

CHAPTER 119.

[Published April 1, 1872.]

AN ACT in relation to railroads and the organization of railroad companies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

SECTION 1. Any number of persons, not less than five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use, in the conveyance of persons and property, or for the purpose of maintaining and operating any railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the places from and to which the road is to be constructed or maintained and operated; the length of such road as near as may be, and the name of each county in this state, through or into which it is made or intended to be made; the amount of the capital stock of the company, and the number of shares of which said capital stock shall consist, and the classes of preferred and common, if more than one class, and the names and places of residence of the directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places; and the number of such directors shall be not less than five or more than thirteen. Each subscriber to such articles of association shall subscribe thereto his name, place of residence and the number of shares of stock he agrees to take in said company. There shall be endorsed thereon or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the names subscribed to said articles are the genuine signatures of the persons named therein, and that it is intended in good faith to construct or maintain and operate the road mentioned in such articles of association. Such articles of association, with said affidavits, may then be filed in the office of the secretary of state, who shall endorse thereon the day they are filed, and record the same in a book to be provided by him for that pur-

May form railroad companies.

Capital stock.

How articles of association to be submitted.

To be filed.

Patent to be issued.

pose; the governor and secretary of state shall, upon the filing of such articles of association, issue to the persons named therein, a patent, under the great seal of the state, signed and countersigned by them respectively, substantially in the following form :

Form of patent. *To all to whom these presents shall come, greeting :*

WHEREAS, (naming the persons subscribing the articles of association), have filed in the office of the secretary of state, certain articles of association, with a view to forming a corporation, to be known as (here insert name), and with a capital of (here insert amount), for the purpose of constructing, maintaining and operating a railroad from — to —, and have complied with the provisions of the statutes in such case made and provided; therefore, the state of Wisconsin hereby grants unto the above named persons, and their successors and assigns, full authority by and under their said name of —, to exercise the powers and privileges of a corporation, for the purposes above stated, and in accordance with their said articles of association, and the laws of this state.

In witness whereof, these presents have been attested with the great seal and signed and countersigned by the governor and secretary of state of the state of Wisconsin, at Madison, the — day of — in the year one thousand eight hundred and seventy —.

— —, Governor.

— —, Secretary of State.

Shall be a corporation.

And thereupon, the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations and be subject to the provisions contained in chapter seventy-eight of the revised statutes, except the provisions contained in sections ten to twenty of said chapter, inclusive.

Evidence conclusive and prima facie.

SECTION 2. Any patent issued pursuant to the provisions of this act, or a duplicate thereof, shall be conclusive evidence of the existence of such corporation in all actions and proceedings where the question of its existence is only collaterally involved, and *prima facie* evidence in all other actions and proceedings. The origi-

nal articles of association, with the certificate of the recording thereof in the office of the secretary of state endorsed thereon, or a copy from the record thereof, certified by the secretary of state, shall be evidence of the contents of the articles of association of any such corporation in all actions and proceedings.

SECTION 3. When such articles of association and affidavit are filed and recorded in the office of the secretary of state, the directors may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company in such places, and after giving such notice as they may deem expedient, and may, from time to time, receive subscriptions until the whole capital stock is subscribed.

May open books
of subscription.

SECTION 4. There shall be a board of not less than five or more than thirteen directors of every corporation formed under this act, to manage its affairs; and said directors shall be chosen by a majority of the votes of the stockholders voting at such elections, in such manner and for such time as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote, personally or by proxy, on every share held by him for thirty days next previous to any such election; and vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own name, or as trustee or personal representative, and qualified to vote at the election at which he shall be chosen, and at every election of directors, the books and papers of such company shall be exhibited to the meeting, if a majority of the stockholders present shall require it. If for any reason the election of directors shall not have been, or shall not be held at the time fixed therefor by law, the same may be held at any time thereafter, on a notice of twenty days. Such election may be called by a majority of the directors, or by the stockholders holding a majority of the stock: *provided, however,* that at any meeting of all the stockhold-

Board of directors.

Each share entitled to one vote.

Directors must be stockholders.

How failure of election to be remedied.

ers, or in which they shall be represented by attorney or proxy, it shall be lawful to waive notice, and proceed to an election of directors.

Officers of the board.

SECTION 5. The directors shall appoint one of their number president; they may also appoint a vice president, treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

Payment of stock by instalments.

SECTION. 6. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such instalments as they may deem proper. If any stockholder shall neglect to pay any instalment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the postoffice, postage paid, properly directed to him at the postoffice nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

When stock forfeited.

Stock to be deemed personal property.

SECTION 7. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable until all previous calls thereon shall have been fully paid in.

May increase capital stock by two thirds vote.

SECTION 8. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person or by proxy, of two-thirds in amount of all the stockholders of the company, at an annual meeting or a meeting of such stockholders called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally or

by depositing the same, properly folded and directed, postage paid, to him at the postoffice nearest his usual place of residence, in the postoffice, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company, as aforesaid.

SECTION 9. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such company for any calls or instalments on any part paid stock of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or person interested in such trust funds would have been if he had been living and competent to act, and held the same stock in his own name.

Personal liability of stockholders.

SECTION 10. As often as any contractor for the construction of any part of a railroad which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount, and number of days' labor, and the time when the same was performed, for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney; and shall be served on an en-

Company liable, on notice, to pay for labor done under contract.

When notice to be given and what to contain.

- gineer, agent or superintendent employed by said company, having charge of the section of the road on which such labor was performed, personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by said laborer as above provided.
- When action to be commenced.** SECTION 11. Every corporation formed under this act shall, in addition to the powers conferred on corporations in chapter seventy-eight of the revised statutes, have power :
- Additional powers.** 1st. To cause such examination and surveys 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 or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damage which shall be done thereto.
- Examination and survey of route.** 2d. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.
- Acceptance of grants.** 3d. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation, and to sell, lease or dispose of any land or real estate not necessary for its use.
- Purchase and use of real estate.** 4th. To lay out its road not exceeding one hundred feet in width, and to construct the same, and for the purposes of cuttings and embankments, and of obtaining gravel or other material, to take as much land as may be necessary for the proper construction, operation and security of the road, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.
- Laying out, width and construction of road.** 5th. To construct their road across, along or upon any stream of water, water course, street, highway,
- Construction across or along**

plankroad, turnpike or canal, which the route of its road shall intersect or touch; but the company shall restore the stream, water course, street, highway, plankroad and turnpike thus intersected or touched, to its former state, or to such state as not unnecessarily to have impaired its usefulness. And whenever the track of any railroad shall touch, intersect or cross any road, highway or street, such road, highway or street may be carried over or under the said railroad, as may be found most expedient for the public good. And in case any embankment or cut in the construction of any railroad shall make it necessary to change the course and direction of any highway, road or street, it shall be lawful for any company constructing its road, so to change the course or direction of such road, highway or street: *provided*, that the distance of any road, highway or street shall not be lengthened more than five rods, nor changed from its original course more than six rods, by such change of course or direction.

streams, highways, etc.

Change of venue.

6th. To cross, intersect, join and unite its railroad with any other railroad heretofore or hereafter constructed, 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 company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained by commissioners, to be appointed by the court, as is provided in this act in respect to acquiring title to real estate. But no company which shall have obtained the right of way and constructed its road at the point of intersection, before the application for the appointment of commissioners may be made, shall be required to alter the grade or change the location of its road, or be required to bear any part of the expense of making and maintaining such crossing or of such proceeding.

Cross or join other roads.

7th. To take and convey persons or property over their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive com-

Carry passengers or freight.

compensation therefor, and to do all the business incident to railroad companies.

Erect stations,
etc.

8th. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freights and business.

Time and fees
of transporta-
tion.

9th. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

May borrow
money and exe-
cute trust deed
or mortgage.

10th. To borrow such sum or sums of money at such rates of interest and upon such terms as said company or its board of directors shall authorize and agree upon, and may deem necessary or expedient, and to execute one or more trust deeds or mortgages, or both, as occasion may require, on any railroad or railroads, constructed 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

May provide for
transfer of road.

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 used in connection with such railroad or railroads, in any manner whatever then belonging to said company, or which shall thereafter belong to it, 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

Transfer of
rights and fran-
chises, on sale
by deed or fore-
closure.

in case of 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 any foreclosure of any mortgage thereupon, the party or parties acquiring title under such sale, and their associates, successors, 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, shareholders, officers and agents of such company might or could have done therefor, had not such sale or purchase taken place; such purchaser or purchasers, their associates, successors or assigns may proceed or organize anew by filing articles of association and electing directors as provided in this act; and may distribute and dispose of stock, take the same or another name, and may conduct their business generally in the manner provided by this act; and such purchaser or purchasers and their associates shall thereupon be a corporation with all the powers, privileges and franchises conferred by and be subject to the provisions of this act.

Purchasers may reorganize under provisions of this act.

SECTION 12. Any railroad company now existing or hereafter organized under the laws of this state, may, under the provisions of this act, extend its road from any point named in its charter or articles of association, or may build branch roads from any point or points on its line of road. Before making such extension or building any such branch road, such railroad company shall, by resolution of its directors, to be entered in the records of its proceedings, designate the route of such proposed extension or branch, in the manner provided in section one of this act, and file a certified copy of such record in the office of the secretary of state, and cause the same to be recorded, as provided in said section one, and thereupon such railroad company shall have the right to make such extension or build such branch, the same as if it had been authorized in its charter or articles of association.

May extend line or build branches.

SECTION 13. In case any railroad company formed under this act or organized under any law of this state, shall not have acquired any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

May acquire title to real estate.

SECTION 14. For the purpose of acquiring such title, the said company may file a petition, praying for the appointment of commissioners of appraisal by the circuit court or the judge thereof, of the circuit in which the real estate described in the petition is situated. Such petition shall be signed and verified by the attorney or some other authorized officer of the company. It must contain a description of the real estate

May petition for appointment of commissioners.

What petition to contain.

which the company seeks to acquire, and it must in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association or charter; that the company has surveyed the line or route of its proposed road over the lands described in such petition, and made a map and survey thereof, by which such route or line is designated, and has located its road according to such survey, and filed certificates of such location, signed by the engineers of the company, in the office of the register of deeds of the county in which said real estate is situated; that the land described in the petition is required for the purpose of constructing or operating the proposed railroad, and that the company has not acquired title thereto. The petition must also state the names of the parties who are in possession of, or who own or have, or claim to own or have estates or interests of record in the said real estate, and if any such persons are infants, their ages, as near as may be, must be stated; and if any such persons are idiots or persons of unsound mind, or unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. The petition shall be filed in the office of the clerk of the circuit court of the county in which the land is situated, and from the time of filing the same, the proceeding shall be considered a suit pending in the circuit court of such county. A notice of the filing of such petition, and of the time when and place where the same will be presented, and application for the appointment of commissioners made to said court or judge, referring by general description to the land to be taken, and addressed to the parties in possession, and the owners of such land as named in the petition shall be published in a newspaper published in the county where the said real estate is situated, for three successive weeks prior to the day of such application, and if there is no newspaper published in such county, then such notice shall be so published in a newspaper published in an adjoining county.

SECTION 15. On presenting such petition to the court or judge, as aforesaid, with proof of publication of notice as aforesaid, all or any of the persons whose

Must state names of owners of land.

Must be filed.

Notice of filing to be published.

Owners may show cause before the court.

estates or interests are to be affected by the proceedings, may show cause against granting the prayer of the petition. If it shall appear from said petition that any of such persons are infants, idiots or persons of unsound mind, the court or judge may, upon notice to their guardian or committee, if they have any, and if not, without further notice, appoint a guardian *ad litem*, to act for said minor, idiot or person of unsound mind in said proceeding, and require him to give proper security. The court or judge shall hear the parties interested, and if no sufficient cause is shown against granting the prayer of the petition, shall make an order for the appointment of three disinterested and competent freeholders, who reside in the county or some adjoining county, where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county, for the purposes of the company, and fix the time and place for the first meeting of the commissioners.

Court to hear parties and make order.

SECTION 16. The commissioners shall take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution, before entering on the discharge of their duties. A majority of them may adjourn the proceedings before them, from time to time, in their discretion. They shall cause notice to be given to each party interested, of the time when, and place where they will meet to consider the amount of compensation to which he is entitled, which notice shall be personally served on such party or his authorized agent or attorney, or by leaving the same at his residence or place of business, with a person of suitable age and discretion, at least six days before the time of such meeting. If such party is a non-resident of this state, or his residence is unknown, and he has no authorized agent or attorney in this state, such notice shall be published in a newspaper as aforesaid, for such length of time as the court or judge appointing said commissioners shall direct. The commissioners shall file proof of such notices, or of the appearance of such parties before them, either personally or by attorney, with their report. But it shall not be necessary to serve or publish notice of any subsequent meeting held pursuant to adjournment. The commissioners shall view the premises described in the petition, and hear

Commissioners to take oath and give notice to parties.

How non-residents to be notified.

Shall view premises and appraise damages.

the allegations of the parties, and shall appraise, ascertain and determine the value of each tract or parcel of land proposed to be taken, with the improvements thereon, and of each separate estate therein, and the damages sustained by the owner by reason of the taking thereof, and fix the amount of compensation to be made to each of such owners therefor; and in fixing the amount of such compensation, said commissioners shall not make any allowance or deduction from the value of the real estate taken on account of any real or supposed benefits which the parties in interest may derive from the construction of the proposed railroad, or the construction of the proposed improvement connected with such road, for which such real estate may be taken; but special benefits to the real estate adjoining the lands so taken, shall be allowed in deduction of any damages sustained by the owner to such adjoining real estate. A majority of the commissioners, all being present, shall be competent to determine all matters before them. The commissioners shall, within twenty days after viewing any of the lands so taken, make and file in the office of the clerk of the circuit court of such county a report of their proceedings concerning such lands, setting forth the award made for each tract or parcel thereof, or separate estate therein to the owner or owners thereof. The commissioners shall be entitled to such compensation as the court may direct, which shall be paid by the railroad company.

Shall make and file report.

Any party may appeal from award.

Appeal regarded as action and how tried.

SECTION 17. Within thirty days after the filing of the report of the commissioners in the office of the clerk of the circuit court of the county in which the land is situated, any party may appeal to the circuit court of such county from any award made by the commissioners, by filing in the office of said clerk a written notice of appeal. Upon receiving such notice, the appeal shall be considered an action pending in court, subject to a change of the place of trial and appeal to the supreme court, as other actions, and shall be entered by the clerk upon the records of the court, by setting down the owner or owners of the land for which such award was made, and who are parties to the appeal as plaintiffs, and the railroad company as defendant. Such appeal shall be tried by jury, unless a trial by jury is waived by both parties; costs shall be allowed to the successful party on such appeal, and if in favor of the

plaintiff, be added to the amount of the verdict; if in favor of the defendant, be deducted therefrom; and judgment shall be rendered thereon according to the rights of the parties.

SECTION 18. The report of the commissioners shall be recorded by the clerk of the court in whose office the same is filed, in the judgment book of such court, and at any time after the filing of the same, the railroad company may pay to the owner or owners of the lands to be taken, or to the clerk of said court, for the use of such owner or owners, the amounts awarded by the commissioners, and thereupon may enter upon, take and use the land for the purposes for which it was condemned; and a writ of assistance may be issued to put the railroad company in possession of the same: *provided*, that no such writ shall be issued before the time for appealing from an award has expired, nor after an appeal shall have been taken, without notice to the adverse party, and giving such security for the payment of any verdict which may be rendered on such appeal as the court may require; *and provided, further*, that if such railroad company be in possession or put in possession of such land pending an appeal, the owners or parties entitled thereto shall be entitled to receive the money paid into court on account of the award appealed from, without prejudice to the appeal taken. If the said company shall omit for the space of sixty days to pay the amount so awarded into court, or to pay into court the amount of any final judgment which shall be rendered upon any appeal from such award, the party interested in such award or judgment may have execution upon said judgment, or for the amount of such award, upon motion. If any defect of title to or incumbrance upon any parcel of the premises shall be suggested in said petition, or if any party to said proceeding, or any person not a party shall petition the said court, setting up a claim adverse to the title set out in said petition to said premises, and to the money or any part of it to be paid as compensation for the property so taken, the court shall hear and determine the rights of the parties to said money, and for that purpose may order a reference or an issue to be tried by a jury. Either party may except to the decisions of the court, and appeal to the supreme court, in like manner as in actions. Either court may award costs

Report to be recorded.

May issue writ of assistance except when appeal is pending.

When execution may issue.

In case of defect of title, how rights of parties to be determined.

Exceptions, appeals and award of costs.

to the prevailing party, and render judgment therefor against the other party.

When exclusive title to vest in company.

SECTION 19. When no appeal shall be taken from any award within the time provided by law, and the railroad company shall have paid the amount thereof into court, or filed a receipt therefor, duly signed by the owner, and acknowledged before an officer authorized to take the acknowledgment of deeds, in the office of the clerk of the court, or when after the determination of such an appeal, the railroad company shall have paid into court the amount of the judgment rendered thereon, or filed a receipt therefor as aforesaid, the clerk of said court shall make a minute of such payment, or of the filing of such receipt, at the foot of the record of the report of such commissioners in the judgment book of said court; and thereupon the exclusive use of said premises, and every part and parcel thereof, shall vest in said company, its successors and assigns forever, without any other or further act, deed or conveyance; and said record, or a certified copy thereof shall be *prima facie* evidence of such title in all courts and places.

Court may amend defect in proceedings.

SECTION 20. The court shall have power at any time, to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Proceedings when property is incumbered.

SECTION 21. Whenever a railroad company shall have acquired title to any real estate subject to a mortgage or mortgages or other lien, and proceedings shall have been or shall hereafter be commenced by the holder of any such mortgage or other lien to enforce the same, the court in which such proceedings shall be pending shall have authority on notice to the parties interested, to appoint three commissioners to appraise the value of said real estate, who shall proceed in the manner prescribed herein to appraise the value of said real estate, at the time the railroad company acquired title, without improvements made by the railroad company, and shall make returns of their proceeding to said court, and said appraisal with interest when confirmed by said court, shall stand as the maximum amount of the

incumbrances chargeable to the real estate so taken, and judgment shall be rendered according to equity for an amount not exceeding such appraisal, with interest, against said company, and may be enforced as in other cases, and on the payment thereof, said company shall hold said land free and discharged from said mortgage or mortgages or other lien.

SECTION 22. In any case where a railroad or railway company shall not have acquired title to any land upon which they have constructed their track or tracks, or if at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession, and use such real estate during the pendency of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case, the party interested in such real estate may institute and conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same, at the cost and expense of the company. But no injunction to restrain the operation of the road shall be granted until said compensation has been fixed and determined.

SECTION 23. The directors of every railroad company may, by a vote of two-thirds of their whole number, at any time alter or change the route or any part of the route of their road or any part of their road, as constructed, if it shall appear to them that the line can be improved thereby: *provided*, that it shall not be lawful to divert the road from any town or county, city or village, that has, in its corporate capacity, extended aid to said roads. The company shall make and file in the office of the clerk of the circuit court of the proper county, a certificate of such alteration or change; and shall have the same right and power to acquire title to any lands required for the purposes of the company, in such altered or

When there is defective title.

May change route by two-thirds vote.

Shall file certificate of alteration, and how acquire title on new route.

changed route, as if the road had been located there in the first instance, and no such alteration shall be made in any city or village after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the common council of said city or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company. All the provisions of this act relative to the first location, and to acquiring title to land, shall apply to every such new or altered portion of the route.

How crossings effected and regulated.

SECTION 24. Whenever the track of a railroad, constructed by a company formed under this act or any law of this state, shall cross a railroad, a highway, turnpike or plankroad, such highway, turnpike or plankroad may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plankroad on such new line as may be deemed requisite by the directors. Unless the lands so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and such compensation shall be duly made by said corporation to the owner and persons interested in such lands. The same, when so taken, shall become part of such intersecting highway, turnpike or plankroad, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plankroad may be held for highway purposes.

How title obtained from trustees and guardians.

SECTION 25. In case any title or interest in real estate required by any company formed under this act or any law of this state for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the circuit court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot or person of

unsound mind, to sell and convey the same to such company for the purposes of its incorporation, on such terms as may be just, and in case any such infant, idiot or person of unsound mind has no general guardian or committee, the said court may appoint a special guardian or committee, for the purpose of making such sale, release or conveyance, and may require security from such trustee, general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is executed shall be reported to the court on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land, having legal power to sell and convey the same.

SECTION 26. Whenever, by means of an embankment, in the construction of any railroad in this state, it shall be necessary to erect a bridge or arched culvert over any highway, road or street, it shall be lawful for any railroad company to construct the same so as to give a clear passage way along the said highway, road or street so bridged or arched, of twenty feet, or two passage ways of fourteen feet each.

Bridges or culverts over streets.

SECTION 27. Every railroad company which shall have located or constructed, or which shall hereafter locate or construct its railroad through any university lands, school lands, swamp and overflowed lands, owned and held by this state, shall have the right to take, occupy, use, hold and possess, for the purpose of a railroad, a strip of land one hundred feet wide, through or across each and every tract of land so owned or held by the state, over which said railroad is or shall be constructed. This section shall not be so construed as to be applicable to any lands that may be sold by the state prior to the actual survey and location of any such railroad line, and the filing of a plat of such railroad line in the office of the secretary, as prescribed in the next section.

May take and occupy track through school, university or swamp lands.

SECTION 28. Every such railroad company shall, as soon as may be after the route of its said road shall be definitely fixed, deposit with the secretary of state a plat, exhibiting all of such lands through which the

Shall deposit plat of route with secretary of state.

route of said railroad shall run, and the location of such route through the same, and whenever any certificate or patent shall be issued for any such lands, the same shall contain an express reservation for the use of said railroad company, of all such lands as, according to the provisions of this chapter, such company has a right to have, hold, occupy, use or possess.

May grant lands in excess of 100 feet.

SECTION 29. The commissioners of the school and university lands shall have power to grant to any railroad company any land belonging to the people of this state, which may be required for the purposes of their road in excess of the hundred feet provided for in section twenty-seven, upon such terms and for such compensation as may be agreed upon.

Shall erect and maintain fences.

SECTION 30. Every railroad company or other party having the control or management of a railroad, the whole or any part of which shall be located in this state, shall, and is hereby required, to erect and maintain good and sufficient fences on both sides of such road, (depot grounds excepted,) of the height of four and a half feet, with openings, or gates, or bars therein, and suitable and convenient farm crossings of the road for the use of the proprietors of the lands adjoining such railroad; and also construct and maintain cattle-guards at all highway crossings, to prevent cattle and other animals from getting on to such railroad. Until such fences and cattle-guards shall be duly made, the railroad company, its agent or agents, the trustees, lessee, or other parties having control and management of any such road, shall be liable for all damages which shall be done by the agents or engines to cattle, horses, or other domestic animals thereon, occasioned by the failure to erect such fences or cattle-guards as herein required.

Shall construct cattle guards.

Company liable for damages till fences made.

Not liable when fences are made.

SECTION 31. When such fences shall be duly made and maintained, the railroad company, or party having control of the road, shall not be liable for any such damages, unless willfully or negligently done. And if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards, other than at the farm crossings, without the consent of the corporation or party having control of such road, he shall, for every such offense, forfeit a sum not exceeding ten dollars, to be recovered by such company or party in an action before any justice of the

Penalty for riding or driving on road.

peace of the county wherein such offense is committed, and shall also pay all damages which shall be sustained thereby to the company or party aggrieved. It shall not be lawful for any person other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except when the same shall be laid along public roads or streets.

SECTION 32. When such fences, cattle-guards or crossings shall be constructed as contemplated by this act, any person who shall wilfully take down, open or remove the same, or any portion thereof, or allow the same to be taken down, opened or removed, shall, upon conviction, be subject to a fine of not less than ten dollars nor more than fifty dollars, and shall, in addition thereto, be liable to the party injured for all damages resulting from the taking down, opening or removing of such fence, cattle guard or crossings. This section shall not be construed so as to prevent the taking down of bars or the opening of gates, for the purpose of passing through the same; but any person who shall take down bars or open gates, and not immediately replace or close the same, shall be liable to all the penalties provided for in this section, and all roads hereafter built shall be fenced as required by this act, within three months from the time of commencing to operate them.

Penalty for removing fences or guards.

SECTION 33. The provisions of this act shall not be held to affect, in any manner, any contract or agreement heretofore or hereafter entered into between any railroad company or other party, having the control and management of a railroad, and the proprietors and occupants of lands adjoining, for the construction and maintenance of any such gates, bars, cattle-guards and railroad crossings.

Not to affect contracts between owners and company.

SECTION 34. Wherever a railroad corporation is required by law to fence its track or railroad, or to maintain or keep in repair any such fence, and shall neglect or refuse to build or repair such fence, as the case may be, the owner or occupant of the land adjoining such railroad, or over or through which the said railroad track shall or may be laid, may give notice in writing to such corporation, or the lessee thereof, or the persons using such railroad, to build within sixty days, or repair within thirty days, said fence, as the case may be, after the service of such notice. Such notice shall de-

In case of neglect or refusal to build fence, notice to be served.

scribe the land on which said fence is required to be built or repaired, and reference shall be given to this act in said notice for the information of said railroad agent to whom the notice is given by the provisions of this act. Service of such notice may be made by delivering the same to any station agent of said corporation or railroad company: *provided*, such notice shall be given on some day between the first day of April and the first day of October.

If company refuse after notice, how proceed.

SECTION 35. In case the party so notified shall refuse or neglect to build or repair the fences on the land described in such notice, then it shall be lawful for the owner or occupant of such land required to be fenced, to build or repair the same, as the case may be; and the person so building or repairing such fence shall be entitled to the value thereof from such corporation or party actually occupying or using such railroad, to be recovered with interest at one per cent. per month, from the time such fence shall have been built or repaired, as the case shall be, in any proper form of action, together with costs, fees and disbursements to be taxed.

May connect with Michigan roads.

SECTION 36. Any railroad company in this state shall have power and authority to make and enter into such contracts with any railroad company which has constructed or shall hereafter construct any railroad or railroads terminating upon the eastern shore of lake Michigan, within the state of Michigan, as will enable said companies to run their roads in connection with each other, in such manner as they shall deem most beneficial to their interest. It shall be lawful for such companies to build, construct and run as a part of their corporate property, such number of steamboats or vessels as they may deem necessary to facilitate the business operations of such company or companies.

May build and run steamboats.

Shall come to full stop at crossings and drawbridges.

SECTION 37. Every train of passenger cars drawn by one or more locomotives upon any railway track shall come to a full stop before arriving at or crossing the track of another railroad, and within four hundred feet thereof, and the train arriving near said crossing first, shall cross and move on first, and every such train shall also come to a full stop before crossing or running upon any drawbridge over a stream which is regularly navigated by vessels, during the season when such stream is so used for navigation, and the use of such draw is necessary for the passage of boats, ves-

vessels and other crafts navigating the waters of such stream, at a distance from such bridge of not more than six hundred feet.

SECTION 38. The secretary or other officer or agent of any railroad corporation, who by the charter or by-laws of such corporation is made the custodian of the books, records and papers or other property of such corporation, shall keep the same in his possession, and at all times during business hours have the same ready to be exhibited to any officer, director or any committee appointed by the stockholders of any railroad corporation representing one-tenth of all the subscribed stock of such company, on request, and to furnish them or either of them, transcripts from the records of proceedings of the board of directors of such corporation, under his official hand and seal, on the payment to him of the same fee as that required by law to be made to the register of deeds for transcripts of the records of the office of register of deeds. And the said secretary shall, on resigning his office, or otherwise vacating the same, make over all such books, records, papers and all other property of the corporation which are in his possession, to his successor in office, or where no successor has been appointed or elected, to the board of directors, if any, or to the person or persons appointed by the majority of the stockholders of such corporation; and such secretary, on being duly subpoenaed to appear as a witness in any cause or trial in any court of justice in this state, shall attend and produce such books and records of the corporation as may be demanded in such subpoena, to be used in such trial.

SECTION 39. Any deed of trust or mortgage of any locomotives, tenders, cars or other property used or intended to be used as rolling stock or equipment, on any railroad in this state, and any discharge or satisfaction thereof, shall be acknowledged in such manner as would entitle a deed of real estate to be recorded, and shall be sufficiently recorded or filed, by filing a copy thereof in the office of the secretary of state; and a certificate of such filing endorsed thereon by the secretary of state shall be evidence thereof; and such deed of trust or mortgage shall be and shall remain during the continuance thereof, valid and effectual as against the creditors of the company making the same

Books, records,
etc. to be kept
and exhibited.

Transcripts to
be furnished.

To be handed
over to suc-
cessor.

How trust deed
or mortgage to
to be acknowl-
edged and re-
corded.

or subsequent purchasers or mortgagees in good faith, without any further proceeding whatsoever.

Rolling stock and other property subject to same lien as original track.

SECTION 40. All rolling stock of any railroad company used and employed in connection with its railroad shall, and the same is hereby declared to be fixtures; and all such property, and all additional rights of way, depot grounds and other real property, acquired subsequently to the execution of any 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, and to which such company had title at the time of its execution; every mortgage or trust deed upon any railroad in this state, or upon any part thereof, and every discharge or satisfaction thereof, and every deed of any railroad executed on sale or conveyance of such railroad or any part 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, indorsed thereon by the secretary of state, shall be evidence thereof, and the said mortgage or trust deed or deed so recorded, shall have the same effect as if recorded in the several counties through which said road may be built; and the records of such trust deed or mortgage or deed so made as above provided, shall be evidence and notice of the lien thereby created upon or conveyance of 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 lien of such trust deed or mortgage or deed, upon any property to which said railroad had title at the time of its execution.

When deed or mortgage may be recorded and how certified.

May set apart sinking fund.

SECTION 41. 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 for any one year, after paying the current expenses of their road, and the interest on 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 the 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 evi-

dences of indebtedness of said company, as the board of directors thereof shall deem most for the interest of said company.

SECTION 42. All actions against any railroad corporation created by the laws of the state, or any corporation operating any railroad within this state, under any lease or otherwise (except appeals from the award of commissioners, appointed under this act 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 action unless process shall have been duly served upon the president, secretary, superintendent, general manager or general solicitor of such corporation: *provided*, that in all actions against any such corporation, whose aforesaid officers shall all reside or be without the state, or whose principal office is without the state, and in all actions brought in justices' court, the process may be served upon any agent of the company against which the action is brought, who has charge of a depot or station on the line of railroad owned or operated by said company or corporation.

When actions against the company to be brought.

How process served.

SECTION 43. All railroad companies in this state, whenever their track crosses a public highway, shall put up, or cause to be put up, large sign boards at or near said crossing, with the following inscription on both sides of such boards, in large letters: "look out for the cars." In all incorporated cities, the said companies shall cause the bell on the engine to be rung before crossing any of the streets of a city, and their trains shall not go faster, until the same have passed all traveled streets of said city, than at the rate of six miles per hour.

Shall put up signs at crossings.

SECTION 44. Every railroad company in this state shall make an annual report to the stockholders of its operations during the year ending on the 31st of December, which report shall be verified by the affidavit of the secretary, treasurer and superintendent of the corporation; and a copy of said report shall be filed in the office of the secretary of state, on or before the first day of February in each year, and shall state:

Shall make and file annual report,—to contain statements of

1. The length of road in operation; the length of single track; the length of double track; the weight of the rail per yard.

Length of road.

- Capital.** 2. The capital stock actually subscribed and the amount paid thereon.
- Total cost.** 3. The whole cost of the road, showing the amount expended for the right of way, for bridging, grading, iron and buildings, respectively, and for all other purposes incidental to the construction of such road.
- Indebtedness.** 4. The amount and nature of its indebtedness, distinguishing the first, second and third mortgage bonds, and the unsecured indebtedness, and the amount due the corporation.
- Passengers and rate.** 5. The number of through and way passengers, and the rate of fare.
- Receipts.** 6. The amount received for the transportation of passengers, property and mails, for interest and from all other sources respectively.
- Amount of freight.** 7. The amount of freight, specifying the quantity in tons or other usual mode of measurement.
- Expenses.** 8. The amount paid for repairs of the road, buildings, engines and cars respectively, for fuel, taxes and interest, specifying the indebtedness on which the same is paid; for wages of employes; for salary paid to each officer where it exceeds one thousand dollars per annum, and for any other purpose incidental to the business of transportation, so as give a complete statement of the entire annual expense of the corporation.
- Losses.** 9. The amount of loss to the corporation from casualty.
- Dividends.** 10. The number and amount of dividends and when made, and in what manner such dividends have been paid.
- Killed and injured.** 11. The number of persons killed or injured; the causes thereof, and whether passengers or persons employed by the corporation.
- Cause of accident.** 12. Whether any such accidents have arisen from carelessness or negligence of any person in the employment of the corporation, and whether such person is retained in the service of said corporation. And it shall be the duty of the secretary of each railroad corporation in this state, to mail to every stockholder in the same, whose postoffice address is known, a copy of its annual report.
- Secretary of state to make abstract.** SECTION 45. It shall be the duty of the secretary of state to arrange the information contained in such copies in tabular form, and prepare the same for the use of the legislature.

SECTION 46. It shall be and is hereby made the duty of every railroad company operating and running their road within this state, to receive for shipment and transportation any and all grain that shall be offered to such company, their authorized agents, servants or employes for transportation over their road, to make and deliver, for such grain consigned to any consignee or consignees, the usual bill of landing [lading] to the shipper or consignor thereof, to transport and carry all such grain over their said road, at the tariff of charges adopted by such company and then in force, to such elevator, warehouse or mill as the same may be directed or shipped to by the owner, shipper or consignor of such property, and to deliver such grain to the actual consignee or consignees thereof, at such warehouse or place of storage as may be designated as the place of delivery thereof by such consignee or consignees: *provided*, the same can be so delivered to him or them at any elevator, warehouse or mill, by any track connecting therewith, at any distance not greater than one half mile therefrom, by whomesoever laid or owned, over which said company has or shall have the right or privilege to run its cars; and in no case shall any railroad company make any increased or additional charge for the transportation of such grain as it may be obliged to deliver to the consignee or consignees thereof, except in cases where such company is required to pay for the use of such track, and in all such cases, no additional or increased charge shall exceed the sum so actually required to be paid by the company for the right and privilege to run its cars over such track.

Shall ship all grain and give bill of lading.

No additional charge for delivery.

SECTION 47. It shall be lawful for the owner or owners of any elevator, warehouse or mill at any station on the line or at the termination of any railroad in this state, to construct from such elevator, warehouse or mill a railroad track to the track of any railroad company, and to connect with the same by switch at his or their own expense, and it shall be the duty of any such railroad company to allow such connection. Such side track and switch shall at all times be under the control and management of and kept in repair by such railroad company: *provided*, that the party for whose benefit such side track and switch shall be constructed shall pay to such railroad company the actual cost of maintaining and operating such side track and switch,

Owners of warehouses etc. may lay side track.

Shall pay for operating them.

which payment shall be made monthly; and in case such payment shall not be made as above provided, then and in that case the obligations of this section upon said railroad companies shall from and thereafter cease and be inoperative as against them, until such costs and expenses are fully paid.

Condition for transporting firewood.

SECTION 48. No railroad company in this state shall be compelled to transport firewood, unless the same shall be piled at some reasonably convenient point on their line, in quantities sufficient to load at least five cars at a time. When that is done, and five days' notice is given to the proper railroad officer, it shall be the duty of said railroad company to provide with all convenient dispatch, sufficient cars to transport such wood: *provided*, such wood shall be loaded and unloaded by the owners thereof; *and provided, further*, that the railroad company so carrying wood shall charge no more for such transportation per cord than is charged in the published tariff of rates for carrying rails, fence posts and railroad ties; *and provided, further*, that no railroad company shall be required to carry such wood during the months of June, September, October and November.

Unlawful to lock passenger car while in motion.

SECTION 49. It is hereby declared to be unlawful for any officer, agent or employe of any railroad company operating any line of railroad within this state, to lock or cause to be locked any door of any car used for the purpose of transporting passengers upon any railroad within this state, while such car is in motion and occupied by any person or persons as passengers upon said railroad, and such car shall not be so locked as to prevent the free exit from the cars at all times. It is also hereby declared to be unlawful for any officer, agent or employe of any railroad company to use or authorize the use of any kerosene oil or other material of an explosive nature for the purpose of lighting any car used for the transportation of passengers upon any railroad in this state.

Not to use explosive oils.

May change name of road.

SECTION 50. Any railroad company incorporated by or under the laws of this state, may by a majority vote of all its shareholders, change its corporate name, and adopt such other corporate name as the shareholders shall designate in the vote or resolution. In the event of any railroad company changing its name, as above authorized, the secretary of said railroad com-

pany shall file in the office of the secretary of state, a copy of the resolution, certified under his hand and the seal of the company, changing the name as aforesaid, and shall publish the same for three successive weeks in the official state paper, and such change shall take effect from the time when the same is filed with the secretary of state. All acts and things done or undertaken to be done for which the company shall have before been in any way liable under its former name, shall be to the same and as full extent binding and obligatory upon the company under the new name adopted by it.

SECTION 51. Any railroad company heretofore or hereafter incorporated by or under the laws of this state, may exercise all its rights, franchises and privileges in any other state or territory of the United States, under and subject to the laws of the state or territory where it may exercise or attempt to exercise the same, and may accept from any other state or territory, and use, any additional or other powers or privileges applicable to the carrying of persons and property by railway or steamboat in said state or territory, or otherwise applicable to the doings of said company in said state or territory.

Rights and franchises in other states.

SECTION 52. Every conductor, engineer or other person having charge of the running of any trains of passenger cars, wilfully and knowingly violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the state prison not exceeding one year, or by both, as the court may direct.

Conductors and engineers—how punished for violating provisions of this act.

SECTION 53. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation, to put him and his baggage out of the cars, on stopping the cars, and using no unnecessary force, at any usual stopping place, or near any dwelling house, as the conductor shall elect.

How payment of fare enforced.

SECTION 54. In case any railroad company or its agents, servants or employes shall neglect or refuse to comply with any of the provisions of this act, such railroad company shall, for each and every such violation or refusal, forfeit and pay the sum of fifty dollars, such penalty to be collected as other fines and penalties are collected, and to be paid over, one-half to the person in whose name the action is brought,

Penalty for non-compliance with provisions of this act.

and the balance to be paid into the county treasury of the county where such action is prosecuted, for the benefit of the school fund; and in addition thereto shall pay to the person aggrieved such damages as he may sustain.

Powers extend-
ed to all rail-
roads.

SECTION 55. All existing railroad corporations within this state shall respectively have and possess all the powers and privileges contained in this act, and they shall be subject to all the duties and liabilities prescribed by this act.

Repealed.

SECTION 56. Chapter seventy-nine of the revised statutes and the acts amending the same, also the following general laws: chapter eighty (80) and chapter ninety-one (91) of 1858; chapter two hundred and sixty-eight (268), chapter one hundred and thirteen (113), chapter three hundred and fifty-three (353), of 1860; section one (1) of chapter one hundred and seventy-five (175) and chapter one hundred and twenty (120) of 1861; chapter two hundred and fifty-four (254) of 1862; chapter one hundred and twenty (120) of 1863; chapter three hundred and ninety (390) and chapter four hundred and eighty-two (482) of 1864; chapter five hundred and twenty-four (524) of 1865; chapter ninety-seven (97) of 1867; chapter forty-four (44) of 1868; chapter nineteen (19) of 1870, and chapter forty (40) of 1871 are hereby repealed: *provided*, that the repeal of said acts shall not be construed to impair any rights heretofore acquired or now possessed by any railroad corporation, under said acts so repealed, or any provision or provisions thereof.

How to acquire
right of way
from other com-
panies.

SECTION 57. If it shall be necessary for any railroad company organized under any law of this state to use for the purposes of its road, any lands over which any other railroad company shall have previously acquired a right of way for its road, the right so to use such lands may be acquired in the same manner that other lands may be acquired under this act: *provided*, that the commissioners appointed in such case shall determine the question of the necessity of taking such land for that purpose, as well as the amount of compensation to be made therefor; and upon an appeal from the report or award made by the commissioners, both of such questions may also be tried; *and provided, further*, that such land shall not be taken for such purpose in such manner as to interfere in any manner with

the main track of the railroad first established, except for crossing, as hereinbefore provided.

SECTION 58. Whenever any commissioners appointed under any law of this state, for the purpose of appraising the value of any lands taken or required by a railroad company, and fixing the compensation to be made therefor to the owner or owners, shall be, by the law under which such commissioners have been appointed, limited to a time less than ninety days in which to perform their duties, such commissioners shall have the full time of ninety days from the time of their appointment in which to discharge the duties imposed upon them, any law of this state heretofore enacted to the contrary notwithstanding; and any commissioners appointed to appraise the value of any lands taken or required by a railroad company, and to fix the compensation therefor, which the owner or owners shall receive, are hereby authorized to make separate reports from time to time, of their proceedings in the matter of the appraisement of any piece of land appraised by them.

Time within which commissioners to discharge their duties.

SECTION 59. This act shall be in force from and after its passage and publication.

Approved March 22, 1872.

CHAPTER 120.

[Published April 5, 1872.]

AN ACT to provide for the protection of the harbor of Superior, and for the removal of obstructions from the bay of Superior.

WHEREAS, The construction of a canal through Minnesota Point in the state of Minnesota has produced and will continue to result in serious injury to the harbor of Superior, and to the entry to the same at mouth of the St. Louis river, between Minnesota Point and Wisconsin Point, by diverting the current of said river from its natural outlet at said entry; and

WHEREAS, A dyke constructed across the bay of Superior, from Rice's Point to Minnesota Point, for th

Preamble.