

ings provided for by the revised statutes, except that when in consequence of any such proceeding, a civil action shall be brought, such action shall be conducted in conformity with this act.

SEC. 366. Chapter one hundred twelve and one hundred nineteen of the revised statutes, except sections six, seven, eight, nine, ten, eleven, twenty-five and twenty-six, of the first named chapter, and chapter eighty-nine of the session laws of eighteen hundred fifty one are hereby repealed, except as the provisions of said chapter are allowed, by this act to apply to suits under this code. Certain parts of revised and other statutes repealed.

SEC. 367. The secretary of state shall, forthwith, after the passage of this act, cause six thousand copies thereof to be printed in a separate pamphlet, as session laws are now printed, and he shall, as soon as said pamphlet is printed, distribute the same as the session laws are now required to be distributed, by law, and the remaining copies shall be retained in the office of the secretary of state, to be sold at cost to any person desiring to purchase the same, (not more than five copies to one person), and it shall not be necessary to print the [this] act in the session laws. How this act to be printed.

SEC. 368. The governor shall appoint some competent person, whose duty it shall be to superintend the printing of said pamphlet, and revise and correct the proof sheets, and divide the same into proper titles and chapters and sections, with a suitable index, and such person shall be entitled to five dollars per day for his services, and his account, when sworn to by him, shall be audited and paid by the state treasurer out of any money not otherwise appropriated. Governor to appoint person to superintend printing, &c.

Approved October 9th, 1856.

CHAPTER 121.

Published November 12.

An Act concerning Railroads.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :

SECTION 1. Any railroad company may borrow such sum or sums of money, at such rates of interest and upon such Railroad companies may

borrow money
and execute
trust deeds, &c.

terms, as said company or its board of directors shall authorize and agree upon and may deem necessary or expedient, and may execute one or more trust deeds or mortgages, or both, as occasion may require, on any railroad, or railroads constructed in or in process of construction by said company, for the amount or amounts, borrowed or owing by such company, upon such terms and in such manner as such company or its board of directors shall deem expedient, and such company may make such provisions in such trust deed or mortgage for pledging or transferring their railroad track, right of way, depot grounds, rights, privileges, franchises, immunities, machine houses, rolling stock, furniture, tools, implements, appendages and appurtenances belonging to or used in connection with such railroad or railroads, in any manner whatever as security, for any bonds, debts, or sums of money that may be secured by such trust deed or mortgage, as they shall think proper, and in case of any sale of any railroad or railroads, or any part thereof constructed or in process of construction by any railroad company, on or by virtue of any trust deed or on foreclosure of any mortgage, thereupon the party or parties acquiring title under any such sale, and their associates, successors or assigns, shall have and acquire thereby, and shall exercise and enjoy thereafter all and the same rights, privileges, grants, franchises, immunities and advantages in and by said mortgage or trust deed enumerated and conveyed, which belonged to and were enjoyed by the company making such deed or mortgage, or contracting such debt so far as the same relate and appertain to that portion of said road or the line thereof mentioned and described in and conveyed by said mortgage or trust deed, and no further, as fully and absolutely in all respects as the corporators, share holders, officers, and agents of such company might or could have done, therefore, had not such sale or purchase taken place; such purchaser or purchasers, their associates, successors or assignors may proceed to organize anew and elect directors, distribute and dispose of stock, take the same or another name, and may conduct their business generally under, and in the manner provided in the charter of such railroad company, with such variations in manner and form of organization, as their altered circumstances and better convenience may seem to require; *Provided, however,* That no greater or enlarged powers shall be exercised by the new organization, than are conferred by the charter of such company.

Proviso.

SEC. 2. All rolling stock of any railroad company used and employed in connection with its railroad, shall be, and the same are hereby declared to be fixtures, and all such property, and all additional right of way, depot grounds and other real property acquired subsequently to the execution of any such trust deed or mortgage, which may be described or provided for therein, shall be subject to the same lien as is created by such trust deed or mortgage, upon the property therein described, to which such company had title at the time of its execution; every such mortgage or trust deed, upon any railroad in this state, and upon any part thereof, and every discharge or satisfaction thereof, may be recorded in the office of the secretary of state, in a proper book kept for that purpose, and the certificate of such recording endorsed on such mortgage or trust deed, by the secretary of state, shall be evidence thereof, and the said mortgage or trust deed so recorded, shall have the same effect, as if recorded in the several counties through which said road may be built, and the record of such trust deed or mortgage so made as above provided, shall be evidence, and notice of the lien hereby created upon all such subsequently acquired property, to all persons interested to the same extent and with the same effect as the same is now by law made; notice of the time of such trust deed or mortgage upon any property to which such railroad had title at the time of its execution.

Rolling stock
declared to be
fixtures.

SEC. 3. It shall and may be lawful for any railroad company annually, or oftener, as its board of directors shall deem expedient, to set apart and appropriate a sum of money not exceeding fifty per cent of its net earnings or resources in any one year after paying the current expenses of their road, and the interest and its outstanding indebtedness, in order to sink, redeem, pay off, cancel or discharge the indebtedness of said company incurred in the construction and equipment of its road; and said sums so set apart shall be annually applied to the payment and discharge of such debts, of said company as shall be due, and to the purchase and redemption of the outstanding evidences of indebtedness of said company, upon the best and most favorable terms, to be held or cancelled by said company as the board of directors thereof shall deem most for the interest of said company.

May establish
a sinking fund.

SEC. 4. That all mortgages or trust deeds heretofore executed by any railroad company, are hereby declared

Mortgages, &c.
made prior to

the passage of this act. to be included within, and subject to the provisions of this act as fully and effectually as if its provisions had been incorporated in its charter, prior to, and at the time of the execution of such mortgages or trust deed: *Provided, however,* That such railroad company shall first accept of the provisions of this act by a resolution of its board of directors, and shall cause a copy thereof, under the certificate of its secretary, with the corporate seal thereof attached thereto, to be filed in the office of the secretary of state: *And provided further,* That this section shall not be construed in any wise to affect any liens acquired by any person or persons, corporation or body politic, upon such subsequently acquired property, at any time after the execution of such mortgage, and prior to the filing of the acceptance of the provisions of this act as above provided, in the office of the secretary of state.

Suits brought or instituted. SEC. 5. All suits brought or instituted against any railroad corporation, created by the laws of this state, except appeals from the awards of commissioners or jurors appointed under its act of incorporation to appraise compensation and damages for property taken, for the use of such corporation, shall be brought in some county through which such railroad runs, and no proceedings shall be had or entertained in any such suit, unless the process shall have been duly served upon the president, secretary, superintendent or general attorney of such corporation.

In case of sale of railroad, &c. SEC. 6. In case of any sale of any railroad, or of any portion of any railroad, with its appurtenances, property, right of way, franchises, and privileges, or any of them under, and by virtue of any trust deed or mortgage, now executed, or that may be hereafter executed upon the same, such sale when made in accordance with the provisions contained in such trust deed or mortgage, shall be absolute, unless the said company or any subsequent incumbrancer, shall, within one year from and after the date of such sale, redeem said railroad and property so sold, by paying the amount of the purchase money on such sale and the interest thereon, at the rate of twenty per cent per annum, in the manner provided by law, and any such sale shall not be required to be made in accordance with any other law of this state, for the sale of real estate under foreclosure of mortgage or otherwise.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved October 10, 1856.