branches, each branch shall be assessed separately in the district where the principal office for transacting its financial concerns is located, or, if there be no such office, then in the district where its operations are carried on. All property of navigation companies and other joint stock transportation companies, (except railroads), whether real or personal, shall be taxed in the county and district wherein such property is situated, and all locks and dams of navigation companies shall be assessed and taxed as real estate, in the counties in which said locks and dams are situated; and it shall be the duty of the assessor of each district to assess such property as hereinbefore directed. Where the capital of a company is assessed as aforesaid, the personal property thereof, which shall not be held to include the locks and dams of a navigation company, shall not be otherwise assessed, nor shall any individual shareholder or partner therein be required to list or be assessed with his share, portion, or interest in the said capital. [Code, ch. 29, § 64, as amended by Acts 1881.]

SALE OF PROPERTY AND WORKS OF CORPORATIONS OTHER THAN RAILROAD COMPANIES.—Whenever there has been since the first day of February, one thousand eight hundred and seventy-seven, or shall hereafter be a sale of the works and property of any corporation, other than a railroad corporation, under a decree, mortgage or trust-deed, and there be a conveyance to the purchaser for the same, said purchaser or purchasers shall become a corporation in the same manner and be entitled to the franchises of the old corporation as is provided for railroad corporations in such cases

in section seventy-two of this chapter, and the old corporation shall be *ipso facto* dissolved. But the purchaser at said sale shall not obtain the works constructed, or property acquired after the making of the said deed of trust or mortgage. [Code, ch. 54, § 82, as amended by Acts 1881, ch. 17.]

Homestead and Building Associations.

FOR WHAT PURPOSE FORMED.—Building and loan associations formed under this chapter, may be for the purposes of raising money, as hereinafter provided, to be distributed among their members, and by such members used in buying lands or houses, or in building or repairing houses, or for paying and liquidating liens on houses and other real estate. [Code, ch. 54, § 25, as amended by Acts 1883, ch. 58.]

LIMITATION AS TO USE OF FUNDS.—In any case where the money of any such association shall be diverted from the purposes expressed in the preceding section, such association shall not be entitled to the privileges conferred upon it in the succeeding section. [Code, ch. 54, § 26, as amended by Acts 1883, ch. 58.]

RIGHTS, POWERS AND PRIVILEGES.—Every building and loan association may, by its by-laws, fix an ultimate value for the shares of its stock, so that the same be not less than one hundred and thirty dollars for each share, and at any time may pay in advance to such member as shall bid the highest premium therefor at a *bona fide* sale, the ultimate value of any shares held by him less such premium; or in default of bidders at or above a minimum premium, may award to a member the ultimate value of any shares held by him less such minimum premium; the minimum premium and the mode of making and enforcing the award to be fixed by the by-laws. Such association may also levy, assess and collect from its members, stated dues upon every share of its stock, the amount of such dues to be fixed by its by-laws, but not to exceed twenty-five cents per week upon each share, and may levy, assess and collect from members to whom the ultimate value of shares, less the premium as aforesaid, shall have been advanced or awarded, stated dues upon each of such shares, in addition to those assessed upon other shares; but not exceeding upon each share three-fourths of the amount of such other dues, which additional dues shall be fixed by the by-laws. It may also levy, assess and collect from its members fines for default in the payment of any dues, or for failure to comply with or perform any other obligation or duty to the association. The amount of the respective fines shall be fixed by the by-laws, and they shall be imposed under regulations to be made in the by-laws, but such fines shall be uniform, and where they are for default in the payment of dues, shall be in proportion to the amount of the dues for the failure to pay which they are imposed; but no member shall be fined more

than once for a failure to pay interest or dues for the same default. The transaction shall not be deemed usurious, although any or all of the dues, fines and premiums shall exceed the legal rate of interest on the amount of money received by the member. [Code, ch. 54, § 27, as amended by Acts 1883, ch. 58.]

LIABILITY OF STOCKHOLDERS.—In cases where there shall be an advance or award to a member, of the ultimate value of any shares, less the premium as aforesaid, the association may take personal security, or a mortgage, or deed of trust upon real or personal property, or a transfer or pledge of shares of its stock, to secure the payment of all the dues, to become due from such member, and the payment of any fines which may become due from him. Such association may acquire, hold, convey and encumber all such property, real and personal, as may be so taken as security, or may be otherwise transferred to it in the due course of its legitimate business. [Code, ch. 54, § 28, as amended by Acts 1883, ch. 58.]

BY-LAWS AND ARTICLES OF GOVERNMENT.—Every such association shall adopt by-laws, which shall embrace all the provisions of the four preceding sections, and such further provisions for its government and the management of its business, not inconsistent with these sections, as it may deem proper. [Code, ch. 54, § 29, as amended by Acts 1883, ch. 58.]

Foreign Corporations.

RIGHTS, POWERS AND PRIVILEGES OF FOREIGN CORPORATIONS.—Any corporation duly incorporated by the laws of any state or territory of the United States, or of the District of Columbia, or of any foreign country, may, unless it be otherwise expressly provided, hold property and transact business in this state, upon complying with the requirements of this section, and not otherwise. Such corporation so complying shall have the same rights, powers and privileges, and be subject to the same regulations, restrictions and liabilities that are conferred and imposed by this and the fifty-second and fifty-third chapters of this code on corporations chartered under the laws of this state. Every such corporation shall file with the secretary of state a copy of its articles of association and of the law and authority under which it is incorporated. The secretary of state shall issue to every such corporation complying with the provisions of this section a certificate of the fact of its having done so, which certificate shall be filed and recorded in the office of the clerk of the county court of the county, or one of the counties, in which its business is conducted. Such corporation shall also file, in the said clerk's office, a copy of its charter, to be kept and preserved therein. Every railroad corporation doing business in this state under the provisions of this section, or under charters granted or laws passed by the state of Virginia, or this state, is hereby declared to be, as to its works, property, operations, transactions and business in this

state, a domestic corporation, and shall be so held and treated in all suits and legal proceedings which may be commenced or carried on by or against any such railroad corporation, as well as in all other matters relating to such corporation. No railroad corporation which has a charter or any corporate authority from any other state shall do business in this state as the lessee of the works, property or franchises of any other corporation or person, or otherwise; or bring or maintain any action, suit or proceeding in this state until it shall, in addition to what is hereinbefore required, file in the office of the secretary of state a writing duly executed under its corporate seal accepting the provisions of this section and agreeing to be governed thereby, and its failure so to do may be pleaded in abatement of any such action, suit or proceeding; but nothing herein contained shall be construed to lessen the liability of any corporation which may not have complied with the requirements of this section, upon any contract or for any wrong. Every such corporation which shall do business in this state without having complied with the provisions of this section, shall be guilty of a misdemeanor and fined one thousand dollars for each month its failure so to comply shall continue. Prosecutions under this section shall be in the county in which the seat of government is. For every certificate issued under this section the secretary of state shall be paid by the corporation a fee of five dollars. [Code, ch. 54, § 30, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

Incorporation of Railroad Companies.

Any number of persons, not less than five, may become a corporation for the purpose of constructing and operating a railroad in this state, as hereinafter provided. Code, ch. 54, § 31, as amended by Acts 1881, ch. 17.]

FORM OF ARTICLES OF INCORPORATION.—The persons desiring to form such corporation shall adopt, sign and acknowledge for record articles of incorporation, in form or effect, as follows:

“We, whose names are hereto subscribed, desiring to become a corporation for the purpose of constructing and operating a railroad in the state of West Virginia, do hereby adopt these articles of incorporation for that purpose:

First, The name of the corporation shall be the — company.

Second, The railroad which this corporation proposes to build will commence at or near —, in the county of —, and run thence by

the most practicable route to a point at or near —, in the county of —.

Third. The principle business office of this corporation will be at —, in the county of (or city) of —, in the state of —.

Fourth. This corporation shall continue perpetually.

Fifth. The capital stock of this company shall be — dollars, divided into shares of — dollars each.

Sixth. The names and places of residences of the persons forming this corporation, and the number of shares of stock subscribed by each, are as follows: A— B—, county (or city) of —, state of —, — shares, and so on, giving the names and residence of all the parties and the number of shares of stock subscribed by each. [Code, ch. 54, § 32, as amended by Acts 1882, ch. 97.]

RECORDATION OF ARTICLES.—When said articles are adopted and signed, as prescribed in the next preceding section, and acknowledged by the parties signing the same, in the same manner as deeds are required by law to be acknowledged, they shall be filed and recorded in the office of the secretary of state, and be preserved therein. [Code, ch. 54, § 33, as amended by Acts 1882, ch. 97.]

CERTIFICATE OF SECRETARY OF STATE.—When such articles of incorporation shall have been filed and recorded as aforesaid, the secretary of state shall issue and deliver to the said corporators his certificate under the great seal of the state, in form or effect as follows: “I, A— B—, secretary of state of the state of West Virginia, do hereby certify that articles of incorporation, duly signed and acknowledged, have this day been recorded in my office, which articles of incorporation are in the words and figures following: ‘We, etc., (here insert the articles of incorporation in full,) wherefore, the corporators named in said articles of incorporation, and who have signed the same, and their successors and assigns, are hereby declared to be a corporation by the name, for the purpose and for the length of time set forth in said articles of incorporation. Given under my hand and the great seal of the said state, at the seat of government thereof, this — day of—.’” When such certificate shall be issued and delivered as aforesaid, the corporators named in the articles of incorporation recited therein, and who have signed the same, and their successors and assigns, shall from the date of said certificate become and be a body corporate as therein stated, and as such, authorized to proceed to carry into effect the object set forth in said articles of incorporation in accordance with the provisions of this chapter. As such corporation, they shall have perpetual succession, and in their corporate name may sue and be sued, plead and be impleaded: Every such corporation shall have and use a common seal, which it may alter at pleasure. It may declare the interest of its stockholders transferable, and shall make and establish all such by-laws, rules and regulations, not inconsistent with the laws of the United States or of this state, as it may deem necessary for the management of its affairs and the transaction of its business. Any such railroad corporation heretofore incorporated under the provisions of this chapter, as amended and re-enacted by chapter seventeen of the

acts of one thousand eight hundred and eighty-one, may, if it desire to do so, obtain the certificate hereinbefore mentioned, which may bear the same date it would have borne if issued at the proper time, but no other or additional force or effect shall be conferred on said corporation by such certificate than it would have had if such certificate had not been issued. And any such railroad corporation may, in the location of its railroad, pass out of this state into any other state, with the assent of such state, and back again into the state, as often as may be found necessary in making such location. [Code, ch. 54, § 34, as amended by Acts 1882, ch. 97.]

BY-LAWS, WHERE RECORDED.—A copy of the by-laws of such corporation when formed and adopted by the stockholders, duly certified, shall be recorded as provided for the recording of the articles of association in section thirty-three of this chapter. And all amendments and additions thereto, duly certified, shall also be recorded as herein provided, within ninety days after the adoption thereof. [Code, §35, as amended by Acts 1881, ch. 17.]

FIRST MEETING OF CORPORATORS.—Every railroad company incorporated under the provisions of this chapter shall hold its first meeting for organization and such other proceedings as might be had at an annual meeting, at such time and place as the corporators thereof, or a majority of them, may designate, of which time and place a notice shall be published, at least once in each week, for four successive weeks, in some newspaper of general circulation published near the place of such meeting, and in two other such newspapers published in the vicinity of the proposed railroad, in this state, for a like period. The stockholders of such corporation, or such of them as are the owners of a majority of the shares of its capital stock subscribed up to that date, shall meet at the time and place mentioned in said notice and elect a temporary board of directors, consisting of such number as they may see fit, who shall hold their office until their successors are elected as hereinafter provided. But before any such meeting is held the said corporators shall open books of subscription, at such places, and under the direction of such persons as a majority of them may direct, for the purpose of receiving subscriptions to the capital stock of such company; and at least one-twentieth of the said stock, including the shares subscribed by the corporators, must have been subscribed for, and ten per cent. actually and in good faith, paid in on each share of stock so subscribed for. A majority of the directors elected at such meeting shall constitute a quorum for the transaction of business, and they shall, as soon as practicable after their election, meet and organize by the appointment (from their own body) of a president and such other officers as they may deem necessary, who shall hold their offices until the election of a board of directors under the provisions of section thirty-eight of this chapter. The stockholders shall, at the meeting herein provided for, appoint the time and place at which the first annual meeting of the stockholders of such corporation shall be held, and designate the place at which the principal office or place of business

shall be kept until otherwise ordered, and may do and perform all other business necessary and proper to be done, under the law, at a stockholders meeting. [Code, ch. 54, § 36, as amended by Acts 1882, ch. 97.]

APPOINTMENT OF AGENT TO ACCEPT SERVICE OF PROCESS.—Every such corporation shall, within one hundred days after organizing, by power of attorney duly executed, appoint some person residing in the county in this state wherein it has the office mentioned in the next preceding section, to accept service on behalf of said corporation of any process or notice; the said power of attorney shall be filed and recorded in the office of the clerk of the county court of the county in which the attorney resides, and the admission to record of such power of attorney shall be deemed evidence of a compliance with the requirements of this section, and whether such agent accept the agency or not, the service of process upon such person so appointed shall be legal and binding on the corporation. Any such corporation failing to comply with such requirements shall, during the continuance of such failure, forfeit not less than five hundred nor more than one thousand dollars for every six months that such failure continues; and its property, real and personal, shall be liable to attachment in like manner as the property of non-resident defendants. [Code, ch. 54, § 37, as amended by Acts 1881, ch. 17.]

ELECTION OF DIRECTORS, STATEMENTS, ETC.—At the first annual meeting of the stockholders of such corporation, held in pursuance of the thirty-sixth section of this chapter, and at every annual meeting of said stockholders thereafter held, a board of directors thereof shall be elected; consisting of not less than five nor more than thirteen of the stockholders of said corporation, a majority of whom, unless otherwise provided in the by-laws, shall constitute a quorum for the transaction of business; and all the corporate powers of such corporation shall be vested in and exercised by the said board of directors. If for any cause an election for directors shall not be made at the proper time, such election may be made at a special meeting of the stockholders called in pursuance of the next section. The number of such directors, the manner of their election and removal from office, and the mode of filling vacancies in the board, shall be prescribed by the by-laws, and shall not be changed except at the annual meeting of the stockholders. And at every such annual meeting of the stockholders of such corporation, after the first, 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 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 stock of any corporation may fix the rates of interest which shall be paid by the corporation for loans for the construction of such railroad and its appendages, and the amount of such loans. All stockholders shall,

at reasonable hours, have access to and may examine all the books, records and papers of such corporation. [Code, ch. 54, § 38, as amended by Acts 1882, ch. 98.]

SPECIAL MEETING OF STOCKHOLDERS.—A special meeting of the stockholders of such corporation may be called at any time during the interval between the annual meetings by a majority of the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days public notice of the time and place of such meeting in some newspaper of general circulation published near the principal office or place of business of the corporation, and in at least two other newspapers published in the vicinity of the line of the proposed railroad in this state. *Provided*, That if at any such special meeting so called a majority in value of the stock 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 ten days, without transacting any business; and if, within ten 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 herein provided. [Code, ch. 54, § 39, as amended by Acts 1881, ch. 17.]

REGULAR MEETING; PRINCIPAL OFFICE.—The meeting of the stockholders of such corporation, and of the board of directors thereof, shall be held at such place, in or out of this state, and the annual meeting of said stockholders shall be held at such time as the stockholders shall at an annual meeting prescribe; but in case no time for such annual meeting be so prescribed, it shall be held on the second Wednesday in January in such year. The principal office or place of business of such corporation shall be held at such place, in or out of this state, as the stockholders thereof at an annual meeting may fix and determine. But every such corporation shall have and maintain an office or place in this state for the transaction of its business, where an exhibit of the transfers of all its stocks shall be kept, and in which shall be kept, for the inspection of any officer or stockholder, 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 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. [Code, ch. 54, § 40, as amended by Acts 1882, ch. 97.]

FAILURE TO ELECT DIRECTORS.—Such corporations shall not be dissolved by reason of a failure to elect directors on the day designated by the by-laws, if within six months thereafter such election be made as provided for in the thirty-eighth section of this chapter. [Code, ch. 54, § 41, as amended by Acts 1881, ch. 17.]

OFFICERS.—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 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 and fix his compensation. [Code, ch. 54, § 42, as amended by Acts 1881, ch. 17.]

PAYMENT OF STOCK.—The directors of such corporations may require the subscribers to the capital stock thereof to pay the amount by them respectfully 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 stockholders personally, or by depositing the same in a post-office, properly addressed 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 shall be forfeited for the use of such corporation; and thereafter such corporation, should default of 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 herein required, at least sixty days previous to the day on which such payment is required to be made. [Code, ch. 54, § 43, as amended by Acts 1881, ch. 17.]

STOCK OF CORPORATION, PERSONAL PROPERTY; TRANSFERS THEREOF, ETC.—The stock of every such corporation shall be deemed personal property, and shall be transferable in such manner as may be prescribed in the by-laws of the corporation. But no shares shall be transferable without the consent of the board of directors, until all previous calls thereon shall have been paid. [Code, ch. 54, § 44, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

CAPITAL STOCK MAY BE INCREASED.—If the capital stock of any such corporation be insufficient for the purpose for which it was incorporated, the same may be increased at any annual meeting of such stockholders, or a special meeting thereof called for the purpose by the board of directors. If at any such meeting two-thirds in amount of all the stock of such corporation, represented by the holders thereof in person or by proxy, shall agree to such increase, the same shall be increased to such an amount as said stockholders may deem necessary for the purpose of the corporation. But a notice of the time and place of every such special meeting, and

of the purpose for which it was called, must be published at least once in each week for four successive weeks in some newspaper of general circulation published in the vicinity of the principal office or place of business of the corporation, and in like manner and for a like period in at least two other newspapers published in the vicinity of the line of the railroad of such corporation within this state. But no other business shall be transacted at any such special meeting than that for which it was called. *Provided*, That the powers authorized by this section, and by the eleventh and twelfth clauses of section fifty of this chapter, may be exercised at any meeting of stockholders called or assented to in writing by all the stockholders. Every order or resolution increasing the capital stock of such corporation shall be recorded as required by section thirty-three of this chapter. [Code, ch. 54, § 45, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

LIABILITY OF EXECUTORS, ETC.—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 stockholder of such corporation, but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly. [Code, ch. 54, § 46, as amended by Acts 1881 ch. 17.]

LIABILITY OF STOCKHOLDERS.—Each subscriber to the stock of any railroad corporation formed under this chapter, or any other general law of the state, shall be held individually liable to the creditors thereof for any sum remaining unpaid on the stock subscribed for by him, and no more, for the payment of any debts or liabilities of such corporation. But no person holding any such stock by purchase and assignment from another, or who shall purchase any such stock at a public sale thereof, or who shall receive any such stock on payment of any debt or demand against such corporation, shall be liable to the creditors of such company for any sum whatever, which may be due or unpaid on such stock, or any part thereof, due from another. [Code, ch. 54, § 47, as amended by Acts 1882, ch. 97.]

CONDEMNATION OF REAL ESTATE.—If any such corporation shall be unable to agree with the owner of any real estate for the purchase thereof for its corporate purposes, it may have such real estate condemned for such purposes under the provisions of chapter forty-two of this code, and the county court of any county may authorize any telegraph or telephone company organized under this chapter to secure and maintain telegraph or telephone poles on any land condemned or used as a public road, but not in such a way as to obstruct any such road. But this section shall not apply to the National or Cumberland road. [Code, ch. 54, § 48, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

HOW CORPORATIONS MAY TAKE MATERIALS FROM LAND.—Every such

corporation may, by its agents and employees, enter upon and take from any land adjacent to its roads wood, earth, gravel, shale or stone necessary to be used in constructing its railroad, and in repairing, altering or enlarging the same, as provided in section fourteen of chapter fifty-two of this code, and all the provisions of said section shall be applicable to such proceeding. But if any such tenant, as is mentioned in said section, upon the report of the commissioners being returned to the circuit court, except thereto and demand that the compensation to which he is entitled be fixed by a jury, the question shall be tried by a jury, as provided in section seventeen of chapter forty-two of this code. [Code, ch. 54, § 49, as amended by Acts 1881, ch. 17.]

GENERAL POWERS OF CORPORATION.—Every such corporation formed under this chapter shall, in addition to the powers hereinbefore conferred, have power :

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

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 railroad, and to sell and convey the same when no longer required for the uses of such railroad, not incompatible with the terms of the original grant.

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

Fourth. To lay out its road, not exceeding one hundred feet in width, and to construct the same; and, for the purpose of excavations and embankments, to take as much more land as may be necessary for the proper construction, repair and security of the railroad; and to cut down any standing trees that may be in danger of falling upon or obstructing the railroad, making compensation therefor in the manner prescribed by section forty-nine of this chapter.

Fifth. To change the grade or location of its railroad for the purpose of avoiding annoyances to the public travel, or dangerous or difficult curves or grades, or unsafe or impracticable and unsubstantial grounds or foundations, or for other like reasonable causes.

Sixth. To construct its railroad across, along or upon any stream of water, water course, street, highway, road, turnpike or canal, which the route of such railroad shall intersect or touch; but such corporation shall restore the stream, water course, street, highway, road, turnpike or canal thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness, and to keep such crossing in repair. Nothing in this

chapter contained shall be construed to authorize the erection of any bridge, or any other obstruction, across or over any stream navigable by steamboats at the place where any bridge or other construction may be proposed or placed, so as to prevent the navigation of such stream; nor to authorize the construction of any railroad upon or across any street in the inhabited portion of any city or incorporated town or village without the assent of the corporation of such city, town or village. *Provided*, that any company running its railroad through or within half a mile of a town or village within this state, containing three hundred or more inhabitants, shall establish a station for the accommodation of trade and travel of such town or village. *And provided further*, that in case of the construction of said railroad along highways, roads, turnpikes or canals, such railroad 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 section forty-eight of this chapter. *And provided further*, that nothing in this chapter shall be construed to authorize the incorporation of any railroad company, the purpose and effect of which is to connect two other railroads, and thereby abandon, as through routes, any city or town of this state, which is the terminus of either or both of said railroads, without the consent of such city or town.

Seventh. To cross at grade, or to cross over or under, intersect, join and unite its railroad with any other railroad now built and constructed, or hereafter to be built and constructed within this state, at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the objects of its connections; and every corporation whose railroad is, or shall be hereafter, intersected by any new railroad, shall unite with the corporation owning such new railroad in forming such intersection 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 crossing and connections, the same shall be ascertained and determined in the manner prescribed by section forty-eight of this chapter.

Eighth. To receive and convey persons and property on its railroad by the power and force of steam or animals, or any mechanical power.

Ninth. To erect and maintain all necessary and convenient buildings and stations, fixtures and machinery for such connections, constructions, transfer, accommodation and use of passengers, freights and business interests, or which may be necessary for the construction or operation and repair of said railroad, its track, roadway and machinery.

Tenth. 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 has been or may be hereafter enacted.

Eleventh. From time to time to borrow such sums of money as may be necessary for completing, finishing, improving or operating any such railroad; and to issue bonds, bills of credit or indebtedness and preferred stock, and dispose of the same 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 section forty-five of this chapter, shall be necessary to the validity of any such mortgage; and the order or resolution for such mortgage shall be recorded as provided in section thirty-five of this chapter; 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 ten years after the date of such bond, under such regulations as may be provided in the by-laws of such corporation.

Twelfth. To mortgage its property, real and personal, and its franchises, to secure any bonds or stock issued by such corporation for any of the purposes designated in the fifty-second section of this chapter. [Code, ch. 54, § 50, as amended by Acts 1881, ch. 17.]

ROLLING STOCK, ETC., TO BE PERSONAL PROPERTY.—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. [Code, ch. 54, § 51, as amended by Acts 1881, ch. 17.]

ISSUE OF STOCKS, BONDS, ETC.; WHEN VOID.—Every such railroad corporation may sell, issue and transfer its stocks or bonds, or both, for land, money, labor, property or other materials to be used for the purposes for which the corporation was formed, and especially for the construction and equipment of its railroad; and in case it be found necessary to do so, it may sell and dispose of the same at less than the par value. But no such corporation shall issue any stock, or declare any stock dividend, except as aforesaid, for any sum which shall exceed the net earnings of such corporation, and which shall have been actually and in good faith applied and invested in and for the purposes of the corporation. All other stock dividends, and all fictitious increase of the capital stock, or indebtedness of any such corporation, shall be void. [Code, ch. 54, § 52, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

EXTENSION OF LINE BEYOND TERMINI; CONSOLIDATION OF STOCK WITH OTHER ROADS, ETC.; LEASING, ETC.—Any railroad corporation which has been or shall be organized under the general laws of this state,

or deriving its franchises therefrom, or organized under special charter, may extend, with the consent of a majority of stockholders present, at any general or special meeting thereof, its line beyond either or both termini named in the articles of incorporation, or special charter, under which its line is located, and such extension may be located by the most practicable route, and may pass out of this state into any other state with the assent of such state, and back again into this state as often as may be found necessary in locating such extension; and such corporation may construct, own, or operate such extension or extensions in the same manner, and to the same extent, as if such extension or extensions had been included in the original articles of association, or special charter: *Provided, however,* That any railroad company organized under special charter, by extending its lines, shall not carry with it any special privileges, guaranteed it under its charter, as to such extension, but only such rights and privileges as are conferred under the general law: *Provided,* That such corporation, before commencing any such extension in this state, shall file in the office of the secretary of state a certificate stating the point at or near which such extension in this state shall commence and terminate. No railroad corporation owning or operating a railroad wholly or in part within this state, shall consolidate its capital stock with any other railroad running a parallel or competing line, without the consent of the legislature; but any such railroad corporation whose line of railroad is made, or is in process of construction, may merge, or consolidate with, or lease its railroad or any part thereof, for a term of years, to any other corporation owning or operating any connecting line of railroad whose line of road is completed, or is in process of construction, wholly or partly within this or an adjoining state, in order to make a continuous line of railroad to be run and operated with or without changes of cars, or break of bulk, or exchange or transfer of passengers or freight; and may sell to or purchase such connecting line of railroad, and may adopt another name for their said road thus merged, consolidated or connected, by filing in the office of secretary of state a declaration of the adoption of such other name, and shall publish such declaration for sixty days, in all newspapers published along the line of such railroad. But such merger, consolidation, or sale, shall be made only upon such terms and conditions as shall be agreed to by a majority of the stockholders in each of the companies so merging, consolidating, purchasing or selling: *Provided,* That such merger or consolidation shall not invalidate any action, suit, claim or demand against any or either of the companies who are parties thereto; and any such action, suit, claim or demand shall be held to be in full force against the company owning such consolidated or merged line of railroad. And in no case shall any consolidation take place, except after sixty days' notice thereof, which notice shall be given in the manner prescribed in section forty-five of this chapter: *Provided,* That this section shall not apply to the Baltimore and Ohio railroad and the Northwestern Virginia railroad, so as to enlarge any powers or privileges which either of said railroads now possesses. [Code, ch. 54, § 53, as amended by Acts 1883, ch. 12.]

ANNUAL REPORT TO AUDITOR.—Every railroad corporation doing business in this state, whether incorporated under special charter granted by the legislature of this or any other state, or under a general law of this or any other state, shall annually report to the auditor, as required by section sixty-seven of chapter twenty-nine of this code, as amended, and for a failure to do so every such corporation so failing shall be subject to all the pains, penalties, forfeitures, fines and liabilities imposed by said last named section. Prosecutions under this section shall be in the county wherein the seat of government is. [Code, ch. 54, § 54, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

POWERS RESERVED TO THE LEGISLATURE.—The right is reserved to the legislature to enact, from time to time, laws applicable to all the railroad corporation in the state, establishing reasonable maximum rates of charges for the transportation of passengers and freights, and providing for the correction of abuses, the prevention of unjust discriminations between through and local or way freight and passenger tariffs, and for the protection of the just rights of the public. [Code, ch. 54, § 55, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

NUMBER OF VOTES EACH STOCKHOLDER IS ENTITLED TO—CUMULATING VOTING.—In all elections for directors and managers of such railroad 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 candidate as he may think fit; and such directors or managers shall not be elected in any other manner. [Code, ch. 54, § 56, as amended by Acts 1881, ch. 17.]

SUBSCRIPTIONS BY COUNTIES, ETC., TO THE CAPITAL STOCK.—Subscriptions to the capital stock of any such corporation may be made by any county, or any district therein, or any incorporated city, town or village through, by or near which said railroad is located, in the manner prescribed by section twenty-four of chapter thirty-nine of this code, and all the provisions of said section shall be applicable to such subscriptions, except that when the subscription is proposed to be made by such city town or village, the order for taking the vote on the question shall be made by the council thereof, and the election shall be held, superintended and returned, and the result ascertained in the same manner as elections held therein for municipal officers. If any such subscription be made to the capital stock of such railroad corporation, and such corporation shall afterwards forfeit its charter, or otherwise fail to construct its railroad according to the provisions of its charter, or shall fail to comply with the terms of its agreement with such county, district, city, town or village, under which such subscription has been or

shall be made, the subscription so made shall be void. [Code, ch. 54, § 57, as amended by Acts 1881, ch. 17.]

MANNER OF SUBSCRIPTION.—When the county court of any county deems it desirable for the county, or any district or districts thereof, to appropriate money to aid in the construction of a railroad or any other work of internal improvement through, by or near such county, district or districts, they may, by an order specifying the work to which the money is proposed to be appropriated, and the amount of the proposed appropriation, cause a vote to be taken upon the question at the several places of voting in the county, district or districts at the succeeding general election for state and county officers, or at the school election for school officers, whichever is first held in the county, after such vote is ordered to be taken, or at any special election that the said county court may deem proper and may order for the purpose; but such order must be published throughout the county, district or districts thirty days at least before the poll is taken, as follows: The clerk of the county court shall cause as many copies of such order to be written or printed as may be necessary, and sign the same. He shall forthwith post one of them in a conspicuous place in his office and deliver the others to the sheriff of the county, who shall forthwith post one of said copies in a conspicuous place at every place of voting in the county, district or districts. For every one posted he shall have a fee of twenty-five cents out of the county treasury. The court shall direct a copy to be published in one or more newspapers, if any are published in said county. The poll shall thereupon be taken and the result ascertained under the regulations prescribed for general school elections for school officers; or, if the said vote is taken at a special election ordered for the purpose, the same shall be held by commissioners specially appointed for the purpose by the county court at the time the said election is ordered. And the result shall be ascertained and certified according to the regulations prescribed by law for ascertaining and certifying the election of school officers. The ballots used in taking the said poll shall be the same as those used in voting for officers at the said general election for state and county officers and school officers, except when the same is taken at a special election, as hereinbefore provided for, and there may be written or printed thereon the words "subscription" or "no subscription," or any other words that will show how the voter intended to vote on the question proposed. If it appear by the said poll that not less than three-fifths of the voters of the county, district or districts, who voted upon the question of the proposed appropriation, are in favor of the same, the county court will then have authority to cause subscription to be made in the name of the county, district or districts, to the stock of any company which will undertake the work, to the amount proposed, or any less amount, on such terms as they may deem advisable, and to provide for the payment thereof by county or district taxation or loans. The right to the stock subscribed for in pursuance of this section, or any special act of the legislature heretofore passed, shall be vested in the said county, district or districts, and the county

court thereof shall have authority from time to time to appoint a proxy to represent the said stock in meetings and elections, to be held by the stockholders of the company. The dividends of such stock shall be collected as the said court shall order, and be paid into the county treasury; or be paid and credited to the free school funds of the district or districts where the subscription to stock is made by a district or districts. [Code, ch. 39, § 24, as amended by Acts 1882, ch. 11.]

AGENTS TO MAKE SUBSCRIPTION.—When any such subscription has been authorized as aforesaid, the county court of the county, or the council of the city, town or village (as the case may be,) shall appoint an agent to make the subscription on the part of such county, district, city, town or village, upon the terms and conditions specified in the order under which the vote is taken. Said subscription shall be paid in cash, or in the coupon bonds of such county, district, city, town or village, bearing interest at a rate not exceeding six per centum per annum, and redeemable in such time, not exceeding thirty-four years, as such court or council may prescribe, which bond shall be received by said corporation at par. The president of the county court shall have power, when so directed by such court, by an order entered of record therein, to execute and deliver the bonds of his county, or of any district therein, to the corporation to the capital stock of which such subscription has been made; and the mayor of any such city, town or village shall have power, when so directed by an order or resolution of the council thereof, entered of record, to execute and deliver the bonds of such city, town or village to such corporation. The bonds of any such county, and of any district therein, shall be valid and binding thereon when signed by the president of the county court of such county, and countersigned by the clerk of such court with the seal of such county attached thereto; and the bonds of any such city, town or village shall be binding thereon when signed by the mayor thereof and countersigned by the recorder, clerk or other recording officer, with the seal of the corporation attached. [Code, ch. 54, § 58, as amended by Acts 1882, ch. 97.]

LEVY TO PAY SUBSCRIPTION OR LOAN AND INTEREST.—At the time of the annual levy of any such county, city, town or village is laid, there shall be a tax levied on all the property subject to taxation therein sufficient to pay the amount of such subscription, if payable in cash, or to pay the annual interest on the bonds of the county, city, town or village, if bonds be issued, and to create a sinking fund to pay the principal when it shall become due; and in case of such subscription being made by a district of any county, the county court of such county shall levy such tax on the property subject to taxation in such district. Such taxes shall be collected and accounted for in the same manner as other taxes and levies. [Code, ch. 54, § 59, as amended by Acts 1881, ch. 17.]

RIGHT TO THE STOCK, HOW VESTED.—The right to the stock of such

company so subscribed for, shall vest in such county, district, city, town or village making the same, and the county court of the county, or council of the city, town or village, shall, from time to time, as may be necessary, appoint proxies to represent the stock held by such county, district, city, town or village, in the meetings of the stockholders of the company, and also an agent to collect the dividend on such stock; which dividend, when collected, shall be applied annually in diminution of the county, district, city, town or village levy. [Code, ch. 54, § 60, as amended by Acts 1881, ch. 17.]

WARNING OF APPROACHING TRAINS.—A bell or steam whistle shall be placed on each locomotive engine, which shall be rung or whistled by the engineer or fireman, at the distance of at least sixty rods from the place where the railroad crosses any public street or highway, and be kept ringing or whistling for a time sufficient to give due notice of the approach of such train before such street or highway is reached, under a penalty of not exceeding one hundred dollars for each neglect, one-half of which shall go to the State and the other to the prosecuting witness; and the corporation owning or operating the railroad shall be liable to any party injured for all damages sustained by reason of such neglect. *Provided*, That such penalty shall be sued for within three months from the time the cause of action arises, and not after. When the tracks of two railroads cross each other, or in any way connect, at a common grade, the crossing shall be made and kept in repair, and watchmen maintained thereat, at the joint expense of the companies owning the tracks; all trains or engines passing over such tracks shall come to a full stop not nearer than two hundred feet nor farther than eight hundred feet from the crossing, and shall not cross until signalled so to do by the watchman, nor until the way is clear; and when two passenger or freight trains approach the crossing at the same time, the train on the road first built shall have precedence, if the tracks are both main tracks over which all passengers and freights on the road are transported; but if only one track is such main track, and the other is a side or depot track, the train on the main track shall have precedence; and if one of the trains is a passenger train and the other a freight train, the former shall take precedence; and regular trains on time shall take precedence over trains of the same grade not on time, and engines with cars attached not on time shall take precedence of engines without cars not on time. [Code, ch. 54, § 61, as amended by Acts 1882, ch. 17, and Acts 1882, ch. 97.]

BOARDS TO BE ERECTED AT CROSSINGS.—Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each public road or street, where the same is crossed by the railroad on the same level. Said boards shall be elevated so as not to obstruct the travel and be easily seen by travelers; and on each side of said boards shall be painted in legible capital letters "railroad crossing; look out for the locomotive!" Any corporation failing to comply with the provisions of this section within six months after the passage of this chapter, as amended,

shall for each crossing at which there is such failure, be fined five dollars for every week the failure may continue. [Code, ch. 54, § 62, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

DRUNKENNESS OF ENGINEER, BRAKEMAN OR CONDUCTOR.—If any person shall, while in charge of a locomotive engine running upon the railroad of any corporation, or while acting as the conductor or brakeman of any car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not exceeding five hundred dollars. [Code, ch. 54, § 63, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

INJURIES, ETC., TO CORPORATE PROPERTY.—Any person who shall wilfully and unlawfully injure, impair, weaken or destroy any building, construction, work, engine, machine or structure, or any matter or thing appertaining thereto, or obstruct the said corporation in the use thereof, or in the use of any of its property or franchises, the person or persons so offending shall be guilty of a misdemeanor and fined not exceeding one thousand dollars, and imprisoned not exceeding six months, and if the death of any person occur in consequence of any such unlawful act, the person or persons committing the same shall be guilty of murder. And if any person shall, while on any passenger or other train of a corporation, behave in a riotous or disorderly manner, so as to disquiet or disturb the passengers thereon, he shall be guilty of a misdemeanor and fined not less than twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one, nor more than six months; and he may be ejected from such train by the person or persons in charge thereof, and such force as is necessary to so eject him may be used for the purpose. And if any person shall shoot or throw stones, or other dangerous missiles, at or into any passenger or other railroad car used for carrying passengers or other persons, while any such passenger or person is within the same, he shall be guilty of a felony and confined in the penitentiary not less than two nor more than ten years. And the conductor of every such train shall have all the powers of a conservator of the peace while in charge thereof. [Code, ch. 54, § 64, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

MAP OF ROAD TO BE FILED.—Every such corporation shall, within a reasonable time after its railroad is located, cause to be made a map and profile thereof, with the names of the owners of the lands through which it runs, and of the noted places along the same stated thereon, and file the same in the office of the secretary of state, and in the office of the clerk of the county court of each county in which any part of said road is located. [Code, ch. 54, § 65, as amended by Acts 1881, ch. 17.]

WHEN WORK OF CONSTRUCTION TO COMMENCE.—If any railroad corporation organized under this act shall not, within two years after its

articles of association shall be filed and recorded as required in section thirty-three of this chapter, begin the construction of its road and expend thereon ten per cent. of the amount of its capital, within three years after the date of its organization, or shall not finish its railroad and put it in operation within ten years from the time of filing its articles of association as aforesaid, its corporate existence and power shall cease. [Code, ch. 54, § 66, as amended by Acts 1881, ch. 17.]

TIME FOR COMMENCEMENT OF CONSTRUCTION EXTENDED.—That any railroad company organized under the laws of this state since the fourteenth day of March, one thousand eight hundred and eighty-one, which shall commence the construction of its road within two years after the passage of this act, and shall within three years after the passage of the same, actually and in good faith spend thereon ten per cent of its capital stock actually subscribed, and shall within ten years after the passage of this act complete its railroad and put it in operation, then, and in every such case, the corporate existence, franchise and power of such railroad company shall be and remain the same as though the provisions of section sixty-six of chapter seventeen of the acts of one thousand eight hundred and eighty-one, had been fully complied with by such company, and no forfeiture or judgment of ouster shall be rendered against said company, by reason of its failure to comply with said section. But if any of said railroad companies shall not, within two years after the passage of this act, begin the construction of its road and expend thereon ten per cent of the amount of its capital absolutely subscribed within three years from the passage of this act, or shall not finish its railroad and put it in operation within ten years from the passage of this act as aforesaid, its corporate existence and power shall cease. [Acts 1885, ch. 13.]

EXISTING RAILROADS SUBJECT TO THIS CHAPTER.—All existing railroad corporations within this state shall respectively have and possess all the powers and privileges, and be subject to all the duties and liabilities and provisions contained in this chapter. [Code, ch. 54, § 67, as amended by Acts 1881, ch. 17.]

MAY RECEIVE DONATIONS, ETC., AND SUBSCRIPTIONS IN LANDS.—All railroad companies organized or constructed under the provisions of this chapter may, and they shall have power and authority to receive donations and devise of lands, property and materials, and to receive subscriptions to their capital stock, payable in lands, property, materials, work, labor and otherwise, upon such terms and conditions as the directors and owners may agree and determine, and may also receive, purchase and hold real estate as a basis for the construction of the railroad of any such corporation, and to issue stock or bonds or both, for the payment of the same, upon such terms and conditions as the stockholders, directors or owners thereof may agree upon and determine, and to sell and convey such real estate upon such terms and conditions as the corporation may authorize.

[Code, ch. 54, § 68, as amended by Acts 1881, ch. 17, and Acts 1882, ch. 97.]

LATERAL ROADS, BRANCHES AND TELEGRAPH LINES.—Any railroad company organized under this chapter may build and construct lateral and branch roads, or tramways, and of any guage whatever, not exceeding fifty miles in length, and may build planes and gravity roads, use and operate any part or portion of their said main line and branch or braches when completed, the same as though the whole of their said proposed railroad was fully completed; and in the construction of their bridges across any river or navigable stream, may provide for the passage of wagons or other travel, collecting tolls therefor as prescribed by law; and may erect and operate a telegraph line or lines, with the right to use, control and operate the same along the line of their said railroad and branches, and connecting with any of their said works, offices or improvements. [Code, ch. 54, § 69, as amended by Acts 1881, ch. 17.]

GENERAL LAWS TO APPLY, SO FAR AS NOT INCONSISTENT.—All laws of a general nature in relation to railroad corporations now in force in this state, so far as they are not inconsistent with the provisions of this chapter, in relation to such corporations, shall remain in force and be applicable to the railroad corporations organized under this chapter; and any railroad corporation incorporated by special charter and now existing, may accept the provisions of this chapter and reorganize under the same without impairing any rights or privileges granted under its original act or incorporation, subject, however, to the control of the legislature as provided in the constitution of the state. [Code, ch. 54, § 70, as amended by Acts 1881, ch. 17.]

RAILROADS DECLARED PUBLIC HIGHWAYS.—Railroads heretofore or hereafter constructed in this state, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as now are, or may be prescribed by law; but nothing in this section contained shall be construed to exempt any person from the payment of the lawful charges for such transportation. [Code, ch. 54, § 71, as amended by Acts 1881, ch. 17.]

SALE OF PROPERTY OF RAILROAD CORPORATIONS.—If a sale shall be made under a deed of trust or mortgage executed by a railroad corporation on all its works and property, or if the sale of such property shall be made under the decree of a court, and there be a conveyance to any person or persons pursuant to any such sale, said sale and conveyance shall pass to the purchaser at such sale, not only the works and property of the corporation as they were at the time of making the deed of trust or mortgage, but any works which the company may, after that time and before the sale, have constructed, and all other property of which it may be possessed at the time of the sale, other than debts due to it. Upon such convey-

ance to the purchaser the said company shall *ipso facto* be dissolved, and the said purchaser shall forthwith be a corporation by any name which may be set forth in said conveyance, or in any writing signed by him or them, and recorded in the office of the clerk of the county court of any county wherein the property be sold, or any part thereof, is situated. [Code, ch. 54, § 82, as amended by Acts 1881, ch. 17.]

NEW CORPORATIONS TO SUCCEED TO ALL THE FRANCHISE, RIGHTS, ETC., OF ORIGINAL CORPORATION.—The corporation created by or in consequence of such sale and conveyance shall succeed to all such franchises, rights and privileges, but not immunity from taxation, and perform all such duties as would have been had, or should have been performed by the first company, but for such sale and conveyance; save only, that the corporation so created shall not be entitled to debts due to the first company, and shall not be liable for any debts of, or claims against, the said first company, which may not be expressly assumed in the contract of purchase; and that the whole profits of the business done by such corporation shall belong to the said purchaser and his assigns. His interest in the corporation shall be personal estate, and he or his assigns may create so many shares of stock therein as he or they may think proper, not exceeding together the amount of stock in the first company at the time of the sale, and assign the same in a book kept for that purpose. The said shares shall thereupon be on the footing of shares in joint-stock companies generally, except only that the first meeting of the stockholders shall be held on such day and at such place as shall be fixed by the said purchaser, of which notice shall be published for four successive weeks in a newspaper printed in each county in the State wherein said corporation may do business. [Code, ch. 54, § 73, as amended by Acts 1881, ch. 17.]

CONSTRUCTION OF CERTAIN WORDS.—The words “internal improvement,” when used in this chapter shall be construed to apply to and include railroads, canals, toll-bridges and turnpikes, on which tolls are permitted to be charged and collected. [Code, ch. 56, § 75, as amended by Acts 1881, ch. 17.]

BRIDGES OVER OHIO, GREAT KANAWHA AND BIG SANDY RIVERS.—Corporations may be formed under the provisions of the first twenty-four sections of chapter fifty-four of this code for the purpose of bridging the Ohio river. Any such corporation or any railroad corporation is hereby authorized to construct and maintain a bridge across said river, in the manner now, or which may hereafter be provided by the Congress of the United States, and upon complying with the requirements, conditions and provisions so prescribed, and not otherwise; and such corporation is authorized to take tolls for the passage of persons, railroad cars, engines, vehicles and other things passing on and over such bridge. Any such corporation may obtain the real estate necessary for the construction of its bridge and the approaches thereto, under the provisions of

chapter forty-two of this code, and may purchase from any other corporation which may have taken steps toward the erection of a bridge in the manner aforesaid, all the rights, franchises and property it may have acquired; subscriptions to the stock or bonds of any such corporation may be made by counties, districts and municipal corporations, in the manner provided for in chapter thirty-nine of this code; and subscriptions may be made thereto by other corporations, including railroad corporations, with the assent of the holders of two-thirds of the stock of any such corporation, at any general or special meeting of its stockholders. The provisions of this section as to the building of a railroad bridge across the Ohio river shall extend to and include the Great Kanawha and the Big Sandy rivers; and no railroad bridge, except as has been or may be provided by law, shall be built over either of said rivers in any way or manner than is or shall be provided by the Congress of the United States as to the Ohio river. [Code, ch. 44, § 22, as amended by Acts 1883, ch. 34.]

HOW CONSTRUCTION OF BRIDGES PREVENTED.—Every bridge across the Ohio river hereafter erected or commenced, wholly or in part within the jurisdiction of this state, contrary to the provisions of the next preceding section, and every railroad bridge across the Great Kanawha or Big Sandy river hereafter erected or commenced, wholly or in part within the jurisdiction of this state, contrary to the provisions of the next preceding section, shall be deemed a public nuisance; and so far as the same is within the said jurisdiction, may be abated and the construction thereof be prevented and enjoined by presentment, indictment, or bill in equity in the name of the state, or other remedy appropriate to the cause. And it shall be the duty of the attorney general, as well as of the prosecuting attorney of the proper county, to cause proper proceedings to be instituted and prosecuted to abate, prevent and enjoin such work, as soon as they shall be credibly informed that the same has been or is about to be commenced. [Code, ch. 44, § 23, as amended by Acts 1883, ch. 34.]

TRANSPORTATION OF PASSENGERS.—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. [Acts 1882-3 ch. 227, § 1.]

CLASSIFICATION OF RAILROADS.—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 railroads, whose gross annual earnings per mile shall be ten thousand dollars or more, and narrow gauge railroads, whose gross annual earnings per mile shall be five thousand dollars or more.

Class B. Shall include railroads, whose gross annual earnings

per mile shall be eight thousand dollars, or any sum in excess thereof less than ten thousand dollars, and such narrow gauge railroads, whose gross annual earnings per mile shall be four thousand dollars, or any sum in excess thereof less than five thousand dollars.

Class C. Shall include railroads, whose gross annual earnings per mile shall be four thousand dollars, or any sum in excess thereof less than eight thousand dollars, and such narrow gauge railroads, whose gross annual earnings per mile shall be two thousand dollars, or any sum in excess thereof less than four thousand dollars.

Class D. Shall include railroads, whose gross annual earnings per mile shall be any sum less than four thousand dollars, and narrow gauge railroads whose gross annual earnings per mile shall be any sum less than two thousand dollars. [Acts, 1872-3, ch. 227, § 2.]

MAXIMUM RATES.—All railroad corporations according to their classification as herein furnished shall be limited to compensation per mile for the transportation of any person with ordinary baggage, not exceeding one hundred pounds in weight, as follows :

Class A. For any distance less than fifty miles, three and one half cents per mile : for any distance exceeding fifty miles and less than one hundred miles, three and three-tenth cents per mile ; for any distance exceeding one hundred miles and less than one hundred and fifty miles, three and one-fifth cents per mile ; for any distance exceeding one hundred and fifty miles and less than two hundred miles, three and one-tenth cents per mile ; for any distance exceeding two hundred miles and less than two hundred and fifty miles, three cents per mile : for any distance exceeding two hundred and fifty miles, and less than three hundred miles, two and nine-tenth cents per mile ; for any distance exceeding three hundred miles and less than three hundred and fifty miles, two and four-fifth cents per mile ; for any distance exceeding three hundred and fifty miles, two and seven-tenth cents per mile.

Class B. For any distance less than fifty miles, four cents per mile, for any distance exceeding fifty miles and less than one hundred miles, three and nine-tenth cents per mile ; for any distance exceeding one hundred miles and less than one hundred and fifty miles, three and eight-tenth cents per mile ; for any distance exceeding one hundred and fifty miles and less than two hundred miles, three and seven-tenth cents per mile ; for any distance exceeding two hundred miles and less than two hundred and fifty miles, three and six-tenth cents per mile ; for any distance exceeding two hundred and fifty miles and less than three hundred miles, three and one-half cents per mile ; for any distance exceeding three hundred miles, and less than three hundred and fifty miles, three and four-tenth cents per mile ; for any distance exceeding three hundred and fifty miles, three and one-fourth cents per mile.

Class C. For any distance less than fifty miles, four and one-half cents per mile ; for any distance exceeding fifty miles and less

than one hundred miles, four and three-fifth cents per mile; for any distance exceeding one hundred miles and less than one hundred and fifty miles, four and three-tenth cents per mile; for any distance exceeding one hundred and fifty miles and less than two hundred miles, four and one-fifth cents per mile; for any distance exceeding two hundred miles, four cents per mile.

Class D. For any distance less than fifty miles, five cents per mile; for any distance exceeding fifty miles and less than one hundred miles, four and three-fourth cents per mile; for any distance exceeding one hundred miles and less than one hundred and fifty miles, four and one-half cents per mile; for any distance exceeding one hundred and fifty miles and less than two hundred miles, four and one-fourth cents per mile; for any distance exceeding two hundred miles, four cents per mile. *Provided*, That no such corporation shall charge, demand or receive any greater compensation per mile for transportation of children twelve years of age or under, than half the rate above prescribed. *And provided also*, That a charge of ten 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, and if the failure to procure a ticket was not caused by the ticket office being closed, or without a sufficient supply of tickets, or other neglect of the company. *And provided further*, If for any one passenger the charge at the above rate would be less than twenty five cents, the same may nevertheless be charged as a minimum. [Acts 1872-3, ch. 227, § 3.]

WHAT MUST BE KEPT POSTED.—All railroad corporations shall keep constantly posted in a conspicuous place, in all their ticket offices and passenger and freight depots, a printed copy of the first, second, third, fourth and fifth sections of this act, together with a table of distances between each and every station of their road, printed in legible type, and a statement showing the class to which its road belongs. [Acts 1872-3, ch. 227, § 4.]

PENALTY FOR OVERCHARGING.—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 five hundred dollars, 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. [Acts 1872-3, ch. 227, § 5.]

LIMITATIONS AS TO RATES APPLY TO ALL RAILROADS.—That all railroad corporations organized or doing business in the state under an act of incorporation, or general law of this or any other state, or of the United States, now in force, or which may be hereafter enacted, shall be limited to the rates of compensation for the transportation of passengers, goods, merchandise, and all kinds of property as herein prescribed. Whenever any railroad corporation, as

lessee or otherwise, operates any railroad in connection with its own road, the provisions of this act as to charges for carrying freight and passengers shall apply to such other roads so operated in like manner as if the same were a part of the line of the road owned by the corporation operating the same, and for such purposes all lines of railroad operated by the same company shall be considered as one and the same road. [Acts, 1872-3, ch. 227, § 6.]

CLASSIFICATION OF GOODS.—Goods, merchandise and all other kinds of property shall be classified, for the purpose of transportation, as follows :

First Class. Acid by car load ; ale, beer and porter in bottles ; bagging, bags, berries, books, baskets, four times first class ; broom corn pressed, bedsteads, iron, capacity of car ; boots and shoes ; burning fluids ; billiard tables, boxes, blinds, bread, etc., brushes, bristles, burlaps ; butter, fresh ; bed-cords ; beeswax ; boiler felting, in rolls or bails ; carriages, not boxed ; carriages, well boxed, three times first class ; cotton, yarn, cards, carpeting, cloth, corks, cassia, in mats ; chairs, not boxed, estimated at fifteen pounds per cubic foot ; chairs, boxed, three times first class rates ; china ware in boxes, barrels or casks ; caps, clocks and weights ; confectionery, cotton waste, copper, and brass vessels, castor oil in cans or cases ; cotton in bales ; crackers, covers and sieves, carpet lining, cocoa matting, coffee mills, chains, cotton, woolen or hempen ; copying presses, farm wagons, fire-crackers, deer skins in bales ; ducks, domestics, sheeting, ticking, denims in boxes or bales ; dry goods in boxes or bales ; drugs and medicines ; joiner's work, desiccated meats and vegetables, furs, fish, fresh ; fruits, foreign, including currants, dates, figs, grapes, lemons, oranges, prunes, raisins ; furniture, second-hand well boxed, accompanied by passengers ; furniture knocked down and well boxed ; forks (hay and manure), groceries not otherwise enumerated ; glassware, guns, rifles and other firearms ; ginseng, glue, hats, harness, honey, hops, hair in sacks ; hides, dry ; household goods not furniture, well boxed ; ink, indigo, ice in small quantities ; India rubber goods, iron castings, light ; ink, printer's ; isinglass, liquors, foreign and domestic ; leather, loose ; linsey, liquor in glass ; liquor in wood ; lead in pipe, bar or sheet ; milk, condensed ; machinery boxed, light ; mouldings, mats, marble wrought and finished ; musical instruments, moss in sacks ; mineral water in glass ; machinery unboxed ; metallic coffins, nuts ; oysters in kegs, boxes or cans ; oil in glass ; pickles in glass ; preserves in glass ; paper hangings not boxed ; peaches, prepaid ; peltries, poultry, piano fortes boxed ; pipes, clay, printing presses, paper, printing and wrapping, in boxes ; paper hangings boxed ; prunes in casks ; palm leaves, paste board, pill boxes ; plate and looking glasses boxed ; porcelain ware ; printed matter in sheets, boxed ; ploughs and cultivators, rattan, Russia bristles, refrigerators, rags, saddlery, scythes, snaths, steam boilers under thirty feet ; scales and scale beams, not boxed ; sweet potatoes ; sizing, shell, shrapnel, shovels, spades, soap, fancy ; straw goods ; stoves, stove pipes and stove castings, sash and frames, skins buffalo, sheep, deer, etc. ;

sleighs boxed, three times first class ; snuff in jars ; sardines, sewing machines boxed, seeds, clover, grass, spices, ginger, pepper, mustard ; seeds not otherwise enumerated ; turpentine, tobacco in bales, leaf cut or dry ; tobacco, cut, in barrels or boxes ; tobacco, manufactured ; trunks, tinware, twine, trees and shrubbery ; tea, tubs, tin foil in boxes ; tow, traveling bags, umbrellas, varnish, veneering, woolen goods, wax, wine, in boxes, baskets or casks ; whips, warps, whale-bone, wheelbarrows, wooden ware, wagon bows and felloes, window glass, wood in shape, (carpenter's work, etc.,) less than car loads ; woolen yarn, wire cloth, yarn, cotton or woolen ; yarn carpet, pressed in bales.

Second Class. Alcohol, agricultural implements, (double rate) ; agricultural productions not specified ; ale and beer in casks ; apples, green ; axles, axes, bacon, loose ; baking powders, bells, boiler-flues, brimstone, bottles, barilla, bark and cob mills ; butter, packed ; binders' boards, blacking, beans and peas, cast-iron, grain mills, Congress and Bedford water in boxes or barrels ; chains, charcoal, less than carload ; carriage-springs, codfish, loose ; candles, cocoa, chocolate, cassia, coffee (ground) in boxes or barrels ; coffee, in single sacks ; coffee in double sacks ; capstands, copper in plates, sheets, bolts, pigs, wire, nail or rod ; copper bottoms, cheese in boxes or casks ; chair-stuffs, less than a carload ; crockery in crates or hogs-heads ; dye-stuffs in barrels or boxes ; damsons, eggs, extract of coffee, extract of logwood, earthenware, fruit, dried domestic ; flax, flaxseed, gun-stocks, less than car-load ; gunny bags, gum, gas-fixtures, boxed ; hollow-ware castings, less than car load ; herring in boxes ; hominy, hemp, yarn, hinges, hoes and hollow-ware ; hooks ; iron, hoop, band and sheet ; iron nuts and rivets, iron railings, iron safes, iron bolts or washers, in boxes or in casks ; iron castings in boxes or casks ; iron facings, iron shutters ; leather in rolls or boxes ; lightning-rods in bundles ; licorice in mass or boxed ; lithographic stone ; machinery, boxed, heavy ; mahogany boards and planks, marble unwrought (under three inches thickness) ; mechanics' tools, melons, less than a car load ; oakum, onions, oilcloth not otherwise specified ; oil, sperm, linseed, lard, tanner's, fish and coal ; paints, all kinds ; pickles in casks ; pork and other fresh provisions ; pickles and preserves in cans ; plumbers' materials in boxes or casks ; queensware, quicksilver in iron flasks ; rubber car-springs, rubber packing, rope and cordage, rice in barrels, rice in tierces, rosin ; seeds, clover, grass and mustard ; saltpetre, saleratus, starch ; scales, boxed ; school slates, stove blacking, shoe pegs in barrels ; soap, soda, shot in bags ; suguar, maple ; sugar, refined ; safes, tar, tallow, type, tin, tacks in boxes or barrels, telegraph-wire ; veneering, boxed ; whisky, wire, wire fencing, willow reeds in bundles, white lead, zinc in rolls, sheets or casks.

Third Class. Anchors, anvils, axle-grease, bacon in casks ; black lead, blacking salts, bacon or salt pork in bags or loose ; burr blocks, beef salted in casks, chicory, cider in wood ; chains in casks ; crucibles, dye-wood in stick ; flour in bags or barrels ; feed, bran, ship-stuff, fish, pickled and dry salted ; gas-pipe ; glauber salts, glue pieces ;

grain, loose by car-load ; hides, green and salted ; hoofs, hardware and cutlery, horns, horseshoes in packages ; hollow-ware castings, car-load ; herring in kegs ; hogs, dressed, in car-loads ; hogs' hair, iron flues, bar, boiler and castings, medium size ; jute, junk, lead in casks ; laths, lard, lead pig ; lime in casks, except manure ; molasses, meal in bags or barrels, less than car-load ; machinery, heavy ; madder, mill-stone finished ; marble slabs over three inches thick ; nails in boxes or barrels ; nails and spikes, nail rods, nuts in double sacks, boxes or casks, oil-cake, loose ; oars, oysters and clams in shell ; pork salted, loose ; pork salted in casks or boxed ; putty, potatoes, less than car-load ; pitch, sweet potatoes in car-load ; pumice-stone in casks ; roofing in boxes or rolls ; roofing iron ; rubber car-springs in boxes or casks ; salt, less than car-load ; shot in kegs ; succory, steam-engines, steel, sugar not refined ; sumac ground, actual weight ; salt-cake ; scythe-stone, spelter, tobacco unmanufactured ; vegetables less than car load ; vinegar, volute car-springs, whitening, wire rope, zinc, in sheet, in casks or cases.

Fourth Class. Ashes, pot ; ashes, pearl ; ashes, wood ; bark, tanner's) twenty *per cent.* less by capacity of car ; bark, ground ; bones ; bone-dust, barley rated as grain ; barytes, brick, brimstone in barrels and hogsheads ; brick for short distance ; bath brick, castings, iron, heavy and plain ; copper-ore, charcoal in carloads ; coal, cement, clay, car-wheels, chalk, chain cable, car axles, fire-wood ; meal in bag or barrel when in full car-loads ; gravel, grind-stones, gunstocks, car-loads ; guano, grain, corn, oats, barley, wheat, rye, malt in bag and casks, (weight of package to be charged,) hay and straw, when without other loading, fourth class by capacity of car ; loaded with other goods, double fourth class by actual weight ; iron, pig, railroad ; iron straps, iron castings, heavy ; iron ore, ice by car-load ; locomotive tire, lime in car-loads for building ; limestone, live stock, lumber, manganese, mahogany, logs, marble in blocks unwrought ; meal in car-loads ; manures, mill-stones rough ; melons by car-load ; nails and spikes by car-load ; oil-cake in casks or barrels ; ores, manganese, plaster, stone, potatoes in car-loads ; plaster ground ; railroad chains, and spikes, railroad iron, sumac leaf, capacity of car, smaller quantities, double fourth class ; salt in sacks or barrels by car-load ; soapstone, stone unwrought ; sand-hooks ; staves headings, &c. ; slate, soda-ash, vegetables, by car-loads ; water-pipes, wood in shape, finished, by car-loads not less than capacity. Unenumerated articles shall be limited to the rates charged on analogous or like articles.

Double first class. Acid, less than car-load, amunition, broomcorn, loose ; batting, bonnets, cabinet ware set up and boxed ; car-boys empty ; caps in trunks ; cigars boxed and strapped ; demijohns, dry goods in trunks ; cotton batting, tin safes ; feathers, fowls alive in coops or crates ; furs in bales or trunks ; furniture set up and boxed ; hats in trunks, looking-glasses, mattresses, powder, sheep alive in coops or crates ; willow-ware, wagons, (children's) not boxed. Freights of all classes transported by passenger train.

One and a half first class. Buffalo robes ; oilcloths in boxes twelve

feet long or over; picture frames; steam boilers over thirty feet; toys boxed; trees and shrubbery, baled; wagons and hobby horses, boxed, wool, domestic and foreign,

Special rates. Carriages may be rated for way transport to weigh as follows: A four-horse vehicle to weigh four thousand and five hundred pounds; a two-horse vehicle to weigh two thousand and five hundred pounds; a one-horse vehicle to weigh one thousand and five hundred pounds; fire-wood, posts and rails, if dry, at four thousand pounds; if green, five thousand and five hundred pounds per cord; tanner's bark, dry, two thousand pounds; if green, three thousand pounds per cord; pine and hemlock boards, plank and scantling, if well seasoned at two thousand and five hundred pounds; if not well seasoned, three thousand pounds; if green, three thousand and five hundred pounds per thousand feet, board measure; ash, oak, walnut, maple and cherry, if dry, three thousand and five hundred pounds; if green, five thousand and five hundred pounds per thousand feet, board measure; green white-wood boards, four thousand pounds per thousand feet, board measure; brick per thousand and five thousand pounds. [Acts, 1872-3, ch. 227, § 7.]

MAXIMUM RATES.—All railroad corporations, according to the classification in section seven of this act, shall be limited to compensation per ton per mile for the transportation of goods, merchandise and all other kinds of property, as follows:

First Class. For any distance not exceeding fifty miles, five cents per ton per mile; for any distance exceeding fifty miles and not more than one hundred miles, four cents per ton per mile; for any distance exceeding one hundred miles and not more than one hundred and fifty miles, three and one half cents per ton per mile; for any distance exceeding one hundred and fifty miles and not more than two hundred miles, three cents per ton per mile; for any distance exceeding two hundred miles and not more than two hundred and fifty miles, two and three-fourths cents per ton per mile; for any distance exceeding two hundred and fifty miles, two and one-half cents per ton per mile.

Second Class. For any distance not exceeding fifty miles, four cents per ton per mile; for any distance exceeding fifty miles and not more than one hundred miles, three and one-half cents per ton per mile, for any distance exceeding one hundred miles and not more than one hundred and fifty miles, three cents per ton per mile; for any distance exceeding one hundred and fifty miles and not more than two hundred miles, two and three-fourths cents per ton per mile; for any distance exceeding two hundred miles and not more than two hundred and fifty miles, two and one-half cents per ton per mile; for any distance exceeding two hundred and fifty miles, two and one-fourth cents per ton per mile.

Third Class. For any distance not exceeding fifty miles, three and one-half cents per ton per mile; for any distance exceeding fifty miles and not more than one hundred miles, three cents per ton per mile; for any distance exceeding one hundred miles and

not more than one hundred and fifty miles, two and three-fourths cents per ton per mile; for any distance exceeding one hundred and fifty miles and not more than two hundred miles, two and one-half cents per ton per mile; for any distance exceeding two hundred miles and not more than two hundred and fifty miles, two and one-fourth cents per ton per mile; for any distance exceeding two hundred and fifty miles, two cents per ton per mile.

Fourth Class. For any distance not exceeding fifty miles, three and one-half cents per ton per mile; for any distance exceeding fifty miles and not more than one hundred miles, three cents per ton per mile; for any distance exceeding one hundred miles and not more than one hundred and fifty miles, two and one-half cents per ton per mile; for any distance exceeding one hundred and fifty miles and not more than two hundred miles, two and one-fourth cents per ton per mile; for any distance exceeding two hundred miles and not more than two hundred and fifty miles, two cents per ton per mile; for any distance exceeding two hundred and fifty miles, one and three-fourths cents per ton per mile.

Double First Class. Double first class, at double the rate specified for the first class.

One and one-half First Class. One and one-half first class, one-half the rates additional specified for the first class.

Increase. *Provided,* That such railroad corporation for the transportation of goods, merchandise and all other kinds of property, in a less quantity than two thousand pounds and more than five hundred pounds, shall be entitled to augment the foregoing rates one-fourth, and when offered in a less quantity than five hundred pounds, shall be entitled to charge one and one-half first-class rates.

MINIMUM CHARGES.—If for any one consignment the charge at the above rates would be less than twenty-five cents, the same may nevertheless be charged as a minimum. And if the charge for an entire car-load for any distance at the foregoing rates should be less than five dollars, such corporation may nevertheless charge that sum as a minimum for the transportation of such car-load. All rules, regulations or by-laws of any railroad corporation establishing or charging higher rates of toll or compensation than is hereinbefore prescribed, are hereby declared void. [Acts 1872-73, ch. 227, § 8.]

SHALL TRANSPORT PASSENGERS AND FREIGHT WHEN OFFERED.—That all railroad corporations, whose lines of road shall extend into or through this state; and which extensions are incorporated by the laws of this state, or any other state, or the United States, shall take and transport passengers and freight when offered. *Provided,* That such railroad corporation shall not be permitted to charge for the transportation of freight and passengers, or either, a less sum from one terminus of their road to the other, than from any intermediate station to either terminus thereof, nor a greater

sum for the transportation of freight and passengers, or either, from any intermediate station to either terminus of the road, or from either terminus, to an intermediate station, or from one intermediate station to another, than from any intermediate station to either terminus, or from either terminus to any intermediate station, or from one intermediate station to another, where the distance is less. [Acts 1872-73, ch. 227, § 9.]

ALL CHARGES EXCEPT FOR STORAGE INCLUDED IN CHARGES FOR TRANSPORTATION.—The compensation for the transportation of passengers, goods and merchandise and all kinds of property hereinbefore prescribed, shall be interpreted to include all fees and commissions charged by any railroad corporation, their agent or agents, for manifesting, receiving, handling, shipping and delivering any goods, merchandise and all other kinds of property for transportation on such railroad, so that the entire charges made by such railroad corporation or their agent or agents shall not exceed the regular transportation fees herein prescribed, except for the storage of articles in any depot or warehouse of the company, or in any depot or warehouse by their agent or agents which remain in such depot or warehouse after the lapse of twenty-four hours from the time the consignee is notified by the agent, or other employees of the company, of their arrival in cases where the abode of the consignee is known to said agent. A charge may also be made for such longer time as they so remain, not exceeding the ordinary warehouse rates charged in the town in which or near which the depot or warehouse is situated; and it shall be lawful for any railroad corporation, their agent or agents, at any depot in the state, to charge or receive such fees and commissions for manifesting, receiving, handling, shipping or delivering any goods, merchandise and all other kinds of property for transportation on such railroads as they were authorized to charge and receive on December twenty-seventh, one thousand eight hundred and seventy-three; but when any such fees and commissions are so charged or received by such railroad corporation, their agent or agents, such railroad corporation shall abate from their regular transportation fees herein prescribed the amount of such fees and commissions so charged or received by such railroad corporation or by their agent or agents. [Acts 1872-73, ch. 227, § 10, as amended by Acts 1877, ch. 92.]

TO WEIGH GOODS AND RECEIPT FOR THE SAME.—All depot-agents of any railroad corporation having depots in this state shall, if required by the consignor, weigh goods, merchandise and all other kinds of property delivered for transportation at the depot, when delivered, and receipt for the same. [Acts 1872-73, ch. 227, § 11.]

DEFINITION OF THE WORDS "RAILROAD CORPORATION."—The term "railroad corporation" contained in this act shall be deemed and taken to mean all corporations, companies, public carriers or individuals now owning or operating, or which may hereafter own or operate, any railroad in this state. [Acts 1872-73, ch. 227, § 12.]

STREET RAILROADS.—This act shall not be held to apply to any city or street railroad, or to any railroad whose entire length does not exceed six miles. But in no case, shall any railroad charge more freight or fare, than is authorized by its charter; and in no case, shall such charges be unreasonable. [Acts 1872-73, ch. 227, § 13, as amended by Acts 1885, ch. 42.]

PENALTIES FOR VIOLATION OF THIS ACT.—Any railroad corporation, agent or person, which shall fix, demand, take or receive from any person or persons any greater toll or compensation for the transportation, receipt, handling or delivering of goods or merchandise, or for weighing the same in violation of the provisions of this act, shall forfeit and pay for any such offense any sum not exceeding one thousand dollars 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 action of debt by the party aggrieved in any court having jurisdiction thereof. And any officer, agent or employe 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. [Acts 1872-73, ch. 227, § 14.]

Any railroad company or corporation heretofore or hereafter organized and owning or operating any railroad wholly or partly within this state, their officers or agents, who shall charge, demand or receive more than the lawful charges for transportation or travel upon their railroad, so owned and operated by them, shall for each offence be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars. But nothing in this act shall be construed as in any manner to interfere with or protect such company or corporation against any proceedings for a forfeiture of its charter or chartered rights. [Acts 1879, ch. 67.]

WILFUL VIOLATION BY COMPANY DEEMED A FORFEITURE OF FRANCHISES.—Any wilful violation of the provisions of this act on the part of any railroad corporation shall be deemed and taken as a forfeiture of its franchises; and such corporation so offending shall be proceeded against by the prosecuting attorney, in any 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.

In any prosecution or proceeding under this section, if the violation complained of be proved, it shall be presumed to have been wilful until the contrary thereof be proved. [Acts 1882-73, ch. 227, § 15, as amended by Acts 1877, ch. 117.]

DOMESTIC CORPORATIONS.—All railroad companies doing business in this state, under charters granted or laws passed by the State of Virginia or this state, are hereby declared to be domestic companies or corporations, and shall be treated as such in all cases. [Acts 1872-73, ch. 227, § 16.]

SHORT-LINE RAILROADS.—Any company operating by steam or horse power a railroad, not exceeding thirty miles in length, may charge for the transportation of freight not exceeding twenty cents per ton per mile. Acts 1875, ch. 37, § 1.]

HORSE RAILROADS, CHARGES ON, REGULATED.—Any corporation operating a railroad wholly by horse power, may charge for transportation of passengers, with ordinary baggage not exceeding one hundred pounds in weight, eight cents per mile; and for children, between six and twelve years of age, one-half that rate; and for freight, two cents per hundred pounds per mile. Where, at these rates, the charges would be less than twenty-five cents, that sum may be charged. But this act shall not apply to any street or suburban railroad. [Acts 1883, ch. 23, § 1.]

CRUELTY TO ANIMALS.—If any person shall carry, or cause to be carried, in or upon any vehicle or otherwise, any domestic animal in a cruel or inhuman manner, he shall be deemed guilty of a misdemeanor, and whenever he shall be taken into custody therefor by an officer, such officer may take charge of such vehicle and its contents and deposit the same in some safe place of custody; and any necessary expenses which may be incurred for taking care of and keeping and sustaining the same, shall be a lien thereon to be paid before the same can be lawfully recovered; and if said expenses, or any part thereof, remain unpaid, they may be recovered by the person incurring the same, of the owner of the said domestic animal in any action therefor; and it shall be unlawful for any person or corporation, engaged in transporting live stock on railway trains, to detain such stock in cars for a longer continuous period than thirty-six hours, without supplying the same with food and water, unless such detention be unavoidable. [Acts 1875, ch. 74, § 4.]

CONNECTING LINES.—Where different works of internal improvements intersect each other in this state, it shall be the duty of any road to receive freight and passengers from such other road, and to charge for the transportation thereof such rates only, as is charged on its own line from the point of intersection to the point of destination of such freight or passengers; and this act shall apply to all railroads operating in this state, whether incorporated or not. [Acts 1875, ch. 82.]

CONVICT LABOR ON RAILROADS.—The board of public works is authorized to furnish to any railroad or internal improvement company, or to any county to work on public roads, free of hire, as many able bodied male convicts from the penitentiary as may now or hereafter be there, as can be spared without interfering with contracts heretofore made, to be used by such companies in the construction of their works within the state. *Provided*, That all expenses of guarding, boarding, clothing and medical attendance shall be borne by the company receiving said convicts. * * * [Acts 1879, ch. 45, § 1.]

COMPANY SHALL EXECUTE A BOND.—Before receiving said convicts, the company so receiving shall execute and file with the treasurer of the state a bond with security, conditioned for the boarding, clothing, guarding and medical attendance of said convicts. The said company may, in lieu of said bonds, deposit money or other securities. The bond with its penalty, or the security deposited in lieu thereof, shall be fixed and approved by the board of public works. [Acts 1879, ch. 45, § 2.]

CLOTHING OF SUCH CONVICTS.—The superintendent of the penitentiary shall furnish convicts, let under this act, with all necessary clothing of the same character as that furnished other convicts; and the company receiving said convicts shall pay the state the actual cost thereof. The superintendent of the guard shall make requisition for all clothing and distribute the clothing to the convicts. [Acts 1879, ch. 45, § 3.]

SUPERINTENDENT OF THE GUARD.—The board of public works shall appoint the superintendent of the guard, whose compensation shall be paid by the company; and the superintendent shall have charge of the guard and shall superintend the same, see that the convicts are properly fed, clothed, guarded and have proper medical attendance, and he shall report to the superintendent of the penitentiary, once a month, the condition and treatment of said convicts. The compensation of the superintendent of the guard shall be agreed upon between the board of public works and the company. [Acts 1879, ch. 45, § 4.]

CONTRACT MAY BE CANCELLED.—Upon proof that such convicts are improperly fed, clothed or are cruelly treated, the board of public works may cancel any contract made under this act, and recall the convicts. [Acts 1879, ch. 45, § 5.]

MAY ISSUE REGISTERED OR COUPON BONDS.—Any railroad company, or other corporation which is now or shall hereafter be authorized by any law of this state to issue its bonds, may at its discretion issue either registered bonds having the conditions as to transfer and payment of principal and interest usual in such bonds, or coupon bonds, or both, in such proportion as it shall deem best; any any such company or corporation which has heretofore issued, or shall hereafter issue, any coupon bonds, may, at the request of the lawful holder thereof, change any or all such coupon bonds into registered bonds, either by taking up and canceling the coupon bonds and issuing registered bonds in lieu thereof, or by writing or printing upon such coupon bonds a proper certificate to the satisfaction of the holder desiring the same, changing such bonds into registered bonds, and may in like manner provide for changing registered into coupon bonds. *Provided*, That the amount of the indebtedness of such company or corporation and its liability upon such of its original bonds first issued as are not so changed or exchanged, together with the terms and conditions thereof as to the

payment of principal and interest, shall in no wise be altered or affected by any such change or exchange of bonds. [Acts 1877, ch. 3, §1.]

HOLDERS OF THE BONDS ENTITLED TO CERTAIN SECURITY.—All bonds issued in lieu of others or changed as above provided, and the legal holder thereof shall be entitled in every respect to all the security, liens, protection and rights under or arising from any mortgage, deed of trust or other security given by or in any way accruing to such company or corporation for the security or protection of its bonds first issued and so changed or exchanged, as above provided, in the same manner and to the same intent and effect as if such new or changed bonds were specifically named and described or otherwise duly provided for in such mortgage, deed of trust or other security, the validity and lien of which, as to any bonds not so changed or exchanged, shall remain unimpaired and binding in all respects. [Acts 1877, ch. 3, § 2.]

SALE UNDER MORTGAGE.—In all cases where a mortgage or deed of trust has been executed upon the works and property of a railroad company or other internal improvement company, the provisions of chapter seventy of the acts of one thousand eight hundred and seventy-one shall be applicable to a sale of said property made under a decree of a court having jurisdiction in the case, and the purchaser at such sale shall have all the rights and privileges and be subject to all the responsibilities provided for in said chapter. [Acts 1877, ch. 12.]

ACTS 1871, CH. 70.

1. If a sale be made under a deed of trust or mortgage executed by a railroad or other internal improvement company in this state on all its works and property, and there be a conveyance pursuant thereto, such sale and conveyance shall pass to the purchaser at the sale not only the works and property of the company, as they were at the time of making the deed-of-trust or mortgage, but any works which the company may, after that time and before sale, have constructed and all other property of which it may be possessed at the time of sale, other than debts due to it. Upon such conveyance to the purchaser the said company shall ipso facto be dissolved, and the said purchaser shall forthwith be a corporation by any name which may be set forth in said conveyance; or in any writing signed by him or them, and recorded in the recorder's office of any county wherein the property so sold or or any part thereof is situated, or where said conveyance is recorded.

2. The corporation, created by or in consequence of such sale and conveyance, shall succeed to all such franchises, rights and privileges, and perform all such duties, as would have been had, or should have been performed, by the first company but for such sale and conveyance; save only that the corporation so created shall not be entitled to debts due to the first company, and shall not be liable for any debts of, or claims against, the said company, which may not be expressly assumed in the contract of purchase; and that the whole profits of the business done by such corporation shall belong to the said purchaser and his assigns. His interest in the corporation shall be personal estate; and he or his assigns may create so many shares of stock therein as he or they may think proper, not exceeding together the amount of stock in the first company at the time of the sale, and assign the same in a book kept for that purpose. The said shares shall thereupon be on the footing of shares in joint stock companies generally, except only that the

first meeting of the stockholders shall be held on such day and at such place as shall be fixed by the said purchasers, of which notice shall be published for four successive weeks in a newspaper printed in each county in the state wherein said corporation may do business.

3. The debts due to and by and claims against the said first company mentioned in the preceding section, shall be subject to the provisions contained in the seventh section of chapter fifty-two of the code.

TAXATION OF RAILROAD CORPORATIONS.—The president, vice president, secretary or principal accounting officers of any corporation or company, owning or operating a railroad or railway, wholly or in part within this state, for the transportation of freight, or passengers, or both, for compensation, shall make a return in writing to the auditor on or before the first day of April in each year, which shall be signed and sworn to by one of said officers, showing in detail the following particulars for the year ending on the thirty-first day of December next preceding, viz :

First. The whole number of miles of railroad owned, operated or leased by such corporation or company within this state.

Second. If such road so owned, operated or leased by such corporation or company be partly within and partly without this state, the whole number of miles thereof within this state, and the whole number of miles without the same, including its branches in and out of the state.

Third. Its railroad track in each county in this state through which it runs; giving the whole number of miles of road in the county, including the track and its branches, and side and second tracks, switches and turnouts therein, and the fair cash value per mile of such railroad in each county, including in such valuation such main track, branches, side and second tracks, switches and turnouts.

Fourth. All its rolling stock; giving a detailed statement of the number of cars, including passenger, mail, express, baggage, freight and other cars of every description, and the fair cash value of all such cars used wholly or in part in this state, distinguishing between such as are used wholly in this state and such as are used partly within and partly without the state; the whole number of engines, including their appendages, used wholly or in part within this state, distinguishing between such as are used wholly within this state and such as are used partly within and partly without the same, and the fair cash value of such as are used wholly within the state and such as are used partly within and partly without the state; and the proportional value of such cars and engines used by it partly within and partly without the state, according to the time used and the number of miles run by such cars and engines in and out of the state; and the proportional cash value thereof to each county in this state within which such railroad runs.

Fifth. Its depots, station-houses, freight houses, machine and repair shops and machinery therein, and all other buildings, structures and appendages connected thereto or used therewith, together with all other real estate other than its railroad track, owned and used by it in connection with its railroad, and not otherwise taxed, includ-

ing telegraph lines owned or used by it, and the fair cash value of all buildings and structures, and all such machinery and appendages, and of each parcel of such real estate, including such telegraph line, and the cash value thereof in each county in this state in which it is located.

Sixth. Its personal property of every kind whatsoever, including money, credits and investments, wholly held or used in this state, showing the amount and value thereof in each county

Seventh. Its actual capital stock and the number, amount and value in cash of the shares thereof; the amount of its capital stock actually paid in; the total amount of its bonded indebtedness, and of its indebtedness not bonded; its gross earnings for the year, including its earnings from its telegraph lines, which shall be stated separately, on the whole length of its road, including the branches thereof, in and out of the state; and also such earnings within this state on way freight and passengers, and the proportion of such earnings in this state on through freight and passengers carried over its lines in and out of the state, to be ascertained by the number of miles the same were carried by it within and the number of miles without the state.

Eighth. Its gross expenditure for the year, giving a detailed statement thereof under each class or head of expenditure. If any corporation or company fail to make such return to the auditor as herein required, it shall be guilty of a misdemeanor and fined one thousand dollars for each month such failure continues. Prosecutions for such failure shall be in the county wherein the seat of government is. If such return be made to the auditor, he shall lay the same, as soon as practicable thereafter, before the board of public works, and if such return be satisfactory to the board it shall approve the same, and by an order entered upon its records, direct the auditor to assess the property of such corporation or company, with taxes, and he shall thereupon assess the same as hereinafter provided. But if such return be not satisfactory to the board, or if any such company fail to make such return as herein required, said board of public works shall proceed in such manner as to it may seem best to obtain the facts and information required to be furnished by such return; and to this end the said board may send for persons and papers, and may compel the attendance of any person and the production of any paper necessary, in the opinion of said board to enable it to obtain the information desired for the proper discharge of its duties under this section. Any expenses necessarily incurred by said board in procuring such information shall be paid by the governor out of the contingent fund. If any person shall refuse to appear before said board when required by it to do so, as aforesaid, or shall refuse to testify before said board in regard to any matter as to which said board may require him to testify, or if any person shall refuse to produce any paper in his possession or under his control, which said board may require him to produce, every such person shall be guilty of a misdemeanor, and fined five hundred dollars, and shall be imprisoned not less than one nor more

than six months, at the discretion of the court. Prosecutions against any such person shall also be in the county wherein the seat of government is. As soon as possible, after the board of public works shall have secured the necessary information to enable it to do so, said board shall proceed to assess and fix the fair cash value of all the property of said corporation or company hereinbefore required to be returned by it to the auditor, so far as the said board has been able to ascertain the same, in each county through which the railroad of any such corporation or company runs. In ascertaining such value, the board shall consider any return which may have been previously made to the auditor by such corporation or company, and all the evidence and information it has been able to procure by the means aforesaid, and all such as may be offered by such corporation or company. And the decision of said board thereon made shall be final, unless the same be appealed from within thirty days after such decision comes to the knowledge of the president, vice-president, secretary, or principal accounting officer, or the attorney, of such corporation or company transacting business for it in the county wherein the seat of government is, in the manner following: Any corporation or company claiming to be aggrieved by any such decision, may, within the time aforesaid, appeal therefrom as to the assessment and valuation made within each county through which its road runs, to the circuit court of each county; and such appeal shall have precedence over all other cases on the docket of such court, and be tried in the shortest time possible after such appeal is docketed. The court shall hear all such legal evidence on such appeal as may be offered by the state, county, district or municipal corporation, and by the corporation or company taking such appeal. And if the court be satisfied that the value so fixed is correct, it shall confirm the same; but if it be satisfied that the value so fixed by said board is either too high or too low, the court shall correct the valuation so made, and ascertain and fix the true value of such property according to the facts proved, and certify such value to the auditor. In case the lists and valuation of the property filed with the auditor as aforesaid, be satisfactory to the board of public works, and in cases where an assessment of the property of such company is made by the board of public works as aforesaid, the auditor shall immediately certify to the county court of each county through which such railroad runs, the value of the property therein of every such company as valued or assessed as aforesaid, and it shall be the duty of such court to apportion the whole of such value between such districts and independent school districts in their county through which said road runs, as near as may be according to the value thereof, and then a proportional valuation to each municipal corporation in their county through which said road runs according to the value thereof. It shall be the duty of the clerk of the county court of every county through which any railroad runs, within thirty days after the county and district levies are laid by such court, to certify to the auditor the apportionment made by the county court as aforesaid, and the amount levied upon each one hundred dollars value

of the property in the county for county purposes, and on the value of the property in each magisterial district through which such railroad is located for district purposes. It shall also be the duty of the secretary of the board of education of every school district and independent school district through which the railroad runs, in each county, within thirty days after the levy is laid therein for free school and building purposes, or either, to certify to the auditor the amount so levied on each one hundred dollars value of the property therein for each of said purposes; and it shall be the duty of the recorder, clerk or other recording officer of every municipal corporation, through which such railroad runs, within the same time after a levy is laid therein for any of the purposes authorized by law, to certify to the auditor the amount levied upon each one hundred dollars value of the property therein for each and every purpose.

Any clerk of a county court, secretary of a board of education, or recorder, clerk or other recording officer of a municipal corporation, who shall fail to perform any of the duties herein required of him, shall be guilty of a misdemeanor and fined not less than one hundred nor more than five hundred dollars. In case of the failure of any such officer to furnish to the auditor the certificate herein required the auditor may obtain the rate of taxation for any of said purposes from the copies of the land books on file in his office, if the same be found in such books, and if not, in such other way or manner as he may deem necessary or proper for the purpose. As soon as possible after the value of the property of such corporation or company is fixed by the board of public works, or by the circuit court on appeal as aforesaid, and after he shall have obtained the information herein provided for to enable him to do so, the auditor shall assess and charge the property of every such corporation or company with the taxes properly chargeable thereon, in a book to be kept by him for that purpose, as follows:

First.—With the whole amount of taxes upon its property for state and state school purposes.

Second.—With the whole amount of taxes on its property, in each county through which its road runs, for county purposes.

Third.—With the whole amount of taxes upon its property in each magisterial district through which its road runs, for road and other district purposes other than free school and building purposes.

Fourth.—With the whole amount of taxes on its property in each school district and independent school district through which its road runs, for free school and building purposes; and,

Fifth.—With the whole amount of taxes on its property in each municipal corporation through which its road runs, for each and all of the purposes for which a levy therein is made by the municipal authorities of such corporation.

And no injunction shall be awarded by any court or judge to restrain the collection of the taxes, or any part of them so assessed, except upon the ground that the assessment thereof was in violation of the constitution of the United States, or of this state, or that the

same were fraudulently assessed, or that there was a mistake made by the auditor in the amount of taxes properly chargeable on the property of said corporation or company; and in the latter case, no such injunction shall be awarded unless application be first made to the auditor to correct the mistake claimed, and the auditor shall refuse to do so, which facts shall be stated in the bill. The auditor shall, as soon as possible after he completes the said assessments, make out and transmit, by mail or otherwise, a statement of all taxes and levies so charged, to the president, vice-president, secretary or principal accounting officer of such corporation or company. And it shall be the duty of such corporation or company so assessed and charged, to pay the whole amount of such taxes and levies upon its property, into the treasury of the state, by the twentieth day of January next after the assessment thereof, subject to a deduction of two and a half *per centum* on the whole sum, if the same be paid on or before that day. If any such corporation or company fail to pay such taxes and levies by the said twentieth day of January, the auditor shall add ten *per centum* to the amount thereof, to pay the expenses of collecting the same, and shall certify to the sheriff of each county the amount of such taxes and levies assessed within his county; and it shall be the duty of every such sheriff to collect and account for such taxes and levies in the same manner as other taxes and levies are collected and accounted for by him. And when the district and independant school district taxes and levies are collected by him, he shall immediately pay the same to the treasurer of the proper district. Neither the county court of any county, nor any tribunal acting in any county in lieu of a county court, or otherwise, nor any board of education, nor the municipal authorities of any incorporated city, town or village, shall have jurisdiction, power or authority, by compromise, or otherwise, to remit or release any portion of the taxes or levies so assessed upon the property of any such corporation or company; and when such taxes and levies are certified to the sheriff of any county for collection, as aforesaid, it shall be his duty to collect the whole thereof, regardless of any order or direction of any such county court, tribunal, board of education or municipal authority to the contrary; and if he fail to do so, he and his securities in his official bond shall, unless he be restrained or prohibited from so doing by legal process, from some court having jurisdiction to issue the same, be liable thereon for the amount of said taxes and levies he may so fail to collect, if he could have collected the same by the use of due diligence. Any member of a county court or tribunal acting in lieu thereof, or of a board of education, or of the council, or other tribunal of a municipal corporation, who shall vote to remit or release any part of the taxes so assessed on the property of any such corporation or company, shall be guilty of a misdemeanor, and fined five hundred dollars, and shall be removed from his office by the court by which the judgment of such fine is rendered, in addition to such fine. When such taxes and levies due to a municipal corporation are collected by the sheriff, he shall pay the same to the proper collecting officer.

or treasurer of such municipal corporation, or otherwise, as the council, or other proper authority thereof may direct. And when such taxes and levies are paid into the treasury, as herein provided, the auditor shall account to the sheriff of each of the counties to which any sum so paid in for county levies belongs, for the amount due such county, and may arrange the same with such sheriff, in his settlement for the state taxes in such a way as may be most convenient; and the sheriff shall account to the county court of his county for the amount so received by him in the same manner as for other county levies: *Provided*, That the taxes assessed for the last year of the term of office of a sheriff shall be paid to, or settled with the sheriff who was in office at the time the assessment was made. The amount so paid in for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and paid upon the requisition of the county superintendent of free schools, in like manner as other school moneys are paid. The auditor shall certify to the county court of every such county, on or before the first day of April in each year, the amount with which the sheriff thereof is chargeable on account of the levy upon the property of such company. He shall also certify to the county superintendent of free schools the amount of such levies due to each district and independent school district in his county for free school purposes. The amount so paid in for each municipal corporation shall, as soon as received by the auditor, be paid over to the treasurer of the municipal corporation, to which such taxes are due, or to such other officer of the corporation as the council may designate, and the auditor shall report such payment to the council. But the failure of the clerk of any county court, or the secretary of any board of education, or the proper officer of any municipal corporation, to certify to the auditor the levies or apportionment within the time herein prescribed, shall not invalidate or prevent the assessment required by this section, but the auditor shall make the assessment and proceed to collect or certify the same to the sheriff, as soon as practicable, after he shall obtain the information necessary to make such assessment. The right of the state or of any county or district, or municipal corporation to enforce, by suit or otherwise, the collection of taxes or levies, heretofore assessed, or the right to which has heretofore accrued, shall not in any manner be affected or impaired by anything in this chapter contained. All buildings and real estate owned by such company and used and occupied for any purpose not immediately connected with its railroad, or which is rented or occupied for any purpose to or by individuals, shall be assessed, with the taxes properly chargeable thereon, the same as other property of the like kind belonging to an individual. No such company or corporation as is mentioned in this section shall be exempt from taxation, whether the same has been or may be created, organized or operated by, under or by virtue of any general or special law or laws, or whether heretofore exempted from taxation or not, but this section shall apply to all such companies and corporations without distinction or exception. [Code, ch. 29, § 67, as amended by Acts 1883, ch. 52.]

CORPORATIONS FOR THE TRANSPORTATION OF PETROLEUM.

REQUIRED TO ACCEPT AND TRANSPORT IN QUANTITIES NOT LESS THAN TWO THOUSAND GALLONS.—All companies heretofore or hereafter organized for the purpose of transporting petroleum or other oils or liquids through pipes of iron or other materials, shall be required to accept all petroleum offered in merchantable order to them in quantities not less than two thousand gallons, at the wells where the same is produced, and transport the same to any tank or other receptacle on the route of their line of pipes, which may be designated by the owners of the petroleum so offered. [Acts 1879, ch. 27, § 1.]

PETROLEUM TO BE INSPECTED.—All petroleum offered for transportation shall, before the same is transported as provided in section one of this act, be inspected, graded and measured, and the company accepting the same for transportation shall give to the owners thereof a receipt, stating therein the number of barrels or gallons so received, and the grade, gravity and measurement thereof, and within a reasonable time thereafter, upon the demand of said owner or his assignee, shall deliver to him at the point of delivery a like quantity and grade or gravity of petroleum, in a merchantable condition, as specified in such receipt, except that the company may deduct for waste one *per centum* of the amount of petroleum specified in such receipt. [Acts 1879, ch. 27, § 2.]

CHARGES.—The charge for receiving, transporting and delivering petroleum shall not exceed two cents per barrel, of forty gallons, per mile; *Provided*, That if said rate should amount for the whole distance transported to less than ten cents per barrel, then the sum of ten cents per barrel may be charged, provided that not more than thirty cents shall be charged for any distance less than twenty miles, and for all distances over twenty miles one and one-half cents per mile may be charged. The charge for transporting water shall not exceed five cents per barrel of forty gallons each; and if any company mentioned in this act shall charge a higher rate or amount for receiving, transporting and delivering petroleum, or other oils or liquids, than is prescribed by this act, they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than five hundred dollars for each offense, and shall moreover be liable to the party aggrieved for double damages and costs. [Acts 1879, ch. 27, § 3.]

UNIFORM RATES TO BE CHARGED.—It shall be unlawful for any railway company or transportation company, through pipes or otherwise, to charge, demand or receive from any person or firm a greater or less rate for the transportation of any article than it charges, receives or demands from any other person or firm for the transportation of like or similar articles; and for each violation of

the provisions of this section such company shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars and not more than one thousand dollars. Any shift, device or subterfuge made or attempted for the purpose of evading the provisions of this section shall be void. [Act 1879, ch. 27, § 4.]

CHARGE FOR STORAGE AND ALLOWANCE FOR WASTE.—Any transportation company mentioned in first section of this act shall be permitted to charge for storage of petroleum two cents per barrel per month or part of a month, unless removed within five days from date of storage, and shall be allowed for evaporation and waste one-half of one *per centum* of the oil per month, unless removed within fifteen days from date of storage; and for every charge in excess of the amount herein authorized the company shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, and shall moreover be liable to the party aggrieved for all damages sustained by him by reason of such excessive charge. [Acts 1879, ch. 27, § 5.]

LIEN FOR CHARGES.—Any company transporting petroleum or other oils or liquids shall have lien on the same, until all charges are paid for freight, storage, etc. [Acts 1879, ch. 27, § 6.]

BANKS.

TO WHAT LAW SUBJECT.—Banks of issue or of discount and deposit, whether heretofore formed under the laws in force at the time of their formation, or hereafter formed under the provisions of this chapter, shall be subject to the provisions of this chapter and of chapters fifty-two and fifty-three of the code, so far as the same are applicable and not inconsistent with the following sections of this chapter; but any such bank shall not be subject to such provisions so far as the same may be inconsistent with a special charter to such bank. [Code, ch. 54, § 76, as amended by Acts 1881, ch. 17.]

LIMITATION OF CAPITAL-STOCK.—The capital stock of every banking company formed under the provisions of this chapter shall not be less than twenty-five thousand dollars, nor more than five hundred thousand dollars. [Code, ch. 54, § 77, as amended by Acts 1881, ch. 17.]

BANKS AUTHORIZED TO CHANGE AMOUNT OF CAPITAL STOCK; HOW AND WHEN.—Any corporation formed, or which may be hereafter formed, for the purpose of carrying on the business of banking, under the provisions of chapter two hundred and fifteen of the acts of one thousand eight hundred and seventy-two and three, may by

resolution at any general, adjourned or special meeting of the stockholders thereof, make such increase or reduction of the capital stock and par value thereof as may be decided upon by said stockholders, a majority of the stock of such company being represented by the holders thereof, and such holders being present in person or by proxy, and voting for such increase or reduction. *Provided*, That no increase or reduction shall conflict with the limitation prescribed by section twelve of said chapter, and that a notice under the signature of the president of said company of the intention to offer such a resolution shall be sent through the mails of the United States to each stockholder ten days previous to such meeting; or that notice of such intention be given by advertisement, published once a week for two successive weeks in some weekly newspaper of general circulation, printed in this state, or for ten successive days, Sundays excepted, in some daily newspaper of like circulation printed in said state. When such increase or reduction shall have been made by any such company, the president thereof shall under his signature and seal of the company, certify the resolution to the secretary of state, and the secretary of state under his hand and the great seal of the state, shall issue to such company a certificate reciting the resolution and declaring such increase or reduction to be authorized by law, and such certificate shall be evidence of such increase or reduction and of the authority to make the same in all courts and places. [Acts 1881, ch. 48.]

PERSONAL LIABILITY OF STOCKHOLDERS.—The stockholders of every bank heretofore or hereafter organized, under the act passed December twenty-six, one thousand eight hundred and seventy-three, entitled, “an act to provide for the incorporation of banks of discount and deposit,” or under this chapter, shall be personally liable to the creditors thereof, over and above the amount of stock held by them respectively, to an amount equal to their respective shares so held, for all its liabilities accruing while they are such stockholders. [Code, ch. 54, § 78, as amended by Acts 1881, ch. 17.]

DIRECTORS.—Every director of a bank must be a stockholder thereof, and shall, before entering upon his duties as such, take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the company, and that he will not knowingly and willingly permit to be violated any of the provisions of the laws of this state relating to banks; that he is the *bona fide* owner in his own right of the stock standing in his name on the books of the company, and that the same is not hypothecated in any way or pledged as security for any loans obtained or debts owing; which oath, subscribed by himself and certified by the officer before whom it is taken, shall be filed and carefully preserved in the office of such bank. [Code, ch. 54, § 79, as amended by Acts 1881, ch. 17.]

MEETING OF STOCKHOLDERS.—No meeting of the stockholders or directors of a bank shall be held out of this state. [Code, ch. 54, § 80, as amended by Acts 1881, ch. 17.]

POWER OF BANKS.—Every such bank may exercise under the laws of this state, all such incidental powers as shall be necessary to carry on the business of banking, by discounting promissory notes, negotiating drafts, bills of exchange, and other evidences of indebtedness, receiving deposits, buying and selling exchange, bank notes, bullion or coin, and by loaning money on personal or other security. [Code, ch. 54, § 81, as amended by Acts 1881, ch. 17.]

Of Insurance, Telegraph and Express Companies.

DISTINCTION BETWEEN DOMESTIC AND FOREIGN COMPANIES.—Every insurance, telegraph or express company having its principal place of business in this state, and incorporated by any act of the general assembly of Virginia, passed before the twentieth day of June, one thousand eight hundred and sixty-three, or heretofore or hereafter incorporated under and pursuant to any act of the legislature of this state, shall be deemed a domestic company; and every other insurance, telegraph, or express company, a foreign company. [Code, ch. 34, § 1 as amended by ch. 85, Acts 1882.]

CERTIFICATE FROM AUDITOR.—It shall not be lawful for any officer or agent of any life, fire or marine insurance company, directly or indirectly, to take risks or issue policies of insurance within this state without first procuring from the auditor a certificate as hereinafter directed. Before obtaining such certificate such company, its officers or agents, shall furnish the auditor with a statement, under oath, of the president or secretary of the company for which he or they may act, which statement shall show:

First.—The name and locality of the company.

Second.—The amount of its capital stock.

Third.—The amount of its capital stock paid up.

Fourth.—The assets of the company; including (first,) the amount of cash on hand, and in the hands of agents or other persons; (second,) the real estate unincumbered; (third,) the bonds owned by the company and how they are secured, with the rate of interest thereon; (fourth,) debts due the company secured by mortgage or otherwise; (fifth,) debts for premiums; (sixth,) all other securities.

Fifth.—The amount of liabilities due or owing to the banks or other creditors by the company.

Sixth.—Losses adjusted and due.

Seventh.—Losses adjusted and not due.

Eighth.—Losses unadjusted.

Ninth.—Losses in suspense, waiting for further proof.

Tenth.—All other claims against the company.

Eleventh.—The greatest amount insured in any one risk; which statement shall be filed in the office of said auditor. No foreign in-

insurance company, or agent thereof, shall transact any business of insurance in this state, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stock or bonds of some one or more of the states of this Union, whose bonds are at par, or of the bonds of the United States, at the current market value thereof at the date of such statement, or in bonds secured by mortgage or deed of trust on real estate, worth double the amount for which the same is mortgaged, free from any prior incumbrance, and having undoubted title. The auditor shall be authorized to examine into the condition and affairs of any insurance company doing business in this state, or cause such examination to be made by some person or persons appointed by him having no interest in any insurance company, and whenever it shall appear to the satisfaction of said auditor that the affairs of any such company are in an unsound condition, he shall revoke the certificate granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation, published at the capital of this state, and the agent or agents of such company are, on and after such notice, required to discontinue the issuing of any new policy or of the renewal of any previously issued. When, by the laws of any other state, any deposit of money or of securities, or other obligations or prohibitions, are imposed or would be imposed on insurance companies of this state doing, or that might seek to do business in such other state, or upon their agents therein so long as such laws continue in force, the same obligations and prohibitions of whatever kind, shall be imposed upon all insurance companies of such other state doing business within this state, or upon their agents here. But no foreign insurance company shall do business in this state which fails to pay four months after the rendition thereof any final judgment or decree of any court of this state against it, and if any such company have obtained the auditor's certificate for transacting business in this state, the auditor, being satisfied such judgment or decree remains unpaid after said period, shall revoke and annul such certificate, and give notice thereof as aforesaid. *Provided, however,* in case any appeal, writ of error, or *supersedeas* be allowed to such judgment or decree, the auditor shall not revoke said certificate till sixty days after such appeal, writ of error, or *supersedeas* be finally determined. [Code, ch. 34, § 2, as amended by ch. 85, Acts of 1882.]

WHEN AUDITOR TO ISSUE CERTIFICATE.—Upon a compliance with the provisions of the proceeding section by such foreign company, and upon satisfactory evidence of such investment by it, and of the making of such deposits and compliance with such obligations as may be required by reason of the laws of any other state, it shall be the duty of said auditor to issue certificate thereof with authority to the company so complying, its agent or agents, to transact the business of insurance. The said statements, instruments and evidence shall be renewed annually in the month of January in each year; and the auditor, on being satisfied that the capital, securities and investment remain secure as at first, shall furnish a renewal of

the certificate as aforesaid, and the company, agent or agents obtaining such certificate shall cause the same to be published in some newspaper of general circulation published in the state, and cause a copy of such publication to be filed in the office of the clerk of the circuit court in each county where said company, its agent or agents, does insurance business, and for any failure to cause such publication and filing, shall be fined fifty dollars. Every such certificate shall recite the statement and evidence required by this and the preceding sections; and upon any domestic company complying with what is required of it by the preceding section, the auditor shall issue a like certificate thereof. [Code, ch. 34, § 3, as amended by ch. 85, Acts 1882.]

AUDITOR'S FEES.—The auditor shall be entitled to ten dollars in each case for the examination of statements, and investigation of the evidences of investment, and five dollars for each certificate of authority issued under the provisions of this chapter. [Code, ch. 34, § 4, as amended by ch. 85, Acts 1882.]

COPIES CERTIFIED BY AUDITOR TO BE RECEIVED AS EVIDENCE.—The written or printed copies of all papers required by this chapter to be deposited with the auditor, certified under the hand of such auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places in the same manner, and have the same force and effect, as the original would have if produced. [Code, ch. 34, § 5, as amended by ch. 85, Acts 1882.]

ASSESSMENT OF THE PROPERTY.—The property of all domestic insurance, telegraph and express companies shall be assessed for taxation as other property in this state. But the stock notes of such companies shall not be assessed; nor shall such notes or any part of them be considered a part of the indebtedness of the maker thereof, in listing his property for taxation. Code, ch. 34, § 6, as amended by ch. 85, Acts 1882.]

RETURNS.—Every foreign insurance, telegraph and express company doing business in this state, or the agent or agents thereof, shall annually make returns to the auditor as follows: *Provided*, That where there are several agents of any such company in this state, the returns may be made by any one of them on behalf of all. [Code, ch. 34, § 7, as amended by ch. 85, Acts 1882.]

WHAT RETURN BY INSURANCE COMPANY TO SHOW.—If such returns be made on behalf of an insurance company, they shall show the amount or premiums on all insurances made, renewed or negotiated within this state, or any subject of insurance within this state, on behalf of such company, during the period to which the said returns relate, including as well premiums uncollected as those which are paid. [Code, ch. 34, § 8, as amended by ch. 85, Acts 1882.]

WHAT ON BEHALF OF A TELEGRAPH COMPANY.—If the returns be

made on behalf of a telegraph company, they shall show the gross receipts for all dispatches or messages sent and received by such company within this state, during the period to which such returns relate. [Code, ch. 34, § 9, as amended by ch. 85, Acts 1882.]

WHAT ON BEHALF OF AN EXPRESS COMPANY.—If the returns be made on behalf of an express company, they shall show the amount of charges and freights, whether paid or uncollected, accruing to such company during the period to which the said returns relate, on account of money, goods and merchandise forwarded or carried within this state by the said company or under its charge or care. [Code, ch. 34, § 10, as amended by ch. 85, Acts 1882,]

WHEN SUCH RETURNS SHALL BE MADE.—The said returns shall be made within twenty-one days after the first day of February in every year, and shall include the business of the twelve months preceding the first day of January in that year, and any business omitted in a former period. The amount only may be stated in the returns without the particulars, unless a more specific return be required by the auditor. The returns so made shall be verified by the affidavit of the officer or agent making the same. [Code, ch. 34, § 11, as amended by ch. 85, Acts 1882.]

DUTIES OF AUDITOR.—It shall be the duty of the auditor to cause the provisions of this chapter to be carried into effect, and he may from time to time prescribe such forms and regulations as are proper for that purpose. And it shall be the duty of every assessor to transmit to the auditor, within the week preceding the first day of February in every year, a list of all such companies or agents doing business within his assessment district as are required to make returns as aforesaid. [Code, ch. 34, § 12, as amended by ch. 85, Acts 1882.]

TAX TO BE PAID.—At the time of making such return by any foreign insurance, telegraph or express company, the officer or agent making the same shall pay into the treasury of the state a tax of two per cent on the gross amount of the premiums, or charges and freights or receipts for dispatches and messages stated in the said return, which shall be in full of state taxes only. The company paying such taxes shall take duplicate receipts therefor, one of which shall be filed with the auditor. Should any company fail to make such payment and file such receipt, the auditor shall not issue to such company the certificate mentioned in the third section of this chapter so long as such failure may continue. *Provided,* That any foreign livestock insurance company which shall invest in this state the whole amount of its net receipts from its business therein, shall pay only one-half of the aforesaid rates. [Code, ch. 34, § 13, as amended by ch. 85, Acts 1882.]

PENALTY FOR FAILURE.—Every company or agent hereby required to make return or payment aforesaid, who shall fail to do so, or

knowingly make a false return, shall forfeit not less than one hundred nor more than one thousand dollars for every such offence. [Code, ch. 34, § 14, as amended by ch. 85, Acts 1882.]

SERVICE OF PROCESS AND NOTICE.—Every foreign insurance, telegraph and express company doing business in this state shall by power of attorney, duly acknowledged and authenticated, and filed by the company in the office of the auditor, appoint some person residing in this state to accept the service of process and notices in this state for the said company; and by the same instrument shall declare its consent that service of any process or notice in this state on the said attorney, or his acceptance of service endorsed thereon, shall have the same effect as service thereof upon the company. And thereafter such acceptance by the said attorney, or service upon him, shall be equivalent, for purposes, to service upon his principal. [Code, ch. 34, § 15, as amended by ch. 85, Acts 1882.]

REVOCATION OF POWER OF ATTORNEY.—As long as any liability of the company in this state remains unsatisfied, no revocation of any such power of attorney shall be of any effect, until after a like power to some other person residing in this state has been filed by the said company in the office of the auditor. And when any such attorney dies or resigns, the company shall immediately make a new appointment and file the evidence thereof as aforesaid, until all its liabilities in this state are discharged. [Code, ch. 34, § 16, as amended by ch. 85, Acts 1882.]

COPY OF POWER OF ATTORNEY AS EVIDENCE.—A copy of any such power of attorney, certified by the auditor under his hand, shall be received in all courts and places as *prima facie* evidence of the execution and contents of such instruments. The auditor may demand for such copy from the person applying therefor, a fee at the rate of fifteen cents for every hundred words. [Code, ch. 34, § 17, as amended by ch. 85, Acts 1882.]

CONDITION PRECEDENT TO TRANSACTION OF BUSINESS.—No officer or agent of a foreign insurance company shall make, renew or negotiate in this state any insurance or contract for insurance on behalf of such company, nor shall any agent of a foreign express company undertake, in this state, to forward or carry any money, goods or merchandise on behalf of such express company, unless the said insurance or express company has complied with fifteenth and sixteenth sections of this chapter. No officer or agent of any insurance company shall make, renew or negotiate in this state any insurance or contract for insurance on behalf of such company, or transact any business for such company, directly or indirectly, without first obtaining the auditor's certificate of authority, as required by law; and this applies to all persons engaged in any manner in soliciting risks, issuing or obtaining the issue of policies, selling tickets of insurance or otherwise doing business of insurance. Any person violating this section shall forfeit not less than

twenty nor more than two hundred dollars for every such offense; but the contract or undertaking shall nevertheless not be invalidated by anything in this section contained.

Incorporated Associations other than Joint Stock Companies.

HOW INCORPORATED.—Corporations (other than joint stock companies) may be formed under this chapter for benevolent associations, societies and orders, including cemetary associations, orphan, blind and lunatic asylums and hospitals, lodges of free and accepted masons, independent order of odd fellows, improved order of red men, sons of temperance, good templars, law or other library associations, and all other associations, societies and orders of like character, and for mutual fire insurance companies. [Code, ch. 55, § 1, as amended by Acts 1872-73, ch. 83, and Acts 1882, ch. 98.]

NUMBER OF PERSONS WHO MAY ORGANIZE.—It shall be lawful for any number of persons not less than five, except for mutual fire insurance companies, which shall be organized under section nine of this chapter, desiring to become a corporation for any business or purpose prescribed in the first section, to sign and acknowledge an agreement of declaration to the following effect: "The undersigned agree to become a corporation by the name of (here insert the name,) for the purpose of (here insert the purpose), and for that purpose desire authority to purchase, hold, lease, sell and convey real property to the value of \$—, and personal property to the value of \$—. Given under our hands this — day of —, —." [Code, ch. 55, § 2, as amended by Acts 1872-3, ch. 83, and Acts 1882, ch. 98.]

HOW AGREEMENT ACKNOWLEDGED AND WHERE FILED.—The said agreement or declaration shall be acknowledged by the parties signing the same, in the same manner that deeds are required to be acknowledged by the laws of this state; and when so acknowledged it shall be filed with the clerk of the county court of the county in which the business or purpose of the corporation is to be carried on or pursued, and by said clerk preserved and duly recorded in a book to be kept exclusively for that purpose. [Code, ch. 55, § 3, as amended by Acts 1872-73, and Acts 1882, ch. 98.]

CERTIFICATE OF INCORPORATION.—The clerk shall thereupon issue to the corporators a certificate under the seal of his office, stating distinctly the names of the corporators, and the name as well as the object and purpose of the corporation. [Code, ch. 55, § 4, as amended by Acts 1872-73, ch. 83, and Acts 1882, ch. 98.]

EFFECT OF SUCH CERTIFICATE.—When a certificate of incorporation shall be issued by the clerk, pursuant to the preceding section, the corporators named therein, and their associates and successors, shall, from the date of such certificate, be a corporation by the name and for the purpose and object therein specified. And the said certificate of incorporation, or a certified copy thereof, shall be received in all courts and places as evidence of the existence of the corporation as aforesaid. [Code, ch. 55, § 5, as amended by Acts 1872-3, ch. 83, and Acts 1882, ch. 98.]

NAME.—No corporation formed under this chapter shall be allowed to use or adopt the name of any other corporation within this state. [Code, ch. 55, § 6, as amended by Acts 1872-73, ch. 83, and Acts 1882, ch. 98.]

FEES OF CLERKS.—For issuing a certificate of incorporation according to the fourth section of this chapter, the clerk may charge a fee of one dollar, and for recording the original agreement or declaration, as required by the third section of this chapter, fifty cents, or in lieu thereof fifteen cents for every one hundred words; which fee shall be paid at the time the service is rendered by the person at whose instance it is done. [Code, ch. 55, § 7, as amended by Acts 1872-73, ch. 83, and Acts 1882, ch. 98.]

BY-LAWS AND REGULATIONS.—Corporations formed under this chapter may make and adopt for their government, and to enable them to conduct and pursue their business and purpose, all necessary by-laws and regulations not inconsistent with the constitution and laws of the United States and of this state; and except where it is otherwise in this chapter provided, shall (so far as the same are applicable) be subject to and governed by the provisions of chapters fifty-two, fifty-three and fifty-four of this code; *Provided*, That no corporation formed under this chapter shall be authorized or allowed to hold and possess at any one time, more than five acres of land within, and not exceeding fifty acres outside of, an incorporated village, town or city. [Code, ch. 55, § 8, as amended by Acts 1872-73, ch. 83, and Acts 1882, ch. 98.]

Mutual Fire Insurance Companies.

MODE OF INCORPORATION.—Any twenty or more citizens of this state may associate themselves together for the protection of themselves against loss to their property by fire by signing an agreement in writing to that effect, and thereupon they shall become a corporation and take such name as a majority of the members may determine, and have succession by such name for such time as may be prescribed by its by-laws, and if no time be fixed, perpetually; such agreement shall be acknowledged and filed as provided by the third section of this chapter. Such corporation shall have a common seal, and may renew or alter the same at pleasure. It may sue and

be sued, plead and be impleaded, contract and be contracted with by simple contract or specialty, purchase, hold, use and grant estate, real and personal, appoint officers and agents, prescribe their powers, duties and liabilities, take bond and security from any of them, and fix and pay their compensation, and make ordinances, by-laws and regulations for the government of its board of directors and other officers and agents, and the management and regulation of its property and business. [Code, ch. 55, § 9, as amended by Acts 1882, ch. 98.]

POWER TO TAKE RISKS.—All mutual fire insurance companies organized under this chapter, shall have power to take risks and make contracts of insurance on such real and personal property as may be designated and provided for in their by-laws. [Code, ch. 55, § 10, as amended by Acts 1882, ch. 98.]

PROVISIONS OF CODE APPLICABLE.—Sections two, three, seventeen, eighteen, nineteen, twenty-one and twenty-two of chapter fifty-two of this code shall be applicable to mutual fire insurance companies organized under this chapter,—[Code, ch. 55, § 11, as amended by Acts 1882, ch. 98.]

WHEN TO COMMENCE BUSINESS.—Every such mutual fire insurance company shall commence its proper corporate business within one year after its organization, by issuing policies and making contracts of insurance; otherwise the same shall be considered dissolved without any legal proceedings to that end. [Code, ch. 55, § 12, as amended by Acts 1882, ch. 98.]

BY-LAWS.—All by-laws shall be adopted by the stockholders of the company in a general meeting assembled, and shall be void if not consistent with the laws of the state.—[Code, ch. 55, § 13, as amended by Acts 1882, ch. 98.]

MEMBERS.—All persons insuring with and continuing to be insured in such company, and none other, shall thereby become members thereof during the period they shall remain so insured and no longer, and shall pay such rates as shall be determined by the board of directors, and be liable for all losses and expenses of said company to the amount of the premiums paid or agreed to be paid by said members respectively, and no farther. [Code, ch. 55, § 14, as amended by Acts 1882, ch. 98.]

BOARD OF DIRECTORS.—At the first meeting of the members of such company held after the association of twenty or more, as provided in the first section of this chapter, there shall be elected a board of directors consisting of five or more members; *Provided, however,* That at least two weeks' notice of the time and place of holding such meeting shall have been given by advertisement in some newspaper having a general circulation in the county where the meeting is to be held. [Code, ch. 55, § 15, as amended by Acts 1882, ch. 98.]

ANNUAL MEETING.—The annual meetings of the members of such company shall be held as prescribed for the annual meetings of the stockholders of joint stock companies by the forty-first section of chapter fifty-three of this code, at which meeting there shall be elected by the members, or a majority thereof, the board of directors and other officers for the ensuing year. [Code, ch. 55, § 16, as amended by Acts 1882, ch. 98.]

QUORUM.—At the first meeting held for the purpose of organizing, a majority of the members shall constitute a quorum. The number necessary to constitute a quorum at all subsequent meetings, shall be determined by the by-laws, and if at any time a quorum is not in attendance, those present may adjourn from time to time until a quorum is obtained. [Code, ch. 55, § 17, as amended by Acts 1882, ch. 98.]

NUMBER OF VOTES EACH MEMBER IS ENTITLED TO.—At the first election of the board of directors each member shall have one vote, and no more; and at all subsequent elections the number of votes to be cast by each member, and the mode and manner of casting same may be prescribed by the by-laws; but if not so prescribed, then each member shall have one vote, to be given either in person or by proxy. [Code, ch. 55, § 18, as amended by Acts 1882, ch. 98.]

SECTIONS OF CODE APPLICABLE.—The forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, and sixty-first sections of chapter fifty-three of this code, shall be applicable to companies organized under this chapter, and in the application of said sections the word "members" shall be substituted by the word "stockholders." [Code, ch. 55, § 19, as amended by Acts 1882, ch. 98.]

QUORUM OF THE BOARD.—A majority of the board of directors shall constitute a quorum for the transaction of business, and, when authorized by the by-laws, may appoint such officers or agents as may be necessary for the transaction of the business of the company, and remove the same at any time; and may require bond of the same payable to the company, in such penalty and with such conditions and security as they may think proper, and, when so authorized, may accept or reject applications for insurance, and may determine the rates of insurance, the sums to be insured, and also the terms and conditions upon which insurance may be effected by the company; and, when so authorized, may generally do any all acts authorized by this chapter. [Code, ch. 55, § 20, as amended by Acts 1882, ch. 98.]

BOND.—Every person who shall become a member of such company by effecting insurance therein, shall, before receiving a policy, execute his bond, in which shall be described briefly and concisely the property insured, and shall also pay in cash such a per centum of said bond as he or she may be required to pay, and the said bond

shall be paid at such times and in such instalments as the same may be required for the payment of losses by fire, and said bond shall bear interest, at a rate not exceeding three per cent. per annum, to be fixed by the board of directors, and at the expiration of the term of insurance the said bond, or such part thereof as remains unpaid after deducting its proportion of all losses and expenses incurred during said term, shall be given up to the maker or makers thereof. And the clerk of the county court shall keep in his office, in a well-bound book, mutual fire insurance docket, in which he shall record without delay any bond given as aforesaid, when he shall be required to do so, by any insurance company organized under the law, when such bond has been signed by the obligor thereof and acknowledged before the clerk of the said county court, or othe person authorized to take the acknowledgment of deeds. In such docket there shall be stated in separate columns :

- I. Names of parties.
- II. Amount of bond.
- III. Property described in said bond as insured.
- IV. Date of bond.
- V. Date of docketing it.

Every bond shall, as soon as it is docketed, be indexed in the name of each defendant therein. If the clerk of a county court fail to do anything required of him by this section, he shall pay a fine of not less than thirty nor more than one hundred dollars to any person who will prosecute therefor, and for every bond recorded as aforesaid, under the provisions of this chapter, the clerk of the county court shall be allowed fifty cents, to be paid by the party having the same recorded. Every bond given as aforesaid by any person or persons, shall be a lien on the real estate therein described and insured, from the time it is duly admitted to record, just as a mortgage would be, and said lien so created may always be enforced in a court of equity. Any lien acquired under this section shall be released in the same manner and mode as perscribed in chapter seventy-six of this code, in case of a deed of trust. [Code, ch. 55, § 21, as amended by Acts 1879, ch. 79 and Acts 1882, ch. 98.]

WHEN POLICY VOID.—When property insured has been aliened by sale or otherwise, the policy shall thereafter be void, and the same shall be delivered up and annulled, and upon such delivery the insured shall be entitled to receive his or her deposit note, on payment of his or her proportion of losses and expenses incurred prior to such surrender; but the alienee or grantee having the policy assigned to him may, upon proper application, have the same ratified and confirmed to him for his own proper use and benefit, and thereafter shall be entitled to all the rights and privileges, and be subject to all the liabilities to which the original party to whom the policy was issued was entitled and subject. [Code, ch. 55, § 22, as amended by Acts 1882, ch. 98.]

LIABILITY OF MEMBERS.—Every member of such company shall be bound to pay for losses, damages and such necessary expenses as may be incurred by the company in proportion to his or her deposit or premium note. [Code, ch. 55, § 23, as amended by Acts 1882, ch. 98.]

SUITS BETWEEN COMPANY AND MEMBERS.—Suits at law or in equity may be maintained by such company against any member thereof for the collection of his or her premium note or any assessment thereon, or for any other cause relating to the business of the company, or growing out of the obligations assumed by, or liability incurred by him or her in becoming a member of such company, and like suits may be maintained by any member against such company for loss or damage sustained by him or her by fire, if payment be withheld or refused contrary to the by-laws of such company, and the terms and conditions of the policy, and all members and officers of the company shall be competent witnesses either for or against the company. [Code, ch. 55, § 24, as amended by Acts 1882, ch. 98.]

EXPENSES AND LOSSES.—The expenses of the company as well as the losses, shall be paid out of any moneys, securities or funds in the treasury, or by assessment on the insurances or premium notes, each member to pay in proportion to the amount of his premium note. [Code ch. 55, § 25, as amended by Acts 1882, ch. 98.]

ANNUAL STATEMENT.—An annual statement of the affairs of the company shall be published in one or more newspapers published near the principal office of the company, which report shall show the amount of property insured, and all the other liabilities and expenses of the company; and also the amount of premium notes and the amount of cash on hand, and all other statistics necessary to give the members and the public generally, full information of the condition of the company. [Code, ch. 55, § 26, as amended by Acts 1882, ch. 98.]

POWER OF LEGISLATURE TO AMEND, ETC.—The legislature shall have the power to alter or amend this chapter. But in no case shall such alternation or amendment affect the right of the creditors of the insurance company, organized under this chapter, to have its assets applied to the discharge of its liabilities, nor affect any contract or proceeding at law or in equity, either for or against the company. [Code, ch. 55, § 27, as amended by Acts 1882, ch. 98.]

Corporations for Constructing Booms.

COUNTIES IN WHICH INCORPORATION AUTHORIZED.—That any number of persons, not less than five, may become an incorporated company for the purpose of constructing any boom or booms with or with-

out piers, dam or dams, in the rivers, creeks, or other streams within any of the following counties in this state, to wit: Gilmer, Greenbrier, Summers, Raleigh, Fayette, Mineral, Pocahontas, Pleasants, Nicholas, Webster, Lewis, Wetzel, Jackson, Wyoming, Tucker, Preston, McDowell, Randolph, Barbour, Mercer, Logan, Calhoun Kanawha, (except Elk river and its tributaries, within the limits of Kanawha county), Cabell, Boone, Braxton, (except the waters of the Elk below the mouth of the Holly river,) and Upshur, which may be necessary for the purpose of stopping and securing boats, rafts, logs, masts, spars, lumber and other timber. No such boom or dam shall be constructed in any of the rivers, creeks or other streams of the state which are navigable by steam-boats at an ordinary stage of water above the places where such boom or dam is proposed to be located. [Acts 1885, ch. 25 § 1.]

HOW TO ORGANIZE.—Such persons shall organize by adopting and signing articles of incorporation, which shall be acknowledged by the several corporators before some person authorized to take acknowledgment of deeds, and such acknowledgments shall be certified by the officers before whom they are made, and be recorded in the office of the clerk of the county court in the county in which any such boom may be constructed, and in the office of the secretary of state. The organization of such proposed corporation shall take place within six months from the filing of such articles in the last named office. Such articles shall contain:

First.—The name of the proposed corporation.

Second.—The place at or near which it is proposed to construct such boom or other structure for the purpose aforesaid.

Third.—The place at which shall be established and maintained the principal office of such corporation.

Fourth.—The time of commencement and the period of continuance of such proposed corporation.

Fifth.—The amount of capital stock of such proposed corporation, the number and amount of shares at the par value thereof.

Sixth.—The names and places of residence of the several persons forming the association for incorporation, and the number of shares subscribed by each, and that at least ten per cent. of the par value of each share has been paid. And the affidavits of at least two of the corporators named in the agreement shall be annexed thereto to the effect that the amount stated to be paid on the capital stock has been, in good faith, paid in for the purposes and business of the intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of the corporation. [Acts 1877, ch. 121, § 2.]

CERTIFICATE OF SECRETARY OF STATE.—When the article shall have been filed and recorded as aforesaid, the secretary of state shall issue his certificate in accordance with section nine of chapter fifty-four of the code of West Virginia, and the persons named as corpo-

rators shall thereupon become and be deemed a body corporate, and shall be authorized to proceed to carry into effect the object set forth in such articles, in accordance with the provisions of this act. As such body corporate they shall have succession for the time limited in the articles of incorporation, and, in their corporate name, may sue and be sued, plead and be impleaded. The said corporation shall have a common seal which it may alter at pleasure; may declare the interest of its stockholders transferable; shall establish by-laws, and may 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 of this act, or the record thereof, and certified to be a copy by the secretary of state, shall be presumptive evidence of the incorporation of such company and of the facts therein stated. [Acts 1877, ch. 121, § 4.]

RECORDATION OF BY-LAWS.—A copy of the by-laws of the corporations, when formed and adopted by the stockholders, duly certified, shall, within thirty days after their adoption, be recorded as provided for the recording of the articles of incorporation in section two of this act. And all amendments and additions thereto, duly certified, shall also be recorded as herein provided, within ninety days after they have been adopted. [Acts 1877, ch. 121, § 5.]

MEETING OF CORPORATORS.—Every such corporation organized under the provisions of this act, shall hold its first meeting at such time and place as may be designated by the corporators thereof, and all subsequent meetings at such place or places, in or out of this state, as the directors may from time to time appoint, except as hereinafter specially provided, and the stockholders shall have authority at their first meeting, or any subsequent meeting, to fix and determine the place of meeting (in or out of the state) of the directors and the principal office or place of business of said corporation. Such corporation shall have and maintain an office or place in this state for the transaction of business, where an exhibit of all transfers of its stock shall be kept, and in which shall be kept for inspection of any officer or stockholder, books wherein shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stocks, the number of shares held by each person, and the number by which each of the said shares is respectively designated, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfer of said stock, the amount of its assets and liabilities, and the names and place of residence of all its officers. [Acts 1877, ch. 121, § 6.]

APPOINTMENT OF A PERSON TO ACCEPT SERVICE OF PROCESS, ETC.—Every such corporation shall, within one hundred days after organizing, appoint, by power of attorney duly executed, some person residing in the county in this state wherein it has an office, to accept service on behalf of said corporation, of any process or notice; the

said power of attorney shall be filed and recorded in the clerk's office of the county in which the attorney resides; and the admission to record of such power of attorney shall be deemed evidence of a compliance with the requirement of this section. Any such corporation failing to comply with such requirement shall, during the continuance of such failure, forfeit not less than five hundred nor more than one thousand dollars for every six months that such failure continues; and its property, real and personal, shall be liable to attachment in like manner as the property of non-resident defendants. And whether such attorney accept the attorneyship or not, the service of process upon such person so appointed shall be legal and binding on the corporation. [Acts 1877, ch. 121, § 7.]

CORPORATE POWERS VESTED IN BOARD OF DIRECTORS.—All the corporate powers of every such corporation shall be vested in and be exercised by a board of directors, composed of not less than five nor more than thirteen persons, who shall be stockholders of the corporation, and shall be elected at the annual meeting of the stockholders, which annual meeting shall be held at such time and place as may be prescribed by the by-laws; or if there be no such by-law, then on the first Tuesday of September in each year, at the principal office or place of business of the corporation. The number of such directors, manner of the election, and the mode of filling vacancies, shall be specified in the by-laws; subject to the provisions of chapter one hundred and eighty-one of the acts of one thousand eight hundred and seventy-two and three, and shall not be changed except at the annual meeting of the stockholders. At all regular meetings, a majority in value of the stock of such corporation shall be represented either in person or by proxy. [Acts 1877, ch. 121, § 8.]

SPECIAL MEETINGS.—A special meeting of the stockholders may be called at any time between the annual meetings, by a majority of the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' notice of the time and place of such meeting, and the object thereof in some newspaper of general circulation, published near the principal office or place of business of the corporation. If at any such special meeting, so called, a majority in the value of the stock, 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 ten days, without transacting any business; and if within said ten days, two-thirds in value of said stock shall not be so represented at such meeting, then the meeting shall be adjourned *sine die*, and a new notice may be published as herein provided. [Acts 1877, ch. 121, § 9.]

FAILURE TO ELECT DIRECTORS.—In case it shall happen at any time that an election of directors shall not be made on the day of the annual meeting as provided for in the eight section of this act, the corporation for such cause shall not be dissolved, if within six months the stockholders shall meet and hold an election for direc-

tors in such manner as shall be prescribed by the by-laws. Such meeting shall be called in the manner prescribed in the ninth section of this act. It shall require two-thirds in value of the stock of such corporation to be represented either in person or by proxy at such meeting last mentioned. [Acts 1877, ch. 121, § 10.]

PRESIDENT AND OTHER OFFICERS.—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 or appointed, and shall perform such duties and be required to give such security for the faithful performance thereof, as shall be required by the by-laws. It shall require a majority of the directors to elect or appoint any officer and fix his compensation; but there shall be no compensation for services rendered by the president or any director, unless it be allowed by the stockholders. No member of the board of directors shall vote upon a question in which he is interested otherwise than as a stockholder, or be present at the board while the same is being considered; but if his retiring from the board, in such case, reduce the number present below a quorum, the question may, nevertheless, be decided by those who remain. [Acts 1877, ch. 121, § 11.]

ANNUAL STATEMENT.—At the regular annual meeting of the stockholders it shall be the duty of the president and directors to exhibit a full, distinct and accurate statement of the affairs of such corporation, and at any meeting of the stockholders a majority of those present, either in person or by proxy, may require similar statements from the president and directors and at any regular meeting of the stockholders, a majority in value of the stock may fix the rate of interest which shall be paid by the corporation for loans for the construction of such boom and its appendages, and the amount of such loans. All stockholders shall, at all reasonable hours, have access to, and may examine all books, records and papers of such corporation. [Acts 1877, ch. 121, § 12.]

REMOVAL OF DIRECTORS.—At any special meeting, by a two-thirds vote in value of all the stock, such stockholders may remove any one or all the directors, and elect others instead of those removed in the manner prescribed in the eighth section of this act; but a vacancy not caused by such removal may be filled by the board of directors. The proceedings of all meetings, whether regular or special, shall be entered on the journal of said corporation. [Acts 1877, ch. 121, § 13.]

PAYMENT BY SUBSCRIBERS.—The directors may require the subscribers to the capital stock to pay the amount by them respectively subscribed, in such manner and in such instalments as they may deem proper. If any stockholder shall fail to pay any instalment, as required by a resolution or order of the board of directors, the said board shall be authorized to declare such stock and all pre-

vious payments thereon, forfeited for the use of the corporation, in the manner following, to-wit: They shall first cause a notice in writing to be served on the stockholder personally or by registered letter deposited in a post-office, with necessary postage for its transmittal, properly prepaid and properly directed to the post-office address of such stockholder, and 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 prescribed, his stock and all previous payments thereon, will be forfeited for the use of such corporation; and thereafter, should default in payment be made, the corporation may sell the same at public sale, and after deducting the expenses of the proceedings, shall apply the residue to the payment of the instalment due under the call of the directors, and if there be any surplus then remaining, it shall be paid to the delinquent stockholder. But the notice, as aforesaid, shall be personally served or duly deposited as above required, at least sixty days previous to the day on which payment is required to be made. [Acts 1877, ch. 121, § 14.]

STOCK DEEMED PERSONAL PROPERTY.—The stock of such corporation shall be deemed personal property, and shall be transferable in the manner prescribed in the by-laws, but no share shall be transferred until all previous calls thereon shall have been paid. [Acts 1877, ch. 121, § 15.]

INCREASE OF CAPITAL STOCK.—In case the capital stock shall be found insufficient for constructing and operating such boom or booms, or other structures, such corporation may, with the concurrence of two-thirds in value of its stock, increase the capital stock from time to time to any amount required for the purpose aforesaid, in the manner following, to-wit: Notice shall be given by the directors to each stockholder in writing, to be served personally or by depositing the same in a post-office, directed to the post-office address of each stockholder severally, with necessary postage for its transmittal properly prepaid, at least sixty days prior to the day appointed for such meeting, and by advertising the same in some newspaper published near the principal office of such corporation, at least four weeks prior to the day appointed for such meeting. Such notice shall state the time and place of such meeting, the object thereof, and the amount to which it is proposed to increase the capital stock. At such meeting the capital stock may be increased to an amount not exceeding the amount mentioned in the notice, by an affirmative vote of not less than two-thirds in value of all the stock. Every order or resolution increasing the capital stock of any such corporation, shall be duly recorded as required by section two of this act. The additional stock so authorized, shall in no case be sold at less than par value of the original stock. [Acts 1877, ch. 121, § 17.]

LIABILITY OF GUARDIANS, ETC.—No person holding stock in such

corporation as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally liable as a stockholder; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly. [Acts 1877, ch. 121, § 17.]

LIABILITY OF STOCKHOLDER.—Each stockholder 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, and no more, for any and all debts and liabilities of the corporation. [Acts 1877, ch. 121, § 18.]

HOW CORPORATION MAY ACQUIRE TITLE TO REAL ESTATE REQUIRED FOR PURPOSES OF CORPORATION, WHEN UNABLE TO AGREE WITH OWNER.—If any such corporation shall be unable to agree with the owner for the right of way or for the purchase of any real estate required for the purpose of its corporation or the transaction of its business, or for its boom or booms or other structures, or wharves, or for any other lawful purpose connected with, or necessary to the building or operating of such boom or booms, or other structures, such corporation may acquire such title in the manner as hereinafter provided, viz: The court of any county wherein the land or material to be taken may be, upon application therefor, shall appoint five disinterested persons (any three of whom may act) for the purpose of reviewing and ascertaining a just and equitable compensation for the quantity of land actually taken by said corporation (but in no case shall the court appoint any person or persons who are interested in said corporation), and the sheriff of the county, after such appointment is made, shall summon the said viewers to meet on the land at such time as they may appoint, within thirty days after such appointment, giving twenty days' notice to the parties interested, unless such parties shall be non-residents of this state, in which case notice shall be given to such non-residents by publication, for four successive weeks, in some newspaper published in the county in which said land is located, and if none be so published, then in some newspaper of general circulation in said county; and such viewers shall not meet for the purposes of their appointment until the publication herein prescribed shall have been completed. The viewers aforesaid shall, before proceeding to perform the duties aforesaid, take an oath before some person authorized to administer oaths, that they, and each of them, will honestly, fairly and impartially ascertain and determine the amount said corporation shall pay for the land actually taken as aforesaid, and the damage to the residue of the tract, and return their report, signed by them, to the clerk of the court, prior to the first day of the term thereafter, wherein the proceeding is pending, setting forth therein the amount to be paid for the land so taken, or to be taken, by said corporation. And in estimating the value or damages on account of the land actually taken, the viewers, or jury, as the case may be, shall determine its actual value, without reference to any prospective enhancement by reason of the con-

struction of any work for which the land is to be taken, and shall not diminish the value by reason of such construction, and in all such cases the value or damages, as aforesaid, shall be determined by the actual and true value of the land taken or to be taken. On the first day of said term, the court shall direct judgment to be entered on said report for the amount therein ascertained and determined by said viewers, if no exception be taken and filed; but if exceptions be taken and filed thereto, and when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders, selected according to law. The right is hereby given to said corporation to object, and its objection shall be sustained, to any juror who may be an owner of, or interested in, such land. The cause or proceeding shall be tried as any other cause in said court, and the viewers, as well as the jury aforesaid, who may try the cause or proceeding, shall by their award or verdict, as the case may be, ascertain and determine the amount to be paid by the corporation for the land actually taken and the damages to the residue of the tract. [Acts 1877, ch. 121, § 19.]

TAKING MATERIAL NECESSARY FOR CONSTRUCTION OF BOOMS, ETC.— Any such corporation may, by their agents and employes, enter upon and take from any land adjacent to its boom, earth, gravel, shale, stone or other materials, except wood for fuel, necessary for the construction of such boom or other structure, paying, if the owner of such land and the said corporation can agree thereto, the value of such material taken and the amount of damages occasioned thereby to any such land or its appurtenances; and if such owner or 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 prescribed in section nineteen of this act; but the value of such material and the damage to such real estate shall be ascertained, determined and paid before such corporation can enter upon or take the same. [Acts 1877, ch. 121, § 20.]

ADDITIONAL POWERS OF CORPORATION.—Every corporation formed under this act shall, in addition to the powers herein conferred, have power—

First.—To cause such examination and survey for its proposed boom, or other structure to be made, as may be necessary to the selection of the most advantageous side, and for such purposes by its officers, agents, engineers, or employes, may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damages that may be occasioned thereby.

Second.—To take and hold such voluntary grants of real estate and other property, as shall be made to it, on and for the construction and use of its boom, and to re-convey the same when no longer required for the use of such boom or booms, and incompatible with the terms of the original grant.

Third.—To purchase, hold and use all such real estate and other

property as may be necessary for the construction and use of its boom, 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 boom.

Fourth.—The said corporation shall, after erecting its boom, have the exclusive privilege of maintaining a suitable boom or booms, with or without piers, dam or dams across the stream designated, within two miles of its boom so erected, for the purpose of stopping and securing boats, rafts, saw-logs and other timber of value; but such boom or booms shall be so constructed as to permit boats, rafts and other timber, when desired by the owners, to pass them without unavoidable delay, and without paying toll, boomage or other charges, and may erect shear-booms on the rivers and other streams, and may dredge and clear the channels thereof, and remove obstructions therefrom, and may build saw mills on lands acquired in any other way than by condemnation, and manufacture and sell lumber and construct tram-railways and dams, and do such other work as may be necessary for the purpose of getting logs and lumber to, down and from the river and its branches on which said boom is located; and in the event the lands necessary for such tram-railway cannot be purchased from the owner or owners thereof, at a reasonable price, then the said corporation may have the same condemned for such purpose in the manner now provided by law for cases of a similar nature.

Fifth.—The said corporation is authorized and empowered to purchase, hold and sell timber-lands, and lands necessary for their saw mills, lumber-yards, tram-railways, and wharves.

Sixth.—Boomage or toll shall be charged at a rate of not less than twenty-five cents nor more than one dollar per thousand feet, board measure, or not less than twenty nor more than eighty cents for one hundred cubic feet, except as hereinafter provided, which rate shall be determined by a commission in the manner following, to-wit: The circuit court of each county whose timber can be floated into the boom, or the judge of such court in vacation, shall appoint one person, not a stockholder in said corporation, or otherwise interested therein, and the said corporation shall appoint a person, not a stockholder, or otherwise interested in said corporation, and if the number of persons so appointed be even, they shall choose an odd number. The persons so appointed and chosen shall be well versed in the timber and lumber business, and be qualified to make such measurement and calculations as may be necessary. Persons so appointed or chosen shall constitute a commission whose duty it shall be to fix the rates of boomage which the corporation may charge; and in determining this rate they shall take into consideration the ease or difficulty, as the case may be, of booming logs, etc., in said boom, and also any extraordinary expenditure of money which the corporation may have made to facilitate their business; and the said commissioners shall fix a rate, which shall be in their

judgment a fair and just compensation to the corporation for the capital invested and labor performed in booming logs, timber, etc., in the limits above prescribed. And said commissioner may, in their discretion, or when requested to do so by parties interested, fix the separate rate which shall be charged for logs, ties, lumber, staves or any other specific kind of lumber or timber, which may be floated into such a boom, by the hundred, thousand, or by the bulk, as the case may be. The report of such commissioners shall be filed in the office of the clerk of the circuit court of each county in which a commissioner was appointed, and published in some newspaper of general circulation in the counties interested in the said boom, and within ten days after the report has been agreed upon. Should the corporation, or any interested party, not be satisfied with the report of the commissioners, they may take exceptions thereto, which exceptions may be heard by the judge of the circuit court of any county interested, in term time, or at chambers, and if it appears to the court, or judge, that the rates established by the commissioners are unjust, either to the corporation or to private persons, said report may be set aside and a new commission appointed. But unless exceptions are taken to the report of said commissioners within thirty days after the filing of the same, the report shall be taken as confirmed, and be binding upon all parties interested. Any corporation organized under the provisions of this act, or any party interested, may, if it so desires, ask for a commission once every five years, to revise the rate of boomage; such commission to be constituted as provided for in this section. When the stream boomed lies wholly in one county, there shall be two commissioners appointed by the circuit court of that county, who, together with the one appointed by the corporation, as hereinbefore provided, shall constitute such commission. If any controversy shall arise between the said corporation and any person or persons having timber or other lumber in said boom, on account of such lumber, or the rates of boomage, the commissioners authorized to be appointed by this section may, if the parties interested and such corporation so desire it, act as arbitrators to settle the same in such manner and with such results as the law provides in other cases of arbitration. The commissioners appointed under this section shall receive three dollars per day for their services, to be paid by such corporation, except that after the rates have been fixed, any subsequent commission shall be paid by the parties wishing it.

Seventh.—The said corporations shall have a lien on all saw-logs and other timber and lumber thus boomed for the payment of all toll for booming until the same shall be paid.

Eighth.—If any timber shall have been boomed securely, as aforesaid, and no person shall appear to claim the same and pay the tolls thereon within ninety days, it shall be lawful for the corporation, after advertising the same for three weeks in some newspaper, published nearest the said boom or booms, and by posting the same for three weeks at three public places nearest the said boom or booms, reciting the marks thereon, to make application to any justice of the

peace of the said county, whose duty it shall be, upon proper proof of the publication and posting of such notice, to direct a sale of such timber, and designate some officer or other person to make such sale, either by public auction or by private sale, as to the justice shall seem most advantageous to the parties interested, and at any time within a year from said sale, the owner shall be entitled to receive the proceeds thereof, after deducting the toll and expenses; but if not claimed within the said one year, the proceeds shall inure to and be vested in the general school fund.

Ninth.—Where several companies are operating on the same stream, the upper companies shall pass, free of charge, through or around their booms, with as little delay as possible, all logs, lumber, etc., distinctly marked as belonging to, or in care of, the boom or booms below them. [Acts 1877, ch. 121, § 21, as amended by ch. 39, Acts 1881.]

DAMAGES FOR WILFULLY INJURING BOOMS, PIERS, ETC.—If any person or persons shall wilfully and maliciously injure or destroy any of said booms or piers, or other works connected therewith, or shall remove, alter or deface any mark or marks on any logs or other timber intended for said boom, he shall pay treble damages, to be recovered by action of trespass, brought in the name of said corporation, before a justice or any of the courts of the county having jurisdiction in which he or they shall reside, or in the county in which the offense was committed; and said person or persons so offending may also be subject to an indictment in the circuit or county court for the county where the offense was committed, and upon conviction thereof may be punished by fine and imprisonment, in the discretion of the court. [Acts 1877, ch. 121, § 22.]

WHEN PARTIES DISAGREE, HOW MEASUREMENT OF TIMBER DETERMINED.—If the parties interested shall not agree as to the measurement of the timber in said boom, it shall be done by the commissioners appointed by the circuit court of the county, or by the judge thereof in vacation, in which such boom is located; or the same may be measured, if the parties so desire it, by the commissioners authorized to be appointed, by the twenty-first section; the expenses of such commission, in either case, shall be paid by the party in error as to the measurement, and if both parties shall be found to be in error, said expenses shall be paid by them equally. [Acts 1877, ch. 121, § 23, as amended by ch. 39, Acts 1881.]

LOGS, TIMBER, ETC., OF CORPORATION LODGED ON LAND OF ANOTHER; WITHIN WHAT TIME TO BE REMOVED.—If any logs, timber, or other lumber of said corporation, while floating down any stream, be lodged upon any improved lands or enclosure of another, it shall be the duty of said corporation to cause the same to be removed therefrom within sixty days from the time such logs, timber or lumber is so lodged. If any person shall, without the authority of said corporation, during the said sixty days, take, carry away, injure or destroy,

or convert to his own use any of said logs, timber or lumber, he shall be guilty of a misdemeanor, and fined not less than ten dollars, and at the discretion of the court be imprisoned not less than ten days. But the said corporation shall be liable to the owner of the land for any damages sustained by him by reason of said logs, timber or lumber remaining thereon. [Acts 1877, ch. 121, § 24, as amended by ch. 39, Acts 1881.]

OBSTRUCTING STREAM.—In case the owner of logs or other lumber placed in a stream above a boom erected thereon shall unreasonably delay driving said logs or lumber into said boom, so that persons wishing to use said stream for driving or floating logs or other lumber into such boom, shall be compelled to drive said logs or lumber into the boom; or break any jam to enable such person so to use the said stream, the reasonable expenses of driving or floating such logs or other lumber, or breaking such jam, shall be borne by the owner of such logs or other lumber so obstructing said stream, to be recovered before a justice of the peace or other judicial tribunal having jurisdiction, and shall constitute a lien on such logs or other lumber until the same shall be paid. [Acts 1877, ch. 121, § 25.]

LIABILITY OF CORPORATIONS FOR LOGS, ETC.—The said corporation shall be liable for all logs, timber and other floatables which may come into its boom, except when they sink in deep water, or are carried away by unusually high water, or are destroyed by fire not caused by the negligence of said corporation, its agents or employes. [Acts 1877, ch. 121, § 26, as amended by ch. 39, Acts 1881.]

MEANING OF WORDS "LOGS OR TIMBER."—Wherever the words "logs or timber" occur in this act, they shall be taken to mean logs and timber of every kind and discription manufactured or unmanufactured. [Acts 1877, ch. 121, § 27.]

RIGHTS OF PROPERTY-HOLDERS ON SAID RIVERS, ETC.—Nothing in this act shall be so construed as to deprive the owners of mill-property, and other proprietors on the said rivers and branches thereof, from recovering damages for injury to their property by the said corporation, their agent or employes. [Acts 1877, ch. 121, § 28.]

PROVISIONS OF LAW WHICH CORPORATIONS FORMED UNDER THE ACT ARE SUBJECT TO.—All corporations formed under this act shall be subject to the provisions of chapters fifty-two, fifty-three and fifty-four of the code of West Virginia, and the amendments thereto, except when the same are inconsistent with the provision of this act. And the right is hereby reserved to the legislature to alter any charter or certificate of incorporation hereunder granted to a joint-stock company, and to alter or repeal any law applicable to such company. But in no case shall such alteration or repeal affect the right of the creditors of the company to have its assets applied to the discharge of its liabilities, or of its stockholders to have the surplus, if any, which remains after discharging its liabilities and the expenses of

winding up its affairs, distributed among themselves in proportion to their respective interest, or in any wise impair the vested rights of the corporators or any of them. [Acts 1877, ch. 121, § 29.]

RESERVATIONS.—Nothing in this act contained shall be so construed as to effect or impair the right or power of the legislature to provide for the connection, by canal or slack water, of the waters of the Chesapeake bay with the Ohio river, by any line it may select, and all the rights, privileges and franchises of any company incorporated under the provisions of this act shall be held in subordination to the exercise of such right by the legislature. [Acts 1877, ch. 121, § 30.]

BOOM COMPANIES HERETOFORE ORGANIZED MAY RE-ORGANIZE, ETC.—Any boom company heretofore incorporated may surrender its charter, and may procure a new charter and reorganize under the provisions of this act. [Acts 1877, ch. 121, § 31.]

MEMORANDUM OF LOGS TO BE FILED WITH CLERK OF COUNTY COURT.—But before the persons driving logs in the said counties shall put their logs in any of the streams of said counties, for the purpose of driving them, they shall file a memorandum with the clerk of the county court wherein said logs are, stating distinctly the brand or marks of such persons; and unless these requirements are complied with, such corporation shall in no manner be held liable for any loss occasioned by the loss of said logs. [Acts 1877, ch. 121, § 32, as amended by ch. 39, Acts 1881.]

PUBLIC ROAD OR FORD NOT TO BE OBSTRUCTED.—No company incorporated under the provisions of this act shall so exercise its corporate privileges, as to materially obstruct any public road or ford across any stream. [Acts 1881, ch. 39, § 33.]

PROVISIONS OF THIS CHAPTER TO BE SUBMITTED TO A VOTE IN COUNTIES NOT MENTIONED; HOW.—The county court of any county not mentioned in the first section, upon the petition of fifty voters thereof, shall submit the provisions of this chapter to the voters of such county for adoption or rejection, at the next ensuing election for members of the legislature, and if a majority of the votes cast on the the question be in favor of adopting the provisions of this act for such county, then the same shall be in force in said county to the same intent and purpose as though said county was mentioned in section one of this chapter. [Acts 1881, ch. 39, § 34.]

OBSTRUCTIONS TO STREAMS.—That any person who shall fall timber and permit the same to remain in any of the streams of this state, that have been or may hereafter be declared public highways in the manner provided by law, that will obstruct the running of boats, rafts, staves, ties or timber of any kind, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined

not less than ten nor more than one hundred dollars for each offense. [Acts 1883, ch. 36.]

RULE FOR THE MEASUREMENT OF LOGS, LUMBER AND TIMBER.—That "Scribner's rule" for the measurement of logs, lumber and timber of all kinds, is hereby established as the lawful rule in this state for the measurement of all kinds of lumber, logs and timber, unless some other rule be agreed to. [Acts 1883, ch. 66.]

Of the Taking of Land Without the Owner's Consent for Purposes of Public Utility.

IN WHAT CASES AND HOW PRIVATE PROPERTY MAY BE TAKEN OR DAMAGED FOR PUBLIC USE, ETC.—Private property shall not be taken or damaged for public use without just compensation; nor shall the same be taken by any company incorporated for the purposes of internal improvement, until just compensation shall have been paid, or secured to be paid to the owner; and when private property shall be taken or damaged for public use, or for the use of such corporations, the compensation to the owner shall be ascertained in such manner as may be prescribed by general law; *Provided*, That when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders. [Code, ch. 42, § 1, as amended by Acts 1881, ch. 18.]

PURPOSES FOR WHICH PRIVATE PROPERTY MAY BE TAKEN.—The public uses for which private property may be taken or damaged, are as follows:

First.—For the construction of railroads, canals, turnpike roads, county roads, public landings, bridges and public streets and alleys, and all other roads and internal improvements for public use.

Second.—For incorporated companies of which the state is sole or part owner.

Third.—For court houses and other public buildings for the use of a county or municipal corporation.

Fourth.—For cemetery associations and for *other* cemeteries; *Provided*, That the property to be taken for such *other* cemeteries adjoins the land upon which a church or another cemetery is.

Fifth.—For companies for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, when for public use.

Sixth.—For telegraph or telephone companies, when for public use.

Seventh.—For public school houses and all other purposes of public utility which now are or may be prescribed by law.

Eighth—By the government of the United States, for the purpose of erecting thereon light houses, signal stations, beacons, locks, dams, works for improving navigation, postoffices, custom houses, court houses, or any other needful public structure or work of improvement whatever, subject to the provisions of chapter one of this code.

But no land shall be so taken for cemetery purposes which lies within four hundred yards of a dwelling house, unless to extend the limits of a cemetery already located, and then only so that such limits shall not be extended nearer to any dwelling house which is within four hundred yards.

But this act shall not be construed to interfere with the power of municipal corporations to enact and enforce such ordinances as may be necessary to protect the lives and property of citizens from the effects of explosions of carbon oil or natural gas. [Code, ch. 42, § 2, as amended by Acts 1881, ch. 18, and by ch. 7, Acts 1885.]

TO WHAT COURT APPLICATION MADE.—In any case in which real estate may be lawfully taken for a purpose of public utility, application may be made to the circuit court of the county in which the estate is situated, to appoint commissioners to ascertain a just compensation to the owners of the estate proposed to be taken. If a tract lie partly in one county and partly in another, the application in relation thereto may be made in either county. And when the judge of the court to which the application is made is so situated as to render it improper for him to act thereon, and no judge to act in the case can be agreed on by the parties, and it be found for any reason impracticable to elect a judge to act in the case, as provided for in chapter one hundred and twelve of the code of West Virginia as amended by chapter three of the acts of one thousand eight hundred and eighty-one, the application may be withdrawn, and a like application may be made to the circuit court of some county in an adjoining circuit, as near to the county in which the application is first made as practicable, whether any part of such real estate is situated therein or not; and such last named court shall have and possess all the powers and jurisdiction in relation to such application, and to try, hear and determine the same possessed by the circuit court of the county in which the real estate is situated. [Code, ch. 42, § 3, as amended by ch. 18, Acts 1881, and by ch. 150, Acts 1882.]

AGAINST WHOM PROCEEDINGS MAY BE INSTITUTED.—The proceedings may be instituted jointly against all the owners of the real estate proposed to be taken, lying within the county, including tracts lying partly therein and partly in an adjoining county, or it may be instituted against the owners of one or more parcels. [Code, ch. 42, § 4, as amended by Acts 1881, ch. 18.]

WHAT THE APPLICATION IS TO STATE.—The application must be in writing, describing with reasonable certainty the real estate pro-

posed to be taken, and stating (so far as they are known to the applicant), the names of the owners of each parcel and the nature of their respective interests. If there are any liens on such real estate, created by judgment, deed of trust, or otherwise, or conflicting claims thereto, the petition shall state the nature and amount of such liens and claims, and the names and residence of the persons holding the same as far as they are known. It must also state the purpose to which the said estate is intended to be appropriated, and may state the sum of money which the applicant is ready to pay therefor to the owner of each parcel. [Code, ch. 42, § 5, as amended by Acts 1881, ch. 18.]

NOTICE OF THE APPLICATION.—Of such application ten days' notice shall be served on the said owners, claimants and persons holding liens, and the notice may be given either before the application is presented or afterwards. But where the owners of all or any part of the real estate proposed to be taken, or the persons holding such liens or conflicting claims, or any of them, are not in the county or are unknown to the applicant, the notice as to them, instead of being thus served, may be given by advertisement containing (by reference to a plat filed for the purpose in the office of the clerk of the circuit court or otherwise) a specific description of the property in which they are interested that is proposed to be taken, and stating the purpose to which it is intended to be appropriated, and the time and place at which a hearing will be asked for upon the said application, which advertisement must be published at least once a week for four weeks successively in some newspaper printed in the county; or if none be printed therein, then in some newspaper of general circulation in the county; and must also be posted at the front door of the court-house of the county four weeks at least before the hearing.—Code, ch. 42, § 6, as amended by Acts 1881, ch. 18.]

PARTIES UNDER DISABILITY OR UNKNOWN.—If an owner or person holding such lien or claim be under disability, and there be a guardian or committee for him, such guardian or committee shall be notified; but if there be no guardian or committee, or if any such owner or person be unknown, the court shall appoint a guardian *ad litem* to defend their respective interests, and may direct the expenses of such guardian *ad litem*, including reasonable docket fee, to be fixed by the court, but not to exceed twenty dollars, to be taxed in the costs and paid by the applicant. [Code, ch. 42, § 7, as amended by Acts 1881, ch. 18.]

WHEN COURT SHALL ORDER FURTHER NOTICE.—On the hearing, if it appear that there is any person who ought to be notified of the proceeding, to whom proper notice has not been given, the court shall make an order staying the proceeding until proper notice has been given to such person. [Code, ch. 42, § 8, as amended by Acts 1881, ch. 18.]

ACCEPTANCE BY OWNER OF THE SUM OFFERED.—If the applicant has

stated in his application the sum of money he is ready to pay to any owner for his interest in the real estate, or any parcel thereof, proposed to be taken, and such owner, not being under disability, consent to accept the same, and there be no lien on, or conflicting claims thereto, the court shall make an order that, on such payment being made, the interest of the said owner shall thereby be transferred to the applicant, and a copy of such order, with the receipt of said owner for the said money written thereon, or annexed thereto, shall operate as a conveyance, with special warranty, and may be acknowledged for record, and recorded in like manner and with like effect. [Code, ch. 42, § 9, as amended by Acts 1881, ch. 18.]

APPOINTMENT OF COMMISSIONERS.—But, except in the case specified in the preceding section, upon its appearing that proper notice has been given, and that the case is one in which the applicant has lawful right to take private property for the purposes stated in the application, upon just compensation, five disinterested freeholders shall be appointed commissioners to ascertain what will be a just compensation to the persons entitled thereto, for each parcel of real estate proposed to be taken. No person shall be deemed interested or incompetent to act as commissioner, by reason of his being an inhabitant of the county, district or municipal corporation, on behalf of which the application was made, or holding property therein. [Code, ch. 42, § 10, as amended by Acts 1881, ch. 18.]

HOW COMMISSIONERS SELECTED.—The appointment shall be made as follows: Thirteen disinterested freeholders shall be nominated by the court, of whom the applicant may strike off four or any less number from the list, and the defendants, or such of them as appear or are represented, may also strike off four or any less number, and after eight names are stricken from the list, the remaining five shall be the commissioners. But where there is no appearance for the defense, or the defendants who appear or are represented do not agree as to any one or more of the names to be stricken off on their behalf, or the right to strike off any one or more names is waived on the part of either the applicant or defendant, or from any cause the full number shall not be stricken off by the parties, the names or additional names, as the case may be, to be stricken from the list in order to reduce the number to five, shall be ascertained by lot under direction of the court. Vacancies shall be filled, and any commissioner, for good cause shown, may be removed by the court. [Code, ch. 42, § 11, as amended by Acts 1881, ch. 18.]

DUTIES AND POWERS OF THE COMMISSIONERS.—Before entering upon the discharge of his duties, each commissioner shall take an oath before some person authorized by law to administer the same, that he will honestly and impartially perform his duties as such commissioner to the best of his skill and judgment; which oath shall be certified by the person administering the same, and filed with the papers of the case, in the office of the clerk of the court. Code, ch. 42, § 12, as amended by Acts 1881, ch. 18.]

ANY THREE OF COMMISSIONERS MAY ACT.—Any three of the said commissioners may act in the absence of the others, and any one of them may sign and issue subpoenas for witnesses in like manner as a justice, and with like effect; and may swear any witness who appears before them, that the evidence which he will give relating to the matters to be reported upon by the said commissioners, shall be the truth, the whole truth, and nothing but the truth. They may adjourn the sessions from time to time, as shall be necessary; and any person interested may attend in person or by attorney, produce and examine witnesses, read depositions duly taken, and other proper evidence, and be heard, if he require it, in support of his rights, according to the usages and rules of law. [Code, ch. 42, § 13, as amended by Acts 1881, ch. 18.]

REPORT OF COMMISSIONERS.—As to each tract, the commissioners, after viewing the same, and hearing any proper evidence which is offered, shall ascertain what will be a just compensation to the person entitled thereto for so much thereof as is proposed to be taken, and for damage to the residue of the tract, beyond the peculiar benefits to be derived in respect to such residue from the work to be constructed, or the purpose to which the land to be taken is to be appropriated, and make report to the following effect: "We, the commissioners appointed by the circuit court of—county, by an order made on the—day of—, on the application of—, respectfully report, that having been first duly sworn, we have viewed the real estate owned by—, mentioned in the said application, and are of opinion that—will be a just compensation for so much of the said real estate as is proposed to be taken by the said applicant; that is to say: (here describe the part to be taken, so as to identify the same with reasonable certainty, which description may be by reference to a plat annexed to the report, or in any manner that would be sufficient in a conveyance); as well as for damages to the residue of the said real estate beyond the peculiar benefits which will be derived in respect to such residue from the work to be constructed (or from the purpose to which the part to be taken by said applicant is to be appropriated.) Given under our hands this — day of —." *Provided,* That if the private property is proposed to be taken by a company incorporated for the construction of a railroad, that no damages shall be ascertained for the construction of farm crossings, fences or cattle guards, or for keeping the same in repair. And in all cases when the property taken under this chapter is by a railroad company, and is land which has been cleared and fenced, the said railroad company shall construct and forever maintain suitable farm crossings, cattle-guards and fences on both sides of the land thus taken; and no such railroad shall be used for the transportation of freight and passengers until such fences, farm-crossings, and cattle-guards are built and constructed. [Code, ch. 42, § 14, as amended by ch. 18, Acts 1881, and ch. 80, Acts 1882.]

BY WHOM REPORT SIGNED.—The report shall be signed by at least three of the commissioners, and forthwith returned to the clerk's

office of the court, to be filed with the papers of the case. Code, ch. 42, § 15.]

REPORT IN CASE OF PROCEEDINGS AGAINST OWNERS OF DIFFERENT TRACTS.—When the proceeding is instituted jointly against the owners of different tracts, a separate report shall nevertheless be made as to each tract; and such reports may be made at different times, and a separate hearing had upon each report, which shall be confirmed, recommitted or set aside, upon its own merits or defects. [Code, ch. 42, § 16.]

PROCEEDINGS ON THE REPORT.—When such report is returned and filed as aforesaid, either party may file exceptions thereto, and demand that the question of the compensation to be paid be ascertained by a jury, in which case a jury of twelve freeholders shall be selected and impanelled for the purpose in such manner as the court shall direct. But no person shall sit on such jury who may be the owner of or interested in any land over or through which said railroad will pass. The cause shall be tried as other causes in said court, and the jury, in ascertaining the damage or compensation to which the owner of the land proposed to be taken is entitled, shall be governed by section fourteen of this chapter. If no exception be filed to such report, or if neither party demand a trial by jury as aforesaid, the court, unless good cause be shown against it, or it be defective or erroneous on its face, shall confirm said report, and order it to be recorded in the law order-book of the court; but the said court may, nevertheless, if it seem proper, refuse to hear the case upon the said report, until notice of such hearing be given to the parties interested, their agents or attorneys, or any one or more of them, as the court may order. [Code, ch. 42, § 17, as amended by Acts 1881, ch. 18.]

PAYMENT OF THE COMPENSATION REPORTED; ITS EFFECTS.—At any time within three months after the report has been confirmed and ordered to be recorded, or where such report has already been confirmed, at any time within three months after this chapter takes effect, the sum so ascertained, with legal interest thereon from the date of the report until payment, may be paid by the applicant to the person entitled thereto, or into court. Upon such payment the title to that part of the land so paid for shall be absolutely vested in fee simple in the applicant, except in a case of a turnpike or other road (not including, however, a railroad), the right of way only shall be so vested. [Code, ch. 42, § 18, as amended by Acts 1881, ch. 18.]

THE SETTING ASIDE OR RECOMMITTAL OF REPORT.—If good case be shown against the report, or if it be defective or erroneous on its face, the court, as may seem to be proper, may set it aside, or recommit it to the same commissioners for further report; or other commissioners may be appointed in the manner hereinbefore provided, with or without further notice, as the court may order. If the commissioners report their disagreement, or fail to report in reasonable

time, other commissioners may in like manner be appointed. And so again, from time to time, as often as may be necessary. [Code ch. 42, § 19, as amended by Acts 1881, ch. 18.]

PAYMENT AFTER THE REPORT IS MADE OR SET ASIDE, ETC.; ITS EFFECTS.—After such report has once been made, whether it be set aside, recommitted, or new commissioners appointed or not, or whether a trial by jury be demanded and had or not, the applicant, upon paying into court the sum ascertained by such report, with legal interest thereon from the date of report until payment, may, notwithstanding the pendency of further proceedings, enter upon, take and use for the purpose specified in the application that part of the land in respect to which such payment is made; and where such payment has been made and possession taken, in a pending case, it shall have the same effect as if such payment were made or possession taken, or both, in a case hereafter commenced. And no order shall be made, or any injunction awarded, by a court or judge, to stay him in so doing, unless it be manifest that the applicant is insolvent, or that he or his officers, agents or servants, are transcending their authority, or that such interposition is necessary to prevent injury which cannot be adequately compensated in damages. [Code, ch. 42, § 20, as amended by Acts 1881, ch. 18.]

SUBSEQUENT REPORT.—When, after such payment into court as is mentioned in the preceding section, a subsequent report is made which is confirmed and ordered to be recorded, or the verdict of a jury is found, if the sum ascertained by such subsequent report or verdict exceed what was so paid, and the applicant fail to pay the same, judgment shall be given against him for the amount of such excess, with legal interest thereon from the date of such subsequent report or verdict until payment; but if what was so paid exceed the sum ascertained by such subsequent report or verdict, the excess shall be paid back to the applicant out of the fund in court, or by the persons to whom the same shall have been paid. If the sum ascertained by such subsequent report or verdict do not exceed the sum ascertained by the former report, the party on whose motion the former report was set aside, recommitted or other commissioners appointed, or trial by jury demanded, if he be a defendant therein, shall pay the costs occasioned by such motion, unless such former report was set aside, recommitted or other commissioners appointed, on some other ground than that of insufficiency of compensation. [Code, ch. 42, § 21, as amended by Acts 1881, ch. 18.]

EFFECT OF JUDGMENT.—When judgement is rendered against the applicant pursuant to the last section, for any excess ascertained by such subsequent report, with interest, the applicant shall thereafter have no right to the possession of the land until the judgment is satisfied. But from the time of such satisfaction by the payment of the money to the persons entitled thereto, or into court, or from the time of the confirmation of the subsequent report, if no additional compensation be thereby ascertained, the title to that part of

the land for which such compensation has been made shall be absolutely vested in the applicant in fee simple, except as before excepted in case of a turnpike or other road. [Code, ch. 42, § 22, as amended by Acts 1881, ch. 18.]

DISPOSAL OF MONEY PAID INTO COURT.—To enable the court to dispose properly of any money so paid into court, it may have inquiry made by a commissioner to ascertain what persons are entitled thereto, and in what proportions, and may direct publications to be made requiring all who are interested to appear before the commissioners, that their respective claims may be passed upon. Upon report of the commissioners, or from the evidence before it without such report, the court shall make such disposition of the money as may seem to it right. [Code, ch. 42, § 23, as amended by Acts 1881, ch. 18.]

COSTS OF THE PROCEEDINGS.—If the applicant has stated in his application the sum of money which he is ready to pay to the owners for any parcel of land proposed to be taken, and it appear by a report confirmed and ordered to be recorded, or by a verdict of a jury, that he is entitled to take the said parcel for the purpose mentioned in his application, without paying any greater compensation therefor, he shall be adjudged his costs in respect to the said parcel, out of the compensation to be paid therefor to the said owner. [Code, ch. 42, § 24, as amended by Acts 1881, ch. 18.]

WHEN TO BE PAID BY APPLICANT.—In cases not otherwise provided for, the applicant shall pay the cost of the proceeding. [Cod, ch. 42, § 25, as amended by Acts 1881, ch. 18.]

COMPENSATION OF COMMISSIONERS OR JURORS.—The commissioners appointed to ascertain the just compensation to be paid, shall be entitled to two dollars each for every day they are employed in the performance of their duties, and their own affidavit shall be received as evidence in that behalf. And the jury, if one be impanelled, as hereinbefore provided, shall receive the same compensation as said commissioners, to be taxed in both cases, in the bill of costs, and paid as provided in the next two preceding sections, and section twenty-one of this chapter. [Code, ch. 42, § 26, as amended by Acts 1881, ch. 18.]

THIS CHAPTER TO APPLY TO CASES NOW PENDING, ETC.—This chapter as amended, shall apply as well to cases for the condemnation of lands or materials, or both, now pending in any court, as to cases hereafter brought. [Code, ch. 42, § 27, as amended by Acts 1881, ch. 18.]

CASES PENDING IN THE UNITED STATES COURTS HEREAFTER REMANDED, HOW PROCEEDED IN.—If a case heretofore commenced in a county court has been transferred to a district or circuit court of the

United States, and such court shall for any cause remand the same, it may be remanded to the circuit court of the county from which it was so transferred, and the clerk of said court shall receive and docket the same in the same manner and with like effect as if it had been transferred to said court under the provisions of chapter thirty-nine of this code. [Code, ch. 42, § 28, as amended by Acts 1881, ch. 18.]

ACTS REPEALED.—Chapter one hundred and fourteen of the acts of one thousand eight hundred and seventy-five, entitled “an act amending certain sections of chapter forty-two of the code of West Virginia, for taking lands for public purposes without the owner’s consent,” approved December twenty-nine, one thousand eight hundred and seventy-five, and all other acts and parts of acts coming within the purview of this chapter, and inconsistent therewith, are hereby repealed. [Acts 1881, ch. 18.]

Assessments of Property—Insurance or Other Companies.

ASSESSMENT OF PROPERTY FOR TAXATION.—The property of all domestic insurance, telegraph and express companies shall be assessed for taxation as other property in this state. But the stock notes of such companies shall not be assessed. [Code, ch. 34, § 6.]

Protection of Property of Telegraph Companies.

PENALTY FOR INJURING PROPERTY OF.—Any person who shall wilfully or maliciously destroy or injure any of the wires, poles, insulators or other property or material belonging to any telegraph or railroad company, shall be guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in the county jail not exceeding twelve months, and by fine not exceeding five hundred dollars, at the discretion of the court. Such person shall also be liable in a civil action for all damages to such property caused by such destruction or injury. [Acts 1871, ch. 166.]

PROOF OF EXISTENCE OF CORPORATIONS.

WHEN NOT NECESSARY.—Where plaintiffs or defendants sue or are sued as partners, or where plaintiffs or defendants sue or are sued as corporations, and the name of such partners where the suit is by or against them are set forth in the declaration or bill, or the name of such corporation and by what authority incorporated and where

existing, where the suit is by or against a corporation, are set forth in the declaration or bill, it shall not be necessary to prove the fact of the partnership, or the fact of such corporation, unless with the pleading which puts the matter in issue there be an affidavit denying such partnership or the existence of such corporation. [Code, ch. 125, § 41, as amended by Acts 1875, ch. 76.] *Amended Act 1882*

State Seal Tax.

Except in the cases mentioned in the preceding section, there shall be a tax of one dollar whenever the seal of the state is affixed to any paper, which tax shall be paid by the secretary of state. [Acts 1885, ch. 20, sec. 7]

License on Charters and Certificates of Corporation.

Upon every corporation which has heretofore obtained or which shall hereafter obtain a charter or certificate of incorporation from this State, and whose principal place of business or chief works are located inside of this state, there shall be an annual license tax of ten dollars, to be paid on or before the first day of May of each year, or at the time of obtaining such charter or certificate of incorporation, and on or before every first day of May thereafter, as the case may be, to the auditor, and by him turned into the general treasury.

And upon every corporation which has heretofore obtained or which shall hereafter obtain a charter or certificate of incorporation from this state, and whose principal place of business or chief works are located outside of this state, there shall be an annual license tax of fifty dollars, to be paid on or before the first day of May of each year, or at the time of obtaining such charter or certificate of incorporation, and on or before every first day of May thereafter, as the case may be, to the auditor, and by him turned over into the general treasury of the state.

And any such corporation which shall fail to pay the tax provided for in this section, shall, because of such failure forfeit its charter to the state.

It shall be the duty of the auditor, on or before the first day of March in each year, to notify every corporation liable to a tax hereunder, of the time of payment of such tax. Such notice shall contain the the words of this and the two paragraphs last preceeding.

It shall be the duty of the auditor, within thirty days after the first day of every May, to publish in two newspapers of general circulation, one one of which must be published at the seat of government and the other in the city of Wheeling, a list of all such corporations as have forfeited their charters under the provisions of this section, within the year preceeding.

Provided, This section shall not be construed as imposing a

license tax on corporations chartered strictly for educational, literary, agricultural, scientific, religious, cemetery or charitable purposes, or upon charters incorporating masonic lodges, odd fellows lodges or other charitable societies. [Acts 1885, ch. 20, § 8.]

Secretary of State to Make Return.

The secretary of state shall semi-annually, within the thirty days succeeding the first day of January and July, render under oath, to the auditor, an account of the taxes received by him as aforesaid, and pay into the treasury of the state, the amount appearing thereby to be due; or if such officer have received nothing, he shall, within the said thirty days, transmit his affidavit to that effect to the auditor. [Acts 1885, ch. 20, § 9.]

APPENDIX.

Lateral Railroads.

1. If any owner or owners, lessee or lessees of timber or timber land, quarries, mills, oil or salt wells, coal mines, lime kilns or other real estate, in the vicinity of any railroad, canal or slack water navigation, made or to be made, and not more than twelve miles distant therefrom, shall desire to make a railroad thereto over any intervening lands, he or they, their engineers and agents may enter upon any such lands, and survey and mark such route as he or they shall think proper to adopt, doing no damage to the property explored, and thereupon may present a petition to the circuit court of the county in which said intervening land is situated, setting forth his or their desire to be allowed to construct or finish a railroad, in and upon the said route, and the beginning, course and distances thereof, and place of intersection with the main railroad, canal or slack water navigation, which shall be filed in said court; whereupon the said court shall appoint five disinterested and judicious men, who shall be freeholders, resident in the said county, who shall be appointed as provided in chapter forty-two of the code, as amended and re-enacted by the acts of one thousand eight hundred and eighty-one, and as amended by the acts of one thousand eight hundred and eighty-two and one thousand eight hundred and eighty-three, and as it may hereafter be amended, and who shall view the said proposed route for a railroad and examine the same, and if they or any three of them shall deem the same needful and useful for the transportation of timber, or coal, or minerals, or natural oil, either in a crude or manufactured state, to market, and that the condemnation of the property is necessary and of public utility, and that no other practicable route would subserve the purposes of the one asked to be condemned, they shall forthwith report in writing to the said court what damages will be sustained by the owner or owners of the said intervening lands, asked to be condemned by the opening, constructing, completing and using of the said railroad, perpetually; or if the person or persons petitioning ask in their petition for the use of said real estate for a limited time only, then for such period of time, and the report of the said viewers and appraisers shall be filed of record in the said court, and the proceedings thereafter in the said court shall be as provided for by law, or as may hereafter be provided for by law, except as may herein be otherwise provided. Whenever any county road is necessary to be crossed or to be used by a railroad of the kind herein authorized, such county road shall be crossed and used in the same manner and upon the same conditions as any such county road can now be legally crossed and used by any other railroad.

2. Such notice to land owners must be given as is provided in chapter forty-two of the code of West Virginia, as amended and re-enacted by the acts of one thousand eight hundred and eighty-one, and as amended by the acts of one thousand eight hundred and eighty-two and one thousand eight hundred and eighty-three, and as may hereafter be amended, and like proceedings had in every particular, not

inconsistent with this act, and both the petitioner and the land owner shall have all of the rights, privileges and protection in every respect as they would have in a like proceeding under the said chapter amended and re-enacted as aforesaid, and such further rights, privileges and protection as may be provided for in any amendment hereafter made to the said chapter.

3. When the sum which is required by the court to be paid, is paid as prescribed by chapter forty-two of the code, as amended and re-enacted and amended aforesaid, and as it may hereafter be amended, in cases where damages have only been ascertained for the use of a right of way for a certain number of years, then only the use of the right of way in accordance with the provisions of this statute for the number of years designated in the report of the commissioners, as the period for which damages were ascertained, and the right to apply the gravel, timber and other material on the right of way, to and for the construction of the road, shall vest in the applicant.

4. The said right of way shall not exceed fifteen feet in width, and for the purposes of excavations and embankments the petitioner may take as much more land in accordance with the foregoing provisions as may be necessary for the proper construction, repair and security of the said road, and within this limit, may be of such width as may be asked for in the petition of the applicants, and it shall not be lawful to condemn land for this kind of a railroad that could not lawfully be condemned for any other railroad; the railroad may be single or double track and formed of wood, stone and iron, each or all of them, as the proprietor of the said road shall adopt.

6. Any person desiring the proprietor or proprietors of such a railroad, as is authorized by this chapter, to haul for him over said road any sand, timber, lumber, coal, minerals, natural oil or articles made from any of these materials, and for which the said railroad and the engines, trucks, cars, wagons or vehicles used thereon by the proprietor or proprietors, when called upon, to transport such freight, and to this extent they shall be deemed common carriers.

7. In case the person desiring freight hauled and the proprietor or operator of the said road and the said person cannot agree upon the rate for transporting the said freight, the said person desiring the freight hauled may move the county court of the county where the said road intersects the railroad, canal or slackwater to which it is built, after having first given five days' notice to the person operating said road, or if such person cannot be found, then to any person in charge of the road, or if no such person can be found, by posting and leaving posted in five public places on the line of said road copies of the said notice, to fix the rate of compensation to be paid for transporting the said freight, and the said court, after hearing any testimony that may be offered, shall fix the compensation to be received by the operator of said road, which rates may in like manner be altered from time to time upon the motion of any party interested, and he shall be compelled to haul the goods at that rate, as well as any other goods that may be offered by any other person of like

kind with the goods for which the rate had been fixed by the court; and for refusing to carry the freight as aforesaid, the person or persons controlling the said road shall be subject to all of the liabilities and recoveries that any other railroad would be subject to.

8. Proprietors of such railroads not using locomotives or motors, and who have the right of way only for a term of years, shall not be required to fence in the said road at any place, but when the said road has been condemned through enclosures or land afterwards enclosed, the said proprietors shall be required to keep up gates at the places where the said road enters and leaves the enclosures and keep them locked, and he shall be liable to the party injured for treble damages for injuries caused by his failure to observe and to have his workmen and agents observe the above requirements.

9. Any lateral railroad suffered to remain unused for the period of two years, shall be considered as abandoned, and the right of way where the land was condemned shall revert to the original owner, or where obtained by contract, to the grantor, unless otherwise provided in the contract, his heirs or assigns, together with the material out of which the road was constructed, unless said material is removed by the proprietor or proprietors, three months notice to them being given to remove the same, which notice, in case the proprietor or proprietors are non-residents, shall be given by publication in a newspaper in the county where the road intersects the railroad, canal or slackwater to which it connects, or where there is no such paper, then in a paper printed in an adjoining county.

10. Any railroad of the kind contemplated in this act shall be deemed a lateral railroad and come within its operations whenever any part of its road bed has been condemned under and by virtue of the provisions of this statute.

11. No franchise or right of way acquired by virtue of this act, shall be sold, leased or otherwise transferred without the consent of the legislature first had and obtained. [Ch. 12, Acts 1885.]

Mutual Insurance Corporations.

1. That every company or association incorporated under the general or any special law of this state, or of any other of the United States, which issues to its members certificates or policies agreeing to pay certain benefits to the beneficiaries thereunder, which benefits are, by the contract therefor, to be realized from assessments levied upon the members of said company or association, or any part thereof, shall be deemed a corporation for the mutual protection and relief of its members, and shall be subject to the provisions of this act. Every such corporation incorporated by any act of the general assembly of Virginia passed before the twentieth day of June, one thousand eight hundred and sixty-three, and having its princi-

pal place of business in this state, or heretofore or hereafter incorporated under and pursuant to any act of the legislature of this state, shall be deemed a domestic corporation. All others shall be deemed foreign corporations.

2. Every such domestic corporation shall on or before the first day of March in each and every year, file with the auditor a statement, under oath of the president and secretary thereof, setting forth its condition on the thirty-first day of December then next preceeding, which statement shall show :

First.—The name and locality of the corporation.

Second.—The amount of its capital stock.

Third.—The amount of its capital stock paid up.

Fourth.—The assets of the corporation, setting forth the nature of the several items and the securities in which they are invested.

Fifth.—Claims for benefits adjusted and due.

Sixth.—Claims for benefits adjusted but not due.

Seventh.—Claims for benefits unadjusted, reported and in suspense or dispute.

Eighth.—All other claims against the corporation, and all other amounts due or owing it.

3. Every such foreign corporation shall, before transacting or continueing to transact business in this state, file with the auditor, a statement similar in character to that required of domestic corporations, and shall thereafter, as long as it continues to do business in this state, be subject to the same requirement as to annual statements, as are domestic corporations.

4. Every such foreign corporation shall, as a condition precedent to doing business in this state, by power of attorney, duly acknowledged and authenticated and filed in the office of the auditor, appoint some person residing in this state to accept service of process and notices in this state for the said corporation, and by the same instrument shall declare its consent that service of any process or notice in this state on said attorney, or his acceptance of service endorsed thereon, shall have the same effect as service thereof upon the corporation; and thereafter such acceptance by the said attorney, or service upon him shall be equivelant for all purpoees, to service upon his princial.

5. The auditor shall be authorized to examine into the condition and affairs of any such corporations doing or applying for authority to do business in this state, or cause such examination to be made by some person or persons appointed by him, having no interest in any such corporation or in any insurance company, and whenever it shall appear to the satisfaction of said auditor that the affairs of any such corporation are in an unsound condition, he shall, if the corporation is already authorized to do business in this state, revoke the certigcate granted in behalf of said corporation, and shall cause notification thereof to be published in some newspaper of general circulation published at the capital of the state, and such corpora-

tion, its agent or agents, are, on and after such notice, required to discontinue all business within the state. The expenses of every such examination shall be paid by the corporation examined, and the auditor may, before beginning any such examination, require satisfactory security for the payment thereof, and if the same is not furnished, the auditor shall refuse or revoke the corporation's certificate of authority, the same as if it had been found in an unsound condition.

6. It shall be the duty of the auditor to issue to every such corporation complying with the provisions of the preceding sections, unless an examination thereof shows it to be in an unsound condition, a certificate thereof with authority to the corporation so complying to transact business in this state for the period of one year from the date of such certificate of authority; *Provided*, that authority shall not be issued to any corporation which grants certificates or policies whereby a benefit or payment is to become due upon the death of any person who, at the time of the execution of the contract is over sixty years of age; *and provided further*, that no such certificate of the auditor shall be issued, renewed or allowed to remain in force, unless such corporation furnishes satisfactory evidence to the auditor that it is duly incorporated and is authorized to do business in the state of its incorporation; that it is engaged in no other business than that covered by this act; that it is paying and is able to pay its certificates or policies in full, and that it contracts to pay benefits for no other cause than the death of the member or his injury by external, violent causes.

7. Any person doing, or attempting to do business of the character covered by this act for or on behalf of any such corporation, which has not the certificate of authority provided for in the preceding section, shall be liable to a fine of one hundred dollars for each and every offense.

8. Every such corporation shall pay to the auditor ten dollars for each statement filed by, and twenty-five dollars for the certificate of authority issued to it, under the provisions of this act, twenty dollars of which shall be paid into the state treasury.

9. The written and printed copies of all papers required by this act to be deposited with the auditor, certified under the hand of such auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places in the same manner, and have the same force and effect as the originals would have if produced.

10. This act shall not apply to fraternal societies securing members through the lodge system, who do not employ agents except for instituting lodges; nor shall it be so construed as to effect any contract heretofore made by any company or association with a resident of this state, nor to prevent any such company or association from continuing and carrying out such contract. [Ch. 15, Acts 1885.]

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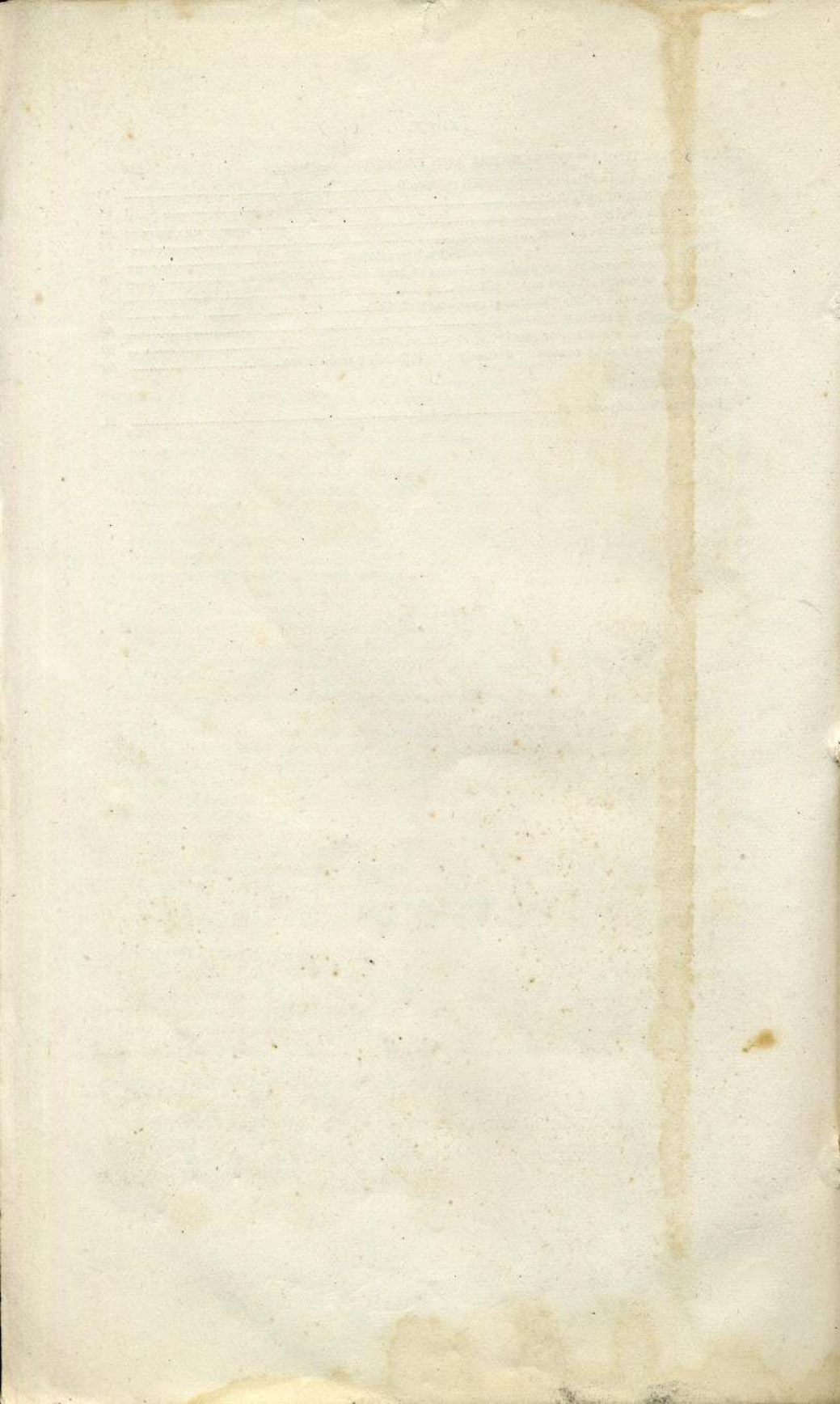
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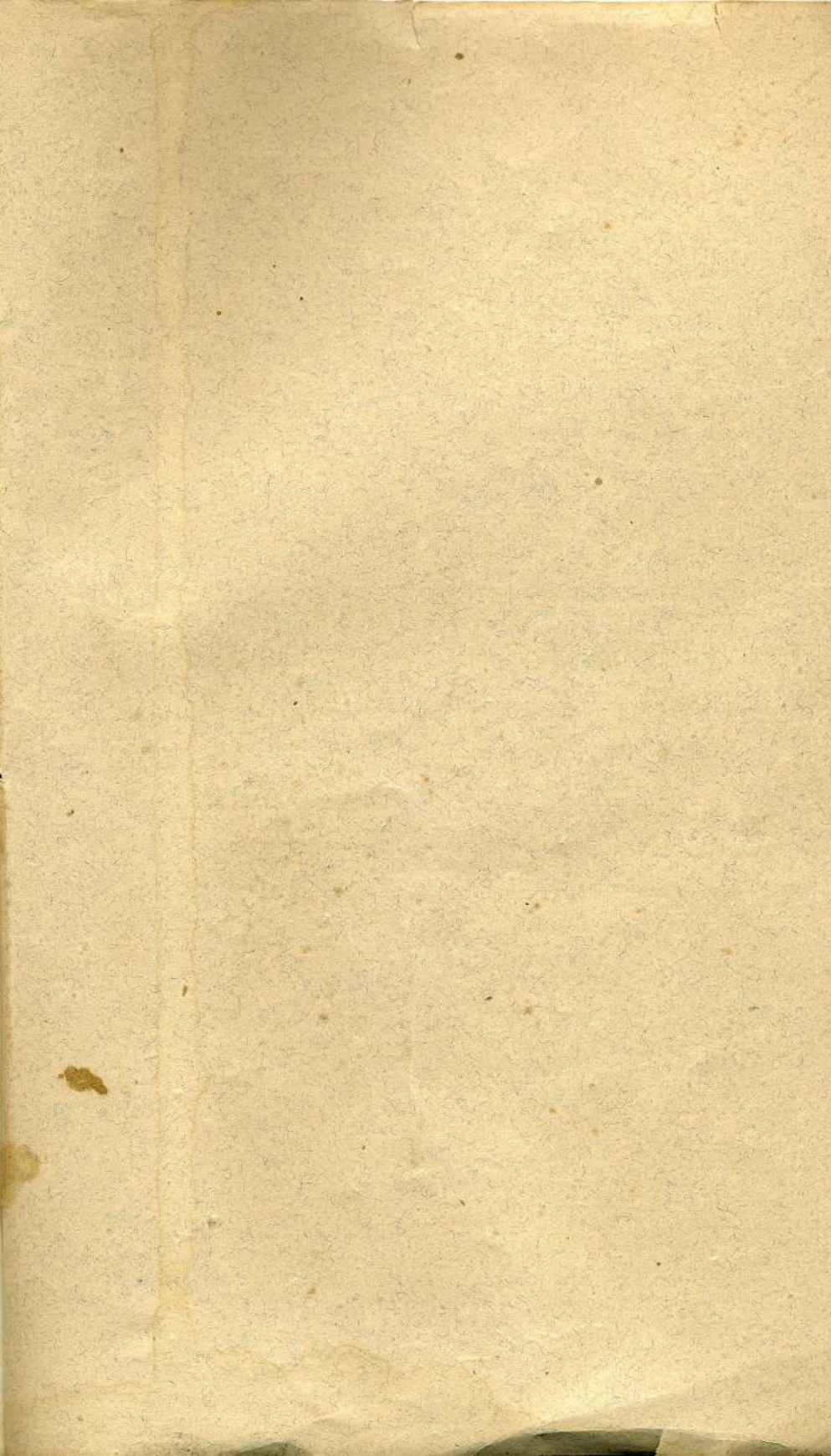
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