

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REPORT

OF THE

COMMISSIONERS

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

~~~~~  
TITLE IV.  
~~~~~

AUGUSTA:

STEVENS & BLAINE, PRINTERS TO THE STATE.

1855.

TITLE FOURTH.

CORPORATIONS OF VARIOUS KINDS, AND PROPRIETORS OF REAL ESTATE IN COMMON.

Chap. 47. Corporations.

48. Banks.
49. Manufacturing corporations.
50. Insurance and insurance companies.
51. Turnpikes and toll bridges.
52. Railroads.
53. Steam navigation companies, and the transportation of goods and passengers
by common carriers.
54. Telegraph companies.
55. Aqueducts.
56. Libraries, and charitable and benevolent societies.
57. Proprietors of lands, wharves, and other real estate in common.
58. Mills and their repairs.

Chapter 47.

CORPORATIONS.

Sect. 1. General powers of corporations.

2. Clerk's office and records.
3. Books of, to be exhibited to persons interested, &c.
4. Penalty for neglect or refusal to exhibit.
5. Clerk of, to file certificate of his appointment.
6. Parol and implied contracts of, binding.
7. Privileges allowed foreign corporations.
8. Regulations and by-laws of corporations.
9. Proxies and voting by proxy.
10. First meeting, manner of calling.
11. Meetings, when may be called by a justice of the peace.
12. Who may preside at opening such.
13. Powers of presiding officers of.
14. Any meeting legal if all members assent.
15. May hold real estate. Transfer of shares.

Sect. 16. Annual return to assessors of stockholders' names.

17. Returns to the secretary of state.

18. May be sent by mail.

19. Neglect to make, forfeiture for.

20. Property and franchises liable for debts.

21. Stockholders liable for corporate debts.

22. Scire facias against stockholders, when issued. What may be shown in defense.

23. Treasurer to keep record of claims of stockholders against corporations for debts paid.

24. Clerk to disclose the names and liabilities of stockholders.

25. Proceedings in equity or law against stockholders.

26. Executions against corporations, how to be enforced. Right to redeem land sold on execution.

27. Certain acts of incorporation may be repealed or altered.

28. Extension of charters for settlement of corporate concerns.

29. Appointment of trustees to close concerns.

30. Chancery proceedings in such cases.

31. Powers, duties and proceedings of trustees.

32. Corporate funds not to be divided so as to reduce the stock below par.

33. Remedy of creditors in such case.

34. Proceedings in court thereon.

35. Power of the court to allow amendments of the complaint.

36. Individual rights on expiration of charter.

37. Liability of members of quasi corporations, and mode of indemnity.

38. Further liability of stockholders.

39. Foreign corporations liable to suits.

40. Annual meeting failing to be holden, officers hold over till others are chosen.

41. New meeting may be called and officers chosen.

SECTION 1. All corporations, where no other provision is specially made, shall be capable in their corporate name to sue and be sued, appear, prosecute and defend to final judgment and execution, in any courts or elsewhere; to have a common seal which they may alter at pleasure; to elect, in such manner as they shall determine to be proper, a clerk and all other necessary officers; fix their compensation and define their duties and obligations; and make by-laws and regulations consistent with the laws of the state for their own government, and for the due and orderly management of their affairs and their property.

R. S., c. 76, § 1.

SECT. 2. Every corporation instituted under the authority of this state, shall keep the office of its clerk, together with its records and papers, at some place within this state.

R. S., c. 76, § 2.

SECT. 3. The books, records and papers of every such corporation shall at all seasonable hours be open to the inspection of all members of the corporation, and of all persons interested in its books, records or business. All such persons shall have the right to inspect such books, records and papers, and to take minutes and copies of such parts as concern their interests, and to have such records, books and papers produced in court on the trial of any action in which they are interested, and in which such books, records and papers can be properly used as evidence. 1849, c. 141.

SECT. 4. Any officer or member of such corporation, who shall by any act or neglect of official duty willfully prevent any such person from having access to and the use of such records, books and papers, in the manner and for the purposes aforesaid, shall be liable to pay such person all such damages, costs, charges and expenses, as he shall suffer by reason of such wrongful act or neglect, to be recovered in an action on the case. 1849, c. 141.

SECT. 5. The clerk of every private corporation shall within twenty days after his acceptance of the office, file a certificate of his appointment in the office of the register of deeds, in any county or district where such corporation is established, or in which it may have a place of business or general agent.

R. S., c. 76, § 3.

SECT. 6. Parol contracts may be binding upon aggregate corporations, if made by an agent duly authorized by a corporate vote, or under the general regulations of the corporation; and contracts may be implied on the part of such corporations from their corporate acts, or those of an agent whose powers are of a general character. R. S., c. 76, § 4.

SECT. 7. Corporations whether public or private, which exist by the laws of any other state or within any foreign jurisdiction, may sue in this state by their corporate name, and the acts of their agents in this state shall have the same validity as the acts of agents of foreign private persons, unless expressly prohibited by law. R. S., c. 76, § 5.

SECT. 8. All corporations instituted in this state may, by their by-laws, where no other provision is specially made, deter-

3 mine the manner of calling and conducting all meetings; the
4 number of members that shall constitute a quorum; the number
5 of shares that shall entitle the members to one or more votes;
6 the mode of voting by proxy; the mode of selling shares for the
7 non-payment of assessments, and the tenure of office of the
8 several officers; and annex suitable penalties to such by-laws,
9 not exceeding in any case the sum of twenty dollars for any one
10 offense; provided, that no such by-laws shall be made by any
11 corporation repugnant to any provisions of its charter.

R. S., c. 76, § 6.

SECT. 9. All stockholders or owners of shares in any corpo-
2 ration, may be represented in all meetings by their proxies duly
3 authorized. Proxies shall not be granted more than thirty days
4 before the meeting at which they are to be used, which meeting
5 shall be set forth therein, and shall end on its final adjournment.
6 A right of representation under a general power of attorney shall
7 be valid until it is revoked. No shares, so long as they remain
8 pledged or hypothecated to any corporation, shall be represented
9 by any person. No person by reason of proxies or the right of
10 representation, shall give at any meeting a greater number of
11 votes than the highest number an individual stockholder is
12 allowed to give by the charter or by-laws of the corporation.

1843, c. 14.

SECT. 10. The first meeting of all corporations, unless other-
2 wise provided for in their acts of incorporation, shall be called
3 by a notice, signed by any one or more of the persons named in
4 the act of incorporation, and setting forth the time, place and
5 purposes of the meeting; and such notice shall, seven days at
6 least before the meeting, be delivered to each member, or pub-
7 lished in some newspaper of the county where the corporation
8 may be established, if any, otherwise in the state paper.

R. S., 76, § 7.

SECT. 11. When, for want of sufficient by-laws for the pur-
2 pose, or of officers duly authorized, or from the improper neglect
3 or refusal of such officers, or from other legal impediment, a
4 legal meeting of any corporation cannot be otherwise called, any
5 justice of the peace, in the county where it is desirable to hold
6 such meeting, or where such corporation is established, if it be

7 local, may, on a written application of three or more members
8 thereof, issue a warrant to either of said members, directing him
9 to call a meeting of the corporation, by giving such notice as is
10 required in the preceding section; and, where the law requires
11 notice in some public newspaper, or by posting up in some pub-
12 lic place, the justice shall in his warrant designate the paper or
13 public place for such notice, as the case may be.

R. S., c. 76, § 8.

SECT. 12. When a meeting of any corporation is called, by a
2 warrant from a justice of the peace, pursuant to any provision
3 of law, said justice, or the person to whom such warrant is
4 directed, may call the meeting to order and preside therein,
5 until a clerk shall be duly chosen and qualified, if there be
6 no officer present, whose duty it may be to preside; but the
7 justice, or other person organizing such meeting, shall not be
8 responsible for any error in judgment in receiving or rejecting
9 the vote of any person claiming to be a member.

R. S., c. 76, § 9.

SECT. 13. The person, legally presiding at a meeting of any
2 corporation, shall have the same power and authority as is given
3 by law to moderators in town meetings.

R. S., c. 76, § 10.

SECT. 14. When all the members of a corporation are present
2 at any meeting however called or notified, and sign a written
3 consent thereto on the record of such meeting, the doings of such
4 meeting shall be as valid as if legally called and notified.

R. S., c. 76, § 11.

SECT. 15. Every corporation, instituted in this state, may
2 hold lands to an amount authorized by law, and may convey the
3 same. Whenever the capital stock of any such corporation is
4 divided into shares, and certificates thereof issued, such shares
5 may be transferred by indorsement and delivery of the certifi-
6 cates thereof; such indorsements being by the signature of the
7 proprietor, or his attorney or legal representative; but such
8 transfer shall not be valid, except between the parties thereto,
9 until the same is so entered on the books of the corporation, as
10 to show the names of the parties, the number and designation of
11 the shares, and the date of the transfer.

R. S., c. 76, § 12.

SECT. 16. The cashiers of banks, and the clerks of all other corporations of this state, holding property liable to be taxed, shall annually, under oath, within seven days after the first day of April, return to the assessors of every town, in which any of the stockholders reside, the amount of stock owned on the said first day of April, the names of the stockholders resident in such town, so far as known to such cashiers or clerks, and the amount of stock taken up and actually paid in, in such corporation; and such returns shall be the basis of taxation on said property. R. S., c. 76, § 13.

SECT. 17. Said cashiers and clerks shall also, annually, within seven days after the first day of January, make return to the secretary of the state of the names of all the stockholders, their residence, and the amount of stock owned by each, and the whole amount of stock taken up and actually paid in, as aforesaid, on the said first day of January; and it shall be the duty of the secretary to lay the same before the legislature, within the first thirty days of its session. R. S., c. 76, § 14.

SECT. 18. If any such cashier or clerk within the times specified, shall deposit his returns, required by the two preceding sections, in some convenient post office, post paid, directed to the assessors of the proper towns, or to the secretary of state, respectively, it shall be deemed a sufficient compliance with the provisions of said sections. R. S., c. 76, § 15.

SECT. 19. If the clerk or cashier of any such corporation, holding property as aforesaid, neglects or refuses to make the returns required by the sixteenth and seventeenth sections, said corporation shall forfeit five hundred dollars, to be recovered in an action of debt; one-half to the use of the prosecutor, and the other half to the use of the state. R. S., c. 76, § 16.

SECT. 20. The corporate property of any company incorporated in this state, and the franchise of any corporation having a right to receive toll, with the privileges and immunities thereof, are liable to attachment on mesne process, and levy on execution for the debts of such corporation in the manner prescribed in chapters seventy-six, eighty-one, and eighty-four. R. S., c. 76, § 17.

SECT. 21. In all corporations created by the legislature, after the sixteenth day of February, in the year eighteen hundred and thirty-six, excepting banking corporations, unless otherwise specified in their charter, in case of deficiency of attachable corporate property or estate, the individual property, rights and credits of every stockholder thereof shall be liable to the amount of his stock and no more, for all debts of the corporation, contracted during his ownership of such stock; and such liability shall continue, notwithstanding any subsequent transfer of such stock, for the term of one year after the record of the transfer thereof on the books of the corporation, and for the term of six months after judgment recovered against such corporation, in any suit commenced within the year aforesaid; provided, that in every such case the officer, holding the execution, shall first ascertain and certify upon such execution that he cannot find corporate property or estate. R. S., c. 76, § 18.

SECT. 22. After such execution has been returned unsatisfied as aforesaid, the judgment creditor may have an action of scire facias, with the usual provision for attachment of property, against any one or more stockholders of such corporation, to show cause why judgment should not be recovered against them for the amount due on his execution to the extent of their individual liability aforesaid; and in the execution issued upon any such judgment in scire facias, the proportion to be paid by each of said stockholders shall be specifically designated. And in such action of scire facias, any defendant may prove in reduction of his said liability the amount of debt of the corporation he has previously paid, re-payment of which has not been made or secured to him, and may show any other legal cause why judgment should not be rendered against him: provided, that this section shall not apply to any suits or actions pending March 16, 1855. 1855, c. 169, § 1.

SECT. 23. The treasurer of every such corporation shall keep a full record of claims in favor of its stockholders against the corporation, and exhibit the same with a particular statement of the financial condition of such corporation, to any creditor of the corporation when requested by him, and in failure of exhibiting such statement, the stockholders of said corporations shall

7 not be entitled to the benefit of the preceding section, in any
8 action brought by such creditor on his claim against the corpo-
9 ration, but shall have a remedy upon the bond of the treasurer.

1855, c. 169, § 2.

SECT. 24. The clerk of every such corporation, on demand
2 of any officer legally holding any execution against the same,
3 shall furnish the officer with the names, places of residence so
4 far as to him known, and the amount of liability of every person
5 liable as aforesaid.

R. S., c. 76, § 21.

SECT. 25. When the officers or members of a corporation, or
2 any of them, are liable for the debts of the corporation, or for
3 any acts of such officers or members respecting the business of
4 the corporation, and also when any of the said officers or mem-
5 bers are liable to contribute for money paid by any other or
6 others of them, on account of any such debts or acts, the money
7 due may be recovered by an action at common law, or by a bill
8 in equity, and the court may make all such orders and decrees
9 as may be necessary to do justice between the parties.

R. S., c. 76, § 22.

SECT. 26. Any person having an execution against any cor-
2 poration in this state, other than those created for the purposes
3 of education or religion, and being unable to find any personal
4 property of said corporation, which fact is to be certified by the
5 officer having such execution, wherewith to satisfy the same,
6 may cause so much of the real estate of such corporation to be
7 seized and sold at public auction in the town where it is situated,
8 as may be necessary to satisfy such execution and all incidental
9 expenses, in the same manner as the lands of banks and manu-
10 facturing corporations may be taken and sold, and with the same
11 rights of redemption.

1845, c. 143, § 1, 2.

SECT. 27. All acts of incorporation passed after the seven-
2 teenth day of March, in the year eighteen hundred and thirty-
3 one, or which may hereafter be passed, shall at all times be
4 liable to be amended, altered or repealed at the pleasure of the
5 legislature, in the same manner as if an express provision to
6 that effect were therein contained; unless there shall have been
7 inserted in such act of incorporation an express limitation or
8 provision to the contrary; but nothing in this section shall be

9 construed as superceding or abrogating any control, which by
10 the principles of the common law is vested in any judicial court
11 over any corporation, or any of its officers, in cases of miscon-
12 duct, negligence, irregularity of procedure or other cause, which
13 on such principles would require the interference of such court.

R. S., c. 76, § 23.

SECT. 28. All corporations whose charters expire by their
2 own limitation, or are annulled by forfeiture or otherwise,
3 shall be continued bodies corporate for three years from such
4 time, for the purposes of prosecuting and defending suits by or
5 against them; of gradually settling and closing their concerns;
6 of disposing of their property; and of dividing their capital
7 stock; and for no other purpose.

R. S., c. 76, § 24.

SECT. 29. When the charter of any corporation expires or
2 is annulled, any creditor or stockholder of such corporation
3 may apply to the supreme judicial court, which may appoint one
4 or more persons as trustees, to take charge of the estate and
5 effects of such corporation, with power to collect the debts and
6 property of the same, and to prosecute and defend in the name
7 thereof all necessary suits in law.

R. S., c. 76, § 25.

SECT. 30. Said court shall have jurisdiction in chancery
2 of such application, and of all questions arising in the proceed-
3 ings thereon; and may make such orders, injunctions and
4 decrees therein as justice and equity require.

R. S., c. 76, § 26.

SECT. 31. The said trustees shall pay all debts due from the
2 corporation, if the funds in their hands shall be sufficient
3 therefor; and, if not, they shall distribute the same ratably
4 among all the creditors, who shall prove their debts in the man-
5 ner directed by any order or decree of the court for that
6 purpose; and, if there is any balance remaining after the pay-
7 ment of said debts, the trustees shall distribute and pay the
8 same to and among those who are justly entitled thereto, as
9 having been stockholders or members of the corporation, or their
10 legal representatives.

R. S., c. 76, § 27.

SECT. 32. It shall be unlawful for any corporation, excepting
2 corporations for literary and benevolent purposes, banking and

3 such as by the common law are termed quasi corporations, to
4 make any division of the corporate funds or property belonging
5 to such corporation, so as to reduce the stock of such corpora-
6 tion below par value, except to close up the concerns of such
7 corporation after all its debts are paid. 1848, c. 64, § 1.

SECT. 33. In all cases where any corporation, as aforesaid,
2 has heretofore made, or shall hereafter make any such division
3 of the corporate property or funds or of any portion thereof, and
4 in all cases where such corporation has corporate property of
5 any kind which is undivided, and which cannot be come at
6 readily to be attached, or which is not attachable, any judgment
7 creditor of such corporation or his attorney, may make com-
8 plaint thereof to the supreme judicial court, therein setting
9 forth in substance his judgment, and alleging the same to be
10 unsatisfied by reason of inability to find corporate property
11 wherewith to satisfy the same ; and that he has reason to believe
12 and does believe that such corporation has property or rights in
13 action in the hands of its officers or elsewhere, or that such cor-
14 poration has made division of corporate property or rights in
15 action among the stockholders thereof without first causing the
16 payment of the debts due from such corporation, and therein
17 setting forth the names of such persons as he shall allege to
18 have the custody or possession of any such property or rights in
19 action, either before or after division thereof as aforesaid ; and
20 such persons, whether officers or stockholders of such corporation
21 or not, may be summoned into said court by having a copy of
22 said complaint duly served upon them, fourteen days before the
23 sitting of said court, and they shall be held to make full answer
24 thereto, and a disclosure in writing and on oath of all facts
25 within their knowledge relating to any corporate property,
26 funds, or rights in action belonging to said corporation, in their
27 hands or in the hands of any other person, or divided among the
28 stockholders of said corporation, as aforesaid ; and if any person
29 so summoned has the custody of the records of such corporation,
30 he shall be bound to produce the same, and to make such
31 extracts therefrom in his answer as the complainant may require
32 and the court direct. 1848, c. 64, § 2.

SECT. 34. The court, or either of the judges thereof, shall
2 have power to hear said answer and disclosure and all other
3 evidence relating to any such property or rights in action which
4 may be offered by either party, and shall thereupon adjudge
5 whether such persons or any of them, at the time of the service
6 of said complaint, held any property or funds or rights in action
7 belonging to said corporation, or which had been divided among
8 the stockholders as aforesaid; or any of said questions, at the
9 request of either party, may be submitted under the direction of
10 the court, to a jury to determine; and if the court, either with
11 or without the verdict of a jury, shall adjudge that said corpo-
12 ration has any corporate property, funds or rights in action in
13 the hands of its officers or stockholders so summoned as afore-
14 said, or elsewhere, or has made any division thereof as aforesaid,
15 then said court shall have full power to order and decree that
16 said property, funds or rights in action shall be held to respond
17 the judgment aforesaid, and to issue all such processes to
18 enforce the said order and decree, and to cause payment to be
19 made to the judgment creditor, as they have in other cases in
20 chancery. 1848, c. 64, § 2.

SECT. 35. The court shall have power to allow the amend-
2 ment of said complaint, by striking out the names of any persons
3 summoned as aforesaid, or by adding the names of any other
4 persons who shall be summoned into court and held to answer
5 unto said complaint in such manner as the court shall direct,
6 and also to award legal costs to any of the parties as justice and
7 equity may require. 1848, c. 64, § 3.

SECT. 36. On the final dissolution of any corporation, all its
2 real and personal estate, not legally disposed of, shall be vested
3 in the individuals who may be stockholders or members at the
4 time of such dissolution, in their due proportions; who shall
5 hold the same as tenants or owners in common.

R. S., c. 76, § 28.

SECT. 37. Inhabitants of counties, towns, and members of
2 such other bodies politic as by the common law are termed quasi
3 corporations, instituted for the due regulation of their public
4 affairs, and not for the purpose of holding and managing any
5 corporate funds, shall be liable to have their private property

6 taken on execution, to satisfy any debt of such body politic, of
7 which they are members, in such manner as is provided in
8 chapter eighty-four, and for all such sums as they may be thus
9 held to pay, with costs thereon, such inhabitants or members
10 shall have their remedy by action at common law against such
11 body politic. R. S., c. 76, § 29.

SECT. 38. The stockholders of all corporations, excepting
2 banking corporations and corporations for literary and benevolent
3 purposes, created since the seventeenth day of March, in the
4 year eighteen hundred and thirty-one, shall be subject, as it
5 regards debts contracted by such corporations, to all the liabili-
6 ties imposed on such stockholders by the provisions of the
7 twenty-first section of this chapter; provided, that such liability
8 shall not be incurred, excepting for such stock as they shall
9 have acquired since the twenty-fourth day of April, in the year
10 eighteen hundred and thirty-nine; nor for stock held by any
11 person as executor, administrator, guardian or trustee.

R. S., c. 76, § 30.

SECT. 39. Any corporation, incorporated by any other state
2 or country, and having property in this state, shall be liable to
3 be sued, and the property of the same shall be subject to attach-
4 ment in the same manner as individuals residents of other states
5 or countries, and having property in this state, are now liable
6 to be sued, and their property subject to be attached; and the
7 service of the writ, in such case, shall be made in the manner
8 provided in chapter eighty-one, with such further service, if
9 any, as the court, where the same is returnable, may order.

R. S., c. 76, § 31.

SECT. 40. In all cases where any corporation within this
2 state has heretofore failed or shall hereafter fail to hold its
3 annual meeting for the election of officers upon the day fixed
4 by any statute or by-law of such corporation, the officers of the
5 preceding year shall hold over and exercise all the duties apper-
6 taining to their several offices, and such corporations shall be
7 bound by their acts and proceedings in the same manner as if
8 they had been re-elected for such year, and until other officers
9 are duly chosen in their stead: *provided, however*, that if such
10 corporation has elected its officers at any meeting of which proper

11 notice had been given, upon any other day than that named in
12 the statute or by-law of the corporation for the holding of its
13 annual meeting, such meeting shall be valid, and any officers
14 who have been so elected or shall hereafter be so elected, shall
15 hold the offices to which they have been or may be so chosen, and
16 exercise the duties thereof in the same manner as if they were
17 legally chosen, unless a majority of the members of such corpo-
18 ration shall file with the clerk or secretary thereof written
19 objections thereto, within six months from the time of such
20 election, and such corporations shall be bound by all the acts and
21 doings of the officers chosen at any meeting holden as aforesaid,
22 until other officers shall be duly chosen in their stead.

1855, c. 163, § 1.

SECT. 41. If a majority of the members of any corporation
2 shall file with the clerk or secretary thereof written objections
3 to any such election of officers, within six months from the time
4 of their election as aforesaid, it shall thereupon be the duty of
5 such clerk or secretary to call a new meeting of such corporation
6 at such time and place as he may appoint, and he shall give the
7 same notice as is required for the annual meeting of such corpo-
8 ration, and shall state in such notice the fact of such objection
9 having been made and the purpose for which such new meeting
10 is called, and when such new meeting shall have been held and
11 officers elected thereat, such new officers shall hold the offices to
12 which they are elected, and exercise all the duties thereof, until
13 the next annual meeting, and until other officers are chosen in
14 their stead.

1855, c. 163, § 2.

Chapter 48.

BANKS.

- Sect. 1.* All banks, except savings banks, subject to the provisions of this chapter.
2. Notice of acceptance of charter to be given to secretary of state.
 3. Corporate name, privileges and liabilities.
 4. Number and qualifications of directors.
 5. Choice of president. Quorum.
 6. Annual meeting for choice of directors.

- Sect. 7.* Votes allowed to each stockholder. Proxies.
8. Special meetings. Vacancies in board of directors.
 9. Where the bank shall be kept.
 10. When a bank may commence business.
 11. Instalments of capital stock when payable. No stockholder to own more than one-fifth.
 12. Shares not transferable till all the capital stock is paid in. Exceptions.
 13. Right of the state to take stock in any bank.
 14. Attachment and sale of shares on writs and executions.
 15. Lands and mortgages may be taken and sold.
 16. Semi-annual state tax.
 17. Payment thereof, how enforced.
 18. Power of banks to hold real estate. Restriction.
 19. Loans and discounts. Restriction on loans to directors.
 20. Not to engage in trade.
 21. Semi-annual dividends.
 22. Cashier and other officers.
 23. Cashier not to be a director.
 24. Cashier and clerks to be sworn, and give bond.
 25. Special meetings of stockholders, how called.
 - 26, 27. Limitation of amount of debts and credits.
 28. Liability of directors if they exceed those limits.
 29. Innocent directors exonerated.
 30. Banks still liable.
 31. Loans and issues not to be made but at the banking house.
 32. Charters of banks extended till October 1, 1857.
 33. Amount of circulation allowed.
 34. Cashiers to make weekly balances. Commissioners' duties.
 35. Penalty for over issues.
 36. How recovered.
 37. Form and signature of bills. Every bank to receive its own bills in payment of debts.
 38. Restriction as to bills under five dollars. Fractional bills prohibited.
 39. Interest may be paid on deposits, but not to be payable on notes.
 40. Bills to be redeemable in specie at the bank.
 41. Exception as to drafts or checks.
 42. Twenty-four per cent. yearly damages for not redeeming bills.
 43. Interest to be paid till yearly damages commence.
 44. Damages to cease after tender of the amount.
 45. Private property of stockholders liable in certain cases.
 46. Directors to disclose names and interests of stockholders.
 47. Liability for neglect, on demand.
 48. Loss from mismanagement of directors, how made up.
 49. Liability of stockholders at expiration of charter.
 50. Mode of enforcing payment from directors or stockholders.
 51. Mode of obtaining contribution by a stockholder who has been compelled to pay.
 52. Similar liabilities and remedies of corporations, when stockholders.
 53. Bank interest limited to six per cent.
 54. Right of the state to require loans from banks.
 55. Requisition, how made.
 56. Cashier to make returns when required by the governor. Form thereof.

- Sect. 57.* Cashiers to make semi-annual returns. Form thereof.
58. Returns to be signed and sworn to.
 59. Names of stockholders to be returned when required by the legislature.
 60. Cashier's return to be verified by the directors.
 61. Penalty for not making returns.
 62. Secretary of state to furnish blanks for returns.
 63. To publish abstracts, and transmit a copy to each bank.
 64. Bank commissioners; powers and duties.
 65. Power to examine banks and savings institutions. May examine officers on oath. Punishment for refusal to testify.
 66. Proceedings by commissioners if they deem a bank or savings institution unsafe. Injunction, and appointment of receivers to close its concerns. Liability of banks after expiration of their charters.
 67. Directors to examine banks and cashiers' bonds annually.
 68. Sale of real estate of banks after expiration of charter.
 69. Claims and demands, how settled by receivers. Report of receivers.
 70. Objections to report, how made and disposed of.
 71. Assets of, how applied.
 72. Assets not sufficient, bill in equity filed. Further proceedings.
 73. Lien on real estate of stockholders.
 74. Application of the foregoing provisions.
 75. Directors' liability not diminished by these provisions.
 76. Court may decree distribution.
 77. Plates for bills. Bills not void by alterations.
 78. Weights to be scaled by the state sealer.
 79. Gold, how to be weighed.
 80. Counterfeit and altered bills to be marked by cashier. Damages in case of mistake in such marking.
 81. Record to be kept of bills so marked.
 82. Application to a judge of the supreme judicial court, if a bank refuse to pay its bills.
 83. Court may appoint receivers, who shall give bond.
 84. Their duties.
 85. May sell real estate and mortgages.
 86. May collect or sell any of the debts due to the bank.
 87. Revocation of authority of receivers.
 88. Appeal from any order of a judge to the whole court.
 89. Compensation to receivers.
 90. Liability of officers for refusing to surrender property to the receivers.
 91. Receivers, after paying the debts, to deliver up the residue of property to the bank.
 92. Stockholders may be witnesses after the sale of their stock.
 93. Banking companies prohibited unless authorized by the state.
 94. Agencies of foreign banks or bankers prohibited unless authorized by the state.
 95. No person to issue bills as a private banker to be circulated as money.
 96. Penalty for violating the three preceding sections.
 97. Punishment for frauds and embezzlements.

SECT. 1. Every bank incorporated under the authority of
 2 this state, except savings banks, shall be governed by the rules,

3 and subjected to all the duties, limitations, restrictions, liabilities
4 and provisions contained in this chapter.

1841, c. 1, § 1.

SECT. 2. Any bank hereafter incorporated shall within ten
2 days after acceptance of its charter, give notice in writing of
3 such acceptance to the secretary of state. 1841, c. 1, § 2.

SECT. 3. Every bank incorporated as aforesaid shall be known
2 by the corporate name of "the president, directors and company
3 of the ——— bank ———," [the blank to be filled with such name
4 as its charter may authorize] and shall, except when special
5 provision is otherwise made, be entitled to all the powers and
6 privileges and be subject to all the liabilities contained in chap-
7 ter forty-seven. 1841, c. 1, § 3.

SECT. 4. Every bank shall have not less than five nor more
2 than nine directors, exclusive of such as may be appointed by
3 the governor and council as hereinafter provided, a majority of
4 whom shall be residents in the county where such bank is estab-
5 lished. None but a stockholder in such bank, and a citizen of
6 and resident in the state, shall be eligible to that office, nor any
7 two members of a copartnership be directors of the same bank,
8 nor any person be a director in two banks at the same time.

1841, c. 1, § 4.

SECT. 5. The directors shall choose one of their own number
2 to be president, and may make him such compensation as to
3 them shall appear reasonable. The assent of a majority of the
4 directors shall always be necessary for the transaction of
5 business. 1841, c. 1, § 5.

SECT. 6. The directors shall be chosen by ballot annually, at
2 a meeting of the stockholders, to be holden on one of the first
3 fifteen days of the month of October annually, at some place
4 within the town where the bank is established, which time and
5 place shall be designated by the directors for the time being,
6 by giving public notice thereof fourteen days previous to the
7 meeting in some newspaper printed in the county, and if there
8 is none such, then in the state paper; and in all cases wherein
9 the bank shall be the owner of any of the shares of its stock,
10 or where any shares of its stock shall be pledged to the bank,
11 or held by any person or persons as trustee for the bank, such

12 shares as are so owned, pledged or held, shall in no case be
13 entitled to a vote, and shall not be represented by any person
14 in the business or transactions of the bank. 1841, c. 1, § 6.

SECT. 7. Every stockholder shall be entitled to vote according
2 to the number of shares he may hold, in the following propor-
3 tions: for one share he shall have one vote, and for every two
4 additional shares he shall have one vote more; but no one
5 stockholder shall have more than twenty votes: absent members
6 may vote by proxy, authorized in writing. 1841, c. 1, § 7.

SECT. 8. The directors may call special meetings of the
2 stockholders as often as they think the interest of the corpora-
3 tion requires it, giving the same notice as before provided:
4 vacancies in the board of directors may be filled at any such
5 special meeting, the purpose being specified in the notice.

1841, c. 1, § 8.

SECT. 9. Every bank shall be kept in the town where origin-
2 ally established. 1841, c. 1, § 9.

SECT. 10. No bank shall go into operation until one half at
2 least of its capital stock has been paid in, in gold and silver
3 money deposited in its vaults, and examined by three commis-
4 sioners appointed by the governor with the advice and consent
5 of the council. Said commissioners at the expense of the bank
6 shall examine and count the money actually in the vaults, and
7 ascertain by the oaths of a majority of the directors that such
8 money has been paid in by the stockholders toward the payment
9 of their respective shares, and not for any other purpose, and
10 that it is intended that the same shall remain therein as part of
11 said capital; and the said commissioners shall return a certificate
12 thereof to the office of the secretary of state.

1841, c. 1, § 10.

SECT. 11. The capital stock of every bank hereafter incorpo-
2 rated in this state, shall be paid in, one half in six months and
3 the other half in twelve months after the date of its charter, in
4 gold and silver money, of the legal currency of the United
5 States. No stockholder shall at any one time hold or own
6 more than one-fifth of the capital of any bank.

1841, c. 1, § 11.

SECT. 12. No shares in the capital stock of any bank shall
2 be sold or transferred, except by execution or distress, or by
3 executors, administrators or guardians, until the whole amount
4 of the capital stock has been paid in. 1841, c. 1, § 12.

SECT. 13. The state shall have a right, whenever the legisla-
2 ture shall make provision by law, to subscribe on account of the
3 state to the capital of any bank, a sum or sums not exceeding
4 in the whole one-tenth part of the previous capital of such bank
5 in addition to the same, subject to such rules, regulations and
6 provisions as by the legislature shall be made and established
7 for the management of the same; and to appoint an additional
8 director in such case. 1841, c. 1, § 13.

SECT. 14. Shares in any bank may be attached on mesne
2 process and taken in execution and sold agreeably to the pro-
3 visions of chapters eighty-one and eighty-four.

1841, c. 1, § 14.

SECT. 15. The lands of any bank, and all the right, title,
2 claim and interest of any bank in lands mortgaged for security
3 of any debt due or assigned to such bank, and any debt due
4 such bank and secured by such mortgage, may be attached on
5 mesne process and taken in execution and sold agreeably to
6 the provisions contained in chapters seventy-six and eighty-one.

1841, c. 1, § 15.

SECT. 16. Every bank, within ten days after the first Mon-
2 days of April and October, respectively, in each year, shall pay
3 to the treasurer of the state for the use of the same, a tax of
4 one-half of one per cent. on the amount of its capital stock
5 actually paid in. 1841, c. 1, § 16.

SECT. 17. If any bank neglects to pay said tax for thirty
2 days after the same has become due, it shall be the duty of the
3 treasurer to issue a warrant of distress to compel the payment of
4 the same out of the estate and effects of said bank; which war-
5 rant shall be executed in the same way as warrants of distress
6 issued against the estate and effects of delinquent sheriffs, under
7 the provisions of chapter nine. 1841, c. 1, § 17.

SECT. 18. Every bank may hold, with power to sell and
2 dispose of the same, such real estate as may be requisite for

3 the convenient transaction of its business; but the real estate
4 so held shall not, unless by special authority for the purpose,
6 exceed twelve per cent. on the amount of the capital stock,
7 exclusive of what the bank may hold on mortgage, receive on
8 execution, or take as security or in payment of any debts.

1841, c. 1, § 18.

SECT. 19. Every bank, subject to such restrictions as are
2 mentioned in this chapter, may loan and negotiate their moneys
3 and effects by discounting on banking principles on such security
4 as their regulations may permit; but, that no loan shall be
5 made by any bank upon pledge of its own stock; nor shall any
6 bank discount notes, bills of exchange, drafts or other security
7 for the payment of money without at least two responsible names
8 as principals, sureties or indorsers thereon, and for this purpose
9 any firm composed of two or more persons is to be considered as
10 one person; or without adequate personal pledges, or collateral
11 security; and no loan shall be made to any stockholder, until
12 the amount of his shares has been paid into the bank. The
13 aggregate of all the debts due from the directors as principals,
14 indorsers or sureties, shall at no time exceed one-third part of
15 the amount of the capital of such bank; nor shall the debts due
16 from any one director, as principal, indorser or surety, exceed
17 eight per cent. of the capital stock.

1841, c. 1, § 19.

SECT. 20. No bank shall invest, use or improve any of its
2 moneys, goods, chattels or effects, in trade or commerce; but
3 any bank may sell all kinds of personal pledges lodged with it
4 by way of security, to an amount sufficient to reimburse the
5 sum loaned, with interest and expenses.

1841, c. 1, § 20.

SECT. 21. The directors shall make half yearly dividends of
2 the profits of the bank.

1841, c. 1, § 21.

SECT. 22. The directors shall appoint a cashier, and may
2 appoint clerks and other officers for conducting the business of
3 the bank, with such salaries as to them seem meet; removable
4 at the pleasure of the directors.

1841, c. 1, § 22.

SECT. 23. No cashier of any bank shall be a director therein.

1841, c. 1, § 23.

SECT. 24. The cashier and clerks, before they enter upon
2 the duties of their offices, shall be sworn, and give bonds,

3 with two or more sureties, to the satisfaction of the directors,
4 conditioned for the faithful performance of their duties. The
5 bond of the cashier shall be renewed every year in the month
6 of October, and in no case shall it be signed by any director of
7 the bank for which he is appointed, nor be given for a less
8 penal sum than twenty thousand dollars, nor greater than fifty
9 thousand dollars; and said cashier or clerks shall have no voice
10 in the choice of directors of said bank, nor represent, for them-
11 selves or by proxy, any shares therein. 1841, c. 1, § 24.

SECT. 25. The cashier of every bank on the application in
2 writing of the proprietors of one-fifth part of the capital stock
3 thereof, shall call special meetings of the stockholders, by giving
4 notice of such meetings in the manner provided for notifying the
5 annual meeting; and in case of refusal by such cashier, any
6 justice of the peace in the county where the bank is established
7 may, on such application, call such meetings, giving the like
8 notice. 1841, c. 1, § 25.

SECT. 26. The total amount of debts, which any bank may
2 at any time owe, shall not exceed twice the amount of its capital
3 stock actually paid in, exclusive of sums due on account of
4 deposits not bearing interest; nor shall there be due to such
5 bank at any time more than double the amount of its capital
6 stock actually paid in. 1841, c. 1, § 26.

SECT. 27. Debts due to any bank from any other bank, pay-
2 able on demand, including bills of the bank so indebted, shall
3 not be deemed debts due to a bank, within the intent and mean-
4 ing of the preceding section. 1841, c. 1, § 27.

SECT. 28. If any bank becomes indebted beyond the amount
2 allowed by the two preceding sections, the directors under
3 whose administration it happens shall be liable for the excess in
4 their private capacities; any condition, release or agreement to
5 the contrary, notwithstanding; and an action of debt may in
6 such case be brought against them, or any of them, or their
7 executors or administrators by any creditor of such corporation,
8 and prosecuted to final judgment and execution; or such creditor
9 may have a bill in equity against them in the supreme judicial
10 court. 1841, c. 1, § 28.

SECT. 29. Any director who was absent when such excess of
2 debts was contracted, or who at the time dissented from the
3 resolution or act whereby the same was contracted, may exon-
4 erate himself from being so liable, by forthwith giving notice of
5 the fact, and of his absence or dissent, to the governor and
6 council, and to the stockholders at any general meeting; which
7 meeting he may call for that purpose. 1841, c. 1, § 29.

SECT. 30. The provisions of the two preceding sections shall
2 not be construed to exempt any bank, or the lands, goods or
3 chattels of the same, from being also liable for the excess therein
4 mentioned. 1841, c. 1, § 30.

SECT. 31. No loan or discount shall be made, nor any bill
2 or note issued, by any bank or by any person on their account,
3 except at the usual banking house of the same. 1841, c. 1, § 31.

SECT. 32. The charters of all banks existing August tenth,
2 eighteen hundred and forty-six, or incorporated since that date,
3 are extended to the first day of October in the year of our Lord
4 one thousand eight hundred and fifty-seven, subject to the pro-
5 visions of this chapter. 1846, c. 220, § 1.

SECT. 33. No bank incorporated within this state, shall issue
2 and put in circulation as money, bills to the amount of more
3 than fifty per cent. of its capital stock actually paid in, unless
4 said bank shall have in its vaults at the time of such issue, one
5 dollar in specie for every three dollars in bills so issued over and
6 above fifty per cent. of its capital stock; nor shall the circulation
7 of any bank within this state at any time exceed the amount of
8 its capital stock paid in and the specie in its vaults.
1846, c. 220, § 3.

SECT. 34. Weekly balances shall be made by the cashiers of
2 banks, exhibiting the amount of specie on hand and the amount
3 of bills in circulation; and it shall be the duty of the bank
4 commissioners, at their annual examination, to note all over-
5 issues shown by such balances, and report the same to the
6 governor and council. 1846, c. 220, § 4.

SECT. 35. Every bank incorporated in this state, shall forfeit
2 and pay for the use of the state ten per cent. upon the amount

3 of bills which it shall at any time put in circulation over and
4 above the amount authorized by the thirty-third section of this
5 chapter. Said forfeiture may be sued for and recovered in the
6 name of the treasurer, in an action on the case, in the supreme
7 judicial court. 1846, c. 220, § 5.

SECT. 36. When by the annual report of the bank commis-
2 sioners or otherwise, it appears that any bank has put in circu-
3 lation a larger amount of bills than is authorized by this
4 chapter, it shall be the duty of the secretary of state to notify
5 the attorney general of the fact, who upon the receipt of such
6 notice shall forthwith commence an action against the president,
7 directors and company of such delinquent bank to recover the
8 penalty provided for by the thirty-fifth section of this chapter.
1846, c. 220, § 6.

SECT. 37. All bills shall be issued in the name of the presi-
2 dent, directors and company of the bank issuing them, and
3 signed by the president and cashier thereof; but any bills,
4 signed by either the president or cashier thereof, which shall be
5 in circulation through the agency or neglect of any officer of
6 the bank, shall be binding on the corporation. Every bank
7 shall receive in payment for all debts due such bank the bills
8 issued by the same, if offered. 1841, c. 1, § 33.

SECT. 38. Every bank within this state, whether heretofore
2 limited by their charters in this respect or not, may issue bills
3 under five dollars, to the amount of one quarter part of its
4 capital, actually paid in, and no more; and no bank shall issue,
5 pay out, receive in payment or on deposit, any bill or note less
6 than one dollar, or on which is expressed any fractional part of
7 a dollar, under penalty of one hundred dollars for each offense.
1841, c. 1, § 34.

SECT. 39. Any bank may allow a certain rate of interest for
2 deposits made therein, if they think proper; but no bank shall
3 issue any note, bill, check or other negotiable security, payable
4 at a future day, or bearing interest. 1841, c. 1, § 35.

SECT. 40. No bank shall issue any bill, note, check or draft,
2 redeemable at such bank in any other manner than by payment
3 in specie; and every bank which shall issue any bill, note, check

4 or draft, redeemable in any other manner than by payment in
5 specie on demand, or payable at any place other than the place
6 where such bank is by law established and kept, shall be liable
7 to pay the same in specie to the holder thereof, on demand at
8 said bank, without a previous demand at the place where the
9 same is made payable. 1841, c. 1, § 36.

SECT. 41. Nothing contained in the preceding section shall
2 extend to any draft or check for any balance due to said bank,
3 nor to any check or draft drawn by an officer of any bank
4 within this state, on any other bank either within or without
5 this state; but all such checks or drafts shall first be presented
6 for payment at the place where they are made payable before
7 the same are demanded at the bank by which they were issued.
1841, c. 1, § 37.

SECT. 42. If the officers of any bank neglect or refuse to
2 redeem in gold or silver money, of the legal currency of the
3 United States, any note, bill, check or draft described in the two
4 preceding sections, and demandable at such bank, or any other
5 bill or note of such bank, on demand, in its usual banking hours,
6 such bank shall be liable, after the expiration of fifteen days
7 from such demand; to pay to the holder thereof in damages, at
8 the rate of twenty-four per cent. by the year, for the time during
9 which payment is delayed or refused from and after said fifteen
10 days. 1841, c. 1, § 38.

SECT. 43. The holder of any bill, note, check or draft, after
2 demand made, as described in the preceding section, shall also
3 be entitled to interest at the rate of six per cent. a year from
4 the time of such demand, until the rate of damages therein
5 specified commence. 1841, c. 1, § 39.

SECT. 44. If the bank, at which payment of such bill, note,
2 check or draft has been demanded and refused, shall at any
3 time afterwards cause a legal tender to be made, at the place of
4 residence of the person who made such demand, or of any known
5 owner or assignee thereof, or of his agent, of the amount of such
6 bill, note, check or draft, and all interest, damages and costs
7 which have accrued at the time of such tender, all further
8 interest and damages shall thereafter cease on account of the
9 same. 1841, c. 1, § 40.

SECT. 45. When any bill, note, check or draft is presented for payment at any bank in this state, which issued and is liable to pay the same under the provisions of the forty-second and forty-third sections of this chapter, and payment thereof is delayed or refused for the term of fifteen days, then the private property of the stockholders of said bank, to the amount of their shares, shall be liable to be attached on mesne process, and levied upon by execution in any suit therefor which may be commenced against said bank for the damages and for the original demand, interest and costs. 1841, c. 1, § 41.

SECT. 46. Any director of any bank, against which any suit is commenced, as specified in the preceding section, on demand of the plaintiff in such suit, or on demand of any officer legally charged with the service of any writ or execution, as aforesaid, is required to make and exhibit, to such plaintiff or officer, a true list of the stockholders liable as aforesaid, with the amount of stock on account of which they are so liable.

1841, c. 1, § 42.

SECT. 47. Should any director of any bank, on demand as aforesaid, unreasonably neglect or refuse to make and exhibit such true list, then the private property of such director shall be liable to attachment on mesne process or execution to the full amount of the judgment recovered in such suit.

1841, c. 1, § 43.

SECT. 48. If any loss or deficiency of the capital stock in any bank arises from the official mismanagement of the directors thereof, the persons who are directors at the time of such mismanagement and guilty thereof, shall, in their individual capacities, be respectively liable to pay the same; and, in case of their inability to pay such loss or deficiency, the persons who are stockholders at the time of such official mismanagement, shall be liable therefor; but no stockholder, other than directors guilty as aforesaid, shall be liable to pay a sum exceeding the amount of the stock actually held by him at that time; and such liability shall not continue beyond one year after such stockholder has in good faith transferred his stock, no process having at the time of such transfer been commenced against him on account of the same, either in law or equity. 1841, c. 1, 44.

SECT. 49. The holders of stock in any bank, at the time when its charter expires, shall be liable, in their individual capacities, for the redemption and payment of all bills which have been issued by said bank, and which remain unpaid, in proportion to the stock they hold, at the dissolution of the charter; but such liability shall continue for the term of two years only from the time that notice that such charter has expired as aforesaid, has been given in the state paper.

1841, c. 1, § 45.

SECT. 50. Any creditor of any bank which has sustained a loss or deficiency of its capital stock through the official mismanagement of its directors, or any holder of any bills issued by any bank which, after the expiration of its charter, remain unredeemed and which have been duly demanded of such bank, or at its last and usual place of transacting business, may pursue his remedy and avail himself of the liabilities of its directors and stockholders, specified in the two preceding sections by a bill in equity to be prosecuted in the supreme judicial court; but this section shall not be construed to deprive any person injured by the misconduct or neglect of the directors or other officers of any bank of his right to a special action on the case against them on the principles of the common law. 1841, c. 1, § 46.

SECT. 51. Any stockholder of a bank who by virtue of any of the provisions of this chapter has been obliged to pay any debt or demand against said bank, or any part thereof, out of his individual property, may have a bill in equity in the supreme judicial court, to recover the proportional parts of such sums of money as he has so paid, from the directors or other stockholders liable for the same, and such damages and costs as the court may decree. 1841, c. 1, § 47.

SECT. 52. Any corporation which is a stockholder in any bank, shall be liable in its corporate capacity to pay any loss or deficiency of the capital stock in such bank arising from the official mismanagement of its directors, and shall also be liable for the payment and redemption of all bills which have been issued by said bank and remain unpaid when its charter expires, in the same manner as individual stockholders are

8 liable in their individual capacities; and such corporation may
9 compel a contribution from other stockholders in the manner
10 prescribed in the preceding section. 1841, c. 1, § 48.

SECT. 53. No bank in this state shall be permitted to take
2 any greater rate of interest or discount on any note, draft or
3 security than at the rate of six per cent. a year, whether such
4 loan be made in specie or otherwise, or agreement made to pay
5 such loan in specie, or at a place other than the bank making
6 such discount; but such interest or discount may be calculated
7 and taken according to the established rules of banking; pro-
8 vided, that in discounting drafts, bills of exchange or other
9 negotiable securities payable at another place, the bank so dis-
10 counting the same, may, in addition to the said interest, charge
11 the then existing rate of exchange between the place of discount-
12 ing and the place where any such security is payable.

1841, c. 1, § 49.

SECT. 54. Upon any requisition of the legislature, each bank
2 shall loan to the state a sum not exceeding five per cent. of its
3 capital stock at any one time, reimbursable by five annual
4 instalments, or at any shorter period, at the election of the state,
5 with the annual payment of interest at a rate not exceeding five
6 per cent.; but the state shall not be entitled to demand of any
7 bank, loans, which shall together at any one time exceed one-
8 tenth part of its capital; and the faith of the state is pledged for
9 the re-payment of the same. 1841, c. 1, § 50.

SECT. 55. When a loan is required of any bank as afore-
2 said, the treasurer of the state shall give notice in writing to
3 the president or cashier thereof, of the amount which is to be
4 furnished by such bank, and demand a loan of the same con-
5 formably to the provisions of this chapter; which notice and
6 demand shall be accompanied by a copy of the act or resolve of
7 the legislature requiring such loan, attested by the secretary of
8 state, and by the approval of the governor, of such demand, in
9 writing. 1841, c. 1, § 51.

SECT. 56. The cashier of each bank shall make a return of
2 the state of such bank as it existed on the first Saturday of any
3 month, at two o'clock in the afternoon, when thereto required

4 by the governor, and transmit the same to the office of the
5 secretary of state within such time as shall be directed by the
6 governor in his requisition aforesaid; stating the several par-
7 ticulars mentioned in the following form, exhibiting in distinct
8 columns the amounts due from the bank, and the resources of
9 the bank, viz.:

State of ——— bank, on the first Saturday of ———, 18—, two
11 o'clock P. M.

<i>Due from the bank.</i>		<i>Resources of the bank.</i>	
Capital stock,	\$	Gold, silver and other coined metal,	\$
Bills in circulation,	\$	in its banking house,	\$
Net profits on hand,	\$	Real estate,	\$
Balances due to other banks,	\$	Bills of other banks incorporated in	\$
Cash deposited, including all sums		this state,	\$
whatsoever due from the bank,		Bills of other banks without the	\$
not bearing interest; its bills in	\$	state,	\$
circulation, profits, and balances		Balances due from other banks,	\$
due to other banks excepted,		Amount of all debts due, including	
Cash deposited bearing interest,	\$	notes, bills of exchange, and all	\$
		stocks and funded debts of every	\$
		description, except balances due	\$
		from other banks,	\$
Total amount due from the bank,	\$	Total amount of the resources of the	\$
		bank,	\$

Rate of last dividend, \$

Amount of last dividend, \$

When declared,

Amount of reserved profits at the time of declaring the last dividend, \$

Amount of debts due and not paid, and considered doubtful, \$

Bills in circulation under five dollars, \$

1841, c. 1, § 52.

SECT. 57. The cashier of each bank shall, on the first Mon-
2 days of the months of January and June, in each year, make
3 returns exhibiting the state and condition of the bank as exist-
4 ing at two o'clock in the afternoon of the preceding Saturdays,
5 and transmit the same within fifteen days to the secretary of
6 state, stating all the particulars mentioned in the preceding
7 section, with the addition of the following, viz:

Amount due from the directors as principals, \$

Amount due from the directors as sureties,	\$
--	----

Amount due from stockholders as principals,	\$
---	----

1841, c. 1, § 53.

SECT. 58. Such returns shall be signed by the cashiers of the
2 several banks respectively, who shall make oath to the truth
3 thereof according to their best knowledge and belief.

1841, c. 1, § 54.

SECT. 59. The cashier of each bank, whenever required by
2 the legislature, shall also make return under oath as aforesaid,
3 of the names of the stockholders and the amount of stock owned
4 by each in such bank.

1841, c. 1, § 55.

SECT. 60. Whenever a return is made by any cashier, as
2 provided in either of the four preceding sections, a majority of
3 the directors of each bank shall certify under oath, that the
4 books of the bank indicate the state of facts so returned by their
5 cashier, and that they have full confidence in the truth of said
6 return.

1841. c. 1, § 56.

SECT. 61. For neglect or refusal to make any such return, by
2 such cashier and directors of any bank, such bank shall forfeit,
3 for each offence, a sum not exceeding one thousand dollars, to
4 the use of the state, to be recovered by the treasurer thereof.

1841. c. 1, § 57.

SECT. 62. The secretary of state shall furnish to the cashier of
2 every bank, in the month of March or April annually, at the
3 expense of the state, four printed copies of each of the forms of
4 the returns required by the fifty-sixth and fifty-seventh sections
5 of this chapter.

1841. c. 1, § 58.

SECT. 63. The secretary of state after receiving the returns
2 required by the fifty-seventh section of this chapter, shall, as
3 soon as may be, cause to be prepared and printed a true abstract
4 from those returns, with each column of such abstract footed up;
5 and transmit by mail, one copy thereof to the cashier of each
6 bank in the state; and further cause the same to be published
7 in the state paper and such other papers as the governor and
8 council may direct.

1841. c. 1, § 59.

SECT. 64. The governor with the advice of the council, shall
2 appoint two commissioners, who during their continuance in
3 office, shall not hold any office in any bank in this state, and
4 whose duty it shall be, at least once a year, and as much oftener
5 as the governor and council shall deem it expedient, to inquire
6 into and examine the transactions of the several banks and

7 savings institutions incorporated in this state, and to ascertain
8 their condition, and whether there has been any departure, by
9 brokerage or otherwise, from the ordinary business of banking
10 associations; and said commissioners shall make report of their
11 doings annually to the governor and council, to be laid before
12 the legislature. They shall be removable, and vacancies may
13 be filled at pleasure, by the governor and council.

1841, c. 1, § 60. 1855, c. 140.

SECT. 65. They shall have power to visit every bank and
2 savings institution in this state, as often as they deem it expe-
3 dient for the public safety, and shall thoroughly inspect and
4 examine all the affairs of said corporations, and make all such
5 inquiries as may be necessary to ascertain their condition and
6 their ability to fulfil all the engagements made by them; and
7 they may summon and examine, under oath, all the directors,
8 officers or agents thereof, and such other witnesses as they may
9 think proper, in relation to their affairs, transactions and condi-
10 tion; and any such director, officer or agent, or other person, who
11 refuses without justifiable cause, to appear and testify, when
12 thereto required as aforesaid, or who obstructs, in any way, any
13 commissioner in the discharge of his duty, as prescribed in this
14 chapter, shall, on conviction, be subject to a fine not exceeding
15 one thousand dollars, or be imprisoned for a term not exceeding
16 two years.

1841, c. 1, § 61. 1855, c. 140.

SECT. 66. If, upon examination of any bank or savings
2 institution, they be of opinion that the same is insolvent, or
3 that its condition is such as to render its further progress
4 hazardous to the public or to those having funds in its custody,
5 or that said bank or savings institution has exceeded its pow-
6 ers, or has failed to comply with all the rules, restrictions
7 and conditions provided by law, they may apply to some
8 one of the justices of the supreme judicial court, to issue an
9 injunction to restrain such corporation, in whole or in part,
10 from further proceeding with its business, until a hearing of
11 the same can be had. And said justice shall forthwith issue
12 such process; and, after a full hearing of the said corporation
13 upon the matters aforesaid, may dissolve or modify, or make
14 perpetual the same; and make such orders and decrees to

15 suspend, restrain or prohibit the further prosecution of the
16 business of said corporation, as may be needful in the premises,
17 according to the course of chancery proceedings; and, at his
18 discretion, may appoint agents or receivers to take possession of
19 the property and effects of the corporation, subject to such rules
20 and orders as may from time to time be prescribed by the
21 supreme judicial court, or any justice thereof in vacation. And
22 said commissioners shall have power to appoint a clerk of their
23 board, prescribe his duties and fix his compensation, whenever
24 the public good may, in their opinion, demand such appointment.
25 All banks and savings institutions whose charters shall expire or
26 be surrendered or revoked, shall continue subject to all the
27 provisions and penalties in this chapter, during the time allowed
28 their stockholders to act in their corporate capacity, for the
29 purpose of closing their concerns; and it shall be the duty of
30 the commissioners to examine and proceed against them in the
31 same manner as if their charters had not expired or been
32 surrendered or revoked. 1841, c. 1, § 62. 1855, c. 140.

SECT. 67. It shall be the duty of the directors of each bank,
2 in the month of October annually, to make an examination in
3 regard to the condition of such bank and the responsibility of
4 the sureties on the bond of the cashier. Said bond shall be
5 recorded upon the directors' records. 1855, c. 164, § 1.

SECT. 68. When the charter of any bank has expired, and
2 there remains any real estate standing in the name of the
3 corporation, but belonging to the several stockholders thereof,
4 the trustees authorized by law to close the concerns of such
5 bank, shall have the right to sell and dispose of such real estate
6 for the benefit of such stockholders, at public auction, after
7 having given the same notice required by law to be given by
8 receivers in such cases, and to execute all proper instruments
9 of conveyance thereof. 1855, c. 164, § 2.

SECT. 69. When receivers of the assets of any bank are
2 appointed and qualified in the manner provided by law, all
3 claims and demands against such bank, whether founded on its
4 bills or other evidence of indebtedness, shall be laid before said
5 receivers for examination and allowance. And such bills shall
6 be filed with said receivers, they giving to the respective holders

7 thereof a schedule of the same under their hands. The receivers
8 shall make a report in detail to the supreme judicial court at
9 such times as the court shall direct, specifying all claims pre-
10 sented and the amount allowed in each case; which report shall
11 be accepted if no objection is made thereto, and the court is
12 satisfied the same is correct and ought to be allowed.

1855, c. 164, § 3.

SECT. 70. When such report is presented to the court for
2 acceptance, any claimant interested in the allowance of any
3 claim, or the rejection of any claim which has been allowed,
4 may make his objection, specifying in writing, the claim, the
5 allowance of which he demands to have made or increased,
6 rejected or diminished; and the court shall hear the parties and
7 determine the same. If either party requests it, the court
8 may direct an issue to be made up and submitted to the jury.
9 Questions of law, arising in the course of the proceedings may
10 be made and carried before the full court in the same manner
11 provided in actions in court. All claims allowed shall bear
12 an interest of six per cent. from the time they are filed.

1855, c. 164, § 4.

SECT. 71. It shall be the duty of the receivers to report to
2 the court the amount and value of the assets in their hands
3 belonging to such bank. When the claims against any bank
4 have been ascertained and determined by the court, or by the
5 court and jury, upon an accepted verdict, in the manner afore-
6 said, the court shall order an application of the proceeds of the
7 assets to the payment thereof.

1855, c. 164, § 5.

SECT. 72. If it is made to appear to the court, that the assets
2 aforesaid are insufficient to pay the said claims against the bank,
3 said receivers shall, forthwith, file their bill in equity in their
4 own names, but in behalf of the claimants, against the persons
5 who are or were stockholders of the bank, and who by law
6 are liable to contribute to the payment of its debts; and they
7 shall be cited to appear before the court or judge, upon such
8 notice as the court or judge shall order to be given. Upon the
9 hearing, on the bill in equity, the court shall from time to time
10 determine and assess the amount which the several stockholders
11 aforesaid shall be held to pay to the receivers to meet the claims

12 aforesaid. The court shall have authority to issue all requisite
13 precepts for the collection of the sums assessed as aforesaid, and
14 for the enforcement of its orders and decrees. 1855, c. 164, § 6.

SECT. 73. The appointment of receivers in any case shall
2 create a lien upon all real estate of all the stockholders, liable
3 for claims against such bank, situate within the state, as fully
4 as if the same were attached under due process of law, which
5 shall continue so that such real estate, or any interest therein,
6 may be seized on execution or other process granted by the
7 court, and be sold or set off in satisfaction of the claims aforesaid,
8 or until such stockholder has paid over to, or deposited with
9 the receivers, an amount of money equal to his liability.

1855, c. 164, § 7.

SECT. 74. No action shall be maintained against any bank
2 after the appointment of receivers thereof; but all its creditors
3 shall have their remedy under the provisions of this chapter.
4 All legal cost that has accrued upon suits commenced before the
5 appointment of receivers, shall be allowed and added to the claim
6 sued, if such claim is adjudged valid. 1855, c. 164, § 8.

SECT. 75. Nothing in the preceding eight sections shall be
2 construed to increase or diminish the amount for which the
3 directors or stockholders of any bank are liable under the
4 provisions of the other sections of this chapter. In assessing
5 the amount which stockholders may be required to pay, the
6 court may have reference to such liability of the directors.

1855, c. 164, § 9.

SECT. 76. When the ascertainment of any claim is delayed
2 by questions of law arising therein, the court shall have
3 power, when it shall be deemed safe and reasonable so to do,
4 to decree distribution amongst the claims allowed, and to cause
5 the stockholders to be cited in, and to make assessments upon
6 them to meet deficiencies as aforesaid: *provided*, there shall be
7 reserved from distribution, an amount sufficient to meet such
8 contested claim or claims, if allowed. 1855, c. 164, § 10.

SECT. 77. No bill or note of the denomination of one hun-
2 dred dollars or less, shall be issued by any bank for circulation,
3 unless the same is impressed from the patent stereotype
4 plate of Abraham Perkins or his assigns, or unless said bank

5 is in writing authorized by the aforesaid commissioners to
6 issue bills of such other plates as they may judge to afford
7 greater security against counterfeiters, from the mode of their
8 engraving or style of workmanship; but the legislature may, at
9 any time hereafter, authorize and require the use of other plates.
10 Every bank shall be held to pay to any innocent holder, the
11 original amount of any note of said bank, notwithstanding the
12 same has been altered. 1841, c. 1, § 63.

SECT. 78. The directors of the several banks, once in five
2 years, shall have all the weights used in their respective banks,
3 compared, proved and sealed by the treasurer of the state, or by
4 some person specially authorized by him for that purpose; which
5 shall supersede, so far as respects such banks, the sealing of
6 their weights by the town sealer. 1841, c. 1, § 64.

SECT. 79. No tender of gold by any bank, weighed with
2 weights other than those compared, proved and sealed, as
3 required in the preceding section, shall be legal; and the payer
4 or receiver may also require, that the gold shall be weighed in
5 each scale, and the mean weight, resulting therefrom, shall be
6 considered the true weight. 1841, c. 1, § 65.

SECT. 80. The cashier or other officer of any bank may write
2 or stamp the word "counterfeit," upon any counterfeit bill, and
3 the word "altered," upon any altered bill which is offered
4 to such bank in payment, for deposit or for redemption, adding
5 thereto his own name and the name of his bank. If any
6 such cashier or officer makes such writing or stamp upon
7 any bill which is not in fact counterfeit or altered, he shall be
8 liable only to the actual damage sustained, unless it appear that
9 it was fraudulently done. 1855, c. 180, § 1, 2, 3.

SECT. 81. The cashier of said bank shall keep a book in which
2 he shall record the denomination of such bill, and the name of
3 the bank from which it purports to have issued, and its date
4 and number, and the time when so stamped or written upon.
1855, c. 180, § 4.

SECT. 82. If, at any time, the officers of any bank refuse
2 or neglect to pay any of its bills, when duly presented at their
3 banking house for payment in their usual hours of business, or
4 to pay any deposits made by any person on demand made in such

5 hours, and, for the space of fifteen days thereafter, neglect to
6 pay or tender payment of such bills or deposits in the manner
7 described in section forty-four of this chapter, the holder of such
8 bill, or the person making such deposit, may make complaint
9 thereof in writing to any judge of the supreme judicial court,
10 whose duty it shall be thereupon to cause the president or cashier
11 of such bank to be notified to appear before him at such time
12 and place as he may appoint to answer to such complaint, and
13 show cause against further proceedings thereon.

1841, c. 1, § 66.

SECT. 83. If such president or cashier, or other agent of such
2 bank duly authorized, shall not appear at such time and place,
3 or appearing shall not show sufficient cause against further pro-
4 ceedings, said judge shall appoint three disinterested receivers,
5 and require of them a bond to said bank for the faithful dis-
6 charge of their trust to his satisfaction, in such sum as he shall
7 determine, to be delivered to said bank for their use.

1841, c. 1, § 67.

SECT. 84. Such receivers shall immediately demand and
2 receive of the officers of such bank, all its real and personal
3 estate, with all its books, papers and evidences of debts due such
4 bank, delivering to the officers their receipt, containing accurate
5 lists and memoranda of such estate, books and debts; and shall
6 proceed with due diligence to dispose of all or any part of such
7 property, and collect the debts, and with the proceeds thereof
8 to pay the demands against such corporation. 1841, c. 1, § 68.

SECT. 85. The receivers aforesaid may sell at public auction,
2 after giving thirty days' notice in the manner prescribed in
3 chapter seventy-six, for notice on the sale of real estate of
4 banks taken on execution, and with like power to adjourn the
5 sale, any real estate of said bank, and any mortgages of real
6 estate due to said bank, and make and deliver to the highest
7 bidder, in the name of the corporation, any deed or other instru-
8 ment necessary for the due conveyance of such real estate or
9 mortgages, with the debts thereby secured; and the purchaser
10 shall have the same rights and powers as a purchaser of real
11 estate and mortgages taken on execution as aforesaid.

1841, c. 1, § 69.

SECT. 86. Said receivers may collect the debts due and owing
2 to such bank, and commence and prosecute in the name of such
3 bank or in their own names and capacity as receivers, any action
4 necessary for the collection of said debts, or they may sell or
5 assign said debts with the evidences thereof, as they shall think
6 expedient. 1841, c. 1, § 70.

SECT. 87. The authority, given as aforesaid to said receivers,
2 may be revoked on a like application to any judge of the
3 supreme judicial court, as is provided in section eighty-four, if
4 he shall see cause, after due notice to such receivers and hearing
5 the parties. 1841, c. 1, § 71.

SECT. 88. Either party, aggrieved by the determination of
2 such judge, whether in originally appointing such receivers or
3 revoking their authority, may have the same revised, and, if a
4 sufficient cause be shown, reversed, at any law term of the
5 supreme judicial court, on complaint to such court, and on such
6 notice as any judge thereof may order. 1841, c. 1, § 72.

SECT. 89. Such receivers may retain to their own use for
2 their services, such sum as may be agreed upon between
3 them and such bank, and in case of disagreement, such sum as
4 may be awarded by any one of the judges aforesaid, at a term
5 of said court held in the judicial district in which the bank is
6 established, on application, with reasonable notice to the other
7 party. 1841, c. 1, § 73.

SECT. 90. If any officer of any such bank, on demand made
2 by such receivers, refuses or neglects to surrender to them all
3 the property which they are required to do by the provisions of
4 the eighty-sixth section of this chapter, he shall be liable in
5 his individual capacity for the payment of all debts due from
6 said bank, in an action on the case. 1841, c. 1, § 74.

SECT. 91. Whenever such receivers have realized from the
2 property of the bank in their hands a sum sufficient to pay all
3 its debts, their power over the residue of the property shall
4 cease, and it shall be their duty to surrender the same to said
5 bank, together with all the books and papers belonging to it, on
6 taking from the officers of the bank a sufficient receipt for the
7 same. They shall also render to the bank a fair and just account

8 of their proceedings, receipts and expenditures, at the time of
9 such surrender, and at such previous times as any judge afore-
10 said may require. 1841, c. 1, § 75.

SECT. 92. Any person who has held shares in any bank and
2 afterwards has disposed of the same, may be a competent witness
3 in any suit in which such bank is interested, unless otherwise
4 disqualified, notwithstanding any liabilities still attaching to him
5 by virtue of the provisions of this chapter. 1841, c. 1, § 76.

SECT 93. No person, unless specially authorized by the legis-
2 lature, shall contribute to the funds or become a member of any
3 company or banking association for the purpose of issuing notes
4 to be circulated as money, receiving deposits, making discounts
5 or transacting any other business which incorporated banks may
6 transact by virtue of their charters; and all notes or other
7 securities for the payment of money or the delivery of property,
8 made to such company or association, or for their use, shall be
9 void. 1841, c. 1, § 78.

SECT. 94. No private person or body corporate, unless spe-
2 cially authorized by law, shall hold any agency in this state for
3 the purpose of receiving and issuing, loaning or putting in cir-
4 culation as money, the bills, notes, orders or other evidences of
5 debt of any banking company not incorporated by the legislature
6 of this state, nor of any private banker not a resident in this
7 state; but this prohibition shall not extend to any incorporated
8 bank in this state, exercising the powers given to such banks by
9 the foregoing provisions in this chapter, nor prevent such bank
10 from paying out the bills of foreign banks received in its usual
11 course of business, and the circulation of which is not otherwise
12 prohibited by law. 1841, c. 1, § 79.

SECT. 95. No person shall issue any drafts, bills or promis-
2 sory notes or other evidences of debt, payable to bearer or order
3 as a private banker, for the purpose of loaning them or putting
4 them in circulation as money. 1841, c. 1, § 80.

SECT. 96. If any body corporate, private company or indi-
2 vidual shall be guilty of any of the offenses described in the
3 three preceding sections, such offender shall forfeit one
4 thousand dollars for each offense; to be recovered by indictment
5 for the use of the state, or by action of debt, one half to the use

6 of the state and the other half to the person who may first sue
7 for the same. 1841, c. 1, § 81.

SECT. 97. The following offenses by officers, stockholders or
2 servants of banks in this state, committed with a fraudulent
3 intent to injure any creditor, stockholder, holder of bank notes
4 issued, or other person, are hereby declared to be high misde-
5 meanors, and the persons guilty thereof shall on conviction be
6 punished by fine not exceeding five thousand dollars, imprison-
7 ment in the county jail not exceeding one year, confinement in
8 the state prison to hard labor not exceeding ten years, or any or
9 all of said punishments according to the aggravation of the
10 offense:

First.—If any such person converts to his own use or
12 delivers to any other person, or to his check or order, any funds
13 or evidence of debt or other property belonging to the bank or
14 deposited therein.

Secondly.—If he issues or aids in issuing any bank notes
16 or other evidence of debt obligatory on said bank, with the
17 intent that the same shall not be paid.

Thirdly.—If he becomes indebted to such bank for a val-
19 uable consideration with like intent, or aids or abets any
20 other person so doing.

Fourthly.—If he, on behalf of the bank, loans any money
22 or delivers any valuable property belonging to such bank or
23 deposited therein, to any stockholder or other person.

Fifthly.—If he makes any dividend of the funds or effects
25 of such bank amongst the stockholders or any of them, beyond
26 the profits actually accrued to such bank, or aids therein, thereby
27 diminishing the capital of said bank. 1841, c. 1, § 82.

Chapter 49.

MANUFACTURING CORPORATIONS.

Sect. 1. How far this chapter shall be binding upon manufacturing corporations.

2. Officers of such corporations.

3. Choice of president and directors.

4. Clerk and treasurer, and their duties.

Sect. 5. First meeting, how called.

6. By-laws, how enforced.
7. Amount of capital, and division into shares.
8. Certificates of shares.
9. Transfer of shares.
10. Assessments on shares.
11. Collection of assessments.
12. Sale of delinquent shares.
13. Additional shares.
14. Statement of capital stock, &c., to be published by treasurer semi-annually.
Penalty for neglect.
15. Directors and treasurer to be shareholders.
16. What amount of debts may be contracted. Liability of stockholders for.
17. Corporations observing these rules exempted from certain liabilities.
18. Dividends of profits, how made.
19. Liability for making unlawful dividends.
20. Obligation to disclose property to officers having precepts.
21. Levy of executions on debts due the corporation.
22. Penalty for refusal to disclose property.
23. Books to be produced in court.
24. Charters subject to legislative control.
25. Children employed must attend school. What to be proof of schooling.
26. Penalty for violation of the provisions of the last section.
27. Minors under sixteen years not to be employed more than ten hours in a day.
Penalty, how enforced, &c.

SECT. 1. All corporations, incorporated in this state for the
2 purpose of carrying on any kind of manufacture, and the officers
3 and stockholders of every such corporation, may exercise the
4 powers and shall be subject to the duties and liabilities contained
5 in this chapter, and in chapter forty-seven, so far as consistent
6 with the provisions of their respective charters.

R. S., c. 78, § 1.

SECT. 2. The business of every such manufacturing company
2 shall be managed by the president and directors thereof, and
3 such other officers, agents and factors, as the company shall
4 think proper to authorize for that purpose; and every such com-
5 pany shall also have a clerk and treasurer.

R. S., c. 78, § 2.

SECT. 3. The directors shall be chosen annually, at such
2 time and place as are prescribed by the by-laws of the com-
3 pany, and shall continue in office until others are chosen and
4 accept in their stead; and they shall not be less than three in
5 number, and one of their number may be elected president of

6 the corporation by the directors or by the company, as the by-
7 laws prescribe. R. S., c. 78, § 3.

SECT. 4. The clerk and the treasurer shall also be chosen
2 annually, and continue in office till others are chosen in their
3 stead and qualified; the clerk shall be sworn to the faithful dis-
4 charge of his duty, and record all votes of the company in
5 a book to be kept for that purpose, and perform such other duties
6 as may be assigned to him; and the treasurer shall give bond for
7 the faithful discharge of his duty, in such sum and with such
8 sureties as the by-laws require. R. S., c. 78, § 4.

SECT. 5. A majority of the persons named in any such act of
2 incorporation, may call the first meeting by giving notice of the
3 time and place thereof in some public newspaper printed in
4 the county where the manufactory shall be established, at least
5 fourteen days before the time of meeting; and if no paper is
6 printed within the county, then the notice shall be thus given in
7 the state paper. R. S., c. 78, § 5.

SECT. 6. The by-laws of any such corporation, if not repug-
2 nant to the laws of this state, may be enforced by penalties not
3 exceeding twenty dollars for each offense. R. S., c. 78, § 6.

SECT. 7. The amount of the capital stock of any such com-
2 pany, within the limits defined by its charter, shall be fixed by
3 the company and divided into shares, at its first meeting; and
4 the names of the proprietors of such shares, and the number of
5 shares belonging to each, shall be entered in the records; but
6 the capital stock may be afterwards extended to any amount,
7 authorized by the charter of the corporation.

R. S., c. 78, § 7. 1853, c. 22, § 1.

SECT. 8. Every stockholder shall have a certificate, under
2 the seal of the corporation, and signed by the treasurer, express-
3 ing the numbers of the shares by him held.

R. S., c. 78, § 8.

SECT. 9. Stock in any manufacturing or other corporation,
2 incorporated in this state, the capital of which is divided into
3 shares, may be transferred by indorsement and delivery of the
4 certificate thereof; such indorsement being by the signature of
5 the proprietor or his attorney; but the title to such stock shall
6 not pass from such proprietor until such transfer has been so far

7 entered on the corporate records, as to show the names of the
8 parties therein, and the date of the transfer.

1853, c. 22, § 2. R. S., c. 78, § 9.

SECT. 10. Every such company may, from time to time, at
2 any legal meeting called for that purpose, assess for each share
3 such sums of money as the company think proper, not exceeding
4 in the whole the amount at which each share is originally lim-
5 ited, for raising its capital for the objects of its incorporation
6 and incidental expenses; and such sums assessed shall be paid
7 to the treasurer at such times and by such instalments as the
8 company direct.

R. S., c. 78, § 10.

SECT. 11. If the proprietor of any share neglects to pay
2 any sum duly assessed thereon, for the space of thirty days after
3 the time appointed for the payment thereof, the treasurer of the
4 company may sell by public auction a sufficient number of the
5 shares of such delinquent proprietor to pay all assessments then
6 due from him, with all necessary incidental charges.

R. S., c. 78, § 11.

SECT. 12. The treasurer shall give notice of the time and
2 place appointed for such sale, and of the sum due on each share
3 by advertising the same three weeks successively before the sale
4 in some newspaper printed in the county where the manufactory
5 is established, if any, otherwise in the state paper; and a certi-
6 ficate of such sale, made by the treasurer and recorded, as before
7 provided in this chapter, shall transfer said shares to the pur-
8 chaser, and he shall be entitled to a certificate therefor.

R. S., c. 78, § 12.

SECT. 13. Every such company, at any meeting called for
2 the purpose, may also increase its capital stock by adding to the
3 number of shares, not exceeding the limits of its charter.

R. S., c. 78, § 13.

SECT. 14. The treasurer of every company incorporated for
2 the purpose of manufacturing cotton, wool, silk, iron, steel or
3 other materials, shall publish semi-annually, in the months of
4 January and July, in some newspaper printed in the county
5 wherein such manufactory is established, if any, otherwise in
6 the state paper, a correct statement, under oath, of the amount
7 of all the assessments voted by the company and actually paid in,

8 the net amount of the then existing capital stock, the amount of
9 all the debts due from such company, the amount of the capital
10 stock invested in real estate, buildings, machinery and other
11 fixtures, the last estimated value affixed to the real estate of
12 such corporation, by the assessors of the town in which the same
13 is located, and the aggregate value affixed to all the taxable
14 property of such corporation by such assessors. If any such
15 treasurer neglects or refuses to publish such statement, he
16 shall be fined not exceeding two thousand dollars, or be impris-
17 oned not exceeding one year, on indictment and conviction
18 thereof. And if he neglects or refuses to publish such
19 statement, or knowingly publishes a false statement, with
20 the fraudulent intent to injure any creditor or any that might
21 thereafter become a creditor of such company, he shall be
22 deemed guilty of a high misdemeanor, and, on indictment and
23 conviction thereof, shall be punished by fine not exceeding five
24 thousand dollars, imprisonment in the county gaol not exceeding
25 one year, confinement in the state prison to hard labor not
26 exceeding ten years, or any or all of said punishments according
27 to the aggravation of the offense. 1844, c. 109, § 1.

SECT. 15. No person shall be chosen a director or treasurer
2 of any such company, or continue to hold either of said offices,
3 unless he is a stockholder therein. 1844, c. 109, § 2.

SECT. 16. All such companies are expressly prohibited from
2 contracting debts exceeding, at any one time, the amount of
3 their capital invested in real estate, buildings, machinery and
4 other fixtures within the state; and they are also prohibited
5 from contracting debts to such an extent that the indebtedness
6 of such corporation shall at any one time exceed one-half of the
7 amount of their capital stock paid in and remaining undivided,
8 and of their other property and assets; and a compliance on the
9 part of such companies, with the prohibitions and limitations
10 aforesaid, shall relieve the stockholders thereof from all indi-
11 vidual liability for the debts of their respective companies;
12 but if the debts of such companies, at any one time, exceed
13 either of the limitations aforesaid, then the stockholders in such
14 companies shall at once become liable individually for all the
15 debts of their respective companies; and such liability shall

16 continue for the same period of time, and such proceedings
17 shall be had to enforce the same against such stockholders, but
18 without limitation as to amount, and also for contribution
19 between stockholders, as are provided in chapter forty-seven.

1844, c. 109, § 3. 1850, c. 157, § 1.

SECT. 17. All manufacturing corporations that observe the
2 prohibitions, and keep within the limitations prescribed in the
3 sixteenth section of this chapter, shall be exempted from the
4 operation of sections twenty-one and thirty-eight of chapter
5 forty-seven. 1844, c. 109, § 4.

SECT. 18. The directors of every such company may make
2 dividends among the stockholders, from time to time, of their
3 net profits; but no dividend reducing the capital stock of such
4 company, or the debts due to the same, shall be made, until all
5 the debts due therefrom are paid. R. S., c. 78, § 15.

SECT. 19. Any directors, officer or other member of such
2 company, who votes for or aids in making any dividend,
3 against the provisions of the foregoing section, shall be fined
4 not exceeding two thousand dollars, or imprisoned for a term not
5 exceeding twelve months; and all sums received by any stock-
6 holder for any such dividend, may be recovered of him by any
7 creditor of such corporation, in an action on the case.

R. S., c. 78, § 16.

SECT. 20. Every agent or other person having charge of any
2 property of such company, on request of any public officer hav-
3 ing for service a writ or execution against such company, shall
4 furnish to such officer the names of the directors and clerk
5 thereof, and a schedule of all its property including debts, so
6 far as he has knowledge of the same. R. S., c. 78, § 17.

SECT. 21. If any officer holding an execution is unable to
2 find other property belonging to such company liable to attach-
3 ment, he or the judgment creditor may elect in whole or in part,
4 to satisfy such execution by any debt or debts due such company,
5 not exceeding the amount thereof; and it shall be the duty of
6 any agent or other person having the custody of any evidence of
7 such debt, to deliver the same to the officer for the use of the
8 creditor; and such delivery, with a transfer to the officer in
9 writing, for the use of the creditor and notice to the debtor, shall

10 be a valid assignment thereof; and such creditor may sue for
 11 and collect the same in the name of such company, subject to
 12 all equitable set-offs on the part of the debtor.

R. S., c. 78, § 18.

SECT. 22. Every such agent or other person who unnece-
 2 sarily neglects or refuses to comply with the provisions of the
 3 two preceding sections, shall be fined a sum not exceeding four
 4 times the amount due on such execution, or be imprisoned for a
 5 term not exceeding one year. R. S., c. 78, § 19.

SECT. 23. When any suit or prosecution is pending in
 2 any court for the violation of any of the provisions of this
 3 chapter, it shall be the duty of the clerk or other person having
 4 the custody of the books of any such company, to produce the
 5 same at the trial, reasonable notice in writing having been given
 6 for that purpose; if he neglects or refuses so to do, he shall
 7 be liable to the like payment, fine or punishment, as the party
 8 so on trial would have been on conviction. R. S., c. 78, § 20.

SECT. 24. The legislature from time to time, upon due notice
 2 to any such corporation, may make further provisions and regu-
 3 lations for the management of the business of the corporation
 4 and for the government thereof, or repeal the whole or part
 5 of any act establishing any such corporation.

R. S., c. 78, § 21.

SECT. 25. Every child employed or permitted to work in any
 2 manufacturing establishment, must attend a public or private
 3 day school, taught by a teacher qualified as the laws require a
 4 teacher in the public schools of this state to be qualified, if under
 5 twelve years of age four months, and if over twelve and under
 6 fifteen years three months, in the year preceding that in which
 7 he is so employed. The proof of such schooling shall be the
 8 certificate under oath of such teacher, which shall be produced
 9 and filed with the clerk of such establishment before the com-
 10 mencement of the work. 1847, c. 29, § 1, 2, 3, 4.

SECT. 26. The penalty for employing or permitting such
 2 child to work without the previous filing of such certificate,
 3 shall be a fine of fifty dollars, to be recovered of the owners,
 4 agent or superintendent of such establishment, for the use of the
 5 public schools in the town in which the manufacturing estab-

6 lishment is located, by indictment in any court proper to try the
7 same. It shall be the duty of the county attorney of the county
8 in which the offense is committed, on information from any
9 member of any superintending school committee, or supervisor
10 of schools, or any other reliable information, to cause a prose-
11 cution to be instituted for the penalty.

1847, c. 29, § 1, 2, 3, 4.

SECT. 27. No minor under the age of sixteen years shall be
2 employed in any labor for any manufacturing or other corpora-
3 tion for more than ten hours in any one day; and if any manu-
4 facturer, or agent or other officer of any corporation, shall
5 employ any such minor in violation of the provisions of this
6 section, he shall be punished by a fine not exceeding one
7 hundred dollars; and all fines and forfeitures accruing by virtue
8 of this section shall be paid, one half to the town where the
9 offense is committed, the other half to the person so held to
10 labor, or to his parent or guardian, on complaint to any court
11 competent to try the same.

1848, c. 83, § 2.

Chapter 50.

INSURANCE COMPANIES AND INSURANCE.

Sect. 1. How far subject to the provisions of this chapter.

2. President and directors.
3. Choice of directors. Manner of voting.
4. Vacancies, how filled.
5. Who shall be eligible. Quorum.
6. Secretary and other officers.
7. Manner of calling meetings.
8. Capital to be at least \$100,000.
9. Liability of stockholders in certain cases.
10. Capital, how invested.
11. Loans on respondentia or bottomry.
12. What property may be insured.
13. Limitation of amount of risks.
14. Policies, how executed.
15. Insurance companies not to engage in trade.
16. Dividends, when and how made.
17. Loss of capital to be repaired.

Sect. 18. Marine insurance companies may divide certain profits.

19. Triennial statements to be made.
20. Not to insure after loss of capital.
21. Annual statements to be published.
22. Legislature may examine the company's affairs.
23. Certain provisions not to be applied to mutual companies.
24. Mutual companies, insurance by, regulated.
25. Regulations to be set forth in the policies.
26. All persons insured to be members.
27. Assessments on premium notes.
28. No liability beyond the amount of the note.
29. Lien on real estate insured.
30. Remedy if assessment be not paid.
31. Agents of foreign companies to file certain copies with register of deeds.
32. Penalty for neglect.
33. Lien of mortgagee upon policy.
34. How enforced if mortgager do not consent.
35. How amount recovered in suit to be applied. Costs of suit if the company defend.
36. Priority of mortgage, how determined.
37. Claims of mortgagee, when to be void.
38. Lien good on property of deceased persons insured.
39. Annual statements to be made.
40. Compensation of officers. Votes by proxy.
41. Insurance companies may deposit securities with treasurer of state.
42. Treasurer to furnish certificate.
43. Interest or dividend may be collected by the company. Securities withdrawn.
- 44, 45. When to be returned to the company.
46. Duty of treasurer in case of failure of the company.
47. Treasurer's fees.

SECT. 1. All incorporated insurance companies may exercise
2 the powers, and shall be subject to the duties and liabilities
3 contained in this chapter and in chapter forty-seven, as far as
4 consistent with the provisions of their charters.

R. S., c. 79, § 1.

SECT. 2. The business of every such company shall be
2 managed by seven directors, who shall choose one of their number
3 to be president, hold their offices one year, and until others are
4 chosen and accept in their stead, and be stockholders in said
5 company and citizens of this state, but not directors of any
6 other insurance company.

R. S., c. 79, § 2.

SECT. 3. The directors shall be chosen by the stockholders
2 by a majority of ballots, at such time and place and in such
3 manner as the by-laws of the company prescribe; one vote
4 in this and any other business of the company being allowed to

5 each share, but no one stockholder to be allowed more than ten
6 votes. In all cases, absent stockholders may act by proxy,
7 authorized in writing. R. S., c. 79, § 3.

SECT. 4. Vacancies in the board of directors may be filled at
2 any meeting specially called for the purpose.

R. S., c. 79, § 4.

SECT. 5. No person is eligible as a director who, at the time,
2 is a director of any other insurance company. Four directors
3 shall constitute a quorum for doing business. R. S., c. 79, § 5.

SECT. 6. Every such company or the directors thereof, as
2 often as once a year, shall, by ballot, elect a secretary, who
3 shall be the clerk of the company, and sworn to the faithful
4 discharge of his duty; besides other duties, required by the by-
5 laws of the company, he shall keep a true record of all the
6 votes of the stockholders and of the directors, and a true list of
7 the stockholders, and of the number of shares held by each, and
8 record every transfer of shares in a book kept for the purpose.
9 The directors may appoint such other officers as they think
10 necessary. R. S., c. 79, § 6.

SECT. 7. The secretary shall call special meetings of such
2 company, besides any meeting for which the by-laws may pro-
3 vide, to be held at such time and place, and for such purposes,
4 as may be in writing required by the proprietors of one-fifth of
5 the capital stock; if the by-laws of such company prescribe no
6 mode of calling such meeting, it may be notified in the manner
7 prescribed in the act of incorporation for calling the first meet-
8 ing. R. S., c. 79, § 7.

SECT. 8. No insurance company shall be incorporated in this
2 state with a capital of less than one hundred thousand dollars,
3 to be paid in at the periods and in the proportions required by
4 the charter. R. S., c. 79, § 8.

SECT. 9. If any such company becomes insolvent, before its
2 whole capital is paid in by the stockholders, any creditor thereof
3 may have his action on the case against any one or more of the
4 stockholders, whose proportion of the whole stock allowed by the
5 charter is not paid in, to recover against them in their individual
6 capacity towards his debt, an amount not exceeding the sum due
7 from them on their respective shares. R. S., c. 79, § 9.

SECT. 10. The capital stock of said companies, paid at each instalment, shall, within six months thereafter, except as provided in the next section, be invested in the funded debt of the United States, or of this state, or in the stock of some bank legally incorporated in this state, or in all of them, as may be most for their interest; or any amount, not exceeding two-thirds of the capital, may be loaned to persons resident in this state, well secured on mortgages of real estate situated therein, or on pledge of any of the funded debts or stocks above mentioned.

R. S., c. 79, § 10.

SECT. 11. Any such company may loan to citizens of this state any portion not exceeding one-half, of its capital stock, on respondentia or bottomry; but not unless at least three-fourths of all the directors agree to such loan, and enter their consent thereto at large on the records of the corporation, to be laid before the stockholders at their next meeting.

R. S., c. 79, § 11.

SECT. 12. Every such insurance company may make insurance on vessels, freight, money, goods and effects, against captivity of persons, on the life of any person during his absence at sea, on money lent upon bottomry and respondentia, against fire on any dwelling-houses or other buildings, and on merchandise or other property within the United States, and fix the premiums and terms of payment.

R. S., c. 79, § 12.

SECT. 13. The risks incurred by any such company, by virtue of the provisions of the two preceding sections, shall not at any one time exceed ten per cent. of its capital actually paid in on any one bottom, or on any one building with its contents.

R. S., c. 79, § 13.

SECT. 14. All policies of insurance made by such companies shall be signed by the president, or in case of his death, inability or absence, by any two of the directors, and countersigned by the secretary; and they shall be binding upon the company, the same as if executed under its corporate seal.

R. S., c. 79, § 14.

SECT. 15. Said companies shall not, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise, or commodities whatever.

R. S., c. 79, § 15.

SECT. 16. The directors of every such company, at such times
2 as their charter or by-laws prescribe, shall make dividends of so
3 much of the profits of the company as they think advisa-
4 ble; but moneys received and notes taken for premiums on risks,
5 which are undetermined at the time of making such dividends,
6 shall not be deemed part of said profits. R. S., c. 79, § 16.

SECT. 17. After any diminution of the capital stock of any
2 such company by losses, depreciation or otherwise, no dividend
3 shall be made until such diminution is supplied by actual funds,
4 or the value restored. R. S., c. 79, § 17.

SECT. 18. Any marine insurance company may, by by-laws
2 or votes duly passed for that purpose, divide among the stock-
3 holders of the company, and the persons insured therein, in
4 proportion to the stock owned by such stockholders, and to the
5 amount of premiums paid by the insured on risks terminated,
6 all the clear profits of the company above six per cent. per
7 annum on its capital stock. Before any such division is made,
8 all arrearages of dividends to stockholders, required to make up
9 their annual dividends equal to six per cent. per annum, shall
10 first be paid. 1844, c. 97.

SECT. 19. Once in every three years, and oftener if required
2 by the stockholders, the directors shall lay before them, at a
3 meeting, an exact and particular statement of the affairs of the
4 company, showing their profits, if any, after deducting losses
5 and dividends. R. S., c. 79, § 18.

SECT. 20. If any such company sustains losses to an amount
2 equal to their capital stock, and the president or directors, after
3 knowing the same, make any new or further insurance, the
4 estates of all who make such insurance, or consent thereto, shall
5 be jointly and severally liable for the amount of any loss which
6 occurs under such insurance. R. S., c. 79, § 19.

SECT. 21. The president and directors of every such company
2 shall, previously to subscribing any policy, and once in every
3 year afterwards, publish in two newspapers printed in this state,
4 one of which is the state paper, the amount of their stock, ex-
5 clusive of premiums on risks not determined, the risks against
6 which they insure, and the largest sum they will take on any
7 one risk. R. S., c. 79, § 20.

SECT. 22. The president and directors, when required by the legislature, shall lay before them a statement of the affairs of the company, and submit to an examination on oath concerning the same. R. S., c. 79, § 21.

SECT. 23. The provisions in the foregoing sections of this chapter, relating to the amount of capital stock to be owned by any insurance company, and the division of the same into shares, and dividends of profits thereon, and other provisions incidental to the nature of its funds, and such of said provisions as relate to the liability of directors or stockholders, in case of deficiency of capital, and the regulations concerning the business of any such company, contained in sections eleven and twelve, shall not be construed as applicable to mutual fire insurance companies; but the following provisions shall be binding on such companies, so far as consistent with their charters.

R. S., c. 79, § 22.

SECT. 24. Mutual insurance companies, incorporated in this state, may make insurance, for a term not exceeding seven years, on dwelling-houses, stores, shops and other buildings, and on household furniture, merchandize and other property, the contents of any building within this state, against loss or damage by fire, originating in any cause other than by design in the assured. R. S. c. 79, § 23.

SECT. 25. No by-law, rule or requirement, made by any such mutual insurance company, shall be binding on any person insured to vacate his policy, unless the same is distinctly set forth in such policy or renewal. R. S., c. 79, § 24.

SECT. 26. Every person insured by such company, or his legal representatives or assigns, continuing to be insured therein, shall be deemed a member of the corporation during the term specified in his policy, and no longer. R. S., c. 79, § 25.

SECT. 27. Every person, on being insured by such company, before receiving his policy, shall deposit his promissory note for the sum of money determined by the directors; and such part of said note as the by-laws require, shall be immediately paid towards the incidental expenses of the institution, and indorsed thereon; and the remainder of said note shall be payable in

7 such instalments as the directors may, from time to time require
8 for the payment of losses and other expenses; to be assessed on
9 all who are members at the time when such losses or expenses
10 happen, in proportion to the amounts of their respective notes.

R. S., c. 79, § 26.

SECT. 28. No member of such company shall be held to
2 contribute to any losses or expenses, beyond the amount of his
3 deposit note. At the expiration of any person's term of in-
4 surance, his note, or such part thereof as remains uncalled for
5 as aforesaid, on payment of all assessments for which it is liable,
6 shall be relinquished to him, except as provided in the next
7 section.

R. S., c. 79, § 27.

SECT. 29. The company shall have a lien against the assured
2 on the buildings insured and the land appurtenant to the same,
3 for the amount at any time due on said note, to commence from
4 the time of the recording of the same, as hereinafter provided,
5 and to continue until sixty days after the expiration of the
6 policy on which such note is given; provided, the company
7 causes a certificate of their claim to such lien, signed by their
8 secretary, to be recorded by the register of deeds for the county
9 or district; and, during the pendency of such lien, an attach-
10 ment of such property, made in a suit commenced on said note
11 in favor of the company, shall have priority to all other attach-
12 ments or claims; and execution, when recovered, may be levied
13 on the same accordingly.

R. S., c. 79, § 28.

SECT. 30. If an assessment, made as provided in the twenty-
2 seventh section, remains unpaid for thirty days after demand
3 made by any agent of the company on any person liable to pay
4 the note, the directors may sue for and collect the whole or any
5 balance due on such note; and the amount collected shall remain
6 in the treasury of the company, subject to the payment of such
7 sums as might otherwise have been assessed on the note; and the
8 overplus, at the expiration of the policy, shall be the property
9 of the assured.

R. S., c. 79, § 29.

SECT. 31. Every person, undertaking to make insurance in
2 this state, as the agent of any corporation established in any
3 other state or country, shall deposit with the register of deeds
4 within the county or district where he resides or usually trans-

5 acts the business of his agency, a copy of the charter of such
6 foreign corporation, and of his power of attorney from the same.

R. S., c. 79, § 30.

SECT. 32. If any person makes or renews any policy of
2 insurance with any person in this state, contrary to the provis-
3 ions of the foregoing section, he shall forfeit for every such
4 offense three hundred dollars, to be recovered in an action of
5 debt; one half to him suing therefor, and the other half to
6 the state.

R. S., c. 79, § 31.

SECT. 33. The mortgagee of any real estate shall have a lien
2 upon any policy of insurance against loss by fire, procured upon
3 the same by the mortgager, to take effect from the time he files
4 with the secretary of the company a written notice briefly
5 describing his mortgage, the estate conveyed thereby, and the
6 sum remaining unpaid thereon. If the mortgager by a writing
7 by him signed and filed with the secretary, consents that the
8 whole of the sum secured by the policy, or so much as is required
9 to discharge the amount due on the mortgage at the time a
10 loss occurs, shall be applied to the payment of the mortgage, it
11 shall be so paid by the company, and the mortgagee's receipt
12 therefor shall be a sufficient discharge of the company for the
13 sum so paid.

1844, c. 107, § 1, 2.

SECT. 34. If the mortgager does not so consent, the mortga-
2 gee may at any time within sixty days after a loss insured
3 against by the policy, enforce his lien by a suit against the
4 mortgager and the company as his trustee, in which judgment
5 may be rendered for what is found due from said company upon
6 the policy, notwithstanding the time of payment of the whole
7 sum secured by the mortgage has not arrived.

1844, c. 107, § 3.

SECT. 35. The amount so recovered shall be applied first to
2 the payment of the costs of the suit and officer's fees on the
3 execution, and next to the payment of the amount due on the
4 mortgage; and the balance, if any, shall be retained by the
5 company and paid to the mortgager. If the company assumes
6 the defense of the suit, they shall be liable to the plaintiff for
7 costs, in the same manner as the principal defendant defending
8 the suit would be.

1844, c. 107, § 3. 1855, c. 130.

SECT. 36. When two or more mortgagees claim the benefit of the three preceding sections, their rights shall be determined according to the priority of their claims and mortgages by the principles of law. 1844, c. 107, § 4.

SECT. 37. When any mortgagee claims the benefit of said sections, any policy of insurance which he had procured or may subsequently procure on his interest in the same property by virtue of his mortgage, shall be void unless it is consented to by the company insuring the mortgager's interest.

1844, c. 107, § 4.

SECT. 38. Upon the decease of a member of any mutual fire insurance company in this state, the lien of said company shall remain good on the property insured to the amount due on the deposit note, and the policy shall descend to the executor or administrator of such deceased member, for the benefit of the estate during its continuance, unless voluntarily surrendered or forfeited by the provisions of the charter of such company.

1846, c. 203, § 1.

SECT. 39. The directors of each mutual fire insurance company shall cause a detailed account of their expenses for the year next preceding their annual meeting, the amount of property actually insured at that time, the amount due on their premium notes, and all their debts and dues, to be laid before the stockholders at their annual meeting in each year; and the company shall cause a copy thereof to be printed in some newspaper published in the county in which it is located, if any, otherwise in the state paper; but no such company having an accumulated fund for the payment of losses, shall be required to publish the names of those persons who are indebted to such office.

1846, c. 203, § 2.

SECT. 40. The salary or compensation for services of the directors, treasurer and secretary, shall be fixed by the stockholders at their annual meeting, and no stockholder or other person shall be allowed more than fifteen votes by proxy.

1846, c. 203, § 4.

SECT. 41. When any insurance company, incorporated in this state, desires to deposit any portion of its stocks or other securities with any officer of this state, as a pre-requisite to the

4 establishing of agencies in any other state, in compliance with
5 the law thereof, it shall be the duty of the treasurer of state to
6 receive such stocks or other securities, and to hold the same on
7 deposit and in trust for the benefit of all the policy holders in
8 said company. 1854, c. 63, § 1.

SECT. 42. When any company has made such deposit, the
2 treasurer shall furnish it with a certificate or certificates of the
3 fact in his official capacity, embracing the items of the security
4 so deposited, the amount and par value of each, and his opinion
5 of their value. 1854, c. 63, § 2.

SECT. 43. He shall hold such securities on deposit, in accord-
2 ance with the provisions of this chapter, but such company
3 shall be permitted to receive and collect the interest or dividends
4 on its securities so deposited, and to withdraw them from time
5 to time, on depositing in lieu thereof other securities of like
6 character and value, to be determined by the treasurer.

1854, c. 63, § 3.

SECT. 44. In case of any repeal or amendment of the laws
2 of such other state, which would disqualify such company from
3 continuing its business therein after having made such deposit,
4 the treasurer, on being satisfied of such repeal or amendment,
5 and on demand by the company owning the securities, shall
6 return the same. 1854, c. 63, § 4.

SECT. 45. When any company, having so deposited its stocks
2 or other securities, desires to relinquish its business, the trea-
3 surer, on application thereof, and on the oath of the president
4 and secretary, that its assets are ample to meet all the existing
5 demands against it, shall deliver up the securities belonging to
6 such company. 1854, c. 63, § 5.

SECT. 46. If any such company fails, while its securities are
2 on deposit as aforesaid, the treasurer shall demand of its secre-
3 tary or clerk, and such officer shall furnish a full and complete
4 list of the names and residences of all policy holders and others
5 having claims upon the company; and they shall be notified
6 forthwith through the post-office, by the treasurer, of the con-
7 dition of the company; and he shall state in the notice that
8 the securities held by him will be disposed of, and the proceeds,
9 after paying expenses, paid over in a ratable proportion upon

10 their claims, properly authenticated; and the time when such
 11 dividend will be made; but nothing in the foregoing provisions
 12 shall be construed to impose any liability on this state on account
 13 of any delinquency of the treasurer. 1854, c. 63, § 16.

SECT. 47. Any such company, on making a deposit of its
 2 securities as herein provided, shall pay to the treasurer the sum
 3 of five dollars for each certificate granted by him under the
 4 terms of this chapter; and in case of proceedings under the
 5 provisions of the forty-sixth section hereof, the treasurer shall
 6 retain, as compensation for the services thereby required of him,
 7 the sum of two per cent. on the amount received and disbursed
 8 by him. 1854, c. 63, § 7.

Chapter 51.

TURNPIKES AND TOLL BRIDGES.

- Sect. 1.* Viewing committee, on application for a turnpike.
 2. Turnpike to be located by the county commissioners.
 3. To be completed within three years.
 4. First meeting, how called. Officers and proceedings.
 5. Estimate and payment of damages.
 6. Corporation may purchase the land.
 7. Width of road.
 8. Damages to be paid before road is opened.
 9. How made when crossing a highway.
 10. Gates, where erected. Tolls, when and where demanded.
 11. Commutation of tolls.
 12. Deduction on broad rimmed wheels.
 13. Sign boards, with rates of toll.
 14, 15. Exemptions from toll in certain cases.
 16. Persons exempted to inform the toll gatherer.
 17. Restrictions on weight of teams and droves of cattle and horses.
 18. Penalty for delaying passengers.
 19. Only two persons and children to pass in wagons toll free.
 20. Penalty for turning out to avoid paying toll.
 21. Penalty for demanding illegal toll.
 22. Liability for defects in road or bridges.
 23. Width of felloes of loaded wheels.
 24. Certain teamsters to tell the weight of their loads.
 25. Teamsters not to lock their wheels without a shoe.
 26. Penalty for making a road to avoid a turnpike gate.

Sect. 27. Measures to be taken for removal of gates.

28. Proceedings if turnpike be out of repair.

29. Transfer of shares.

30. Sale of shares to pay assessments.

31. Advertisement of sale.

32. On discontinuance of turnpike, land to revert.

33. Accounts to be rendered to the secretary of state. Books may be inspected by the legislature.

34. When the legislature may dissolve the corporation.

35. Penalty for injuring toll gates or attempting to pass without paying toll.

36. Covered toll bridges to be lighted.

37. Penalty for neglect.

38. Surrender of turnpikes and toll bridges to the county.

SECT. 1. When any application is made for a turnpike road,
2 a committee shall first be appointed by the legislature to view,
3 at the expense of the petitioners, the route proposed by them;
4 and the committee shall, before they proceed to view any pro-
5 posed road, give public notice of the time and place of their
6 meeting, by publishing the same in some newspaper printed in
7 the county in which the road is proposed to be made; and if no
8 newspaper is there printed, it shall be given in such manner as
9 the committee think will cause the same to be generally known
10 to all persons interested; and they shall further give notice in
11 writing to one or more of the selectmen of each town through
12 which they propose to view, and of the time when they shall
13 make their report to the legislature. R. S., c. 80, § 1.

SECT. 2. When any grant is made for a turnpike road, and
2 application is made to the county commissioners in the county
3 in which such road is situated, they shall exercise the powers
4 and perform the duties provided by law in the laying out of
5 highways. R. S., c. 80, § 2.

SECT. 3. If any turnpike corporation neglects to complete
2 their road within three years from the date of their act of incor-
3 poration, the same shall be void. R. S., c. 80, § 3.

SECT. 4. The first meeting of any turnpike corporation shall
2 be held at such time and place as may be agreed on by a major
3 part of the corporators named in the charter, for the purpose of
4 choosing a clerk, who shall be duly sworn, and such other officers
5 as are agreed on by such corporation; and at that or any sub-

6 sequent meeting said corporation may make reasonable by-
7 laws, not repugnant to the constitution and laws of the state,
8 for the well ordering of their affairs. The first meeting may be
9 called by publishing notice thereof, by the persons appointing
10 the time and place, in some newspaper printed near the route of
11 the intended road, at least two weeks before said meeting.

R. S., c. 80, § 4.

SECT. 5. Every turnpike corporation shall pay all sums that
2 are assessed according to law, for damages for laying out such
3 turnpike road; saving always to either party, so far as respects
4 the damages only, the right of trial by jury, unless a committee
5 be mutually agreed upon according to the provisions of chapter
6 nineteen relating to the laying out of highways; and in such
7 cases the turnpike corporation shall incur the same liabilities
8 and have the same rights, as to costs, as counties in laying out
9 county roads.

R. S., c. 80, § 5.

SECT. 6. Any turnpike corporation may purchase and hold
2 the lands over which to make their road. R. S., c. 80, § 6.

SECT. 7. No turnpike road hereafter granted shall be less
2 than four rods wide; and the traveled part thereof shall not be
3 less than twenty-four feet wide in any part. R. S., c. 80, § 7.

SECT. 8. No turnpike corporation, without the consent of the
2 owner of the land over which their road is to pass, shall throw
3 open any fences or inclosures upon the same, remove any build-
4 ings, cut down any trees thereon standing, make such road, or
5 in any way injure the property of such owner, until the damages
6 done by the passing of the road over such land are first duly
7 ascertained and paid or tendered; or if said owner cannot be
8 found within the state, until the same are deposited to his use
9 with the clerk of the county commissioners; but the officers of
10 such corporation, or its agents or servants may enter on any
11 such land, for the purpose of surveying and laying out the roads,
12 and not otherwise.

R. S., c. 80, § 8.

SECT. 9. When any turnpike road intersects any highway or
2 town way, the proprietors of such turnpike road shall so con-
3 struct the same, that it shall be convenient for travelers to pass
4 from such way to such turnpike road. R. S., c. 80, § 9.

SECT. 10. All turnpike corporations, when their roads are sufficiently made and approved by the commissioners of the county, may erect gates in such places as the commissioners may direct, and demand and receive of each traveler or passenger, at each of said gates, the following rates of toll, viz: for each four wheel spring carriage drawn by two horses, twenty-five cents; and if drawn by more than two horses, two cents for each additional horse; for every wagon drawn by two horses, ten cents; and if drawn by more than two, two cents for each additional horse; for every cart or wagon drawn by two oxen, ten cents; and if by more than two, twelve and a half cents; if by more than four oxen or horses, two cents for each additional ox or horse; for every curricule, fifteen cents; for every chaise, chair, sulkey or other carriage for pleasure, drawn by one horse, twelve and a half cents; for every cart, wagon or truck, drawn by one horse, six cents and a quarter; for every man and horse, four cents; for every sleigh or sled, drawn by two oxen or horses, eight cents; and if drawn by more than two oxen or horses, one cent for each additional ox or horse; for every sleigh or sled, drawn by one horse, four cents; for all horses, mules or neat cattle, led or driven, besides those in teams or carriages, one cent each; for all sheep or swine at the rate of three cents by the dozen: provided, that no turnpike gate, where full toll is to be taken, shall be erected within fifteen miles of any other turnpike gate on the same road, unless expressly authorized by the legislature; nor shall any such gate be erected by said turnpike corporation on any county or town way previously established.

R. S., c. 80, § 10.

SECT. 11. Any turnpike corporation may commute the rates of toll with any person, by annually taking of him a certain sum, to be mutually agreed on.

R. S., c. 80, § 11.

SECT. 12. Carts and wagons, having wheels with felloes six inches broad or more, shall be subject to pay only half the toll which carts and wagons otherwise constructed are liable to pay.

R. S., c. 80, § 12.

SECT. 13. All turnpike corporations shall erect and keep exposed to view, in some conspicuous place, at every gate where toll is collected, a sign board with all the rates of toll fairly and

4 legibly written or painted on a white ground, in black letters of
5 a large size. If they neglect so to do, they shall not be entitled
6 to receive toll at such gate during such neglect.

R. S., c. 80, § 13.

SECT. 14. No toll shall be receivable at any turnpike gate,
2 from any foot passenger, nor from any person riding to his usual
3 place of public worship, or passing such gate in any mode on
4 military duty, nor from any elector going to or returning from
5 any town meeting, for the choice of any officers of the general
6 or state governments, nor from any person residing in the town
7 where such gate may be placed, unless he is going or returning
8 from beyond the limits of said town, nor from any person going
9 to or from any place, on the common and ordinary business of a
10 family.

R. S., c. 80, § 14.

SECT. 15. The officers, soldiers and musicians of all military
2 companies, together with their ordnance and equipage, on days of
3 training or review, while under arms or in going to or returning
4 from their place of parade, and all persons going to or from any
5 funeral, or public worship on the sabbath, may pass over any
6 toll bridge or turnpike road free of toll.

R. S., c. 80, § 15.

SECT. 16. Every traveler claiming to pass any turnpike gate
2 or toll bridge free of toll, shall communicate to the toll gatherer
3 his name and place of abode, if required. Whoever refuses or
4 omits so to do, or wilfully renders a false answer, and thereby
5 evades the payment of his legal toll, shall forfeit to the use of
6 the proprietors of such turnpike or bridge, the sum of ten
7 dollars, to be recovered in an action of debt.

R. S., c. 80, § 16.

SECT. 17. If any person, driving neat cattle or horses over
2 any turnpike bridge or toll bridge more than fifty feet in
3 length from one abutment, pier or trussel part to another,
4 without the consent of the toll gatherer or agent of the corpora-
5 tion owning it, permits more than twenty neat cattle or horses
6 to be on such bridge at one and the same time, or drives or
7 transports over it any loaded cart, wagon or other carriage, the
8 weight whereof exceeds forty-five hundred pounds, exclusive of
9 the team and carriage, and thereby breaks it down or injures it,
10 such person or the owner of such neat cattle, horses, cart,

11 wagon, carriage or load shall not recover any damages for his
12 injury or loss against such corporation. R. S., c. 80, § 17.

SECT. 18. If any turnpike or bridge corporation, or any agent
2 thereof, unreasonably delays or hinders any person driving any
3 cart, wagon, sleigh or other carriage, from passing any turnpike
4 gate or toll gate, such corporation shall forfeit and pay to such
5 person so delayed or hindered not less than two dollars, nor
6 more than twenty dollars; to be recovered by a special action on
7 the case. R. S., c. 80, § 18.

SECT. 19. No more than two persons, and children with them
2 not received for the purpose of evading the payment of toll,
3 shall have a right to pass any toll bridge in any wagon free of
4 the toll payable by foot passengers, in addition to the toll due
5 on such wagon. R. S., c. 80, § 19.

SECT. 20. If any person with his horse, team or cattle, turns
2 out of such road to pass any turnpike gate with intent to avoid
3 paying the toll, and again enters on said road, he shall forfeit
4 and pay treble the toll which would have been payable at such
5 gate, to the use of the corporation, recoverable in an action on
6 the case. R. S., c. 80, § 20.

SECT. 21. If any turnpike corporation, their toll gatherer, or
2 any other person in their employ, demands or receives more
3 toll than the rate established by law, the corporation shall
4 forfeit a sum not exceeding ten, nor less than two dollars,
5 for the use of the person of whom the same is demanded or
6 received, recoverable in an action on the case.

R. S., c. 80, § 21.

SECT. 22. Every turnpike corporation is liable to indict-
2 ment for defect of any of its bridges, or want of repair in its
3 roads. If any person, liable to the payment of toll, sustains
4 any injury to himself or property, from deficiency or want of
5 repair in said bridge or road, the corporation shall be answerable
6 to such person for the same in damages, in an action on the
7 case. R. S., c. 80, § 22.

SECT. 23. All loaded carts or wagons, passing on any turnpike
2 road, and carrying more than forty-five hundred pounds, shall be
3 drawn on wheels having each a felloe not less than three and a
4 half inches wide. Any person passing on any turnpike road

5 with a cart or wagon, loaded as aforesaid, and with wheels hav-
6 ing narrower felloes, shall pay to the corporation owning said
7 road, three times the stated toll for such cart or wagon.

R. S., c. 80, § 23.

SECT. 24. Every person passing on any turnpike road, and
2 driving or having the care of a loaded cart or wagon, with
3 wheels, the felloes of which are less than three and a half inches
4 wide, shall, upon the request of the toll gatherer, give a true
5 account of the weight of the load, and his name and place of
6 abode; and, if he refuses so to do, or makes any misrepresenta-
7 tion with an intent to defraud the corporation, he shall forfeit to
8 its use ten dollars.

R. S., c. 80, § 24.

SECT. 25. If any person driving, or having the care of any
2 loaded cart or wagon, passing on any turnpike road, locks,
3 chains or fastens any of the wheels of such cart or wagon
4 without putting under said wheel a shoe, not less than six
5 inches wide and twelve inches long, he shall for such offense
6 forfeit, to the use of the corporation owning such road, not less
7 than two nor more than twenty dollars.

R. S., c. 80, § 25.

SECT. 26. Whoever opens or makes any road or passway,
2 other than a county road duly located, leading from any turn-
3 pike road, and reunites said road or passway with such turnpike
4 road, or with any road connected with the same, for the purpose
5 of avoiding, or aiding others to avoid, any gate on such turnpike
6 road, shall forfeit, to the use of the turnpike corporation so
7 intended to be injured, a sum not less than two hundred nor
8 more than one thousand dollars.

R. S., c. 80, § 26.

SECT. 27. The county commissioners, in any county where a
2 turnpike gate belonging to any corporation is placed, on petition
3 of such corporation or its directors stating the reasons therefor,
4 may authorize the removal of such gate to any other place
5 in the county, which they judge expedient. In such case, the
6 commissioners shall give public notice of the time, place and
7 object of their meeting, by advertising in such public news-
8 paper as they think proper, ten days at least before the time
9 appointed for such meeting; at which meeting they shall view
10 the places in which the gate is placed and to which it is intended
11 to be removed, and all persons interested may be heard. The

12 commissioners shall, thereupon, order their doings to be duly
13 entered on their records at their next regular session. All
14 expenses attending any of the proceedings shall be defrayed by
15 the petitioners. R. S., c. 80, § 27.

SECT. 28. When any turnpike road is suffered to be out of
2 repair, the county commissioners of the same county may order
3 the gates thereof to be set open, having, at least ten days pre-
4 viously, notified the clerk of the corporation owning such
5 turnpike road, that complaint has been made against said road,
6 and of the time and place appointed to hear the parties. If, on
7 such hearing or view of the premises, they see sufficient cause to
8 order the gates to be set open, they shall leave a copy of their
9 order under their hands with the said clerk, and the said gates
10 shall thereupon be set open; and no toll shall be there demanded,
11 until the commissioners otherwise order. R. S., c. 80, § 28.

SECT. 29. All shares in turnpike corporations shall be personal
2 estate, and transferable by deed, acknowledged before any jus-
3 tice of the peace, and recorded by the clerk of the corporation,
4 in a book kept for that purpose. R. S., c. 80, § 29.

SECT. 30. When any proprietor of shares in any turnpike
2 corporation neglects or refuses to pay any assessment, duly
3 made, for sixty days after the time appointed for payment
4 thereof, the treasurer of such corporation may sell at public
5 vendue a sufficient number of his shares to pay the assessment
6 and all necessary charges; and if any surplus remains, on the
7 sale of any share, it shall be paid by the treasurer to him on
8 demand. R. S., c. 80, § 30.

SECT. 31. Before making sale of such shares, the treasurer
2 shall give notice of the time and place appointed for the sale,
3 and of the sums due on each share, by advertising the same in the
4 manner provided as to sales on execution. R. S., c. 80, § 31.

SECT. 32. When any turnpike road, in whole or in part,
2 is discontinued, the land over which it was laid shall revert in
3 the persons, their heirs or assigns, who were owners thereof at
4 the time such land was taken or purchased for the purpose of
5 making such turnpike; any conveyance of said land, by deed to
6 said corporation, notwithstanding. R. S., c. 80, § 32.

SECT. 33. Every turnpike corporation hereafter established shall, within six months from the time of erecting their gates, lodge in the office of the secretary of state an account of all the expenses thereof; and every such corporation, whenever established, shall annually, in the month of January, exhibit to the governor and council a true account of the income or dividends arising from their tolls, and their necessary annual disbursements. The books of all turnpike corporations shall at all times be subject to the inspection of the governor and council and of the legislature. R. S., c. 80, § 33.

SECT. 34. The legislature may dissolve any turnpike corporation after the expiration of twenty years from the date of its charter, or sooner, if it appears to their satisfaction that the income of the road of such corporation has compensated them for all moneys they have expended in purchasing lands for such road, and in making, repairing and taking care of the same, with six per cent. a year; and thereupon the property of said road shall be vested in the state, and be at the disposal of the legislature. R. S., c. 80, § 34.

SECT. 35. If any person maliciously breaks down or otherwise destroys or injures any toll gate, turnpike, turnpike bridge or toll bridge, or if any person, liable to pay toll at such turnpike or bridge, passes or attempts to pass the gate thereof with intent of avoiding the payment of the legal toll, the same being demanded, he shall forfeit and pay not less than five nor more than fifty dollars, to the use of the proprietors of such road or bridge, in addition to any actual damage thereby occasioned to such road or bridge; but no process shall be maintained to recover the penalty aforesaid, unless said corporation has complied with the requirements of the act creating the same, and said turnpike or bridge is in repair, as the public safety and interest require. R. S., c. 80, § 35. 1849, c. 127.

SECT. 36. Every turnpike bridge or toll bridge, if in whole or in part covered, shall be suitably lighted with not less than one sufficient light for every seventy-five feet in length of said bridge, which is covered, commencing within twenty minutes after sunset, and continuing until ten o'clock in each evening; except at the seasons of the year, if any, when toll is not demanded on such bridge or turnpike. R. S., c. 80, § 37.

SECT. 37. Every corporation, neglecting or refusing to comply with the provisions of the preceding section, shall forfeit for each evening they so neglect or refuse, two dollars; to be recovered by an action of debt, brought in the county where the bridge or any part of it is situated, to the use of the person suing therefor. Such corporation shall also be liable, in a special action for damages, to any person injured by such neglect.

R. S., c. 80, §. 38.

SECT. 38. When any toll bridge or turnpike corporation offers to surrender the bridge or turnpike belonging to such corporation to the county or counties within which it is situated free of cost and incumbrance, the county commissioners of such county or counties shall accept the same, to be thereafter maintained at the expense of such county or counties, provided such commissioners shall upon proper inquiry adjudge such acceptance to be for the public convenience and interest, and the same shall thereafter be the property of such county or counties. The provisions of this section shall not be extended to any bridge or turnpike that has been constructed to connect with or accommodate any private way or road not located or accepted by the town or county within which the same is situated. Any party aggrieved by the doings of the commissioners under the provisions of this section, may have a committee or jury to determine the matter, as provided in chapter nineteen.

1850, c. 1, § 97.

Chapter 52.

RAILROADS.

Preliminary survey and report.

Sect. 1. Preliminary survey and report.

Real estate, what and how taken.

2. May take and hold necessary lands. Not to take meeting-house, dwelling-house, or public or private burying ground.
3. Estimate and payment of damages. Minors, insane persons, &c., how to release. Direct interest of one not an owner provided for.
4. Location must be made and recorded before the land can be taken.

Damages, how estimated, secured and paid.

- Sect. 5. Application to estimate damages to be made in three years. If not so made, owner may sue in trespass, &c.
6. Security for payment.
 7. Notice to be given of the award.
 8. Claims, how secured by a deposit.
 9. Deposit, how appropriated. Proceedings if the security be not given.
 - 10, 11, 12, 13. Claim for damages, how enforced.
 14. Remedy when proceedings fail of judgment.
 15. Service of process.

Crossing streets, railroads, canals, &c., regulated.

16. Railroads not to pass along highways. Not to cross streets without consent of mayor and aldermen, &c.
17. How to cross town roads, &c.
18. Repair of such roads provided for.
19. Penalty for neglect.
20. Limitation of actions therefor.
21. Town roads, &c., may be altered to accommodate such crossing.
22. Manner of crossing to be regulated by county commissioners.
23. Railroad to provide temporary ways.
24. Manner of crossing other railroads, canals, &c.
25. Must support bridges built by them.
26. Bell to be rung at crossings.
27. Sign-boards at crossings.
28. Gates at certain crossings.
29. Penalties for non-compliance with the three preceding sections.
30. Liable for misconduct of agents.

Provisions respecting fences, and liabilities for injuries.

31. Fences to be built and maintained. Liability for neglect.
32. Same subject.
33. Proceedings by owner liable to suffer damage.
34. Companies liable for trespass by contractors, &c. Notice to be given. Trespassers personally liable.

Connections with other roads, and tariffs of transportation.

35. How to draw the cars of other roads.
- 36, 37. Connections and fares, how settled. Commissioners appointed; their duties.
38. Court to prescribe the mode of proceeding by the commissioners.
39. Tariffs, &c., to be established annually in October.

Assignment of charters, leases, transfer of shares, and issuing of bonds.

40. Not to assign the charter or lease the road without authority from the legislature.
- 41, 42. Shares, how transferred.
43. All railroad corporations subject to this chapter, unless by express provisions of their charter.
- 44, 45. For what purpose and for what amount may issue bonds.

Fees of County Commissioners.

46. Fees of county commissioners. What and by whom paid.

Annual reports.

Sect. 47. Annual report to secretary of state; what to contain. Penalty for neglect.

48. Secretary to furnish blanks, and to prepare and lay before the legislature.

Provisions concerning safety and penal provisions.

49. Must provide one brakeman for each two cars.

50. Liability for injury done by fire. May insure against.

51. Coroner to be notified to hold inquest in case of death by accident.

52. Penalty for intoxication of officers.

53. Penalty for gross negligence of officers.

54. Penalty for fraudulently evading payment of fare.

55. Penalty to be paid by the company in case of loss of life. How appropriated.

56. Limitation of the provisions of section fifty-five.

57. Penalty for walking on railroad track.

58. Preceding section to be kept posted up. Penalty for neglect to do so.

59. Speed of trains crossing highways regulated. Penalty for neglect thereof.

Unclaimed baggage and passengers' effects, how disposed of.

60. Unclaimed baggage to be advertised.

61. Examined by municipal officers and sold, or advertised a second time and then sold.

62. Proceeds, how disposed of.

63. Penalty for neglect to advertise.

64. Owner may make oath to a description list of contents of trunk, &c.

Preliminary survey and report.

SECT. 1. No petition for the establishment of any railroad corporation shall be acted upon by the legislature, unless the same is accompanied and supported by the report of a skilful engineer founded on actual examination of the route, and by other evidence, showing the character of the soil, the manner in which it is proposed to construct such road, the general profile of the surface of the country through which it is to pass, the feasibility of the route, and an estimate of the probable expense of construction. The petition shall set forth the places of beginning and end of the proposed road, the distance between the same, the general course of said road, together with the names of the towns through which the same, on actual survey, may pass.

R. S., c. 81, § 1.

Real estate what and how taken.

SECT. 2. Any railroad corporation may take and hold, under the provisions contained in this chapter, so much real estate as may be necessary for the location, construction and convenient use of their road; but no meeting-house, dwelling-house, or

5 public or private burying ground shall be taken without the
6 consent of the owners. Such corporation may also take, remove
7 and use, for the construction and repair of such road and its
8 appurtenances, any earth, gravel, stone, timber or other mate-
9 rials on the land so taken; but the land so taken, otherwise
10 than by the consent of the owners, shall not exceed four
11 rods in width, unless greater width is necessary for excavation,
12 embankment, or procuring stone, gravel or other materials.

R. S., c. 81, 2, 5.

SECT. 3. Such railroad corporation may purchase and use
2 real estate for a price to be agreed upon with the owner thereof;
3 or the damages to be paid by such corporation for any real
4 estate taken as aforesaid when not agreed upon, shall be ascer-
5 tained and determined by the county commissioners under the
6 same conditions and limitations as are by law provided, in case
7 of damages by laying out highways. When the land so taken
8 belongs to any minor, insane person or married woman, whose
9 husband is under guardianship, the guardian of the minor or
10 insane person, and the married woman, with the guardian of her
11 husband, may settle with the corporation all damages and claims,
12 and give valid releases therefor. Any person not the owner of
13 the land, but who has a direct interest therein, shall have all
14 the rights and remedies of an owner so far as his interest is
15 concerned. The land so taken shall be held as lands taken
16 and held for public highways.

R. S., c. 81, § 3, 7. 1853, c. 41, § 9.

SECT. 4. No railroad company shall enter upon or use any
2 real estate for the purposes of their road, except for making
3 surveys, until its location over the same is legally made and
4 filed in the office of the county commissioners; and when such
5 location is filed, the commissioners, before the company have
6 any right to use said estate, after giving at least fourteen
7 days' notice to the owner, shall proceed to view and examine
8 such location; allow and approve the same; make their adjudi-
9 cation thereon a matter of record; and, if requested by the
10 owner, order said company to give security for damages, as
11 hereinafter provided; and such security shall be given accord-
12 ingly.

1853, c. 41, § 4.

Damages how estimated, secured and paid.

SECT. 5. No application to the commissioners to estimate
2 damages shall be sustained, unless made within three years
3 from the time of taking such real estate; but any person who
4 has suffered damage by the location of any railroad, and who is
5 entitled to compensation therefor, in case such proceedings are
6 not instituted within said three years, may have his suit at
7 law as in case of trespass or disseizin, and such further
8 remedies as are herein provided.

R. S., c. 81, § 4. 1853, c. 41, § 5.

SECT. 6. When any application for an estimate of damages,
2 is made to the county commissioners, either by such corporation
3 or the owner of real estate, taken as aforesaid, the commissioners
4 if requested by any such owner, shall require the corporation to
5 give security, to their satisfaction, for the payment of all dam-
6 ages and costs that may be awarded and finally determined by
7 jury or otherwise, for the real estate so taken; and all the right
8 or authority of said corporation to enter upon or use said real
9 estate, except for making surveys, shall be suspended until they
10 give such security. R. S., c. 81, § 6.

SECT. 7. When county commissioners make their report on
2 any question of damages, and it is duly recorded at a regular
3 term of their court, their clerk shall forthwith notify all parties
4 therein interested, that such report is made and recorded, stating
5 the amount awarded to each; and such notice shall be served by
6 an officer on parties in the state, whose names and places of
7 residence are known, or on their attorney of record, and on parties
8 out of the state and having an attorney of record in the state,
9 by service on such attorney; and in all other cases by publish-
10 ing the same three weeks successively in a newspaper printed
11 in the county. The expense of such notice shall be added to
12 the costs of proceedings and paid accordingly. If no petition
13 for redress is filed in the office of the county commissioners in
14 thirty days after such notice, the proceedings shall be closed.
15 If the party presenting a petition for redress, fails to prosecute
16 the same before the next regular term of the court, the commis-
17 sioners may, on motion of the other party, unless good cause is

18 shown to the contrary, close the proceedings in the case, and
19 make their final decree thereon, and such petition for redress
20 shall not be afterwards entertained. 1853, c. 41, § 14.

SECT. 8. When such report is made and the proceedings
2 closed, the company may deposit with said clerk the amount
3 allowed for damages, with interest thereon from the time such
4 report is recorded, and all legal costs arising in the case;
5 and it shall be a full satisfaction of all claim for such
6 damages, if no demand was previously made therefor, and pay-
7 ment refused or neglected. 1853, c. 41, § 15.

SECT. 9. The security provided for in the sixth section shall
2 be a deposit of specie, or the notes or obligations of a state or
3 public corporation, unless the person for whose benefit such
4 security is required consents that other security may be received.
5 Such deposit shall be made with the clerk at the risk of the
6 company making it. So much of said specie as is sufficient
7 to satisfy the judgment, shall be paid over to the party
8 entitled to receive it, in satisfaction of such judgment. Such
9 notes or obligations shall be delivered by the clerk to the officer
10 having the warrant of distress issued upon any such judgment,
11 and shall be by him sold in the manner provided by law for the
12 sale of personal property on execution, and the proceeds appro-
13 priated in satisfaction of said warrant and his fees, and the
14 balance, if any, paid to the treasurer of said company. If the
15 company neglects or refuses to give such security for more than
16 thirty days after it has been required by the county commission-
17 ers, the party, for whose benefit it is required, shall be entitled
18 to the remedies by injunction provided by this chapter.

1853, c. 41, § 16.

SECT. 10. When damages are determined against any railroad
2 company, and the proceedings before the county commissioners
3 are closed, if the amount thereof is not paid or tendered by the
4 company in thirty days after it is demanded, the person entitled
5 thereto may file a bill in equity in the supreme judicial court in
6 the same county in term time or in vacation, setting forth the
7 facts in the case, and praying for an injunction against said
8 company, its servants, agents, grantees, lessees, and all other
9 persons; and any judge of said court, after summary notice to

10 the company, and to such other persons as he sees fit to notify,
11 on proof of the facts aforesaid, and without requiring any bond
12 of the complainant, may issue a writ of injunction, according to
13 the course of equity proceedings, enjoining said company, its
14 servants, agents, grantees, lessees, and all other persons, from
15 using or occupying such lands until such damages, all interest
16 and costs, and all the costs of such injunction are fully paid.
17 Such bill shall be entered in court, and continued one term after
18 the injunction was decreed, and then if such damages and costs
19 are not paid, after service upon all the defendants therein named,
20 the court may make the injunction absolute. All rights what-
21 ever in any lands for which the damages are not paid, and con-
22 cerning which such proceedings have been had, and all rights of
23 property in the superstructure of said road, and other erections
24 over and upon said lands, and the materials composing the same,
25 in any person or persons other than the owner of said lands,
26 shall thenceforth cease, and the owner of such lands may main-
27 tain any appropriate action at law in reference thereto, in the
28 same manner and to the same extent as in case of trespass or
29 disseizin. Nothing herein contained shall bar, or in any manner
30 limit, any legal rights which any owner of lands might have,
31 beside and in addition to the provisions of this section.

1853, c. 41, § 7.

SECT. 11. If any railroad company, its servants, agents,
2 grantees, lessees or other persons, shall, after the service of such
3 injunction, either preliminary or absolute, continue to use and
4 occupy the lands aforesaid, the court, at any term thereof, on
5 motion of the complainants in the bill, may order the directors
6 thereof, or any other person by or under whom the lands are so
7 used and occupied, to show cause, at a time to be fixed by the
8 court, why a decree should not be entered and execution issued
9 against them and their individual goods and estate for the
10 amount of all damages, interest and costs as aforesaid, and for
11 such additional damages and costs as the court may order and
12 decree for the breach of the injunction; and upon service and
13 return of such order, the court may enter such decree for dama-
14 ges and costs as may be a just and equitable remuneration to the

15 complainants, against all or any of such directors and other
16 persons, as their individual or official action or neglect, and the
17 nature of the case may require, and issue execution jointly or
18 severally therefor. Nothing herein contained shall be construed
19 to limit or affect the right of said court to proceed against any
20 persons for breach of any such injunction, as in other cases.

1853, c. 41, § 8.

SECT. 12. When any railroad company is required by any
2 award of damages, upon which all proceedings are closed, to do
3 or omit to do any act, and the same is not complied with in a
4 reasonable time after notice and request, or is done contrary to
5 said award, the person suffering damages as aforesaid shall be
6 entitled to all the remedies hereinbefore provided.

1853, c. 41, § 10.

SECT. 13. When no proceedings are instituted within the
2 time limited in this chapter to determine the damages as
3 aforesaid, any person entitled thereto may have the remedy
4 by injunction provided in the tenth section; and the court
5 may, if the same is prayed for in said bill, proceed to ascertain
6 the damages which such person has suffered by the acts of any
7 such railroad company, or other defendants in said bill, and to
8 make a decree, and issue execution accordingly. Such com-
9 plainant shall be further entitled to all the remedies for breach
10 of injunction hereinbefore provided.

1853, c. 41, § 11.

SECT. 14. When proceedings instituted for the recovery of
2 damages within the time specified in the fifth section, fail of
3 judgment for any error, informality, or other cause not affecting
4 the merits of the application on which they are founded, one
5 year after such failure shall be allowed to institute new proceed-
6 ings. A judgment obtained upon such new proceedings shall
7 have all the incidents provided by law for proceedings instituted
8 within such specified time.

1853, c. 41, § 13.

SECT. 15. Service of any bill, subpoena, notice, order,
2 injunction or decree, aforesaid, may be made upon the president
3 of any company; if there is no president, upon any other officer
4 thereof; and if there are no officers, then upon any stockholder.
5 Service of any writ of injunction issued under the provisions of

6 this chapter upon any person, whether a party to the bill or not,
7 shall be binding upon him, and he shall be liable to all the con-
8 sequences and penalties herein provided, for breach of such
9 injunction. 1853, c. 41, § 17.

Crossings of streets, railroads and canals, regulated.

SECT. 16. No railroad shall be carried along any existing
2 highway, but must cross it in the line of the railway, unless
3 leave is obtained from the town through which it is to pass;
4 nor shall it be located across any county road, until the place,
5 manner and conditions of such crossing are ordered and deter-
6 mined in writing, by the county commissioners, and recorded in
7 their office. Before such determination is made, reasonable
8 notice of the time and place of hearing shall be given to the
9 municipal officers of the town in which the crossing is to be
10 made. No railroad shall cross any street of a city, not a county
11 road, without the written assent of the mayor and aldermen,
12 determining and stating the manner and conditions on which
13 such crossing may be made, and recorded in the county commis-
14 sioners' office. Every such crossing, made contrary to the
15 foregoing provisions, shall be considered a nuisance, and liable
16 to all the provisions of law relating to nuisances, and the direc-
17 tors of the company making the same shall be personally liable
18 therefor. If the directors of any railroad company are dissatis-
19 fied with the decision of the county commissioners relating to the
20 crossing of any county road, the governor, upon the written
21 application of said directors, may appoint in writing three disin-
22 terested persons, not residents of the county where the crossing is
23 proposed, who shall, after notice to said commissioners, and at
24 the expense of said company, proceed to revise such decision,
25 and to adjudicate upon the subject matter thereof, and their
26 adjudication, signed and recorded in the office of said county
27 commissioners, shall be final. 1853, c. 41, § 3.

SECT. 17. Any railroad corporation may raise or lower any
2 turnpike or other way, for the purpose of having their railroad
3 pass over or under the same; and in such cases the corporation
4 shall put the turnpike or other way, as soon as may be, in as

5 good repair and condition as before such alteration; and forth-
6 with, on the completion of such alteration, give notice thereof
7 in writing to the agent or clerk of the proprietors of such
8 turnpike, or to one of the municipal officers of the town where
9 such other way is situated. R. S., c. 81, § 8.

SECT. 18. If said proprietors or said municipal officers require
2 further alterations or amendments of such turnpike or other
3 way, they shall give notice thereof in writing to the agent or
4 clerk of such railroad corporation, and if the parties cannot
5 agree respecting the same, either of the parties may apply to the
6 county commissioners at their next regular meeting, who, after
7 reasonable notice to the adverse party, shall make final deter-
8 mination respecting such proposed alterations or amendments,
9 and award costs in favor of the prevailing party.

R. S., c. 81, § 9.

SECT. 19. If such railroad corporation unnecessarily neglects
2 to make the alterations and amendments determined upon by the
3 commissioners, the turnpike corporation or the aggrieved town
4 may recover their damages in an action on the case.

R. S., c. 81, § 10.

SECT. 20. No action shall be sustained against any railroad
2 corporation by the proprietors of any turnpike, by any town or
3 by the owners of any private way, by reason of any obstruction
4 thereto occasioned by said railroad crossing the same, unless
5 brought within one year after the causing of such obstruction.

R. S., c. 81, § 11.

SECT. 21. If any railroad corporation desires to alter the
2 course of any highway or town way where it crosses their rail-
3 road, for the purpose of facilitating such crossing, they may
4 alter the same accordingly, in such manner as the county com-
5 missioners for the same county direct, if the commissioners,
6 after due notice to the municipal officers of the town where the
7 way is situated, think such alteration will not essentially injure
8 said highway.

R. S., c. 81, § 12.

SECT. 22. If any railroad corporation, before commencing the
2 work of raising or lowering any turnpike or other way, as afore-
3 said, or before completing the same, requests the direction of
4 the county commissioners, after due notice to the parties inter-

5 ested they shall direct the mode of performing said work, and
6 their decision shall be final. R. S., c. 81, § 13.

SECT. 23. Such railroad corporation while employed in
2 raising or lowering any turnpike or other way, or making any
3 other alteration by means of which the same is obstructed, shall
4 provide and keep in good order suitable temporary ways, to
5 enable travelers to avoid or pass by such obstructions.

R. S., c. 81, § 14.

SECT. 24. They may construct and carry their railroad
2 across, over or under any railroad or canal, when it is necessary
3 in the construction of the same; and, in such cases, said
4 corporation shall so construct their railroad crossings as not
5 unnecessarily to impede the travel or transportation upon the
6 railroad or canal so crossed. Said corporation shall be liable,
7 in an action on the case, for the damages occasioned to any
8 corporation or party injured by reason of said crossing.

R. S., c. 81, § 15.

SECT. 25. They shall maintain and keep in repair all bridges,
2 with their abutments, which it constructs for the purpose of
3 enabling their road to pass over or under any turnpike road,
4 canal, highway or other way. R. S., c. 81, § 16.

SECT. 26. They shall cause a bell, of at least thirty-five
2 pounds in weight, to be placed on each locomotive engine pass-
3 ing on their road; and it shall be rung at the distance of at least
4 eighty rods from the place where said railroad crosses any
5 turnpike, highway or town way, upon the same level; and shall
6 be kept ringing until the engine has crossed such turnpike or
7 way. R. S., c. 81, § 17.

SECT. 27. They shall cause boards to be placed, well supported
2 by posts or otherwise, and constantly maintained across each
3 turnpike, highway or town way, where it is crossed by the rail-
4 road, upon the same level; the said posts and boards to be of
5 such height as are easily seen by travelers without obstructing
6 the travel; and on each side of said boards the following
7 inscription shall be painted in plain legible letters of at least
8 the length of nine inches each, *Railroad crossing. Look out*
9 *for the engine while the bell rings.* R. S., c. 81, § 18.

SECT. 28. If the municipal officers of any town, wherein any
2 turnpike, highway or town way so crossed by any railroad is
3 situated, deem it necessary for public security that gates should
4 be erected across the railroad, and that an agent should be
5 stationed to open and close them when any engine passes, said
6 municipal officers may, by a writing delivered to the clerk or a
7 general agent of such corporation, request said corporation to
8 erect such gates, and station an agent, as aforesaid; and, if the
9 corporation neglects or refuses so to do, said municipal officers
10 may apply to the county commissioners to decide upon the rea-
11 sonableness of such request; and if said commissioners, after due
12 notice and hearing the parties, decide that such gates and agent
13 are necessary for the security of the public, the corporation shall
14 comply with said decision and pay the costs of the application;
15 but if they decide otherwise, said municipal officers shall pay
16 the costs.

R. S., c. 81, § 19.

SECT. 29. If any railroad corporation unreasonably neglects
2 or refuses to comply with the requisitions contained in the three
3 preceding sections, they shall forfeit for every such neglect or
4 refusal, to the use of the state, a sum not exceeding five hundred
5 dollars, to be recovered by indictment; and if any agent, sta-
6 tioned as aforesaid, neglects to open or close said gates for the
7 safe passing of the engine on the railroad, or the traveler on the
8 turnpike, highway or town way, he shall, for every such neglect,
9 forfeit to the use of the state a sum not exceeding fifty dollars,
10 to be recovered as aforesaid.

R. S., c. 81, § 20.

SECT. 30. Said corporation shall be liable for all damages
2 sustained by any person in consequence of any neglect of the
3 provisions of the foregoing section, or of any other neglect of
4 any of their agents, or by any mismanagement of their engines,
5 in an action on the case by the person sustaining such damages.

R. S., c. 81, § 21.

Provisions respecting fences, and liability for injuries.

SECT. 31. Before the construction of any railroad is com-
2 menced upon the land taken therefor, the company shall, at
3 their own expense, make a sufficient fence upon both exterior

4 lines thereof, across any fields, pastures or wood-lots appertain-
5 ing to farms; and they shall keep it in good order and repair
6 during all the time the work of construction is carried on upon
7 or near such land. For all acts done by any company, its
8 servants, agents, or contractors, contrary to the provisions of
9 this section, the directors of such company shall be personally
10 liable, jointly and severally, to the same extent and in the
11 same manner as if said acts were performed by themselves; and
12 an action therefor, against all or any number of said directors,
13 may be maintained in any court of competent jurisdiction.

1853, c. 41, § 4.

SECT. 32. Substantial, legal and sufficient fences shall at all
2 times be maintained by such companies, on each side of the
3 lands taken by them for their road, wherever it passes through
4 enclosed or improved lands, or wood-lots appurtenant to or be-
5 longing with farms. The penalty for neglect so to do, shall for
6 each offense be a fine sufficient to make or repair the fence, to
7 be recovered by indictment in the supreme judicial court, and
8 expended by an agent, appointed by the court, in making or
9 repairing the deficient fence.

1842, c. 9, § 6.

SECT. 33. When the owner of the lands adjoining such
2 deficient fence provided for in sections thirty-one and thirty-
3 two, is liable to suffer damage by reason thereof, he may notify
4 the superintendent of said railroad company, by giving a notice
5 in writing, that such fence is not made, or if made is in bad
6 repair; and in case the company refuses or neglects for thirty
7 days after such notice to make and maintain such fence, they
8 shall forfeit and pay to the land owner the sum of one hundred
9 dollars for each month they so refuse or neglect after the expira-
10 tion of said thirty days; said forfeiture to be recovered in any
11 appropriate action and before any court competent to try the
12 same.

1853, c. 41, § 20.

SECT. 34. All railroad companies shall be liable for trespass
2 and injuries to lands or buildings adjoining, or in the vicinity
3 of their respective roads, by any contractor, or person in the
4 employ of any contractor, or other person in the employ of any
5 such company, in an appropriate action, in the same manner
6 and to the same extent as if such trespass or injury was occa-

7 sioned by the direct and specific order of said company; provided
8 that the party claiming damages, within sixty days after
9 the damage is sustained, gives notice thereof to said company.
10 Nothing herein contained shall be construed to bar or affect any
11 remedy, or right of action, against the person by whom such
12 trespass or injury was occasioned. Such liability of the com-
13 pany shall not extend to acts of willful and malicious trespass.
1853, c. 41, § 6.

Connections with other roads and tariff of transportation.

SECT. 35. Every railroad corporation owning any railroad
2 upon which cars run, is required at reasonable times, and for a
3 toll not exceeding the ordinary rate, to draw over their road the
4 passenger, baggage and merchandize cars of any other railroad
5 corporation, which is authorized by the legislature to connect
6 therewith; and on refusal or neglect on reasonable request so to
7 do, the directors of such connecting road shall have the right to
8 draw their cars over such road with their own locomotive engines
9 so long as such neglect or refusal continues, subject, while upon
10 such road, to the same general regulations prescribed by the
11 directors of the intersected road, for the regulation and manage-
12 ment of their own trains. The directors of such intersecting
13 road shall provide their own depots at the termini of said road.
14 The road intersected shall not be liable for any injuries to the
15 passengers, baggage or merchandize transported in the cars of
16 the intersecting road, arising from any defect in said cars, or
17 negligence, or improper or unskilful conduct on the part of the
18 managers of the intersecting road, but in all such cases the
19 damage for such injuries shall be sustained and paid by the
20 intersecting road. 1842, c. 9, § 1, 2.

SECT. 36. When any railroad companies fail to agree upon
2 terms of connection, or the rates at which passengers and mer-
3 chandize coming from the one shall be transported over the
4 other, the supreme judicial court holden at any term, in any
5 county in which either of such connecting roads are located, on
6 application of either party, and after such notice to the other
7 as the court direct, shall appoint three commissioners to deter-
8 mine the matter. 1854, c. 93, § 1.

SECT. 37. Said commissioners shall, upon due notice and a hearing of the parties interested, proceed to determine and award in writing upon the matter submitted, and prescribe the things to be done by the several parties. Their award, or that of a majority, shall be returned to the supreme judicial court in the county where the application was made, and accepted and recorded, unless the court for cause shown orders it to be re-committed for further hearing and determination. Upon the acceptance of such award, it shall be binding upon the parties until a new award is made upon a further application; but no application for a new award shall be entertained until the expiration of one year from the acceptance of the preceding award. 1854, c. 93, § 2.

SECT. 38. The court may prescribe the mode of proceeding by said commissioners, and issue all such processes necessary to secure the due execution and performance of any award made and accepted under the provisions aforesaid. 1854, c. 93, § 3.

SECT. 39. Every railroad corporation in this state, in the month of September in each year, shall fix their rates of toll for the transportation of timber, bark and wood, to be rated by the thousand feet, cord or ton, per mile, and on the first day of October in each year, shall post up at all the stations and depots on their road, a copy of such rates of toll, and cause said copy to remain so posted through the year; and if they neglect thus to post up, or for one year thereafter charge or receive any higher rates of toll than are thus posted, they shall forfeit and pay the sum of one hundred dollars to any person suing therefor, to be recovered in any appropriate action before any competent court. 1853, c. 41, § 19.

Assignment of charters, leases, transfer of shares, and issuing of bonds.

SECT. 40. No railroad company shall assign its charter or any of its privileges, immunities or franchises, nor lease any portion of its road, or grant the enjoyment, use, possession or

4 control thereof, to any person or corporation, or in any way
5 place its control and management in the hands of any other
6 officers or parties than those contemplated by its charter,
7 without the express authority of the legislature therefor. Any
8 such lease, contract, agreement, assignment or transfer, shall be
9 null and void; and it shall be the duty of the attorney general,
10 on request of any person complaining of a violation of the pro-
11 visions of this section, to file an information, in the nature of a
12 quo warranto, against said corporation, before the supreme
13 judicial court, and said court may pass such judgment, order or
14 decree, as justice and equity require in all such cases. Nothing
15 herein shall extend to any agreement for the lease of the Som-
16 erset and Kennebec Railroad to the Kennebec and Portland
17 Railroad on the terms mutually agreed on by the stockholders
18 in both of said companies existing on the thirteenth of April,
19 eighteen hundred and fifty-two; nor affect any mortgage made
20 for securing the debts of any corporation, or any portion of the
21 Atlantic and Saint Lawrence Railroad which lies within the
22 states of New Hampshire and Vermont. 1852, c. 247.

SECT. 41. The shares in the capital stock of any railroad
2 corporation shall be deemed personal estate; and they may be
3 transferred by any conveyance in writing, recorded either by the
4 treasurer, in books to be kept in his office, or by an officer duly
5 authorized by the directors, in books to be kept at such other
6 place, as they appoint within the state. When recorded in
7 any other place, they shall, within ten days thereafter, be also
8 recorded in the books kept by the treasurer. No conveyance of
9 any such shares shall be valid against any other persons than
10 the grantors or their representatives, unless so recorded.

R. S., c. 81, § 22.

SECT. 42. On making any such transfer, the certificates of
2 the transferred shares shall be given up and canceled, and new
3 certificates shall be issued to the purchasers, unless some attach-
4 ment of such shares was made previous to such transfer; and
5 in such case, the issuing of said certificates shall be suspended,
6 until said attachments are dissolved, or the shares sold by pro-
7 cess of law.

R. S., c. 81, § 23.

SECT. 43. All railroad companies, incorporated under the
2 authority of this state, shall have all the powers and privileges,
3 and be subject to all the duties, liabilities and other provisions
4 contained in this chapter, respecting such corporations, unless
5 inconsistent with the express provisions of their charters.

R. S., c. 81, § 24.

SECT. 44. Every railroad corporation may issue its bonds for
2 the purpose of building or furnishing its road, or paying any
3 debts contracted therefor, bearing interest not exceeding six per
4 cent. per annum, and secured in such manner as they deem
5 expedient.

1852, c. 220, § 1.

SECT. 45. Such bonds shall not be for sums less than one
2 hundred dollars; and shall be binding on the company and
3 collectable in law, though negotiated and sold at less than their
4 par value.

1852, c. 220, § 2.

Fees of county commissioners.

SECT. 46. The fees of the county commissioners, while em-
2 ployed in estimating damages and in other services required by
3 this chapter, shall be the same as are provided by law for like
4 services, in laying out or altering highways. Their fees and
5 other expenses incurred in the settlement of all questions between
6 railroad companies and the owners and occupants of lands
7 through which the roads are located, shall be paid by the rail-
8 road company; but if an appeal is taken, the losing party shall
9 pay the costs of the appeal. 1854, c. 107, § 2. 1850, c. 203.

Annual reports.

SECT. 47. Every railroad corporation shall make an annual
2 report to the secretary of state of the operations of the year,
3 ending on the first day of January, which shall be verified by
4 the oath of the treasurer, filed in the office of the secretary of
5 state, by the tenth day of February, and state, first, the
6 length of the road in operation, the length of single track, the
7 length of double track, the time when laid and the weight of
8 the rail per yard; second, the capital stock, and the amount
9 called and paid in; third, the whole cost of the road, showing

10 the amount expended for the purchase of lands, for grading, for
11 expenses of engineering, for bridging, for masonry, for iron, and
12 for passenger and other cars; fourth, the amount and nature of its
13 indebtedness and its dues; fifth, the number of through and
14 way passengers and the rate of fare; sixth, the amount received
15 from the transportation of passengers, of property, of the mails
16 and from other sources; seventh, the number of depots, engine
17 houses, shops, engines and cars; eighth, the number of miles
18 run by passenger, freight and other trains respectively, and the
19 average rate of speed; ninth, the whole number of stockholders
20 and the number who reside in this state; tenth, the amount of
21 each dividend and when made; eleventh, the amount charged
22 for depreciation of road and other property; twelfth, the num-
23 ber of persons injured in life or limb, the cause of injury, and
24 whether passengers or persons employed; thirteenth, whether
25 any such accidents arose from carelessness or negligence of any
26 person in the employ of the corporation, and whether such per-
27 son is retained in its service. If any railroad company wilfully
28 refuses or neglects to make the reports required in this section,
29 they shall be liable to a fine of one thousand dollars for each
30 such neglect, to be recovered by indictment, to the use of the
31 party prosecuting therefor.

1849, c. 145, § 1, 2. 1853, c. 41, § 18.

SECT. 48. The secretary shall prepare the necessary printed
2 blank forms for such reports, and transmit a suitable number
3 thereof to each of said companies, in the month of November
4 annually. He shall arrange the information contained in the
5 reports in a tabular form, and prepare the same in a single
6 document for the use of the legislature during its session.

1853, c. 41, § 18.

Provisions concerning safety and penal provisions.

SECT. 49. No railroad corporation shall cause or permit any
2 train of cars moved by steam power for the transportation of
3 passengers, to be run upon their road unless there is placed
4 and kept upon the train while running, one trusty and skilful
5 brakeman to every two cars.

1842, c. 93, § 3.

SECT. 50. When any injury is done to a building or other
2 property of any person or corporation, by fire communicated by
3 a locomotive engine, the corporation owning such engine shall
4 be responsible in damages for such injury, and shall have an
5 insurable interest in the property for which it is so responsible
6 in damages along its route, and may procure insurance thereon.

1842, c. 93, § 5.

SECT. 51. Every railroad company, on whose road any acci-
2 dent occurs resulting in the death of any person, shall give im-
3 mediate notice to the county attorney, who shall call forthwith
4 upon some coroner of the county, whose residence is near the
5 place of the accident, to hold an inquest upon view of the
6 bodies of such persons as have died by such accident, in the
7 manner provided by law; but if the county attorney resides
8 more than ten miles from the place of such accident, said rail-
9 road company shall first call upon some justice of the peace in
10 the vicinity, to notify a coroner to hold such inquest, and then
11 forthwith notify the county attorney as aforesaid, that he may be
12 present at the hearing before said coroner. 1853, c. 41, § 1.

SECT. 52. Any person in charge of a locomotive engine, or
2 acting as conductor of a car or train, as brakeman, or
3 switchman, in the employment of any company, who is intoxi-
4 cated while so employed, shall be deemed guilty of a misde-
5 meanor, and liable to a fine not exceeding one hundred dollars
6 or imprisonment not exceeding six months, or both, at the dis-
7 cretion of the court before whom he is tried. 1853, c. 41, § 2.

SECT. 53. When any engineer, fireman or other agent of
2 any railroad corporation, or any person employed in conducting
3 its trains, is guilty of negligence or carelessness, whereby an
4 injury is done to any person or corporation, he shall be punished
5 by imprisonment in the county jail for a term not exceeding
6 twelve months, or by fine not exceeding one thousand dollars;
7 but nothing in this section shall exempt said corporation from an
8 action for damages by any person or corporation sustaining such
9 injury. 1842, c. 93, § 4.

SECT. 54. Any person who fraudulently evades the payment
2 of the fare lawfully established by any railroad, by giving a false
3 answer in relation thereto, or by traveling beyond the point to

4 which he has paid his fare, or by leaving the train without pay-
5 ing the fare, shall, upon conviction before a justice of the peace
6 in the county where such offense is committed, be punished by a
7 fine of not less than five nor more than twenty dollars for every
8 such offense, with the costs of prosecution. No person who
9 does not, on demand, first pay the established fare, shall be enti-
10 tled to be transported over said railroad. 1854, c. 107.

SECT. 55. When the life of any passenger or other person is
2 lost upon any railroad, by reason of the gross negligence, care-
3 lessness or unfitness of any of the servants, agents or employees
4 of any railroad corporation, while employed about its business,
5 such corporation shall be liable to a fine not exceeding five
6 thousand, nor less than five hundred dollars, to be recovered
7 within a year thereafter by indictment, and paid to the execu-
8 tor or administrator of the deceased for the benefit of his widow
9 and children, one-half to the widow, the other to the children;
10 but if no children, all to the widow; if no widow, all to the
11 children; if no widow or children, all to the heirs at law of the
12 deceased. 1855, c. 161, § 1, 2, 4. 1848, c. 70, § 2.

SECT. 56. No railroad corporation shall be liable to the fine
2 mentioned in the preceding section, for the loss of life by any
3 person while walking or being upon any railroad contrary to
4 law, or to its reasonable rules and regulations.

1855, c. 161, § 3.

SECT. 57. Any person, without right, knowingly standing or
2 walking on any railroad track, or passing over any railroad
3 bridge, on foot or with a horse and carriage, or in any other
4 manner except by railroad conveyance, shall be liable to a pen-
5 alty of not less than five nor more than twenty dollars, to be
6 recovered to the use of the state on complaint before any justice
7 of the peace, or municipal or police court, in the county where
8 the offense is committed. 1855, c. 161, § 5.

SECT. 58. Every railroad corporation shall constantly keep
2 posted up in a conspicuous place in every passenger depot used
3 by them, a printed copy of the preceding section, and for neglect-
4 ing so to do, shall be liable to a fine not exceeding one hundred
5 dollars, for every offense, to be recovered by indictment in any
6 court of competent jurisdiction. 1855, c. 161, § 6.

SECT. 59. If any railroad corporation, their servants or agents, 2 run their engine, cars or train across any public highway in or 3 near the compact part of any town, at a greater speed than six 4 miles per hour, or unreasonably and negligently obstruct any 5 highway, townway or public street by their engines, tenders or 6 cars, such corporation shall be liable to a fine not exceeding one 7 hundred dollars for every such offense, to be recovered by 8 indictment in any court of competent jurisdiction.

1855, c. 161, § 7.

Unclaimed baggage and passengers' effects.

SECT. 60. Every railroad corporation shall, in the months of 2 January and July in each year, publish a description list of all 3 trunks, carpet bags, valises, parcels, and passengers' effects, or 4 other goods which have been left, and on such day remain 5 unclaimed at any place in its possession or that of its agents; 6 said list shall indicate all such specific marks as serve to identify 7 the same, and the publication shall be made in one newspaper at 8 least in every county of the state, in which such railroad corpo- 9 ration has a passenger station or office. 1853, c. 44, § 1.

SECT. 61. If at the expiration of six months after such adver- 2 tisement, any of the articles so advertised still remain unclaimed, 3 such corporation shall give notice to the municipal officers of the 4 town where such articles are, who shall cause them to be 5 examined, and may either order them to be sold at public auc- 6 tion, first advertising them in manner and place aforesaid, or to 7 be again advertised and remain another six months before sale.

1853, c. 44, § 2.

SECT. 62. The proceeds of all articles thus sold, after deduct- 2 ing the costs of storage, advertising and other expenses due to 3 the railroad corporation, and the cost of the examination and 4 sale, shall be paid over to the treasurer of state for the use of the 5 state. 1853, c. 44, § 3.

SECT. 63. Every such railroad corporation neglecting to 2 advertise and cause to be examined any such passengers' effects, 3 shall be subject to an action for damages on the part of any 4 person aggrieved thereby, and to a penalty of one hundred 5 dollars for each case of neglect, to be recovered by indictment in

6 any competent court, one half to the complainant and the other
7 half to the county where the case occurs. 1853, c. 44, § 4.

SECT. 64. When an action is brought against a railroad cor-
2 poration, to recover damages for any trunk, carpet bag, valise
3 or other parcels lost, damaged or destroyed, or for the contents
4 thereof, and the plaintiff at the trial proves the bailment thereof
5 to such corporation, or its agents, and the subsequent loss,
6 destruction or damage, by the fault of the defendants, the plain-
7 tiff may put in as evidence in the case a descriptive list, sworn
8 to by him, of so much of the contents of such trunk, carpet bag,
9 valise or other parcel, as may consist of convenient wearing
10 apparel and other traveling equipage of the party, and the
11 defendants may interrogate the plaintiff as to the contents and
12 value of such articles; and such testimony shall be subject to
13 the same exception of law as that of any other witness.

1853, c. 44, § 5.

Chapter 53.

STEAM NAVIGATION COMPANIES, AND THE TRANSPORTATION OF GOODS AND PASSENGERS BY COMMON CARRIERS.

Sect. 1. Liability of, as common carriers.

2. Treasurer. Duty to publish annual statements. Penalty for neglect. Penalty for publishing false statements.
3. Power of contracting debts limited. Liability of individual stockholders in case of violation.
4. Who may be director and treasurer.
5. Boats employed in transporting goods liable for damages or loss of goods, by attachment.
6. Attachment to be made in sixty days. Valid against transfer.
7. Provisions in relation to payment of fare on steamboats; to baggage and effects of passengers and others by steamboats, stages and common carriers; to loss of life by unfitness, carelessness, &c., of owners of steamboats and stage coaches, or their servants.

SECT. 1. Every corporation for the purpose of steam naviga-
2 tion, unless otherwise expressed in its charter, shall be liable
3 for all claims for damages arising out of the breach of any con-
4 tract, express or implied, made by it as common carriers, or from

5 the misconduct or neglect of such corporation or its agents,
6 under the maritime law, to the same extent as owners of vessels
7 are liable by law. In case of a deficiency of attachable corpo-
8 rate property, the individual property, rights and credits of any
9 stockholder thereof may be taken on execution, to the amount of
10 his stock, for all debts and liabilities incurred by such corpora-
11 tions during his ownership, in the manner provided in section
12 twenty-one of chapter forty-seven, and such liability shall con-
13 tinue for the period of time, and may be enforced by the same
14 proceedings that are provided in said section, and the liability
15 to contribution between stockholders shall be the same, and
16 enforced in the manner provided in chapter forty-seven.

1845, c. 154, § 1.

SECT. 2. Every such corporation shall have a treasurer; and
2 he shall keep his office within this state, and publish annually,
3 in the month of January, in some newspaper printed in the
4 county in which he keeps his office, if any, otherwise in the
5 state paper, a correct statement, under oath, of the amount of
6 all the assessments voted by the corporation and actually paid
7 in, the net amount of the then existing capital stock, the amount
8 of all the debts due from, and of the liquidated liabilities against
9 such corporation. If he neglects or refuses to publish such
10 statement, he shall be fined not exceeding five hundred dollars,
11 or imprisoned not exceeding six months, on indictment and con-
12 viction thereof. If he neglects or refuses to publish such state-
13 ment, or knowingly publishes a false statement, with the fraudu-
14 lent intent to injure any creditor or claimant, or any that might
15 thereafter become such, he shall, upon indictment and convic-
16 tion thereof, be punished by fine not exceeding one thousand
17 dollars, imprisonment in the county jail not exceeding one year,
18 confinement in the state prison to hard labor not exceeding five
19 years, or all of said punishments according to the aggravation of
20 the offense.

1845, c. 154, § 2.

SECT. 3. All such corporations are prohibited from contract-
2 ing debts or liabilities, exceeding at any one time one half of
3 the amount of their capital stock, paid in and remaining
4 undivided in their possession, estimated at its actual value at
5 the time; and if the amount of such indebtedness of any such

6 corporation at the time of contracting any new indebtedness, or
7 at the time or immediately after making any dividend of the
8 capital or profits, exceeds the limitation aforesaid, the stock-
9 holders shall at once be individually liable for all the debts and
10 liabilities of such corporations; and such liability shall continue
11 for the same period of time, the same proceedings may be had
12 to enforce it against such stockholders, but without limitation
13 as to the amount, and for contribution between stockholders,
14 that are provided in chapter forty-seven. 1845, c. 154, § 3.

SECT. 4. No person shall be chosen a director or treasurer
2 of any such corporation, nor continue to hold any of such
3 offices unless he is a stockholder therein. 1845, c. 154, § 4.

SECT. 5. In an action against any person undertaking to
2 transport goods, wares, merchandize or other property for hire,
3 upon any river, bay or stream in this state, in a boat not his
4 own, for loss or damage of the same, the plaintiff may attach and
5 hold said boat the same as if the defendant were the owner.

1846, c. 194, § 1.

SECT. 6. Such attachment shall be made within sixty days
2 after the loss or damage, and not afterwards; and said boat, so
3 attached, may be sold on execution issued in such case, as other
4 personal property is sold on execution; and the surplus, if any,
5 after paying the amount due on the execution, shall be paid to
6 the owner of the boat. Such attachment shall be valid against
7 any transfer, sale, mortgages or other lien upon said property,
8 made or created after such loss or injury was sustained, and
9 prior to the attachment. 1846, c. 194, § 2.

SECT. 7. All the provisions of section fifty-four of chapter
2 fifty-two, in relation to the payment, or evading the payment of
3 fares, shall apply to fare on board of steamboats, and all the pro-
4 visions and penalties of sections sixty-one, sixty-two, sixty-three,
5 and sixty-four of the same chapter, in reference to the effects of
6 passengers and other goods transported by railroad, shall apply
7 to like effects and goods transported by steamboats, stage
8 coaches or other common carriers, and all the provisions and
9 penalties of section fifty-five of the same chapter shall apply to
10 the loss of life of passengers or other persons by reason of the

11 gross negligence, carelessness or unfitness of the owners or pro-
 12 prietors of any steamboat, stage coach or other common carriers
 13 of passengers, or of their servants or agents; and the same
 14 remedies shall be had, and the same penalties inflicted, and the
 15 same disposition made of the fines and penalties and proceeds of
 16 sale, that are prescribed in like cases in regard to railroad cor-
 17 porations in said sections, as fully as if the same were here par-
 18 ticularly repeated. 1853, c. 44, § 1, 2, 3, 4, 5.

1854, c. 107, § 1. 1855, c. 161, § 1, 2. 1848, c. 70, § 2.

Chapter 54.

TELEGRAPH COMPANIES.

Sect. 1. Owners liable for errors in transmitting dispatches.

2. And for unnecessary delays.

3. Agents liable for misfeasance. Owners liable in case of inability of agent.

4. Operator, &c., not exonerated in case of fraud. Owners and operators not exonerated from liabilities at common law.

SECT. 1. Every person or company owning or using any line
 2 of telegraph wholly or partly in this state, for any error made
 3 in the transmission or writing out of any dispatch upon their
 4 lines, by their operators or agents, affecting its value to the
 5 party interested therein, shall be liable for the whole amount
 6 paid for its transmission to its place of destination, both in and
 7 out of this state. 1852, c. 237, § 1.

SECT. 2. When any dispatch is improperly or unnecessarily
 2 delayed in its transmission or delivery, within the usual delivery
 3 limits of the several offices within this state, so that it is less
 4 valuable to the party interested therein, the person or company
 5 whose operator or agent is in fault, shall refund the whole
 6 amount paid on such dispatch. 1852, c. 237, § 2.

SECT. 3. The operator or agent of any person or company
 2 owning any line of telegraph in this state, who designedly falsi-
 3 fies any dispatch for any purpose whatever, shall be liable in
 4 damages in a sum not less than twenty, nor more than one

5 hundred dollars, for each offense, to be recovered in an action of
 6 debt, in any court of competent jurisdiction; and in case of the
 7 avoidance or inability of such operator or agent to pay a judg-
 8 ment recovered against him for such cause, said person or
 9 company shall be liable in damages, as aforesaid, as if no judg-
 10 ment had been recovered against the operator or agent.

1852, c. 237, § 3.

SECT. 4. Nothing in this chapter shall be construed to exon-
 2 erate any operator, agent, clerk or other officer employed on any
 3 telegraph line in this state, from liability for any act of fraud
 4 committed or attempted to be committed by means of telegraphic
 5 communication, or to exonerate the company from any liabilities
 6 existing at common law, for any wrong doing or neglect of such
 7 company or any of their agents.

1852, c. 237, § 4.

Chapter 55.

AQUEDUCTS.

Sect. 1. Meetings of proprietors of aqueducts for incorporation, how called.

2. Declared a corporation.
3. Mode of calling meetings, and clerk.
4. Registry of shares and transfers.
5. Directors, and other officers.
6. Assessments, and collection thereof.
7. Penalties for breach of by-laws.
8. Manner of voting.
9. Transfer or attachment of shares.
10. Corporation may hold real estate.
11. May dig up highways or streets, by permission.
12. Penalty for injuring an aqueduct.
13. Towns may draw water in case of fires.
14. Continuance of certain corporate powers after dissolution.
15. Liability of corporators in such case.
16. Title to corporate property after dissolution.

SECT. 1. Any persons associated, by agreement in writing,
 2 as proprietors of an aqueduct for the purpose of conveying fresh
 3 water into or within any town, or of any funds for establishing
 4 such aqueduct, may apply in writing to some justice of the
 5 peace, for the county in which any portion of the aqueduct is

6 situated, or is proposed to be made, stating the name and style
7 of their association, and the objects of their proposed meeting;
8 and requesting such justice to issue his warrant to some one of
9 the persons applying, directing him to call such meeting; and
10 such justice may thereupon issue his warrant accordingly,
11 stating therein the time, place and object of such meeting; and
12 the proprietor, to whom the warrant is directed, shall notify
13 such meeting by posting up the substance of the said warrant,
14 with his notice annexed thereto, seven days at least before the
15 meeting, in some public place in every town in which any por-
16 tion of the aqueduct is, or is proposed to be made.

R. S., c. 83, § 1.

SECT. 2. The proprietors aforesaid, duly assembled pursuant
2 to such warrant, and their successors, shall be a corporation by
3 the name and style mentioned in their application.

R. S., c. 83, § 2.

SECT. 3. They may, at any legal meeting, agree upon the
2 method of calling future meetings of the corporation, and choose
3 a clerk, who shall be duly sworn, and fairly and truly record,
4 in books to be provided and kept by him for that purpose, all
5 by-laws, votes and other proceedings of such corporation, and
6 such books shall, at all times, be subject to the inspection of
7 any person appointed for that purpose by the legislature.

R. S., c. 83, § 3.

SECT. 4. At or immediately after the first meeting, the clerk
2 shall enter, in the books aforesaid, the names of the several
3 proprietors, and the shares owned by each; and when any share
4 is afterwards transferred, the transfer shall be entered by said
5 clerk in said books, within three months after it is made, in
6 such form and for such fees as the directors order; and no person
7 shall be deemed a proprietor whose share or interest is not so
8 entered.

R. S., c. 83, § 4.

SECT. 5. The proprietors may choose any number of directors
2 and other officers, to manage the business of said corporation;
3 and the directors shall choose one of their number to be presi-
4 dent.

R. S., c. 83, § 5.

SECT. 6. The directors may make such assessments on the
proprietors of the shares in such aqueduct or funds, as they find

3 necessary ; and on the default of any proprietor to pay such
4 assessment for thirty days after notice thereof, they may sell by
5 public auction so many of his shares as will be sufficient to pay
6 the same, with necessary charges ; the sale of such shares
7 shall be first notified by advertising in some newspaper printed
8 in the county, three weeks successively, or by posting up noti-
9 fications thereof twenty days at least before the sale, in some
10 public places in each of the towns wherein such aqueduct is
11 or is proposed to be made ; and the surplus moneys, if any, aris-
12 ing from such sale, shall be paid to the owner of the shares so
13 sold.

R. S., c. 83, § 6.

SECT. 7. Such corporation may impose penalties for the breach
2 of any of their reasonable by-laws, not exceeding thirty dollars
3 for each offense.

R. S., c. 83, § 7.

SECT. 8. At any meeting, the proprietors shall be entitled to
2 one vote for each share by them respectively held, and may vote
3 by proxy authorized in writing.

R. S., c. 83, § 8.

SECT. 9. The shares in said companies, while they exist as
2 corporations, shall be deemed personal estate, and transferable
3 and subject to attachment on mesne process, and sale on execu-
4 tion for the debts of the proprietors thereof, like shares in other
5 corporations.

R. S., c. 83, § 9.

SECT. 10. Such corporation may purchase and hold any real
2 estate, necessary for the purpose of their association, not exceed-
3 ing thirty thousand dollars in value.

R. S., c. 83, § 10.

SECT. 11. With the written consent of the municipal officers
2 of the town, they may dig up and open any street or way, for
3 the purpose of placing such pipes as are necessary in construct-
4 ing such aqueduct, or for repairing or extending the same ;
5 if it is done in such manner as not to prevent the convenient
6 passing of teams and carriages.

R. S., c. 83, § 11.

SECT. 12. If any person maliciously injures any such aque-
2 duct or any of its appurtenances, he shall forfeit a sum not
3 exceeding twenty dollars, to the use of the town, to be recovered
4 by indictment ; and be liable in a civil action, brought by the
5 corporation, to pay treble the amount of the damages sustained
6 thereby.

R. S., c. 83, § 12.

SECT. 13. Any town in which such aqueduct is placed, may
 2 put conductors into its pipes, for the purpose of drawing, free of
 3 expense, as much water as necessary, when any building is on
 4 fire in such town; provided that such conductors are so secured
 5 that water shall not be drawn therefrom unless for the purpose
 6 of extinguishing fires. R. S., c. 83, § 13.

SECT. 14. All contracts, made by or with such corporation,
 2 shall remain in force after its dissolution, and the last sharehold-
 3 ers shall have a corporate capacity until all their contracts and
 4 agreements made before its dissolution, are performed; and such
 5 shareholders shall continue liable and capable by the same name
 6 to sue and be sued, and to prosecute and defend in all suits
 7 respecting such contracts and agreements; but every such suit
 8 shall be commenced within six years after such dissolution, or
 9 within the like time after the right of action accrued.

R. S., c. 83, § 14.

SECT. 15. If no corporate property can be found to satisfy
 2 the judgment which is recovered against said shareholders,
 3 after such dissolution, and the judgment is not satisfied within
 4 six months after the recovery thereof, the judgment creditor
 5 may satisfy the same out of the private estate of such share-
 6 holders, or any of them, as if the judgment had been against
 7 them in their private capacity. R. S., c. 83, § 15.

SECT. 16. If such corporation, at its dissolution, is seized
 2 of any estate, the several persons who are proprietors shall
 3 become tenants in common thereof, in proportion to the shares
 4 or interests which they hold in the stock of the corporation.

R. S., c. 83, § 16.

Chapter 56.

LIBRARIES, AND CHARITABLE AND BENEVOLENT SOCIETIES.

Sect. 1. Application to a justice of the peace to call the first meeting.

2. Notice of the meeting, how given.

3. Manner of organizing into a body corporate. Powers, duties and liabilities incident thereto.

4. What estate, real and personal, it may hold, and for what purpose.

5. Corporations for charitable and benevolent purposes not to sue their members, or be sued by them, for dues or benefits.

Sect. 6. County law library association, how organized.

7, 8. Duties of treasurer and clerk thereof.

9. Towns may establish public libraries.

10. May raise money therefor.

11. May receive and manage donations and bequests for that purpose.

SECT. 1. When any seven or more persons desire to be incorporated as the proprietors of a social, a military, a literary or scientific, or a county law library; as a masonic lodge, or chapter of any order or degree; as a lodge of the independent order of odd fellows; as a division of the sons of temperance; as a tent of Rechabites; or as a society to promote in any way the cause of temperance; or for any literary, scientific, charitable or benevolent purpose whatsoever, they may apply in writing to any justice of the peace, in the county where they reside, and he may thereupon issue his warrant directed to one of said applicants, requiring him to call a meeting of the applicants, at such time and place as the justice appoints.

R. S., c. 84, § 1, 4, 6, 8. 1847, c. 14, § 1.

SECT. 2. The meeting may be called by reading the warrant in the presence and hearing of each of the applicants, or by leaving an attested copy thereof at their last and usual places of abode, at least fourteen days before the day of meeting, or by publishing an attested copy of the warrant in some newspaper printed in said county, two weeks successively, the first publication to be at least fourteen days before the day of meeting.

R. S., c. 84, § 1. 1847, c. 14, § 2.

SECT. 3. When assembled pursuant to the warrant, they may organize themselves into a body politic and corporate, with such name as they may then adopt, and by such name, they, their associates and successors, may have continual succession; have a common seal; adopt by-laws not inconsistent with the laws of the state, and enforce the same by suitable penalties; have the same rights and be under the same liabilities, as other corporations, in prosecuting and defending suits at law; and have and enjoy all other rights, privileges and immunities that are incident to a legal corporation.

1847, c. 14, § 3, 5.

SECT. 4. Such corporation may take and hold, by purchase, gift, devise or bequest, personal or real estate, in all not

3 exceeding in value five thousand dollars, owned at any one time,
4 and use and dispose thereof for the purposes for which the corpo-
5 ration was organized, and for no other purposes.

1847, c. 14, § 3, 6.

SECT. 5. No such corporation, organized for charitable or
2 benevolent purposes, shall sue any of its members for dues or
3 contributions of any kind, or be sued by any member for any
4 benefit or sum due him, but all such rights and benefits, dues
5 and liabilities, shall be regulated and enforced only in accordance
6 with the by-laws of the corporation. 1847, c. 14, § 7.

SECT. 6 In every county, where five or more attorneys reside,
2 any five of them may procure themselves and the other attor-
3 neys, resident in the county, to be incorporated in the manner
4 prescribed in the first section of this chapter, for the purpose of
5 organizing the establishment of a law library; and the notifica-
6 tion required, if posted up in some conspicuous part of the court
7 house seven days previous to their meeting, shall be sufficient;
8 and may take the name of "the trustees of the law library in
9 the county of ———;" and at such meeting, which shall be
10 held at some term of the court in such county, they may choose
11 a clerk, librarian, and treasurer, who shall all be duly sworn
12 and hold their offices during the pleasure of the corporation;
13 and make all lawful regulations necessary; and at their meet-
14 ings the oldest member present, of the bar of the county, shall
15 preside. R. S., c. 84, § 8.

SECT. 7. The treasurer of each library association, under the
2 direction of the said trustees, shall apply all moneys received of
3 the county treasurer, with all bequests and donations, to form a
4 law library, under the appointed regulations; and the clerk
5 shall keep an exact record of all the proceedings of the associ-
6 ation. R. S., c. 84, § 9.

SECT. 8. The treasurer shall keep an exact account of all
2 moneys, donations and bequests, belonging to such association,
3 which he shall, annually, settle with the association on oath, in
4 the manner prescribed; and the treasurer, librarian and clerk
5 shall be answerable for all misfeasance, in an action by the
6 association. The treasurer shall, annually, in January, and
7 before the second Wednesday, deposit in the office of the state

8 treasurer a statement of the funds received, the year preceding,
9 by such association. R. S., c. 84, § 10.

SECT. 9. Any town is authorized to establish and maintain a
2 public library within the same for the use of the inhabitants;
3 and to provide suitable rooms therefor, under such regulations
4 for its government, as said inhabitants from time to time pre-
5 scribe. 1854, c. 106, § 1.

SECT. 10. Such town may appropriate for the foundation and
2 commencement of such library a sum not exceeding one dollar,
3 and for its maintenance and increase annually a sum not exceed-
4 ing twenty-five cents, for each of its ratable polls in the year
5 next preceding that in which such appropriation is made. 1854, c. 106, § 2.

SECT. 11. Any town may receive in its corporate capacity,
2 and hold and manage any devise, bequest or donation for the
3 establishment, increase or maintenance of a public library therein.
1854, c. 106, § 3.

Chapter 57.

PROPRIETORS OF LANDS, WHARVES, AND OTHER REAL ESTATE, IN COMMON.

Sect. 1. Warrant for calling meetings.

2. To whom directed.

3, 4, 5. Modes of giving notice.

6. Officers, and manner of calling future meetings.

7. Officers to be sworn.

8. Proceedings at meetings, and by-laws.

9. How votes are to be counted.

10. No business to be transacted, unless specified in the warrant.

11. Prosecution and defense of actions.

12. Raising and assessment of moneys.

13. Publication of assessment.

14. Payment enforced by sale.

15. Right of redemption.

16. Treasurer's power and duties.

17. Management of property. Proxies.

18. Proprietor's records, how preserved.

19. Certain corporate powers continued after final division.

SECT. 1. When any five, or a major part of the proprietors of lands lying in common, are desirous of a meeting of the proprietors, and apply to a justice of the peace throughout the state, or a justice of the peace for the county in which the lands lie, he may issue his warrant for calling such meeting, at the time and place and for the purposes distinctly stated in such application, which shall be in writing, and signed by such applicants or their agents. R. S., c. 85, § 1.

SECT. 2. Such warrant may be directed to one of the proprietors, requiring him to notify said proprietors, of the time, place and purposes of the intended meeting. R. S., c. 85, § 2.

SECT. 3. If the lands lie in one or more incorporated towns, a notice in writing shall be posted up in some public place within each town in which any of said lands lie, and published in the state paper, and in one of the newspapers printed in the county where the lands or any part thereof lie, fourteen days before such meeting. R. S., c. 85, § 3.

SECT. 4. If such lands do not lie in any incorporated town, such notice shall be published in the state paper, and in one other newspaper, if any, in the county where such lands or any part thereof lie, four weeks successively, next before such meeting. R. S., c. 85, § 4.

SECT. 5. Such meeting may be warned, by posting up written notifications in some public place, in each town where any one of said proprietors reside, fourteen days before the time appointed for the meeting. R. S., c. 85, § 5.

SECT. 6. At such meeting, such as assemble in person or by attorney, may choose a moderator, a clerk, a treasurer, assessors, collector or collectors of taxes, committees and all other needful officers; and by vote decide upon the manner in which future meetings may be called and notified. R. S., c. 85, § 6.

SECT. 7. Such clerk shall be duly sworn, and record all votes passed at all meetings; and the treasurer, assessors and collectors shall be duly sworn by the moderator or a justice of the peace. R. S., c. 85, § 7.

SECT. 8. The proprietors may pass votes as to the management, improvement, division and disposition of said lands or

3 wharves, and annex penalties to the breach of them, not exceed-
4 ing three dollars for one offense; provided, such orders or by-
5 laws shall be approved by the county commissioners of the
6 county, where the lands lie; and the penalties shall be disposed
7 of as said proprietors direct. R. S., c. 85, § 8.

SECT. 9. At all meetings of said proprietors, the votes shall
2 be collected and counted according to the interest, which each
3 proprietor has in the common lands where the same is known.

R. S., c. 85, § 9.

SECT. 10. No business shall be acted upon at any meeting,
2 except it is distinctly expressed in the warrant for such meet-
3 ing; and the moderator shall cause all doubtful votes to be
4 made certain, numbering according to the interest of each pro-
5 prietor. R. S., c. 85, § 10.

SECT. 11. Said proprietors may prosecute and defend any
2 suits by their agent duly appointed, and the certificate of the
3 proprietor's clerk shall be evidence of such agency.

R. S., c. 85, § 11.

SECT. 12. At any legal meeting said proprietors may vote, or
2 order the raising of any money for bringing forward, completing
3 the settlement of, or managing or improving said lands, or for
4 the common good of the proprietors, and apportion the sums so
5 raised upon the rights of the proprietors, according to their
6 interests therein. R. S., c. 85, § 12.

SECT. 13. The treasurer, collector or committee of the pro-
2 prietors shall publish the apportionment of the sums thus raised
3 upon the several proprietors, in the same manner in which a
4 meeting of the proprietors is to be notified, according to the
5 provisions of this chapter. R. S., c. 85, § 13.

SECT. 14. If any proprietor neglects to pay to the treasurer,
2 collector or committee, his proportion of the money raised, for
3 the term of six months, if he resides in the state, or the term of
4 twelve months, if he resides without the state, then the com-
5 mittee of the proprietors may, from time to time, sell at public
6 auction so much of each delinquent's proportion or right in the
7 common lands, as will be sufficient to pay his tax and the rea-
8 sonable charges of sale, after notice of such intended sale,
9 posted up in the manner before mentioned, and published in two

10 of the newspapers before named, five weeks successively next
11 before the time of sale; and said committee may give deeds of
12 the land sold to the purchaser, to hold in fee simple.

R. S., c. 85, § 14.

SECT. 15. The proprietor of the right or proportion, so sold,
2 may redeem the same, at any time within twelve months, by
3 paying to such committee the sum for which the same was sold,
4 with twelve dollars for each one hundred dollars produced by
5 such sale, and in that proportion for a less or greater sum.

R. S., c. 85, § 15.

SECT. 16. The treasurer may sue for and collect all debts
2 due to the proprietors, and shall render his account of all
3 moneys, received and paid; and hold his office during the
4 pleasure of the proprietors.

R. S., c. 85, § 16.

SECT. 17. The proprietors of such lands, by a majority of
2 those present at any legal meeting, may order, manage, improve,
3 divide or dispose of the same, as they choose; and any pro-
4 prietor may vote in person, or by attorney appointed in writing.

R. S., c. 85, § 17.

SECT. 18. After a final division of the common property of
2 the proprietors, they shall cause their records to be deposited in
3 the office of the clerk of the town, in which such lands or a
4 part of them lie; and such town clerk may record votes and
5 certify copies of such records, in like manner as the proprie-
6 tors' clerk might have done; and the last clerk chosen shall
7 continue in office, till the records are so deposited.

R. S., c. 85, § 18.

SECT. 19. Such a final division shall not dissolve the corpora-
3 tion, till the end of ten years thereafter; but the last proprietors
3 in common and their heirs shall continue in their corporate
4 capacity, and retain their corporate powers for collecting all
5 debts due to the corporation, and remain liable to pay all debts
6 due therefrom; and may call and hold meetings, vote and raise
7 assessments for payment of their debts, and all other charges
8 necessary for closing their business.

R. S., c. 85, § 19.

Chapter 58.**MILLS AND THEIR REPAIRS.**

- Sect.* 1, 2. Manner of calling a meeting of mill owners.
3. Owners of half or more may repair or re-build.
4. How to be reimbursed.
5. Special contracts not affected.
6. Proceedings if a part owner be a minor, and in certain other cases.
7. Owners of grist mills to furnish scales for weighing grain.
8. Toll established.

SECT. 1. When any owner of a mill, or of the dam necessary to the working thereof, thinks it necessary the same should be rebuilt or repaired, in whole or in part, he may apply in writing to a justice of the peace in the county where such mill or dam is situate, to call a meeting of the owners, expressing the object, time and place of the meeting, and such justice may issue his warrant for the purpose, directed to such owner, which shall be published in some newspaper, if there is any printed in said county, three weeks successively, the last publication to be not less than ten nor more than thirty days before the meeting; or a true copy of such notification may be delivered to each of said owners, or left at his last and usual place of abode; and either of these notices shall be binding on all the owners.

R. S., c. 86, § 1.

SECT. 2. When such mill dam shall be situated, partly in one county and partly in another, the application for said meeting may be made to a justice of the peace in either.

R. S., c. 86, § 2.

SECT. 3. At such meeting, whether all the owners attend or not, the owners in interest of at least one-half of such mill or dam, may rebuild or repair the mill or dam or both, so far as to make them serviceable; and shall be reimbursed such sums as they advanced thereon beyond their respective proportions, with interest for the same in the meantime, out of said mill or the profits.

R. S., c. 86, § 3.

SECT. 4. If such sums are not reimbursed by the profits of the mill, or paid by the persons neglecting or refusing to join in rebuilding or repairing the same, within six months after such work is completed, the proprietors advancing such sums,

5 may charge one per cent. a month on the amount so advanced,
6 from the end of six months till reimbursed or paid as aforesaid;
7 and in case of the death of any delinquent owner, or any aliena-
8 tion of his interest in the premises, the advancing owners shall,
9 notwithstanding, have a continuing lien upon his shares or title
10 in said mill or dam, for the purpose of the reimbursement of the
11 expenses of such rebuilding or repairing. R. S., c. 86, § 4.

SECT. 5. Nothing in the preceding section shall be construed
2 to impair or affect any special contract made by the owners,
3 respecting the building or repairing such mill or dam.

R. S., c. 86, § 5.

SECT. 6. Where any part of such mill or dam, at the time of
2 meeting and notice, is held and possessed by minors, married
3 women, tenants by curtesy, in tail, for life or years, or by mort-
4 gager or mortgagee, the guardians of such minors, husband of
5 such married woman in her right, such tenant, mortgager or
6 mortgagee shall be deemed, for the purposes of this act, the pro-
7 prietor or proprietors thereof, and shall be notified and vote and
8 contribute accordingly; and all advances made by them respect-
9 ively, on account of such minors, heirs of married women, those
10 in remainder or reversion, or the other party in the mortgage,
11 if not paid, shall be recoverable in a special action on the case,
12 with interest. R. S., c. 86, § 6.

SECT. 7. The owner of every grist mill shall keep in his mill
2 scales and weights to weigh corn, grain and meal, when
3 required; and for neglecting so to do, or for refusing to weigh
4 corn, grain or meal, when required, or for taking more than
5 lawful toll, he shall forfeit five dollars, to be recovered by action
6 of debt, with costs, before any justice of the peace for the
7 county where the offense is committed. R. S., c. 86, § 7.

SECT. 8. The toll for grinding, cleansing and bolting all sorts
2 of grain, shall not exceed one sixteenth part thereof.

R. S., c. 86, § 8.

