

Statutes  
1878

THE  
GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY  
GEORGE B. YOUNG.

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WITH SUPPLEMENTS,  
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF  
THE LEGISLATIVE SESSION OF 1883.

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## TITLE 1.

## CORPORATIONS EMPOWERED TO TAKE PRIVATE PROPERTY FOR PUBLIC USES.

§ 1. Who may be incorporated as railway company, etc. Any number of persons, not less than five, may associate themselves and become incorporated for the purpose of building, improving and operating railways, telegraphs, canals, or slack-water navigation, upon any river or lake, and all works of internal improvement which require the taking of private property or any easement therein. And that any citizens of the United States, not less than nine in number, being the owner or owners of any railroad within this state now or hereafter actually constructed for public use in the conveyance of persons or property, or organized for the purpose of maintaining and operating, under lease or contract, a railroad constructed for like public uses, may, by making and filing articles of association as authorized by this act, acquire and enjoy the rights, privileges and franchises granted by this act, and may, by filing in the office of the secretary of state a resolution of such corporation of its intent to construct or operate any branch line, become empowered to so construct and operate the same in connection with such main line, subject to the provisions of this act and the general laws of this state. That any such railroad corporation to be organized under this act may erect and maintain lines of telegraph along or over its lines of railroad, and charge a reasonable compensation for transmitting messages over the same. (*As amended 1875, c. 14, § 1.*)

§ 2. Articles of incorporation—filing and record. They shall organize by adopting and signing articles of incorporation, which shall be recorded in the office of the register of deeds of the county where the principal place of business is to be, and also in the office of the secretary of state, in books kept for such purposes.

§ 3. Contents of articles—publication. Said articles shall contain:

*First*—The name of the corporation, the general nature of the business, and the principal place, if any, of the transacting the same.

*Second*—The time of commencement and the period of continuance of said corporation.

*Third*—The amount of capital stock of said corporation, and how to be paid in.

*Fourth*—The highest amount of indebtedness or liability to which said corporation shall at any time be subject.

*Fifth*—The names and places of residence of the persons forming such association for incorporation.

*Sixth*—The names of the first board of directors, and in what officers or persons the government of the corporation and the management of its affairs shall be vested, and when the same are elected.

*Seventh*—The number and amount of the shares in the capital stock of said corporation.

**Publication of articles.** And shall be published for four successive weeks in some newspaper printed and published at the capital of the state, or in the county where such corporation is organized: *provided*, that in cases where articles of incorporation have been adopted and signed, or may hereafter be adopted and signed, as provided in sections two and three of this chapter, and filed for record in the office of the secretary of state, the publication of the same for one week in some newspaper printed and published at the capital of the state, or in some newspaper printed and published in the county where such corporation is organized, shall be a sufficient publication under this chapter; and upon filing an affidavit of proof of such publication in the office of the secretary of state, the persons named in such articles shall thereupon become a corporation, with the authority and powers in this chapter provided and intended. (*As amended 1874, c. 60, § 1.*)

§ 4. **When incorporation is completed—amendment of articles.** When articles are filed, recorded and published as aforesaid, the persons named as corporators therein become a body corporate, and are authorized to proceed to carry into effect the objects set forth in said articles in accordance with the provisions of this title, and shall have perpetual succession, sue and be sued by its corporate name, have a common seal, which it may alter at pleasure, may render the interest of its stockholders transferable, establish by-laws, and make all rules and regulations deemed expedient for the management of its affairs, in accordance with law, and not incompatible with an honest purpose; and whenever, after the adoption, filing, publication and recording of the articles of incorporation, as provided for in section three of said chapter, and the creation thereby of a body corporate, the said corporation so created shall resolve to alter, modify or change any of its articles of incorporation, such corporation may, by resolution duly passed at any regular meeting of the directors thereof, adopt a new article or articles, altering, modifying or changing any of the original articles of incorporation: *provided*, such alteration, modification or change shall only relate to and affect the name of such incorporation, the general nature of its business, and the principal place of transacting the same, the amount of its capital stock, and how to be paid in, the highest amount of indebtedness or liability to which said corporation shall at any time be subject, and the number and amount of the shares of its capital stock: *and provided further*, that no such new and amended articles of incorporation shall be operative or valid to alter, modify or change such original articles of incorporation until the same shall be filed, published and recorded in the same manner and with like formalities that the original articles of incorporation are now required to be filed, published and recorded; and when so adopted, the said amended articles of incorporation shall be substituted for and take the place of the original articles of incorporation so amended. (*As amended 1873, c. 12, § 1.*)

§ 5. **Duration of corporation—renewals.** No such corporation shall be formed to continue more than fifty years in the first instance, but it may be renewed from time to time for periods not longer than fifty years: *provided*, that three-fourths of the votes cast at any regular election for the purpose, are in favor of such renewal, and those desiring a renewal purchase the stock of those opposed thereto at its current value: *provided*, that railroad corporations, formed in pursuance of the provisions of this chapter, may continue and be formed for any time the corporators may designate or provide in the articles of association. (*As amended 1875, c. 14, § 2.*)

§ 6. **By-laws to be posted.** A copy of the by-laws of the corporation, with the names of all its officers appended thereto, shall be posted in the principal place of business, and be subject to public inspection.

§ 7. **Statement to be posted.** A statement of the amount of the capital stock subscribed, the amount of capital actually paid in, and the amount of indebtedness of the company, in a general way, shall also be kept posted up in like manner, which statement shall be corrected as often as any material change takes place in relation to any part of the subject-matter of such statement.

§ 8. **Transfer of shares—stock-book.** The transfer of shares is not valid, except as between the parties thereto, until it is regularly entered on the books of the company, so far as to show the names of the persons by and to whom transferred, the numbers or other designation of the shares, and the date of the transfer; but such transfer shall not in any way exempt the person making such transfer from any liabilities of said corporation which were created prior to such transfer. The books of the company shall be so kept as to show intelligibly the original stockholders, their respective interests, the amount which has been paid in on their shares, and all transfers thereof; and such books, or

a correct copy thereof, so far as the items mentioned in this section are concerned, shall be subject to the inspection of any person desiring the same.

§ 9. **Individual liability of stockholders.** The private property of each stockholder in any corporation formed as herein provided is liable for corporate debts in the following cases:

*First.*—For all unpaid installments on stock owned by him, or transferred for the purpose of defrauding creditors.

*Second.*—For a failure by the corporation to comply substantially with the provisions aforesaid as to organization and publicity.

*Third.*—When he personally violates any of the provisions of this title in the transaction of any business of the corporation as officer, director or member thereof, or is guilty of any fraud, unfaithfulness or dishonesty in the discharge of any official duty. (*As amended 1875, c. 15, § 1.*)

§ 10. **Property of stockholders, when to be levied on.** The private property of no stockholder shall be levied on under the preceding section, unless such stockholder, as well as the corporation, is duly served with process in the action, and the issue involving his individual liability as aforesaid raised and determined; and in no case whatever shall such property be levied on while sufficient corporate property can be found to satisfy the execution or any part thereof.

7 M. 40 (56); 16 M. 368.

§ 11. **Proceedings of officer with execution.** The officer holding an execution which may be levied on private property, as aforesaid, shall make demand of payment thereon of the president, secretary, or some officer of the corporation, acting, or who was one of the last acting officers thereof; and if he does not forthwith pay said execution, or point out corporate property that may be levied on, the officer shall indorse the fact of such demand, refusal or neglect upon said execution, and thereupon may levy the same upon the private property of the stockholder served and impleaded as aforesaid. Such levy may be made to satisfy any balance due upon the execution after levy upon corporate property, or part-payment out of corporate funds.

§ 12. **Existing corporations may reorganize under this title.** Any corporation of the class specified in section one of this title, heretofore organized or attempted to be organized under former general laws, may conform their articles to the provisions of this title, and re-file the same with the secretary of state, as herein provided, and thereafter, without any other act or ceremony, shall become entitled to all the rights, benefits and privileges, conferred herein; and all grants, transfers and conveyances, by the state or any citizen or corporation, to any such corporation, heretofore made, are hereby confirmed unto such corporation, and shall, upon the filing of their articles under this title, be deemed to accrue and enure to the benefit of such corporation as thus organized, without any other act or ceremony whatever.

§ 13. **Right of way, depot grounds, etc., may be obtained.** Any corporation organized or reorganized under the provisions of this title, may obtain the right of way over and across any lands needed for the construction of any railroad or telegraph, and all necessary sites and grounds for depots, shops, and other buildings requisite for the proper carrying on of the business to be transacted, or may obtain the right to overflow, by reason of any dam, lock, sluices, or other erection necessary for the convenient prosecution of their enterprise, all and any lands damaged thereby, and may obtain the right to the use of any land for a towpath, the erection of necessary buildings for the purpose of said business, and the right of way in and over the bed of any river, lake or watercourse, and the banks thereof, together with the right to overflow, injure or destroy any existing dams, mills or other property, and to canal in and along the valley of any such river, stream, lake or watercourse, and to purchase and erect all necessary buildings for the operation and prosecution of any manufacturing business upon the water-power incidentally created by such improvement, by proceeding as in this title provided.

18 M. 155; 20 M. 28.

§ 14. **Petition for appointment of commissioners.** Such corporation may present to the district court in and for the county in which any lands or real estate proposed to be taken shall be situate, a petition signed by the president and secretary of such corporation, setting forth a description of the enterprise to be prosecuted by them, and describing with reasonable certainty and accuracy, by map, plat or otherwise, the lands, property and estate which it will be necessary to appropriate, take, use or overflow for the purposes of such enterprise in said county, setting forth the name of each and every owner, incumbrancer, or other person interested in the same or any part thereof, so far as the same can be ascertained by the public records, and by view of the premises or other inquiry touching the occupation thereof, and praying the appointment of three competent, disinterested persons as commissioners to ascertain and determine the compensation to be made to such owner or owners respectively, and to all tenants, incumbrancers, and others interested, for the taking or injuriously affecting such land or real estate. (*As amended 1872, c. 53, § 1.*)

§ 15. **Service of notice on person interested.** A notice stating briefly the objects of the petition, and containing a description of the lands proposed to be taken, and stating the time and place when and where the same will be presented to the court, shall be served on each and every person named therein as owner, incumbrancer, tenant, or otherwise interested therein; at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons so named therein, if a resident of this state, or, in case of the absence of such person, by leaving a copy of such notice at his or her usual place of abode, with some person of suitable age and discretion then resident therein. In case of domestic corporations, such service may be made upon the president, secretary or any director or trustee of such corporation; in case of minors, on their guardian; or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons, on their guardian or committee; or in case no guardian or committee shall have been appointed, then on the person in whose care or charge they are found; in case of *feme covert*, on the husband as well as the *feme covert*. In all cases where the owner or person claiming an interest in such real property is a non-resident of this state, or where the residence of such owner or person is unknown, and an affidavit by the agent or attorney of the corporation shall be filed, showing that such owner or person is a non-resident of this state, or that, after diligent inquiry, his residence is unknown, or cannot be ascertained by such deponent, service of such notice may be made by the publication thereof in any newspaper published in the county where such lands are situate, once a week for three successive weeks; and in case no newspaper shall be published in said county, then such publication may be had in a newspaper published at the seat of government of this state; and such publication shall be deemed service upon each of such non-resident persons, or persons whose residence is unknown. Due proof of the service of such notice, by the affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such district court before the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served; but all persons having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In cases where the enterprise shall be located through or upon school or university lands, or any other lands belonging to this state, such notice shall be served upon the secretary of state or his assistant, and the commis-

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sioners shall award damages to the state, in like manner as to private persons or corporations. (*As amended 1872, c. 53, § 2.*) See *post*, § 43.

18 M. 155.

§ 16. **Adjournments.** The court may, upon the application of the petitioner, or of any owner or party interested, for reasonable cause adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected. (*As amended 1872, c. 53, § 3.*)

§ 17. **Hearing on petition—appointment of commissioners.** At the time and place appointed for hearing said petition, if the court shall have satisfactory proof that all parties interested in the lands described in said petition have been duly served with the said notice as above prescribed, and shall be further satisfied, by competent proof, that the public interests require the prosecution of such enterprise, and that the lands or real estate proposed to be taken are required and necessary for the purposes of such enterprise, the court may make an order to be recorded in the minutes thereof, appointing three competent, disinterested persons, resident in said county, commissioners to ascertain and determine the amount to be paid by such corporation to each of such owners or persons interested, as compensation for his or her damages by reason of taking or injuriously affecting any such land or real estate, and specifying the time and place of the first meeting of said commissioners, and fixing their compensation. Before entering upon their duties, such commissioners shall severally take and subscribe an oath, before some person qualified to administer oaths, faithfully and impartially to discharge the duties of their appointment. (*As amended 1872, c. 53, § 4.*)

§ 17. 18. See 1881 Suppl., pp. 53, 59.

§ 18. (SEC. 19.) **Duties of commissioners—assessment of damages.** The commissioners shall meet at the time and place mentioned in the order appointing them, and proceed to examine the entire line of said canal, telegraph line, railroad, or other improvement, or so much thereof as is situate in said county and described in said petition, and all the lands, property and real estate which will be taken, damaged, overflowed, appropriated or used by or for the purposes of said enterprise, and which are described in said petition, and shall hear the allegations and testimony of all persons interested, and proceed to make in each case a separate assessment of damages which will result to any parties, corporation or company, by reason of the construction of said canal, telegraph line, railroad or improvement, and shall determine, appraise and award to the owners of such land, property, easement, or any other right proposed to be taken or injuriously affected, the amount of damages arising to them respectively from the taking or injuriously affecting their said land, property or estate, for the purposes of such enterprise. (*As amended 1872, c. 53, § 6.*)

10 M. 208, 267; Winona & St. Peter R. Co. v. Waldron, 11 M. c. (515); 13 M. 508; 15 M. 230; 16 M. 260; 17 M. 138, 322; 18 M. 155, 184; 19 M. 283, 500; 21 M. 122, 127; 22 M. 198, 286; 23 M. 114.

§ 19. (SEC. 20.) **Petition, appointment, report, map, etc., to be filed.** Within three months after completing their said examination, and the making of said appraisement and assessment of damages, the said commissioners shall file the said petition, a copy of their appointment and oath, together with a full report of their doings in the premises, accompanied by a map showing the route and location of the proposed canal, telegraph line, railroad or improvement, in the office of the clerk of the court in the county where said application for the appointment of said commissioners was made, and shall notify the parties interested in such report that the same is made and filed. Such notice shall be served upon the respective parties in the same manner as the notice provided for by section fifteen of said chapter as amended by this act: *provided*, that if any such party shall have appeared by attorney, service may be made upon such attorney. (*As amended 1872, c. 53, § 7.*)

§ 20. (SEC. 21.) **Payment of damages, how made.** Upon the filing of said report, the petitioners, or any officers of, or other persons duly appointed by, said cor-



poration, may make payment of the damages assessed to parties entitled to the same, in manner following:

*First.* To parties laboring under no disability.

*Second.* To guardians of infants, husbands or trustees of *femes covert*.

*Third.* To guardians of insane persons, idiots, lunatics and persons under other disability; and receipts for such payments filed in the office of the clerk aforesaid shall estop the parties giving them, and their principals when they act in a representative capacity, from all further claims or proceedings in the premises. Payments to parties residing in the state, but not in the county or counties through which said canal, line, road or improvement runs, as well as to infants, insane persons, and other persons under disability who have no guardians, and payments to parties residing out of the state, and to persons whose names are unknown, and to persons who refuse to receive the payments when tendered, shall be made by depositing the same with the clerk of said court, to be paid out under the direction of the judge thereof; and such deposit shall have the same effect as the first-mentioned receipts, unless an appeal is taken by the party entitled thereto.

\*§ 21. **Damages to be paid into court, when.** That where the commissioners appointed by the proper court to assess damages in any case or proceeding by any railroad company to acquire the right of way or appropriate property, have made or may hereafter make their assessment of such damages, and their report to the court, as provided by law, it shall be lawful for such railroad company to pay the amount of damages assessed to each tract the ownership and title to which is deemed to be in doubt, into such court in which such proceedings are pending, upon filing with said clerk an affidavit made by an officer or attorney of such railroad company, to the effect that there exists a reasonable doubt as to who is entitled to such damages or any portion thereof; and upon making such payment into court of the damages assessed and allowed to any tract or parcel mentioned in said affidavit, such railroad company shall be released and discharged from any and all further liability therefor, unless, upon appeal, the owner should recover a greater amount of damages, and in that case only for the amount in excess of the sum paid to such court. (1877, c. 85, § 1.)

\*§ 22. **Claims for money paid into court, how determined.** Any person claiming to be entitled to any other money paid into court as provided by section one of this act, may apply to the court therefor, and, upon furnishing evidence satisfactory to the court that he is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he shall be found entitled to; but if, upon such application, the court should determine that the title to the tract or tracts specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced, and the conflicting claims to such real estate determined according to law. (*Id.* § 2.)

§ 23. (SEC. 22.) **Appeals from assessment, how taken.** Appeals from the assessments made by the commissioners may be taken and prosecuted in the court where the report of said commissioners is filed, by any party interested, and a written notice of such appeal shall be served upon the appellee, in the same manner as a summons in a civil action is served: *provided*, that such notice shall be served at least twenty days before the hearing of said appeal; *and provided further*, that no appeal under this title shall be taken after the expiration of thirty days from the time of the notification of the filing of the report aforesaid.

16 M. 260; 19 M. 464; 22 M. 173, 177, 198.

§ 24. (SEC. 23.) **Same—construction may go on, when.** The construction of such road, line, canal, or the prosecution of such improvement, shall not be hindered, delayed or prevented by the prosecution of any appeal: *provided*, the corpora-

tion execute and file with the clerk of the court in which the appeal is pending, a bond to be approved by said clerk, with sufficient sureties, conditioned that the persons executing the same shall pay whatever amount may be required by the judgment of the court therein, and abide any rule or order of the court in relation to the matter in controversy.

18 M. 155; 21 M. 497; 22 M. 44.  
 §25. **Appeals, how tried and determined.** Appeals shall bring before the appellate court the propriety of the amount of damages in respect to the parties to the appeal; and unless the parties otherwise agree, the matter shall be submitted to a jury and tried as other appeal cases are tried, and the court or jury, as the case may be, shall re-assess the damages aforesaid, making the verdict conform to the justice and facts of the case; but the rule for ascertaining and fixing such damages shall be based upon the same principles that the commissioners are required to adopt in originally appraising and determining such damages.

16 M. 260; 18 M. 384; 19 M. 464, 500; 20 M. 28, 187; 21 M. 122, 127, 424; 22 M. 173, 177, 198, 342; 23 M. 18, 114.

And 1883 Sup't, p. 46.  
 § 26. **Judgment—contents and effect—payment.** Upon verdict or assessment, judgment shall be entered, declaring that, upon payment of the verdict or assessment, and costs, if any, the right to construct said canal line, railroad or improvement, to overflow the lands, property and real estate, and do the act in controversy on said appeal, and to take, use and appropriate any property in controversy on said appeal for the purposes aforesaid, shall, as against the parties interested in such verdict or assessment, be and remain in said corporation, their successors and assigns forever; and payments of such judgments may be made as payments of assessments by the commissioners are made, as herein-before provided.

16 M. 260, 341; 19 M. 500; 21 M. 497.

\*§ 27. **Interest on awards and verdicts.** All awards for compensation and damages for the taking of land for public use on behalf of railroad corporations, where no appeal is taken, shall draw interest at the rate of seven per cent. per annum from the date of the filing of such awards until paid; and where an appeal is taken, the verdict in such appeal shall draw the like rate of interest until paid. (1874, c. 28, § 1.)

\*§ 28. **Taxes, assessments and interest pending appeal.** Where an appeal is taken from such awards, and verdict rendered, the court shall add to such verdict all taxes and local assessments imposed upon the property sought to be condemned since the initiation of the condemnatory proceedings, and paid by the owners of the property, and also, in case the property has not been occupied by the owner from the time of the filing of the award, interest upon the amount fixed by the verdict, from the date of such filing, at the rate of seven per cent. per annum; and the payment of any such tax or assessments by such owner shall be conclusive evidence of the legality and validity in all respects of such tax or assessment. (*Id.* § 2.)

21 M. 424.  
 \*§ 29. **Award and judgment set aside for non-payment.** If such award, when no appeal is taken, is not paid within sixty days after the filing of said award, or in case an appeal is taken, within sixty days after the entry of final judgment, the judge or court before whom the condemnatory proceedings were initiated, or the court wherein such award is filed or judgment entered, shall, upon motion of the owner of the property sought to be condemned, vacate and set aside all such proceedings, including the award and judgment if any: *provided*, that in all cases when the award has heretofore been so filed, and no appeal has been taken, and in all cases where such appeal has been taken and judgment entered, said sixty days shall commence to run from the date of the passage of this act. (*Id.* § 3.)

\*§ 30. **Failure of commissioners to report within six months.** If the commissioners appointed in any such proceedings shall fail to make and file their awards within six months after their appointment is finally determined upon, all the

proceedings shall, upon motion of the owner of the property sought to be condemned, be set aside and vacated as to the property of such owner by the judge or court making such appointment, (1874, c. 28, § 4.)

\*§ 31. **Costs, expenses and interest, where proceedings are discontinued or vacated.** When such proceedings are discontinued by the corporation, or vacated or set aside by the judge or court, the owner of such property, or his heirs, assigns or legal representatives, shall have the right to recover from the corporation initiating such condemnatory proceedings, reasonable costs and expenses, including counsel fees, and in addition thereto, where such lands have been taken possession of by the railroad company, as liquidated damages of such proceedings, a sum equal to and at the rate of seven per cent. per annum upon the value of said property from the date the railroad company took possession of said land until the discontinuance of said proceedings. (*Id.* § 5.)

\*§ 32. **Act applies to corporations with special charters.** This act shall apply as well to corporations created by special charter, as to those organized under the general laws of the state, and as well to all proceedings pending, where the owner has not been actually paid for his property, in whatsoever stage such proceedings may now be, as to those hereafter to be initiated: *provided*, however, that where awards heretofore filed, or verdicts or judgments heretofore rendered in such proceedings, still remain unpaid, such awards, verdicts and judgments shall draw interest at the rate of seven per cent. per annum. (*Id.* § 6.)

\*§ 33. **Action to recover land and damages on failure of company to pay compensation.** One year after any railroad has been constructed across the land of any person in this state, if such person has not already obtained compensation for the taking of his land for railroad purposes, and in all cases where any person is entitled to such compensation for such land, whether the same was taken with the acquiescence of the owner thereof or not, and no proceedings under the law have been instituted or are pending, to ascertain and assess such compensation, then and in that case he may have and maintain an action to recover the land so taken for railroad purposes, with or without damages for withholding thereof, and the rents and profits of the same, against the corporation or person constructing or operating such railroad. (1875, c. 98, § 1.) See note. 1881 Sup't. r. 83.

\*§ 34. **Same—answer of company—offer to pay compensation.** In such action the defendant may, by answer, admit and allege the taking of the plaintiff's land for railroad purposes, that no compensation has been made for such taking, and that the defendant is ready and willing to pay such compensation on having the same assessed and ascertained by the jury trying the action, *provided*, the plaintiff on the trial shall establish his right to recover the land in question. (*Id.* § 2.)

\*§ 35. **Same—compensation, how ascertained.** In such action, when the defendant by answer admits and pleads as in the last section specified, the jury shall try, and by their verdict find, whether the plaintiff is entitled to recover the land in controversy, and if so entitled, then the amount of compensation to which the plaintiff is entitled for the taking and perpetual use of this land for railroad purposes: *provided*, that when it appears that the land was so taken or appropriated by and with the consent and acquiescence of the owner, such owner shall not be entitled to recover any rents or profits which accrued prior to demand for compensation for such land, and he shall be limited to a recovery, in such case, to compensation for the land taken, and damages. (*Id.* § 3.)

\*§ 36. **Same—judgment on verdict for plaintiff—enforcement thereof.** Upon a verdict finding that the plaintiff is entitled to recover the land in suit, and the compensation due him for the taking and perpetual use of such land for railroad purposes, judgment shall be entered in substance as follows: That the plaintiff have and recover from the defendant the land in suit, or, in lieu thereof, the compensation fixed by the jury, with costs and disbursement, and reasonable

attorney's fee, to be fixed by the court. On the expiration of thirty days after the entry of the judgment aforesaid, if the compensation, costs, disbursements and attorney's fee specified in the judgment are not paid, then a writ of execution shall issue for the delivery of the possession of the land described in the judgment to the plaintiff, and to satisfy the judgment as to costs, disbursements and attorney's fee out of any property of the defendant. (1875, c. 98, § 4.)

\*§ 37. **Same—judgment on failure to answer, etc—execution.** In case the defendant does not plead as in the second section specified, then, if there is no answer, or if the plaintiff upon the trial establishes his title to the land sued for, he, the plaintiff, shall have judgment for the immediate possession of the land, and for such damages, rents and profits, as may be alleged and found, with costs, disbursements and reasonable attorney's fee, to be fixed by the court; and, upon such judgment, execution shall issue in the like manner, and for and with the like effect, as is provided in subdivision four of section two hundred and sixty-four of chapter thirty-[sixty]-six of the General Statutes. (*Id.* § 5.)

\*§ 38. **Same—rules governing such actions.** The action given by this act shall in all other respects, except as herein provided, be governed by the same rules of practice and procedure, as to new trials and appeals, or otherwise, as other actions brought for the recovery of real estate under the laws of this state. (*Id.* § 6.)

\*§§ 39a to 39f, incl. See 1881 Sup't, pp. 59-61, incl.

§ 39. (SEC. 27.) **Record evidence of title to land taken, how perfected.** Any corporation organized under this title may perfect record evidence of title to the property and estate taken for the purposes of any canal, line, railroad or improvement authorized hereby, by causing the clerk of the court, when the report of said commissioners is filed and confirmed, and the award of damages is paid, to make certified copies of such report or any part thereof, so far as it affects or relates to any real estate or interest therein, situate in any county through which said improvement runs; and such certified copy, accompanied by a map showing the location of the land taken, when recorded in the office of the register of deeds of the county in which such real estate is situated, shall be effectual to fully pass title to such real estate, or the interest therein taken, by said commissioners to said corporation; and such record shall be notice to all parties of the title of said corporation therein, and such record may be read as evidence of such title in all the courts of this state, except in cases where valid appeals are taken from the report of said commissioners, and in such cases the judgment of the court upon such appeal, after the damages are paid, may be recorded in the office of register of deeds of the county where the said real estate or interest therein and affected by said judgment, is situated, and such record shall be notice and evidence of title in like manner and effect as the record of certified copies found in said report.

\*§ 40. **Taking of land for tree-planting and snow-screens.** Any railroad company of this state, or which may hereafter be created or formed under the laws of this state, shall have the power and right, in addition to its other powers and rights, to acquire, by condemnation or otherwise, the necessary lands within two hundred feet on each side of the central line of the main track of its road, for the purpose of planting trees or erecting screens thereon for the protection of its road against snow. (1878, c. 72, § 1.)

\*§ 41. **Same—damages or compensation to owners.** Damages or compensation for the land proposed to be taken by such company for the purpose aforesaid, shall be assessed or ascertained, and be payable, as provided by the general laws of this state in relation to the condemnation or taking of land by railroad corporations for right of way; and all proceedings to condemn or take land, for the purposes provided in this act, shall be regulated by and conducted in the manner prescribed by the general laws of this state aforesaid: *provided*, that whenever the charter of any railroad company, or any special act in relation thereto,

provides for proceedings to condemn or take land for right of way, the proceedings in relation to land proposed to be condemned or taken, under this act, by such railroad company, may be conducted in accordance with, and in the manner prescribed by, its said charter or such special act. (1878, c. 72, § 2.)

§ 42. (SEC. 28.) **Telegraph companies—use of public roads.** Any telegraph corporation, organized under this title, has power and right to use the public roads and highways in this state, on the line of their route, for the purpose of erecting posts or poles on or along the same, to sustain the wires or fixtures: *provided*, that the same shall be so located as in no way to interfere with the safety or convenience of ordinary travel on or over the said roads or highways.

\*§ 43. **Right of way over state lands.** That a right of way is hereby granted over any swamp, school, internal-improvement or agricultural-college lands held by the state, to any railroad company proposing to construct, or that has constructed, a railroad over or upon the same, on the conditions and terms herein provided. (1878, c. 73, § 1.)

\*§ 44. **Same—amount of land to be taken.** Such right of way may be fifty feet in width on each side of the centre line of the main track, except when a greater width is necessary to protect the track against snow-drifts, and in such case a width not exceeding one hundred feet in addition may be taken, subject to the approval of the governor as to the width to be taken. (*Id.* § 2.)

\*§ 45. **Same—valuation of land taken—payment.** Any company desiring such right of way shall furnish to the governor a plat showing the line of the road, and the right of way proposed to be taken, with a calculation of the acres contained therein; and on payment to the treasurer of the state a sum per acre equal to the appraised value of said land, if the same has been appraised, or, if not appraised, at such rate as the governor and commissioner of the state land-office shall consider a fair appraisal thereof, but not at a less rate than that fixed by the constitution of the state, and upon such payment being made, the governor shall execute to such railroad company such deed or instrument in writing as shall convey to the said railroad company, its successors and assigns, the use of such right of way over and upon such land, so long as it shall be used and occupied for railroad purposes. (*Id.* § 3.)

\*§ 46. **Same—disposal of money paid.** The funds so paid shall be credited [to] the proper fund to which such lands belong. (*Id.* § 4.)

§ 47. (SEC. 29.) **Right to use highway for railroad purposes, how obtained.** If it becomes necessary, in the location of any part of a railroad, to occupy any road, street, alley, or public way, or any part thereof, it shall be competent for the municipal or other corporation or public officer, or public authorities, owning or having charge thereof, and the railroad company, to agree upon the manner and upon the terms and conditions upon which the same may be used or occupied; or such company may appropriate so much of the same as may be necessary for the purposes of said road, in the same manner and upon the same terms as is herein provided for the appropriation of the property of individuals.

*Schurmeier v. St. Paul & Pacific R. Co.* 10 M. 59 (82); *Winona & St. Peter R. Co. v. Denman*, 10 M. 208 (267); 13 M. 315; 17 M. 215; 18 M. 260; 22 M. 149; 23 M. 114.

\*§ 48. **Sale, etc., of public land to railroad company by city or town authorities.** The common council, board of aldermen, trustees, commissioners, or other corporate authorities of any city, town, village, or other municipal corporation, are hereby authorized and empowered to grant, sell, convey or lease any public grounds or place within their respective corporate limits, to any railroad corporation; subject, nevertheless, to all the rights of the original proprietors of such public grounds. (1866, c. 41, § 1.)

\*§ 49. **Use of highways by water-power companies.** That any corporation organized under the general laws of this state, for the purpose of building any canal for the creation of water-power for manufacturing purposes, may have the power, if it becomes necessary in the location of any part of said canal, to occupy or

cross any road, street, alley or public way, or any part thereof, upon the terms and conditions, and in a manner which may be agreed upon between said corporation and the public authorities of the county, city, town or village in which such road, street, alley or public way is situated. (1874, c. 59, § 1.)

§ 50. (Sec. 30.) **Entry for preliminary surveys.** For the purpose of making preliminary surveys and examinations over and upon any contemplated route, such corporation, its agents, servants or employes, may enter upon land, doing no unnecessary damage.

§ 51. (Sec. 31.) **Power to take and hold lands for right of way—to receive and convey lands granted by state, etc.** Any corporation organized under this title is authorized to obtain by purchase, gift or contract, all the rights of way, tow-paths, flowage and property hereinbefore provided for, and hold all property, real and personal, necessary and convenient for the successful prosecution of the enterprise. That such corporation may acquire and hold, by purchase or otherwise, the rights of way and other property acquired for the necessary construction, use or operation of the line of railroad to be operated by said corporation as may be provided in its articles of corporation; and may acquire title to and hold, in fee-simple or otherwise, and convey any real estate granted or intended to be granted, or that may be granted, by this state, or by act of congress or otherwise, to aid in the construction of such line or lines of railroad to be operated by such corporation, in trust or otherwise, as may be provided by law or by the terms and provisions of any such grant, with like powers of disposition as are or may be conferred upon natural persons, and with like obligations to execute the trust and perform the conditions specified in such grants. (As amended 1875, c. 14, § 3.)

\*§ 52. **Railroad bridges adapted to other travel—tolls—counties and towns not liable for repairs.** That any railroad company of this state may so construct its bridges as to answer the ordinary purposes of travel and business, as well as for railroad purposes; and any company that shall so construct its bridge is hereby authorized to demand and receive such rates of toll for the passing of individuals, vehicles of all kinds, or animals, as said company may demand, subject to the approval of the county commissioners of the county or counties in which such bridge is erected: *provided*, that such rates of toll shall be uniform, shall be printed or painted, and kept conspicuous by being posted in or near the toll-house of such bridge; *and provided further*, that such rates of toll may be revised and changed the first week of each year, and that said company may compound or bargain with any person or party for the use of such bridge or bridges by the month, quarter, or year: *provided also*, that no railroad company shall receive toll upon any such bridge, if erected within one mile of any toll-bridge previously constructed over the same stream or river by any incorporated bridge company: *provided further*, that the town or towns, county or counties, in which such bridge or bridges may be erected, shall not be liable to pay any of the cost of constructing or repairing such bridge or bridges, or the immediate approaches thereto. (1869, c. 78, § 1.)

§ 53. (Sec. 33.) **Signs to be erected at public road crossings.** Every corporation organized under this title shall erect, at all points where their road crosses any public road, at a sufficient elevation from such public road to admit of a free passage of vehicles of every kind, a sign, with large and distinct letters placed thereon, to give notice of the proximity of the railroad, and warn persons of the necessity of looking out for the cars; and any company neglecting or refusing to erect such sign shall be liable in damages for all injuries occurring to persons or property from such neglect or refusal; and each railroad company shall fence its roads with a good substantial fence, under such rules as the county commissioners of the several counties through which the same may run prescribe.

\*§ 54. **Railroad companies to build fences and cattle-guards.** All railroad companies in this

state shall, within six months from and after the passage of this act, build or cause to be built good and sufficient cattle-guards at all wagon-crossings, and good and substantial fences on each side of such road. (1876, c. 24, § 1.)

\*§ 55. **Same—liability for animals injured.** All railroad companies shall be liable for domestic animals killed or injured by the negligence of such companies; and a failure to build and maintain cattle-guards and fences, as above provided, shall be deemed an act of negligence on the part of such companies. (*Id.* § 2.)

\*§ 56. **Same—double costs on recovery by owner.** If any railroad company shall neglect or refuse to pay the actual damages occasioned by such killing of or injury to any domestic animal for the space of thirty days after such damage occurs, and the same shall be recovered by action, then, in case such action shall be pending in the district court, double the costs allowed by law, together with disbursements, shall be recovered in such action against such company; and in case such action be maintained before a justice of the peace, the sum of ten dollars costs shall be recovered against such company: *provided*, that the said company, within the time above mentioned, or before the commencement of an action, may tender to the person or persons injured such amount as they are willing to pay; and if such amount is refused, and the person or persons so injured fail to recover a greater amount than the sum so tendered, he or they cannot recover costs and disbursements. (*Id.* § 3.)

\*§ 57. **Same—liability of company operating railroad.** Any company or corporation operating a line of railroad in this state, and which company or corporation has failed or neglected to fence said road, and to erect crossings and cattle-guards, and maintain such fences, crossings and cattle-guards, shall hereafter be liable for all damages sustained by any person in consequence of such failure or neglect. (*Id.* § 4, as amended 1877, c. 73, § 1.)

\*§ 58. **Fences between railroad and highway.** That it shall be the duty of each and every railroad corporation within this state to cause the line of its railroad, or any branch or continuation thereof, now constructed and operated, or that shall hereafter be constructed and operated, along or upon the line of any public road or highway, or parallel with such highway and within one hundred feet distant from the line of such highway, to protect the same, by erecting and maintaining a suitable and substantial post-and-board or stone fence, of at least five feet in height, along or near the line of its road, and so as to separate such portions of its railroad from such highway, and so as to prevent the passage of teams or animals over the track of such railroad at places other than regular and properly constructed crossings. (1870, c. 16, § 1.)

\*§ 59. **Same—duty of supervisors—notice to company to build fence—penalty for neglect.** That if in the opinion of the supervisors of any town through or into which any line of railroad is or may hereafter be constructed and operated, upon, along or so near to any public road or highway as to render travel upon such road dangerous by reason of the passage of cars or engines upon such railroad, it shall be the duty of such supervisors to cause a notice thereof to be served upon such railroad company, by delivering the same to the president, secretary or superintendent of such company, therein designating the portions of such highway so regarded as dangerous, and requiring such corporation to cause the same to be protected by a suitable fence, as provided in the first section of this act. That the company or corporation so operating such railroad, and notified as aforesaid, shall cause such fence to be erected within sixty days from the time of the service of such notice; and in case of neglect or omission so to do, such company or corporation so in default shall be liable to a penalty of ten dollars for each and every day it shall so remain in default, to be recovered at the suit of the town supervisors, before any justice of the peace of the town named in such notice: *provided*, however, that no such notice shall be given between the first day of December and the first day of April, nor shall any

such fence be required to be constructed during the months of December, January, February and March of any year. (1870, c. 16, § 2.)

\*§ 60. **Damage for fire caused by engines, etc.—evidence of negligence.** All railroad companies or corporations operating or running cars or steam-engines over roads in this state shall be liable to any party aggrieved for all damage caused by fire being scattered or thrown from said cars or engines, without the owner or owners of the property so damaged being required to show defect in their engines or negligence on the part of their employes; but the fact of such fire being so scattered or thrown shall be construed by all courts having jurisdiction as *prima facie* evidence of such negligence or defect: *provided*, that the said railroad corporation may show, upon the trial of any action, that said damage arose from the default or negligence of the party injured. (1874, c. 30, § 1.)

§ 61. (Sec. 34.) **Trains to stop at stations and crossings.** Every railroad corporation organized under this title shall cause all its trains of cars for passengers to stop upon each arrival at a station advertised by such corporation as a station for receiving passengers upon such trains, at least one minute; and also cause all its trains of cars to entirely stop not more than sixty rods, and not less than ten rods, before each arrival at the crossing of any other railroad; and every corporation, and every person in the employment of such corporation, that violates, or causes or permits to be violated, the provisions of this section, is liable to a forfeiture of not more than one hundred dollars, nor less than twenty dollars, to be recovered in a civil action before any justice of the peace of the county in which such violation occurs, upon the complaint of any person, one-half to go to the complainant, and the remainder to the use of common schools in the county; and such company is further liable in the full amount of damages done to property or person in consequence of any neglect on the part of its agents or employes to comply with the requirements of this section; and in all cases in which a forfeiture occurs under the provisions of this section, the company whose agents cause or permit such violation shall be liable for the amount of such forfeiture, and in all cases the conductor upon such train shall be held *prima facie* to have caused the violation which may occur upon the train in his charge.

\*§ 62. **Transfer of passengers and baggage at crossings.** When railroads within this state intersect or cross each other, and either road has a regular, or permanent station, and passenger trains are due at the same hour, the train first arriving shall wait for the arrival of the other, if it comes within five minutes; and each of such roads shall afford suitable opportunities for passengers desiring it to change with their baggage from one train to the other; and the superintendent, conductor and engineer of the railroad violating the provisions of this act, who shall knowingly or willingly cause or permit the train to pass intersection or a crossing with another railroad, without affording the opportunity for change of passengers with their baggage as aforesaid, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than five hundred dollars for each and every offence. (1872, c. 24, § 1.)

\*§ 63. **Rates of tariff for freight and passengers.** That any railroad company or corporation, organized under the title to which this is an amendment, may charge and receive, for the transportation of passengers and freight on their road, such reasonable rate as may be from time to time fixed by said corporation or prescribed by law. (1869, c. 78, § 2.)

\*§ 64. **Elevator-charges, where grain does not pass through elevator.** It shall not be lawful for any railroad company, or any agent or employe of any railroad company, to charge or collect from any person or persons, elevator charges, or any charges whatever for handling wheat, or for the use of any elevator, in any case where grain is shipped on such road without being placed in or passed



through such elevator; nor shall any company, or any agent or employe thereof, make any distinction whatever in charges against any person or persons shipping grain from private warehouses, or handling grain otherwise than in or through elevators belonging to any railroad company, (1870, c. 19, § 1.)

\*§ 65. **Consolidation of parallel railroads forbidden.** No railroad corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control any other railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line; and the question whether railroads are parallel or competing lines shall, when demanded by the party complainant, be decided by jury as in other civil issues. (1874, c. 29, § 1.)

§ 66. (Sec. 36.) **Consolidation of companies having connecting railroads.** Whenever the lines of railroad of any railroad corporation, whether organized under this title or by virtue of a special charter, or any portion of such lines, have been or may be constructed so as to admit the passage of freight or passenger cars over any two or more of such roads continuously, without break or interruption, such corporations may consolidate themselves into a single corporation in the manner following:

*First*—Any two or more railroad corporations may, by their directors, enter into an agreement, under the corporate seal of each, for the consolidation of the said corporations, prescribing the terms and conditions thereof; the mode of carrying the same into effect; the name of the new corporation; the names and places of residence and number of the directors thereof; the time and place of holding the first election of directors; the number of shares of capital stock in the new corporation; the amount of each share, which shall not be less than one hundred dollars; the manner of converting the shares of capital stock in each of said two or more corporations into shares in such new corporation; the manner of compensating stockholders in each of the old corporations who refuse to convert their stock into the stock of the new corporation; with such other details as they deem necessary to perfect the consolidation of said corporations; and such new corporation shall possess all the powers, rights and franchises conferred upon said corporations, and be subject to all the restrictions, and perform all the duties, imposed by the provisions of this title: *provided*, that all stockholders in either of such corporations who refuse to convert their stock into the stock of such new corporation, shall be paid at least par value for each of the shares so held by them, if they so require, previous to the consummation of said consolidation.

*Second*—Such agreement of the directors shall not be deemed to be the agreement of the said old corporations, until after it has been submitted to the stockholders of each of said corporations separately; at a meeting thereof, to be called upon a notice of at least thirty days, specifying the time and place of such meeting, and the object thereof, to be addressed to each of such stockholders when their place of residence is known, and deposited in the post-office, and published for at least three successive weeks in one newspaper in at least one of the cities or towns in which each of said corporations has its principal office of business, and is sanctioned by such stockholders by the vote of at least two-thirds in amount of the stockholders present at such meeting, voting by ballot, either in person or by proxy, each share of capital stock being entitled to one vote; and when such agreement of the directors is so sanctioned by each of the meetings of the stockholders separately, it shall be deemed to be the agreement of the said old corporations.

§ 67. (Sec. 37.) **Effect of such consolidation.** Upon making the agreement mentioned in the preceding section, in the manner required therein, and filing a dupli-

cate or counterpart thereof in the office of the secretary of state, the said old corporations shall be merged in the new corporation provided for in such agreement, to be known by the corporate name therein mentioned; and the details of such agreement shall be carried into effect, as provided therein.

§ 68. (SEC. 38.) *Same—new corporation to succeed to rights of old.* Upon the election of the first board of directors of the corporation created by said agreement, the rights and franchises of each of said old corporations, their rights and interests in and to every species of property, real, personal and mixed, and things in action, shall be deemed to be transferred to and vested in such new corporation, without any other deed or transfer; and such new corporation shall hold and enjoy the same, together with the right of way, and all other rights of property, in the same manner and to the same extent, as if the said old corporations had continued to retain the title, and transact the business, of such corporation; and the titles and real estate acquired by either of said old corporations shall not be deemed to revert or be impaired by means of anything in this title contained: *provided*, that all rights of creditors, and all liens upon the property of either of said old corporations, shall be preserved unimpaired; and all the debts, liabilities and duties of either company shall thenceforth attach to such new corporation, and be enforced against the same, to the same extent, and in the same manner, as if such debts, liabilities and duties had been originally incurred by it.

§ 69. (SEC. 39.) *Aid by railroad company in construction of connecting roads.* Any railroad corporation heretofore or hereafter incorporated, whether under the provisions of this title or by special charter, may at any time, and by means of subscription to the capital of any other corporation, or otherwise, aid such corporation in the construction of its railroad, for the purpose of forming a connection of said last-mentioned road with the road owned by the corporation furnishing said aid; or any railroad corporation may lease or purchase any part or all of any railroad constructed by any other corporation whose lines of road are continuous or connected with its own, upon such terms and conditions as may be agreed on; or any two or more railroad corporations whose lines are so connected may enter into any arrangement for their common benefit, consistent with and calculated to promote the objects for which they were created: *provided*, that no such aid shall be furnished, nor any purchase, lease or arrangement perfected, until a meeting of the stockholders of each of said corporations has been called by the directors thereof, at such time and place, and in such manner as they shall designate, and the stockholders of at least two-thirds of the stock of such corporation represented at such meeting, in person or by proxy, and voting thereat, assent thereto.

§ 70. (SEC. 40.) *Power to borrow money and issue bonds.* Such corporation has the power to borrow money on credit of the corporation, and may execute bonds or promissory notes therefor, and, to secure the payment thereof, may pledge the property and income of such company: *provided*, that the amount of the indebtedness or liability of such company, exclusive of its indebtedness secured by mortgage of its property, shall not, at any one time, exceed two-thirds of the amount of its capital stock, nor the amount to be specified in certificate hereinbefore provided for. That such corporation is authorized to issue bonds in lieu and in payment of any bonds of such company, or bonds issued and disposed of for the construction of its line of road, outstanding, bearing such rate of interest as may be agreed upon. That in case the articles of association so provide, the corporation may admit into the board of directors, as members thereof, one or more persons to be chosen by the bondholders, under such regulations as may be agreed upon between the trustees of the bondholders and such corporation. (*As amended 1875, c. 14, § 4.*)

\*§ 71. *Mortgages to secure bonds issued for construction—interest.* The several railroad

companies of this state shall have the power, and are hereby authorized, to mortgage or execute deeds of trust of the whole or any part of their property and franchises, to secure money borrowed by them for the construction and equipment of their roads, and may issue their corporate bonds, in sums not less than five hundred dollars, secured by said mortgages or deeds of trust, payable to bearer or otherwise, and, if payable to bearer, negotiable by delivery, bearing interest at the rate not to exceed ten per cent. per annum, and convertible into stock or not as may be deemed expedient, and may sell them at such rates or prices as they deem proper; and if said bonds shall be sold below their nominal or par value, they shall be valid and binding on the company, and no plea of usury shall be put in or allowed by said companies in any suit or proceeding upon the same. (1868, c. 56, § 1.)

\*§ 72. Railroad mortgages may include after-acquired property. Said mortgages or deeds of trust may, by their terms, include and cover, not only the property of the companies making them at the time of their date, but property, both real and personal, which may thereafter be acquired by them, and shall be as valid and effectual for that purpose as if the property were in possession at the time of the execution thereof. (*Id.* § 2.)

\*§ 73. Record of railroad mortgages—rolling stock, etc., deemed part of realty. Said mortgages or deeds of trust shall be recorded in the office of the register of deeds of each county through which the road mortgaged or deeded may run, or wherever it may hold lands, and shall be notice to all the world of the rights of all parties under the same; and for this purpose, and to secure the right of mortgagees or parties interested under deeds of trust so executed and recorded, the rolling stock and personal property of the company properly belonging to the road and appertaining thereto shall be deemed a part of the road, and said mortgages and deeds so recorded shall have the same effect, both as to notice and otherwise, as to the personal, as to the real estate covered by them. (*Id.* § 3.)

\*§ 74. Record of railroad mortgages in secretary of state's office. That whenever any deed of trust, mortgage or incumbrance shall be made by any railroad company, or upon their road, lands or property situated in more than one county, it shall be lawful to have the same recorded in the office of the secretary of state, in a book provided for that purpose; and all records heretofore or hereafter so made shall have the same effect as if recorded in the proper county where such lands or property may be situated, or such road located or constructed. (1867, c. 58, § 1.)

\*§ 75. Issue of preferred and special stock and income certificates by railroad company. Any railroad corporation now existing, or hereafter created or organized, by or under any law of this state, general or special, shall have the power to create, issue and dispose of special stock, preferred stock and income certificates, to such amounts, in such form, and for such purposes, as may be determined upon by the board of directors of such corporation, with the assent thereto of the holders of at least two-thirds in amount of the common capital stock then outstanding of such corporation: *provided*, however, that no increase of any special or preferred stock, or of any income certificates, issued pursuant to this act, shall at any time be made without the assent thereto of the holders of two-thirds in amount of the special stock, preferred stock, or of the income certificates, to be affected by such issue, as the case may be. (1877, c. 143, § 1.) *See post*, § 412.

\*§ 76. Holders of such stock, certificates, bonds, etc., may vote for directors, when. Any such corporation shall have the power, in such manner, under such regulations, and to such extent as may be prescribed by its board of directors, and assented to by the holders of at least two-thirds in amount of the common capital stock then outstanding of such corporation, to confer upon the holders of its bonds or other obligations, issued to evidence or secure its indebtedness, or upon the holders of any particular class of such bonds or obligations, or

upon the holders of its special stock, or of its preferred stock, or of its income certificates, or of any particular class thereof, or upon all or any of them, the right to vote for directors of such corporation, and also the right to choose from among the stockholders, (whether special, preferred, or common,) or from among the holders of the bonds or income certificates of such corporation, one or more members of its board of directors. (1870, c. 143, § 2.)

\*§ 77. **Agreements between railroad company and holders of preferred stock, bonds, etc., as to control of property.** Any railroad corporation now existing, or hereafter created or organized, by or under any law of this state, general or special, shall have the power to make and enter into any agreement with the holders of its bonds or other obligations issued to evidence or secure its indebtedness, or with the holders of any particular class of such bonds or obligations, or with the holders of its special stock, or of its preferred stock, or of its income certificates, or with any particular class or portion thereof, in relation to the sale, lease or control of the property and franchises of such corporation, which shall receive the assent thereto of the holders of two-thirds in amount of each class of special, preferred and common stock and income certificates then outstanding of such corporation, at a meeting of the holders of such stocks and income certificates, called for that purpose in the same manner and form as other meetings of the stockholders of such corporations are called: *provided*, however, that a certificate of such assent, under the seal of the corporation, together with a certified copy of the agreement so assented to, shall be filed in the office of the secretary of state of this state, within thirty days after the meeting of the holders of said stocks and income certificates at which such assent is given: *and provided further*, that a copy of such agreement shall be printed upon or attached to the class of bonds, or other obligations, or upon or to the special stock, preferred stock, or income certificates, with the holders of which such agreement shall have been made, and shall also be printed upon or attached to the certificates of common stock of such corporation. (1877, c. 144, § 1.)

§ 78. (SEC. 41.) **Opening stock-subscription books—commencement of work.** The incorporators named in the articles hereinbefore provided for are authorized, at their first annual meeting, or at such other time as they deem best, before such annual meeting, to be designated by them, to open books for subscription to the capital stock of said corporation, under such regulations as they shall prescribe; and when, after the opening of books for the subscription of stock, sufficient stock is subscribed to justify the incorporators or directors to commence such canal, line, railroad or improvement, and the first instalments upon such stock are paid in, said corporation may commence work thereon, and they shall thereby become invested with all the rights, privileges and franchises conferred by this title.

§ 79. (SEC. 42.) **Capital stock, how increased.** Whenever any corporation created and incorporated under the provisions of this title, or adopting its provisions as hereinbefore provided, shall, in the opinion of the directors thereof, require an increased amount of capital stock, or other modification of their articles of association, not inconsistent with the provisions of this title, they shall, if authorized by the holders of a majority of the stock, file in the office of the secretary of state new articles, setting forth the modifications of their said articles of association proposed, and the amount of such desired increase of stock, if any, which said new articles shall be duly recorded, and a reference made to the same on the margin of the record of the original certificate or articles; and thereafter such corporation shall be entitled to have such increased capital as is fixed by said new articles, or such other modification of the original articles of association as shall be therein specified.

§ 80. (SEC. 43.) **Annual report of railroad company to state auditor—statement for legislature.** Every railroad company incorporated under this title shall annually, in the month of January, make a full report of the condition of its affairs to the auditor of state,

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showing the amount of the capital stock in such company, the gross amount of tolls or receipts during the previous year, the costs of repairs and incidental expenses, the net amount of profits, and the dividends made, with such other facts as may be necessary to a full statement of the affairs and condition of such road; and the auditor of state shall annually present an abstract copy of such report to the legislature.

*See ante, c. 6, § 71.*

§ 81. (Sec. 44.) **Penalty for diversion of corporate property, etc.** The diversion of the corporate property to other objects than those specified in the articles and notices published as aforesaid, (if any person is injured thereby,) the declaring of dividends when the profits are insufficient to pay the same, the payment of dividends when the funds remaining will not meet the liabilities of the corporation, any wilful failure to comply with the articles of incorporation, or any intentional deception of the public or individuals in relation to their means or liabilities, are criminal offences, and persons guilty of any of them may be indicted, and, on conviction, shall be punished by a fine not more than five thousand dollars, or by imprisonment in the state prison not more than three years, or both such fine and imprisonment, in the discretion of the court.

## FURTHER PROVISIONS RELATING TO RAILROAD COMPANIES.\*

\*§ 82. **Railroad company to keep general office within this state.** That every railroad company heretofore or hereafter incorporated by the laws of the territory or state of Minnesota, shall establish within this state, at some point on the line, or at a terminal point of its road, an office to be known as its general office within this state, and at said point keep some officer of said company, or special auditor of accounts, secretary or general agent, upon whom service of all legal process against said company may be made, and who shall be authorized to hear and determine all questions relating to the current business of said company arising within the state. (*1874, c. 27, § 1.*)

\*§ 83. **List of stockholders, etc., to be kept in such office.** At said office there shall be kept at all times the original minutes of the board of directors or executive committee of the board, and a list of the stockholders of the company, or correct copies thereof, which copies shall be kept [up] from time to time of the entries in the original number [minutes] or transfers which occur. (*Id. § 2.*)

\*§ 84. **Land-grant companies to keep record of lands sold, etc.** That all land-grant companies shall keep within this state, at some office publicly established, the original or copies of all books, papers and records of every description relating to the land sold, encumbered, contracted or owned by such company, sufficient to show intelligibly all material matters connected with such grant and the management of its lands, which books and papers shall be open at all reasonable times, on demand, to inspection by the auditor of state, railroad commissioner, or any agent appointed for that purpose by the governor. (*Id. § 3.*)

\*§ 85. **Penalty for failure to comply with three last sections.** If any such company shall fail to comply with the provisions of this act, it shall, for every month it shall fail to establish and maintain such offices, forfeit and pay, for the use of the general fund of the state, the sum of five hundred dollars, to be recovered in any court of competent jurisdiction, to be prosecuted and collected by the attorney general, in the name of the state of Minnesota. (*Id. § 4.*)

\*§ 86. **Annual meetings of railroad companies—time—notice—who may vote.** It shall be the duty of every railroad corporation of this state, whether created by special act of incorporation, or organized under any general law of this state, or

\*For provisions relating to the taxation of the gross earnings of railroad companies, and the returns to the railroad commissioner, of lists of lands sold by land-grant companies, see *ante, c. 11, §§ 128-142.*

For provisions relating to the registration of municipal bonds in aid of railroads, and the levy of taxes to pay interest thereon, etc., see *ante, c. 11, §§ 143-147.*

For provisions requiring a registration of lists of lands granted in aid of railroad companies, in the counties in which such lands are situated, see *post, c. 40, §§ 39-42.*

under or by virtue of any legislative enactment of this state, or of the late territory of Minnesota, to call a meeting of its stockholders annually, for the purpose of electing directors, and for the transaction of such other business as may lawfully come before such meeting; which meeting shall be appointed for the time and place fixed for the same in the charter or by-laws of the respective corporations; and if no time or place has been fixed in the charter or by-laws of any company, then such meeting shall be held on the first Monday of June of each year, and at such place on the line of the respective railroads as may be designated in the notice calling such meeting; and such notice shall be given by the secretary of each company, by publication for three weeks in a newspaper printed in the county in this state where the principal office of said railroad company is situated, and the first publication of said notice shall be at least twenty-five days prior to the time fixed for such meeting; and in case of the death or disability of any such secretary, or of his neglect or omission to give such notice by publication as aforesaid, or of a vacancy in the office for the time being, then such notice may be given by any one or more of the directors of said company, by publication of a notice fixing the time and place of such meeting of the stockholders, the first publication to be at least twenty days prior to the time fixed for such meeting; and at any such meeting, called as herein provided, it shall be lawful for the stockholders to attend and organize, and, by a majority of votes of those thus attending and taking part in such meeting, to elect directors, and transact all such other business as may be lawfully transacted by such company at its annual meeting; and at any meeting of stockholders of any such company, such stockholders may vote in person or by proxy: *provided*, that no such proxy shall be valid for more than one year after its date; *provided*, that any person or class of persons who have a right to vote for directors, shall be deemed and construed as stockholders for the purposes of this act. (1877, c. 19, § 1.)

\*§ 87. See 1881 Supp., p. 63.

\*§ 87. Organization of new company by purchasers of railroad, etc., on foreclosure sale. That in all cases where any railroad corporation of this state, whether created by special act of incorporation or organized under the provisions of this act, or of any legislative enactment of this state or of the late territory of Minnesota, hath heretofore executed, or shall hereafter execute, any mortgage or deed of trust upon the whole or any part of its railroad, division or branch thereof, constructed or authorized to be constructed, with the franchises pertaining to the same, to secure the payment of its corporate bonds, and the road, franchises and property covered by such mortgage or deed of trust may be foreclosed and sold, in accordance with the provisions of such trust deed and mortgage, for the use and benefit of the holders of such bonds, the purchaser at such sale, by virtue of such purchase and the proper certificate thereof or conveyance thereon, shall become invested with all rights, benefits, privileges, property, immunities, franchises and interests so foreclosed, and embraced or included in the said mortgage or trust deed and the said sale, which were held at the time of the execution of such mortgage or deed of trust, or afterwards acquired, by the company making such mortgage or deed of trust; and whether the said mortgage or deed of trust and sale shall have included the corporate franchises of such company or not, the said persons for whose benefit such purchase shall have been made as aforesaid may organize as hereinafter provided, and, from the time of such organization, shall be, to all intents and purposes, a corporation, with all and singular the corporate powers, rights, franchises, privileges and immunities which were held at the time of the execution of such mortgage or deed of trust, or afterwards acquired, by the company making such mortgage or deed of trust, so far as applicable to the road and property so purchased; and in the management and operation of the road or lines, as well as in the use and enjoyment of the property, franchises and interests thus acquired, and

in the conduct of all business growing out of such purchase, shall be entitled to all and singular the same rights, powers, privileges, immunities and advantages theretofore granted to or bestowed upon the corporation making such mortgage or deed of trust, which were applicable to the road, property and franchises so purchased while held and controlled by the last mentioned corporation; and may have, use and exercise the same in their corporate capacity, under and through the organization herein provided for, in like manner in all respects as the corporation making such mortgage or deed of trust might or could have done, had no foreclosure or sale taken place.

**Proceedings to be taken by purchasers to effect organization.** The person or persons so purchasing shall, by themselves or their authorized attorneys or proxies, meet within thirty days after the delivery of the conveyance under such sale, or certificate of sale delivered, at some place within this state, of which, and the time of such meeting, notice shall be published by the persons named as purchasers in such deed or certificate of sale, by publication in some of the daily newspapers of St. Paul, for at least ten days prior to the time of such meeting; at which time and place the said persons so purchasing shall adopt a corporate name for the proposed new organization, and may proceed without further notice and elect a board of not exceeding nine directors; and such board may thereupon elect a president, secretary, treasurer, and such other officers as the corporation making such mortgage or trust deed may theretofore or prior to such foreclosure have been authorized to elect, and adopt a corporate seal.

**Rights, duties and liabilities of new company.** From the time of such election of officers and the adoption of a corporate seal, the organization shall be deemed complete, and the company thus organized shall become and be a body corporate, under the name so adopted as aforesaid by the purchasers at the mortgage sale, and clothed as such, with the rights, powers, privileges, franchises, immunities and advantages hereinabove in such case provided. Subsequent elections of board of directors, and other powers and duties of the corporation so organized, shall be had and performed in accordance with the provisions of law in that behalf enacted, prior to such foreclosure, for the government of the corporation making such mortgage or deed of trust, and the same, together with all legislative acts relative to the corporation last mentioned, shall continue in force and be applicable to such corporation so organized. It shall be the duty of such new organization, within thirty days after such organization shall be perfected, to make and certify under its corporate seal, attested by its president and secretary, a statement showing the date of such organization, the corporate name by it adopted, the amount of its capital stock, issued and unissued, common and preferred, the names of its president, secretary, treasurer, and other general officers, the number and names of its directors so chosen at said meeting, and cause the same, together with the conveyance or certificate of sale made to the purchasers upon the foreclosure, to be recorded in the office of secretary of state of this state; and such record, or a certified copy of such record, of said proceedings, shall be legal evidence of the existence of such corporation or organization: *provided further*, that nothing herein contained shall be construed to change or impair the force of any decree of foreclosure heretofore made, or any of the terms or provisions thereof: *provided*, however, that such court shall provide in such foreclosure decree, or otherwise, that such purchaser or purchasers shall fully pay all sums due and owing by such defaulting and foreclosed railroad company to any servant or employe of such company, and to provide that such purchaser, and such new corporation so by them to be formed under the provisions of this act, shall complete all legal and subsisting contracts for sale of the lands of such company, and, upon performance on the part of any purchaser of such lands, to convey the real estate so purchased in pursuance of the contract or contracts so subsisting;

and that such court also provide in such decree, or otherwise, so as to save and protect the possessory and other rights and property of any person, persons or copartnership in and to any warehouse, side-track, or other structure erected upon the right of way of such defaulting company, so as to save, preserve and protect the equitable rights of all parties interested: *and provided further*, that nothing in this act contained shall be construed as repealing, modifying or impairing chapter 105 or chapter 106 of the special laws of 1874, or chapter 49 of the special laws of 1875, or any rights secured or intended to be secured or protected under said chapters, or either of them. (1876, c. 30, § 1.)

\*§ 88. **Narrow-gauge railroads.** All railroads in this state commonly known as narrow-gauge railroads shall be built of the uniform gauge of three feet. (1875, c. 85, § 1.)

\*§ 89. **Railroad company to require of contractors bonds to secure laborers—liability of company.** That whenever any railroad company shall contract with any person for the construction or repairing of its road, or any part thereof, such railroad company shall take from the person with whom such contract is made, a good and sufficient bond with sureties, conditioned that such person shall pay all laborers, mechanics, all just debts due to such persons, or to any person to whom any part of such work is given, incurred in carrying on such work, which bond, or a certified copy thereof, shall be filed by said railroad company, in the office of the register of deeds in each county where the work of such contractor shall be. All persons to whom such contractor shall be indebted for work as aforesaid, and every railroad company who shall have paid any debt, claim or demand as hereinafter provided, shall have an action on said bond, to the full amount of debts awarded against such contractors. And if any such railroad company shall fail to take and file such bonds, or if any contractor or subcontractor shall be indebted for work or services as aforesaid, said railroad company shall be liable to the persons mentioned aforesaid, to the full extent of all such debts so contracted by said contractor, or pursuant to the terms of said contract: *provided*, such laborers, or mechanics [or other persons] shall give the notice and take the action prescribed in the subsequent sections of this act. (1873, c. 29, § 1.)

\*§ 90. **Liability of railroad company to laborers under contractors.** Whenever any person, being contractor or subcontractor employed by or in pursuance of the terms of any contract with any railroad company for the construction or repairing of any portion of any railroad, shall be indebted to any laborer or mechanic for services rendered, such railroad company shall be liable to pay such laborer or mechanic the amount of such debt: *provided*, such laborer or mechanic shall have given notice to such railroad company, within thirty days after such debt shall have accrued, that he has such debt: *provided*, such debt shall have accrued within sixty days prior to the giving of such notice. Such notice shall be in writing, and shall specify the particular nature and amount of such debt, claim or demand, and shall be delivered to the secretary or chief engineer of such company, or to the engineer in charge of the construction or repairing of that portion of the road upon which such labor was performed, either personally, or by leaving the same at the office or usual place of business of such secretary or engineer. (*Id.* § 2.)

\*§ 91. **Limitation of actions.** No action shall be maintained against any railroad company under the provisions of this act, unless the same is commenced within sixty days after the service of notice aforesaid. (*Id.* § 3.)

#### MUNICIPAL BONDS IN AID OF RAILROADS.\*

\*§ 92. **Counties, towns, etc., may issue bonds in aid of railroads—limit of issue.** Any county, town, incorporated city or incorporated village in this state, is hereby

\*An act to authorize municipal corporations to aid in the construction of railroads. Approved March 5, 1877. (Laws 1877, c. 106.)



authorized and empowered, in the manner herein provided, to aid in the construction of any railroad in this state, to be constructed by any railroad company for public use by authority of any law of the state, in the manner hereinafter provided, and which will promote the general prosperity and welfare of the tax-payers of such municipality; and the mutual agreement hereinafter referred to, when the same shall be arrived at, shall be conclusive evidence that such railroad will so promote the general prosperity and welfare of the tax-payers of such municipality. But no bond shall be issued by any city, village or town, under the provisions of this act, to an amount exceeding, together with its then existing indebtedness, five per centum upon the value of the taxable property therein, the amount of such taxable property to be ascertained and determined by the last assessment of said property made for the purpose of state and county taxation previous to the incurring of such indebtedness. (1877, c. 106, §1, as amended 1878, c. 45, §1.)

\*§ 93. **Right of municipality to require stock in exchange for bonds.** The aid to be contributed to the construction of any such railroad by any such county, town, city or village, shall be by the bonds of such municipality, to be issued to or for the use of such railroad company, in consideration of which such municipality shall, at its election, be entitled to receive from such railroad company such number of shares of its capital stock as will, at the par value of such stock, correspond with the principal sum of such bonds. (1877, c. 106, § 2.)

\*§ 94. **Mutual agreement required before issue of bonds or stock.** No such bonds shall be issued to or for the use of any such railroad company, and no such stock shall be issued to any such municipality, until a mutual agreement in relation thereto shall have been arrived at in the mode hereinafter specified; and when such mutual agreement shall have been arrived at (in either one of such modes) the proper officers of such municipality shall be authorized and required to issue and deliver such bonds in conformity with the mode so agreed upon, and the stock of such railroad company shall also be issued in conformity therewith, in case such municipality shall have elected to take stock. (Id. § 3.)

\*§ 95. **Application of company for aid—the proposition and its contents—filing and record.** Whenever any such railroad company specified in the first section of this act shall desire aid in the construction of its railroad from any county, town, city or village specified in said first section, it shall make and deliver to the county auditor of such county, the town clerk of such town, or the clerk of such incorporated city or village, as the case may be, a definite proposition in writing, signed by the president and secretary of said railroad company, and sealed with its seal, which proposition shall contain a statement of the amount of bonds desired, the time when payable, and whether payable before maturity at the option of such municipality, the rate of interest which they shall bear; and such proposition shall contain a statement specifying when said bonds are to be delivered with reference to the time of the entire or partial construction of said railroad, and may contain a statement that such bonds may be deposited in escrow prior to the delivery to the railroad company; and such proposition shall contain a statement that the said railroad company will, in consideration of said bonds, at the election of such municipality, issue to the municipality from which it is to receive the same, such number of the shares of its capital stock as will, at par value of such stock, correspond with the principal sum of such bonds. In case such bonds are proposed to be deposited in escrow as aforesaid, the proposition shall also state that the certificate of the stock to be exchanged therefor shall be placed with the same depository at the same time; and in that case the proposition shall set forth the full name and residence of the trustee or trustees who shall be the custodian of the stock of said company and of the bonds of such city, village, town or county. The

auditor or clerk with whom any such proposition shall be filed, shall immediately endorse thereon the date of its receipt by him, and transcribe the same into the record book of the county, town, city or village, as the case may be, of which he is such clerk. (1877, c. 106, § 4.)

\*§ 96. Agreement to issue bonds, etc., how arrived at—calling and notice of election. The mode of arriving at such mutual agreement as is hereinbefore specified, shall be as follows:

*First.* Upon receiving such proposition, the county auditor of such county, the town clerk of such town, or the clerk of such incorporated city or village, as the case may be, shall immediately publish a notice of an election to be held by the legal voters of such county, town, incorporated city or village, at the usual place or places of holding elections therein, and at such time as such clerk may designate, not less than ten or more than twenty days from the date of such notices, which notice shall contain a substantial statement of the proposition made by said railroad company for the issue of the bonds of such municipality, and shall notify the legal voters thereof to deposit a ballot upon which shall be written or printed the words, "For the railroad proposition," or the words, "Against the railroad proposition." And such notice shall be posted in three public places in each election precinct in the district in which aid is desired, at least seven days before the day of such election, and shall also be published at least twice before such election in one newspaper in such city, village, or town, if any is published therein, and if the aid is asked of a county, in one newspaper in each village and city in such county in which a newspaper is published, and if there is no newspaper published in such city, village, town or county, then such notice shall be so published in a newspaper published at the nearest place thereto in which one is published; and said railroad company so desiring aid shall pay the expenses of advertising such proposition in said newspapers: and *provided*, that no such election shall be called, except upon filing in the office of the town clerk a statement in writing in favor of calling said election, signed by the supervisors, town clerk and justices of the peace, or any two of them, together with at least twelve other freeholders of said town.

*Second.* Conduct of election—canvass and return of votes—certificate of canvassers. Such election shall be held and conducted in the same manner that general elections in such counties, towns, incorporated cities or villages are by law required to be held and conducted, and the votes cast at such election shall be counted, canvassed and returned in the same manner as the votes at such general election, and the canvassers shall make, certify, sign and deposit with the county auditor, town clerk or clerk of such incorporated city or village, as the case may be, a statement of the result of such election; and such certified statement shall be *prima facie* evidence of the number of votes cast for or against such proposition, and also of the fact that such election was regularly held and conducted according to law.

*Third*—When further elections may be called. If in any of said counties, towns, cities or villages, any election shall fail to be held on the day appointed therefor, or if the majority of votes cast at any such election shall be against the railroad proposition, such county auditor, town clerk, or clerk of such city or village shall, at the written request of the president of such railroad company, at any time thereafter, call another election or elections in the manner provided in this act, upon the same or different propositions of such railroad company; and such other election or elections shall be conducted in like manner and upon like notice as is provided in this act for the first election: *provided*, that not more than one election authorized by this act shall be held in any one calendar year in the same town, county, village or city.

*Fourth*—Effect of vote in favor of aid—issue and delivery of bonds and stock-waiver of issue of stock. If a majority of the legal voters who shall vote upon the question at any elec-

tion to be held in any such county, town, city or village, in pursuance of the provisions of this act, shall, as indicated by the official returns of any such election, vote "for the railroad proposition," then such mutual agreement for the issue of bonds by such municipality, and of stock by such railroad company, as provided in this act, shall be deemed and considered to have been arrived at and perfected, and thereupon such bonds and stock shall be issued and delivered by the proper officer, in conformity with the true intent of such proposition, and with the provisions of this act: *provided*, that if such bonds are to be issued by a county, there shall also have been a majority of votes cast in favor of the railroad proposition at a majority of the election precincts within such county at such election: *and provided further*, that the board of county commissioners of any such county, or the board of supervisors of any such town, or the common council of any such village or city, may, in case it shall deem it for the interests of such county, town, village or city to do so, waive the issuance by such railroad company of any such stock to such county, town, village or city. (1877, c. 106, § 5, as amended 1878, c. 46, §§ 1-2.)

\*§ 97. Bonds not to be issued till completion of railroad. No bonds shall be delivered to the company under such proposition until the road, branch, or extension thereof, for the construction of which the aid has been granted, shall have been completed, ready for the passage of cars, through or to the district granting aid, or to the nearest point in its line to such district, or from and to such point as the company in its proposition shall have proposed to construct said road. (*Id.* § 6, as amended 1878, c. 45, § 2.)

\*§ 98. Another mode of arriving at agreement—notice that petition will be circulated. Another mode of arriving at such mutual agreement shall be as follows:

*First.*—Within three months after the filing of any such proposition as is specified in the fourth section of this act with any county auditor, town clerk, or clerk of any city or village, as the case may be, the said railroad company shall cause notice to be given, as prescribed in the fifth section of this act, in three public places in each election precinct in the district in which aid is desired, stating that after a day named in said notice, which shall be at least five days after its date, a petition to the proper authorities of such county, town, city or village will be presented to the resident tax-payers of such county, town, city or village for their signatures, asking such authorities to agree to such proposition; and such petition shall be appended to a substantial copy of such proposition.

*Second.*—Presenting of petition with signatures of tax-payers, etc. If, within four months after the filing of such proposition with any such county auditor, town clerk, or clerk of any city or village, as the case may be, the said railroad company shall deliver to such clerk a substantial copy or copies of such proposition so filed, with such petition to the proper authorities of such county, town, city or village, asking such authorities to agree to such proposition, appended thereto, bearing the signatures of a majority of the persons residing in such county, town, city or village, who were assessed for taxes upon real or personal estate, in such county, town, city or village, as the case may be, as shown by the last assessment roll of the district of which aid is desired, which signatures shall be verified by the affidavit of some person witnessing such signatures, then such mutual agreement for the issue of bonds by such municipality, and of stock by such railroad company, shall be deemed and considered to have been arrived at and perfected; and thereupon such bonds and stock shall be issued and delivered in conformity with the true intent and meaning of such proposition, and with the provisions of this act. (*Id.* § 7.)

\*§ 99. Rights of municipality as stockholder. The stock received by any such county, town, city or village, in pursuance of any such mutual agreement, shall be entitled to all and the same rights, benefits and privileges as the stock of the same class held by any other person or persons; and the municipality receiving

any such stock shall, so long as it shall hold the same or any part thereof, be a part owner of such railroad and its franchises; and the proper authorities of the municipalities holding such stock shall appoint a person to vote thereon, in behalf of such municipality, and such authorities may also sell and dispose of the said stock in such manner as shall to them seem best for the interest of such municipalities. (1877, c. 106, § 8.)

\*§ 100. **Liability of municipality on bonds—tax to pay interest and principal.** Every county, town, city or village which shall issue any bonds in pursuance of the provisions of this act, shall be severally liable in law, faithfully, promptly and at maturity, to pay and discharge the principal and interest upon every such bond issued by it; and the faith of every such county, town, city or village shall, by the issue of such bond or bonds, be and stand irrevocably pledged to the prompt discharge of every such liability; and every such county, town, city or village shall annually levy and collect a tax on all taxable property therein, as indicated by the assessment roll or rolls, for the payment of all moneys to become due upon such bonds, whether for principal or interest, in addition to all other taxes, and the money so raised shall be kept as a separate fund, and strictly applied to that purpose; and it may, in the discretion of the proper authorities, raise a greater sum in any one year than is needed to pay what shall become due in that year, and apply the same to the purchase and discharge of such bonds, at the lowest practicable rate or price. (*Id.* § 9.)

\*§ 101. **Breach of duty by officers.** If any officer upon whom any duty is imposed by this act shall wilfully fail faithfully and promptly to discharge the same, as by this act required, he shall be liable to the party or parties aggrieved for all actual damages suffered by such party or parties by reason of such failure. (*Id.* § 10.)

\*§ 102. **Definition of terms used—execution of bonds.** For the purpose of this act, the term "proper officer" shall be construed and held to intend and mean, in the case of a county, the chairman of the board of county commissioners and the county auditor of such county; in the case of a town, the chairman of the town board and the town clerk; in the case of a city, the mayor, or the officer performing the duties of mayor, and the city clerk; and in the case of a village, the president and clerk of the village; and the term "proper authorities" shall be construed and held to intend and mean, in the case of a county, the board of county commissioners; in the case of a town, the town board of supervisors; in the case of a city, the common council or other authorities possessing the usual powers of the common council of cities; and in the case of a village, the board of trustees, or other local governmental board, by whatever name it may be called, which is vested with the power to levy taxes; and any and all bonds issued under this act, by any county, town, city or village, shall be officially signed by the proper officers thereof as aforesaid, and sealed with its corporate seal, if it have one; and in the case of a town, it shall be the duty of the county clerk of the county in which said town is situated, if requested to do so, to add to each of such bonds a certificate, under the seal of the county, to the effect that the town officers subscribing the bonds are in fact such officers, and that he believes their signature thereto to be genuine. (*Id.* § 11.)

\*§ 103. **No further bonds to be issued under other laws.** If any county, town, city or village shall issue and deliver to any railroad company any bonds in pursuance of the provisions of this act, it shall not thereafter issue or deliver any bonds, or incur any liability, in aid of the construction of the railroad of such company, by virtue of the authority of any other law of this state. (*Id.* § 12.)

\*§ 104. **Limitation of time allowed company for earning bonds.** It shall be lawful for any town, county, city, or village, which shall have voted aid to any railroad company, or which shall hereafter vote aid to any railroad company, without limiting the time when such aid shall be earned by the company, by the authorities thereof, to fix and limit the time when such aid shall be earned: *provided*, that

the time so fixed shall not be less than one year from the date of giving notice to such railroad company of the fixing such limit; and if the aid shall not be earned in accordance with the conditions upon which it was voted within the time so fixed by such authorities, then such aid shall be forfeited. (1877, c. 106, § 13.)

\*§ 105. Subscription to stock in lieu of issue of bonds. Any county, town, city or village, is hereby authorized, instead of issuing bonds in aid of railroads as hereinbefore provided, by agreement to be arrived at as is herein provided for the issuing of bonds, to subscribe to the capital stock of such company, the subscription to be paid in money in one or more instalments, at such times, not exceeding three years from the time of entering into such contract, as may be agreed upon, and after such parts of the work of constructing the railroad aided shall be done as shall be agreed upon; the last instalment not, however, to be paid until the railroad shall have been completed, ready for the passage of cars, to the place to which it is agreed to be built in consideration of the aid so granted. If such an agreement shall be arrived at in the manner herein provided, it shall be the duty of the proper officers of such county, town, city or village, from time to time, to levy and collect a tax in the same manner as general taxes are levied, of sufficient amount to pay the instalments as the same shall fall due according to the terms of such agreement. (*Id.* § 14.)

\*§ 106. Iowa companies may extend roads into Minnesota—conditions—service of process. Any railroad organized, or that may be hereafter organized under the laws of the state of Iowa, is hereby authorized to extend and build its road into the state of Minnesota; and such railroad company shall have and possess all the powers, franchises and privileges, and be subject to the same liabilities, of railroad companies organized and incorporated under the general laws of this state: *provided*, such non-resident company shall first file a true copy of its articles of incorporation with the secretary of this state, and shall comply with the laws of Minnesota as to filing and recording its articles of incorporation, and shall keep an office in this state, in the same county in which its railroad is or is proposed to be built, and shall be liable to civil process, to be sued and to sue, as provided by law. Service of any civil process on the local station agent in this state shall be deemed and construed to be a personal service of such process on any such company doing business in this state under the provisions of this act: *provided*, that no company shall be entitled to operate under the provisions of this act, until such company has filed in the office of the secretary of state of this state an acceptance of the provisions of this act. (1873, c. 27, § 1, as amended 1877, c. 14, § 1.)

\*§ 107. Water-power companies—right to flow land, etc. Any corporation heretofore or hereafter organized for the purpose of developing or improving the water-power on any of the watercourses of this state, and applying the same to manufacturing purposes, and whose articles of association conform to the provisions of section three of this title, may obtain the right to overflow, drain, or otherwise use, enjoy or damage, by reason of any dam, lock, sluice, waste-gate, or other erection necessary for the convenient prosecution of their enterprise, all or any lands, rights, easements, or other property damaged thereby, by proceeding as in this title provided. (1875, c. 16, § 1.)

\*§ 108. Bridge companies. Corporations for the purpose of erecting and maintaining free or toll bridges over any lake or stream of water in the state, may be formed, and continue to be a corporation, under and subject to the provisions of chapter seventeen, Bissell's statutes, being chapter thirty-four, statutes of eighteen hundred and sixty-six, and acts amendatory thereto. (1875, c. 108, § 3.)

## TITLE 2.

## CORPORATIONS FOR PECUNIARY PROFIT OTHER THAN THOSE NAMED IN TITLE 1.

§ 109. (SEC. 45.) For what purposes corporations may be organized—powers of building associations. Any number of persons, not less than three, who have or shall, by articles of agreement in writing, associate according to the provisions of this title, under any name assumed by them, for the purpose of engaging in or carrying on the business of mining, smelting or manufacturing iron, copper or other minerals; or for producing the precious metals; or for quarrying and marketing any kind of ore, stone, slate, or other mineral substance; or for constructing, leasing or operating docks, warehouses, public halls, elevators or hotels; or saving-fund, loan or building association, (or association for buying, owning, improving, selling and dealing in lands, tenements and hereditaments;) or for manufacturing gas, or any kind of manufacturing, lumbering, agricultural, mechanical, mercantile, chemical, transportation, or other lawful business, and who have or shall comply with the provisions of this title, shall, with their associates, successors and assigns, constitute a body corporate and politic, under the name assumed by them in the articles of agreement: *provided*, no company shall take a name previously assumed by any other company. Any such association or corporation for buying, owning, improving, selling and dealing in lands, tenements and hereditaments, real, mixed and personal estate and property, shall have, and may exercise and enjoy, all the franchises, rights, powers and privileges of a corporation, as provided in this title and act, and the same is made capable and authorized in law and in equity to have, own, purchase, receive, possess and retain to itself and successors, lands, tenements and hereditaments, real, personal and mixed estate and property, and to use and enjoy the same, and the same improve by erecting and constructing thereon dwelling-houses, and other buildings, erections and structures, and otherwise to enhance, build upon and improve the same, to every extent, and in such manner, and for such purpose as may become necessary, or as such association or corporation may deem proper or advantageous; and to sell, convey, lease, let, mortgage, or otherwise dispose of, charge or encumber such lands, tenements and hereditaments, real, mixed and personal property and estate, or any of the same, or any right or interest therein, at pleasure, and in such manner and on such terms as such corporation or association may determine by order of its directors, or establish by its by-laws; and for that purpose to make and deliver, and in like manner accept and receive, all necessary and proper deeds, conveyances, mortgages, leases, and other contracts and writings obligatory, and to have and exercise all necessary rights, franchises, muniments, estate, powers and privileges necessary to that end; and such association or corporation is authorized to loan money and funds, and secure such loan by mortgage, or other security; and any premium taken by such association for the preference or priority of such loans, or for the preference or priority on any sale or disposition of its lands, tenements or hereditaments, real, personal or mixed property or estate, or any premium for preference or priority taken by any mutual building association for any loan of its funds by such building association, shall not be deemed interest within the meaning of any law of this state, nor shall any excess of such premiums over any rate of interest permitted by the laws of this state be deemed or held, in any court of law or equity, to be usury. Any association organized under this title is authorized and empowered to purchase at any sheriff's or other judicial sale, or at any other sale, public or private, and to hold, any real estate upon which such associates or association may have or hold any mortgage or judgment, or lien, or other incumbrance, or in which such associates or association may have an interest; and the real estate so purchased, to sell, convey, lease or mortgage, at pleasure,

to any person or persons, or purchasers whatever: *provided*, however, that no mutual building association, nor association for buying, selling and dealing in lands, tenements and hereditaments, shall loan its funds except to its own members. (*As amended 1878, c. 10 § 1.*)

<sup>23 M. 6.</sup>  
 § 110. (SEC. 46.) **Application of certain preceding sections.** The provisions of sections two, three, four, seven, eight, nine, ten, eleven, forty-two and forty-four, of title one, shall apply to and be observed by corporations organizing under this title. (*As amended 1870, c. 27, § 1.*)

\*§ 111. **Personal liability of stockholders for corporate debts.** That each stockholder in any corporation heretofore or hereafter formed or organized under any of the laws of this state, for the purpose of carrying on any kind of manufacturing or mechanical business, shall be liable to the amount of stock held or owned by him, for corporate debts hereafter contracted. (*1878, c. 56, § 1.*)

§ 112. (SEC. 47.) **Amount of capital stock—par value of shares.** The amount of capital stock in any such corporation shall in no case be less than ten thousand dollars, nor more than five hundred thousand dollars, and shall be divided into shares of not less than ten dollars nor more than fifty dollars each, except that the capital stock of mutual building and loan associations may be divided into shares of two hundred dollars each; but the capital stock and number of shares may be increased at any regular meeting of the stockholders: *provided*, the capital stock when so increased shall not exceed five hundred thousand dollars. (*As amended 1873, c. 14, § 1.*)

§ 113. (SEC. 48.) **Power to hold real estate.** Every such corporation has power to acquire, hold and transfer all such real and personal estate as is necessary or convenient for the purpose of conducting, carrying on, or disposing of the business of such corporation. 112. See 1831 Supp'c, p. 65.

§ 114. (SEC. 49.) **Transfer of stock—lien of company for debts due from stockholders.** The stock of any such corporation shall be deemed personal property, and be transferable only on the books of such corporation, in such form as the directors prescribe; and such corporation shall at all times have a lien upon the stock or property of its members invested therein, for all the debts due from them to such corporation, which may be enforced by advertisement and sale in the manner provided for selling delinquent stock. Ann. 1871, c. 17. See 1873 Supp'c, p. 47.

§ 115. (SEC. 50.) **Record of stock and business—reports to company—dividends.** The directors shall cause a record to be kept of all stock subscribed and transferred, and of all business transactions, and their books and records shall at all times be open to the inspection of any and all stockholders; they shall also, when required, present to the stockholders reports in writing of the situation and amount of business of the corporation, and declare and make such dividends of the profits from the business of the corporation, not reducing the capital stock while they have outstanding liabilities.

§ 116. (SEC. 51.) **Offices within and without this state.** The directors of any corporation organized under this title have power to establish one or more offices without this state, and transact business thereat: *provided*, that an office shall always be maintained in this state where legal process may be served on the person in charge thereof.

§ 117. (SEC. 52.) **Duration of corporation.** No corporation shall be formed under this title to continue more than thirty years.

\*§ 118. **Amendments of articles of association.** The shareholders or stockholders in any body politic or corporate which has been or hereafter may be incorporated pursuant to the provisions of title two of chapter thirty-four of the General Statutes of this state, may amend the articles of association of such body corporate in any respect which might have been lawfully made a part of such original articles, by adopting, by a majority vote in number and amount of such shareholders and shares, articles specifying such amendments. (*1875, c. 19, § 1.*)

\*§ 119. **Certificate of amendment of articles—publication, filing and record.** Any body politic or corporate amending its original articles of association, shall cause to be prepared a certificate stating the time when and the respect in which such articles were amended, which certificate shall be subscribed and sworn to by the president or other chief executive officer, and also by the secretary of such body politic or corporate, and shall also be filed, published and recorded in the same manner provided by law for the filing, recording and publication of such original articles; and thereupon such amendments shall be and become a part of the articles of such body corporate, with the same force and effect as if such amendments had been adopted as a part of such original articles. (1875, c. 19, § 2.)

MANUFACTURING COMPANIES.\*

\*§ 120. **Who may incorporate under this act.** Any number of persons, not less than three, who, by articles of agreement in writing, have associated or shall associate according to the provisions of this act, under any name assumed by them, for the purpose of carrying on any kind of manufacturing or mechanical business not incompatible with an honest purpose, and who shall comply with all the provisions of this act, shall, with their successors and assigns, constitute a body politic and corporate, under the name assumed by them in their articles of association. (1873, c. 11, § 1.)

\*§ 121. **Capital stock—par value of shares.** The amount of the capital stock in every such corporation shall be fixed and limited by the stockholders in their articles of association, and shall be divided into shares of fifty dollars each; but every such corporation may increase its capital stock, and the number of shares therein, at any meeting of the stockholders specially named for that purpose. (Id. § 2.)

\*§ 122. **Articles of association—amendment of articles.** The purpose for which every such corporation shall be established, shall be distinctly and definitely specified by the stockholders in their articles of association, and it shall not be lawful for said corporation to direct its operations or appropriate its funds to any other purpose: *provided*, that such articles of association may be amended in any respect which might have been lawfully made a part of such original articles, at any meetings of such stockholders, by a majority vote of all the shares of stock represented in such corporation, upon giving notice of a meeting of such stockholders to be held for the purpose of making such change, in the same manner as provided in section four of this act for the first meeting of the corporation, except that notice of change shall not be waived as therein provided. Proof of the publication of such notice and change, made by filing the affidavit of the publisher and a certified copy of the proceedings making such change, shall be filed in the office of the secretary of state, in the same manner as provided for the filing of the articles of incorporation of such association therein. (Id. § 3, as amended, 1875, c. 17, § 1.)

\*§ 123. **First and subsequent meetings—notice and waiver.** When any number of persons shall have associated according to the provisions of this act, any two of them may call the first meeting of the corporation at such time and place as they may appoint, by giving notice thereof in a newspaper published in the county in which such corporation is to be established, or if no newspaper is published in such county, in a newspaper published in an adjoining county, at least fifteen days before the time appointed for such meeting. Subsequent meetings of any such corporation may be called in such manner as its by-laws shall prescribe: *provided*, that if the by-laws of any such corporation do not prescribe the manner of calling meetings thereof, its directors may call such meetings by giving the notice provided in this section for the first meeting of such corporation; but said notice may be waived by a writing signed by all the

\*An act relating to manufacturing corporations. Approved March 7, 1873. (Laws 1873, c. 11.)



subscribers to the capital stock of said corporation, specifying the time and place for said first meeting, which writing shall be entered at full length upon the records of the corporation, and the first meeting of any such corporation which has been held pursuant to such written waiver or notice shall be valid. (1873, c. 11. § 4, as amended 1878, c. 28, § 1.)

\*§ 124. **Board of directors—annual election—term of office.** The stock, property, affairs and business of every such corporation shall be under the care of and shall be managed by not less than three directors, who shall be chosen annually by the stockholders at such time and place as shall be provided by the by-laws of said corporation, and who shall be stockholders, and shall hold their offices for one year, and until others shall be chosen in their stead. (*Id.* § 5.)

\*§ 125. **Failure to choose directors—subsequent election.** If any election of directors in any such corporation shall not take place at the annual meeting thereof, in any year, such corporation shall not thereby be dissolved, but an election may be had at any time within one year, to be fixed upon and notice thereof to be given by the directors. (*Id.* § 6.)

\*§ 126. **Officers of company—how chosen—residence.** The directors of every such corporation shall choose one of their number to be president, and shall also choose a secretary and treasurer, which two last-mentioned officers shall reside and have their place of business, and keep the books of said corporation, within this state; and shall choose such officers as the by-laws of the corporation shall prescribe, all which said officers shall hold their offices until others shall be chosen in their stead. (*Id.* § 7.)

\*§ 127. **Vacancies in board of directors.** The directors of such corporation for the time being shall have power to fill any vacancy which may happen in their board, by death, resignation or otherwise, for the current year. (*Id.* § 8.)

\*§ 128. **Publication of articles—filing of certificate—commencement of business.** Before any corporation formed and established by virtue of the provisions of this act shall commence business, the president and directors thereof shall cause their articles of association to be published at full length in two newspapers published in the county in which such corporation is located, or at the capital of the state; and shall also make a certificate of the purpose for which such corporation is formed, the amount of its capital stock, the amount actually paid in, and the names of its stockholders, and the number of shares by each respectively owned, which certificate shall be signed by the president and a majority of the directors, and deposited with the secretary of this state, and a duplicate thereof with the register of deeds of the county in which said corporation is to transact its business; and said secretary and said register of deeds shall respectively record the same in books to be kept by them for that purpose; and within thirty days after the payment of any instalment called for by the directors of such corporation, a certificate thereof shall be made, signed, deposited and recorded, as aforesaid. A copy of the certificate first specified in this section, certified by the secretary of this state, under the seal thereof, shall be received in all the courts in this state as *prima facie* evidence of the due formation, existence and capacity of such corporation, in any suit brought by or against the same. (*Id.* § 9.)

\*§ 129. **Directors' and stockholders' meetings—quorum—right to vote.** A majority of the directors of every such corporation, convened according to the by-laws, shall constitute a quorum for the transaction of business. And a majority of the stockholders present or represented by proxy, at any legal meeting, when a majority of the stock of such corporation is so represented at the meeting, shall be capable of transacting the business of that meeting; and at all meetings of such stockholders, each share shall entitle the holder thereof, or his representative, to one vote. (*Id.* § 10, as amended 1875, c. 18 § 1.)

\*§ 130. **Subscription to capital stock—payment, how enforced.** The directors may call in the subscription to the capital stock of such corporation by instalments, in

such proportion and at such times and places as they shall think proper, by giving such notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such instalment, for the space of sixty days after the same shall have become due and payable, and after he shall have been notified thereof, said corporation may recover the amount of said instalment from such negligent stockholder in any proper action for that purpose, or may sell said stock at public auction, giving at least thirty days' notice thereof, and of the time and place of sale, by advertising in some newspaper published in the county where the business of such corporation is transacted, or at the capital of the state. And in case of a sale, the proceeds thereof shall be first applied in payment of the instalments called for, and the expenses of the sale, and the residue shall be refunded to the owner thereof. In case the proceeds of such sale shall be insufficient to pay said instalments, such corporation may recover the balance from such negligent stockholder. Such sale shall entitle the purchaser to all the rights of a stockholder, to the extent of the shares so purchased. (1873, c. 11, § 11.)

\*§ 131. **Annual certificate of condition of corporation.** The president and secretary of every corporation organized under the provisions of this act, shall annually make a certificate showing the condition of the affairs of such corporation, as nearly as the same can be ascertained, on the first day of January or of July next preceding the making of such certificate, in the following particulars, viz.: the amount of capital actually paid in; the value of its real estate; the value of its personal estate; the value of its credits; the amount of its debts; the name and number of shares of each stockholder; which certificate shall be deposited, on or before the fifteenth day of February or August, with the register of deeds of the county in which said corporation transacts its business, who shall record the same at full length in a book to be kept by him for that purpose. (*Id.* § 12.)

See 1881 Supp. 1, p. 4f.

\*§ 132. **General powers of corporations under this act.** All corporations organized and established under the provisions of this act, shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, appear and prosecute to final judgment in any court or elsewhere; to have a common seal, and to alter the same at pleasure; to elect, in such manner as they shall determine, all necessary officers; to fix their compensations, and define their duties; to ordain and establish by-laws for the government and regulation of their affairs, and to alter and repeal the same; and to employ all such agents, mechanics and other laborers as they shall think proper. (*Id.* § 13.)

\*§ 133. **Power to hold real and other property.** Every such corporation shall, by its corporate name, have power to acquire and hold such lands, tenements and hereditaments, and such property of every kind, as shall be necessary for the purpose of said corporation; and such other lands, tenements and hereditaments as shall be taken in payment of, or as security for, debts due to such corporation, and to manage and dispose of the same at pleasure. (*Id.* § 14.)

\*§ 134. **Books to be open to inspection—annual statement.** The books of every such corporation, containing their accounts, shall be kept, and shall at all reasonable times be open, in the county where such corporation is located, or at the office of the treasurer within this state, for the inspection of any of the stockholders of said corporation; and said stockholders shall have access to the books and statements of said corporation, and shall have the right to examine the same in said county or at said office; and as often as once a year a true statement of the accounts of said corporation shall be made and exhibited to the stockholders by order of the directors. (*Id.* § 15.)

\*§ 135. **Stock and the transfer thereof—lien of company.** The stock of every such corporation shall be deemed personal property, and be transferred only on the books of such corporation, in such form as the directors shall prescribe; and such corporation shall at all times have a lien upon all the stock or property

of its members invested therein, for all the debts due from them to such corporation. (1873, c. 11, § 16.)

\*§ 136. **Increase of capital stock—certificate.** When any such corporation shall increase its capital stock as provided in the second section of this act, the president and directors shall, within thirty days thereafter, make a certificate thereof, which shall be signed, deposited and recorded, as is provided in the ninth section. (*Id.* § 17.)

\*§ 137. **Certain certificates to be under oath—penalty.** The certificate required by the ninth, twelfth and seventeenth sections of this act, shall be made under oath or affirmation, by the person subscribing the same; and if any person shall knowingly swear or affirm falsely as to any material facts, he shall be deemed guilty of perjury, and be punished accordingly. (*Id.* § 18.)

\*§ 138. **Omission of annual certificate—penalty.** If the president or secretary of any such corporation shall intentionally neglect or refuse to comply with the provisions of the twelfth section of this act, and to perform the duty required of them respectively, the persons so neglecting or refusing shall jointly and severally be liable to an action, founded on this statute, for all debts of such corporation contracted during the period of any such neglect or refusal. (*Id.* § 19.)

\*§ 139. **Withdrawal of capital—liability of stockholders.** If the capital stock of any such corporation shall be [withdrawn] and refunded to the stockholders, before the payment of all the debts of the corporation for which such stock would have been liable, the stockholders of such corporation shall be liable to any creditor of such corporation, in an action founded on this statute, to the amount of the sum refunded to them respectively as aforesaid; but if any stockholder shall be compelled, by any such action, to pay the debts of any creditor, or any part thereof, he shall have the right to call upon all the stockholders to whom any part of said stock has been refunded, to contribute their proportional part of the sum paid by him as aforesaid. (*Id.* § 20.)

\*§ 140. **Payment of dividends when insolvent—penalty.** If the directors of any such corporation shall declare and pay a dividend when the corporation is insolvent, or any dividend the payment of which would render it insolvent, knowing such corporation to be insolvent, or that such dividend would render it so, the directors assenting thereto shall be jointly and severally liable, in an action founded on this statute, for all debts due from such corporation at the time of such dividend. (*Id.* § 21.)

\*§ 141. **Neglect of duty by officers—penalty.** If the president, directors or secretary of any such corporation shall intentionally neglect or refuse to comply with the provisions of this act, and to perform the duties therein required of them respectively, such of them as so neglect or refuse shall be jointly and severally liable, in an action founded on this statute, for all debts of such corporation contracted during the period of any such neglect or refusal. (*Id.* § 22.)

\*§ 142. **Violation of act by corporation—liability of directors.** If any corporation organized and established under the authority of this act shall violate any of its provisions, and shall thereby become insolvent, the directors ordering or assenting to such violation shall be jointly and severally liable, in an action founded on this statute, for all debts contracted after such violation as aforesaid. (*Id.* § 23.)

\*§ 143. **Duration of corporation—renewal.** No corporation formed under the provisions of this act shall continue more than thirty years in the first instance, but it may be renewed from time to time for a period not longer than thirty years: *provided*, that three-fourths of the votes cast at any regular meeting of the stockholders for the purpose are in favor of such renewal, and those desiring a renewal purchase the stock of those opposed thereto at its current value. (*Id.* § 24.)

## COMPANIES FOR MINING AND SMELTING ORES AND MANUFACTURING METALS.\*

\*§ 144. **Authority to form corporation.** Any number of persons, not less than three, desiring to form a corporation for the purpose of mining or smelting ores, or minerals, or for both purposes; or for the purpose of manufacturing iron, steel, copper or other metals, may do so upon complying with the provisions of this act; and any corporation so formed shall be entitled to the rights and privileges, and be subject to the duties and obligations herein prescribed, and shall have perpetual succession. (1876, c. 28, § 1.)

\*§ 145. **Articles of incorporation, what to contain.** Such persons shall sign and severally acknowledge articles of incorporation, which shall declare that they do thereby associate together and agree upon said articles for the purpose of forming a corporation under the provisions of this act, and which said articles shall also contain—

*First.* The name of the corporation, which shall not be the same as that previously assumed by any other corporation in this state.

*Second.* The general nature of the business to be carried on, and the place of the principal office or headquarters of the company.

*Third.* The names and places of residence of the persons so associating to form such corporation.

*Fourth.* The amount of the capital stock of said corporation. (*Id.* § 2.)

\*§ 146. **Articles to be in duplicate—filing and record—evidence—powers of corporation.** Such articles shall be executed in duplicate, one of which shall be deposited for record in the office of the register of deeds of the county where said company shall establish its principal office, and the other with the secretary of state; and upon being so deposited, said corporation shall be deemed to exist under this act, for the purposes specified in said articles, as a manufacturing and mechanical corporation, under the constitution and laws of this state; and may sue and be sued in the corporate name, and in such corporate name may contract and be contracted with, and transact and carry on the business mentioned in said articles; and may purchase, acquire, hold, use, sell, transfer, convey, rent and lease all such real and personal property and effects as may be necessary or convenient for the purposes of said corporation. A certified copy of said articles, from the said register of deeds or from the secretary of state, shall be evidence, in all courts, of such corporation. (*Id.* § 3.)

\*§ 147. **Capital stock—shares—proxies—increase of capital.** The amount of capital stock of any such corporation shall in no case be less than ten thousand dollars, nor more than two million five hundred thousand dollars, and shall be divided into shares of twenty-five dollars each; and each share shall be entitled to one vote at any meeting of the stockholders, and may be represented by the holder thereof a person, or by his proxy, under written appointment. The capital stock may be increased by a majority vote of the stockholders at any regular meeting thereof, but not so as to exceed said maximum amount. (*Id.* § 4.)

\*§ 148. **By-laws—records—evidence—first board of directors.** Such corporation may prescribe and adopt by-laws for the management of its business and affairs by a board of directors, trustees, committee, or other officers or agents, and provide for their election or appointments, and prescribe their duties, and may require bond from any officer for the faithful discharge of duties, and may by such by-laws prescribe in respect to all matters appertaining to the business and affairs of said corporation, not inconsistent with the provisions of this act, nor the constitution or laws of this state. Such by-laws may be made, altered or amended by the directors, trustees or committee clothed with the general management of the affairs of such corporation; but the stockholders, at any regular meeting, may repeal or alter any by-law, or adopt new ones, and such

\*An act to authorize the formation of corporations for mining and smelting ores, and for manufacturing iron, copper, and other metals. Approved February 24, 1876. (Laws 1876, c. 28.)

action shall remain binding until repealed or changed by the stockholders themselves at some regular meeting. Such corporation shall keep a record of all proceedings had at meetings of stockholders, and also of all proceedings had or taken by the board of directors, trustees or committee having charge of its affairs, and such record shall be subject to the inspection of all stockholders at all reasonable times. A copy of all by-laws, duly certified, and all amendments and alterations of the same, shall be filed for record with the register of deeds where said articles of incorporation are recorded, and also with the secretary of state, and shall not become operative or valid until so filed. Until otherwise provided, the persons executing such articles of incorporation shall constitute a board of directors, with full power and authority to make by-laws, and manage the affairs and business of such corporation. (1876. c. 28. § 5.)

\*§ 149. **Stock and transfer thereof—meetings of stockholders.** The stock of any such corporation shall be deemed personal property, and may be issued, sold and transferred as may be prescribed by resolution or by-laws of said corporation or its managing board; but no stock so issued or sold, purporting to be full paid, shall be subject to any further assessment in the hands of the lawful holder thereof, without his consent. Upon the issuance of stock, the lawful holders thereof shall constitute the members of such corporation, and a majority in amount thereof may call a meeting of the stockholders at any time, irrespective of any by-laws, at the principal office of the company, or at the capital of the state, upon giving thirty days' notice by publication in a newspaper published at the place of such office, if there be such paper, and if not, then a paper published at the capital. (*Id.* § 6.)

\*§ 150. **Offices of company within and without this state.** The directors or managing officers of any such corporation may meet and transact business without this state, as may also the stockholders, by by-laws therefor; and offices may be established without this state for the transaction of business: *provided*, that an office shall always be maintained in this state, where legal process may be served on such corporation; and such service upon an officer or director, if personally made, shall be deemed personal service upon the corporation. (*Id.* § 7.)

\*§ 151. **Corporation may hold stock in other like companies.** Any corporation organized under this act, for the purpose of mining ore which has to be smelted or otherwise treated to extract the metal, may take, acquire and hold stock, in any other corporation organized for the purpose of smelting or otherwise extracting the metal from such ore, if a majority in amount of the stockholders shall so elect. (*Id.* § 8.)

\*§ 152. **Mortgage of property—sale, etc., of real estate.** Such corporation may mortgage its property, or any part thereof, by a vote of a majority of its stock, but not otherwise; and no real estate of any such corporation, or any interest therein, shall be sold, leased or conveyed, without the consent of a majority in amount of the stockholders. (*Id.* § 9.)

\*§ 153. **Fraudulent acts of officers—penalty.** Any officer of any corporation organized under this act, or any other person or persons, who shall fraudulently issue, or cause to be so issued, any stock, scrip, or evidence of debt of such corporation, or who shall sell or offer for sale, hypothecate, or otherwise dispose of any such stock, scrip or other evidence of debt, knowing the same to be so fraudulently issued shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by imprisonment in the state prison not more than ten nor less than one year. (*Id.* § 10.)

\*§ 154. **Power to amend act reserved.** This act may be altered or amended at the pleasure of the legislature, but not so as to divest or impair any right of property acquired under the same. (*Id.* § 11.)

## CO-OPERATIVE ASSOCIATIONS.\*

\*§ 155. **Formation of associations—for what purposes.** Seven or more persons of lawful age, inhabitants of this state, may, by written articles of agreement, associate themselves together for the purposes of trade, or for carrying on any lawful mechanical, manufacturing or agricultural business within this state; and when such articles of association shall have been executed, and recorded in the office of the clerk of the city or town in which the business is to be carried on, such persons shall be and become a corporation, and enjoy all the powers and privileges, and be subject to all duties, restrictions and liabilities, set forth in all general laws in relation to similar corporations, except so far as the same may be limited or enlarged by this act. (1870, c. 29, § 1.)

\*§ 156. **Articles of association—filing—place of business of association.** The objects for which such association is established, and the place within which its business is to be carried on, shall be distinctly set forth in its articles of agreement; and it shall not do business in any other place or places than those mentioned in its articles; and the articles of agreement shall be recorded in the office of the clerk of every place in which it proposes to do business. (*Id.* § 2.)

\*§ 157. **Directors and officers.** The business of the association shall be managed and conducted by president, a board of not less than three directors, and a treasurer, who shall be styled a board of managers, and who shall be chosen annually by the stockholders, and shall hold their offices until others are chosen and qualified in their stead; and shall have such other officers as the association shall prescribe by their by-laws; and the mode of appointment and choice of such officers shall also be prescribed by the by-laws. (*Id.* § 3.)

\*§§ 159, 160. See 1883 Supp. 1, p. 46.

\*§ 158. **First meeting of association—by-laws—copies to be filed.** The first meeting of such association hereafter organized shall be called in the manner provided for calling meetings of corporations in the General Statutes. Each association may make its own by-laws, provided they be not repugnant to this act, nor to the laws of the state, and shall file in the clerk's office of the place where they transact their business a copy of all by-laws by them made. (*Id.* § 4.)

\*§ 159. **Capital stock—increase and diminution thereof.** The amount of capital stock of such association shall be fixed and limited in its articles of association, and it may be any sum not exceeding fifty thousand dollars. The association may increase or diminish its amount and its number of shares, at any meeting of the stockholders especially called for that purpose, and, within thirty days after the passing of any vote increasing or diminishing its capital stock, cause such vote to be recorded in the clerk's office of the place where its business is carried on; but no share shall be issued for less than its par value. (*Id.* § 5.)

\*§ 160. **Statements of condition, etc., of association to be filed.** When the association shall have been organized, it shall be the duty of the board of managers to prepare a statement of the condition of the association, containing the amount of the capital stock, the par value of the shares, the number of shares issued, the name and residence of the shareholders, and the number of shares owned by each; and the same shall be filed and recorded in the office of the clerk of such city or town in which the association proposes to do business; and such association shall have an annual settlement in each year, the time of which shall be prescribed by the by-laws of such association. And the board of managers shall prepare a like statement, as herein set forth, of the same facts as they exist on the first day of the month preceding their annual settlement, with a statement of the kind and amount of property of the association on that day, and all debts and liabilities of every kind, and the same shall be filed and recorded in the office of the clerk of each city, town or village in which the association does business. All statements provided for in this section shall

\* An act in relation to the formation of co-operative associations. Approved March 4, 1870. (Laws 1870, c. 29.)

be signed and sworn to by a majority of the board of managers. (1870. c. 29, § 6, as amended 1876, c. 33, § 1.)

\*§ 161. Power to hold property, etc.—limit of interest and voting power of members. Such association may take, hold and convey such real and personal estate as is necessary for the purposes of its organization, and may sue and be sued in its associate name; and no member thereof shall be entitled to hold or claim any interest therein exceeding the sum of one thousand dollars, nor shall any member, upon any subject, be entitled to more than one vote. (*Id.* § 7.)

\*§ 162. Certificates of shares, when and to whom issued. No certificate of shares shall be issued to any person until the full amount thereof shall have been paid in cash; no person shall be allowed to become a shareholder in such association except by the consent of the managers of the same. (*Id.* § 8.)

\*§ 163. Failure to make true returns—liability of managers. If the board of managers shall fail to make the returns provided for in this act, or shall make untrue returns, they shall be jointly and severally liable for all debts existing at the date of such return, or at the time when the same should have been made. (*Id.* § 9.)

\*§ 164. Judgment against association, how enforced. If any person shall recover judgment against any association created under the provisions of this act, and if, after the issue of execution upon such judgment, demand shall be made on the treasurer, or any of the board of managers, for payment of the same, or for property to be exposed to satisfy such execution, and if the same shall not be paid or satisfied, the officer shall make return of such fact upon the execution, or upon any *alias* execution that may issue, so long as any part thereof remains unsatisfied; and if, after thirty days shall have elapsed, the balance of such execution remains unpaid, the creditor may apply to the supreme judicial court, setting forth the facts, and praying for an injunction to restrain such association from alienating or transferring any of its property, and doing any business until such judgment is satisfied, and the said court shall grant such injunction; or the judgment creditor may apply to the district court in the county in which such association has a place of business, setting forth the facts, and, after due notice and hearing thereupon, a warrant shall issue under the law in relation to insolvent corporations; and proceedings shall be had as in other cases of insolvent corporations; and said association may at any time apply for the benefit of the acts in regard to insolvent corporations. (*Id.* § 10.)

\*§ 165. Dividends, how and when made—reserve fund. There shall be such distribution of the profits or earnings of such association, among the workmen, purchasers and stockholders, as shall be described by the by-laws, at such times therein prescribed, and as often, at least, as once in twelve months: *provided*, that no distribution shall be declared and paid until a sum equal at least to ten per cent. of the net profits shall be appropriated for a contingent or sinking-fund, until there shall have accumulated a sum equal to thirty per cent. in excess of such capital stock. (*Id.* § 11.)

### TITLE 3.

#### CORPORATIONS OTHER THAN THOSE FOR PECUNIARY PROFIT.

§ 166. (SEC. 54.) Societies may be incorporated—for what purpose. Any number of persons, not less than three, may associate themselves and become incorporated for the purpose of establishing and conducting colleges, seminaries, lyceums, or any scientific, medical, legal, agricultural, benevolent or missionary society, fire-department association, cemetery association, or any society for the purpose of instruction or mutual improvement in any art or science, or for literary or social culture, as provided herein. (*As amended 1870, c. 28, § 1, and 1872, c. 52, § 1.*)

§ 167. (SEC. 55.) **Articles of incorporation—contents—record.** They shall adopt and sign articles containing—

*First.* The name of the corporation, its general purpose and plan of operation, and its place of location.

*Second.* The terms of admission to membership, and the amount of monthly, quarterly or yearly contributions required of its members.

*Third.* If there is capital stock, the number of shares, and the amount constituting a share.

*Fourth.* The officers of the corporation or society, with time and place of electing or appointing the same, and the number of trustees or directors, if any, who are to conduct the transactions of the society during the first year of its existence.

Said articles shall be recorded in the registry of deeds of the county where the corporation or society is located, and in the office of the secretary of state.

§ 168. (SEC. 56.) **General powers—collection of assessments.** Upon filing said articles the persons named therein and signing the same become a body corporate, with power to sue and be sued by its corporate name, to have a common seal, which may be altered at pleasure, to establish by-laws, and to make all rules and regulations deemed expedient for the management of its affairs, in accordance with law, and not incompatible with an honest purpose; and may, in the corporate name, and for the use and benefit of the corporation, sue and recover judgment, for an amount not to exceed twenty dollars upon any one share in any one year of subscribed stock in said company, after notice of the assessment upon the shares of ten days served upon each stockholder. (*As amended 1876, c. 31, § 1.*)

\*§ 169. **Amendment of articles of incorporation, how made.** The members or shareholders of any body corporate, which has been heretofore, or may be hereafter, incorporated pursuant to the provisions of title three, chapter thirty-four, of the General Statutes of Minnesota, may amend the articles of incorporation of such body corporate, by adopting, by a majority vote in number and amount of shareholders and shares, or, in case there is no capital stock, by a majority vote of the members thereof, articles specifying such amendment: *provided*, however, that such amendments would have been lawful had they been adopted as part of such original articles. (*Sp. Laws 1876, p. 318, § 1.*)

\*§ 170. **Same—certificate to be made, filed, published and recorded.** Any body corporate amending its original articles of association, as provided in section one of this act, shall cause to be prepared a certificate, stating the time when, and the respect in which, such articles were amended; which certificate shall be subscribed and sworn to by the president, or other chief executive officer, and also by the secretary of such body corporate, and filed, published and recorded in the same manner as said original articles were required by law to be filed and recorded; and thereupon such amendments shall be and become a part of the articles of such body corporate, with the same force and effect as if such amendments had been adopted as part of such original articles. (*Id.* § 2.)

\*§ 171. **Certain corporations authorized to amend articles.** The shareholders, stockholders or persons concerned in any body politic which has been incorporated pursuant to the provisions of an act of the legislative assembly of the territory of Minnesota, entitled an act for the incorporation of colleges, seminaries, churches, lyceums, libraries, and other societies for benevolent, charitable, scientific and missionary purposes, passed March fifth, eighteen hundred and fifty-three, and the act amendatory thereof, may amend the articles of such body corporate in any respect which might have been lawfully made a part of such original articles, by adopting articles specifying such amendment. (*1874, c. 61, § 1.*)

\*§ 172. **Same—amendments, how made.** The said amended articles shall be subscribed



and sworn to by the persons or officers, and shall be filed and recorded in the places and manner, prescribed in said act for the subscription, verification and filing and recording of the original articles, and thereupon shall be and become a part of the articles of such body corporate, with the same force and effect as if it had been adopted as a part of the original articles. (*Id.* § 2.)

§ 173. (SEC. 57.) **Dividends, etc., forbidden before dissolution.** No dividend or distribution of property among the members or stockholders is lawful until the dissolution of the corporation.

§ 174. (SEC. 58.) **Power to hold and dispose of property.** Any corporation formed under the provisions of this title, in addition to the other powers granted by law, is authorized to acquire by purchase, gift, grant or devise, and to hold, use and convey, any real estate [or] personal property whatever, and may lease or mortgage the same, or use the same in any other manner considered by such corporation most conducive to the interests and prosperity of such corporation, to the same extent as natural persons: *provided*, that such corporation shall not have power to divert any gift, grant or bequest from the specific purpose designated by the donor, without the consent of such donor. (*As amended 1869, c. 76, § 2.*)

§ 175. (SEC. 59.) **Powers of trustees of colleges and seminaries.** The trustees of any college or seminary incorporated under the provisions of this title, besides the general powers and privileges aforesaid, have power:

*First.* To appoint and fix the salaries of a president, professors, tutors, and such other officers and agents as they may deem necessary, and to remove them at pleasure.

*Second.* To direct and prescribe the course of study and discipline to be observed in the institution, and to grant such literary honors and degrees as are usually granted by any such institution in the United States, and, in testimony thereof, to give suitable diplomas, under their seal and the signatures of such officers of the institution as they may deem expedient: *provided*, that the course of study to be pursued in such institution is in all respects as thorough and comprehensive as is usually pursued in similar institutions in the United States.

*Third.* To make all ordinances and by-laws necessary and proper to carry into effect the foregoing powers.

§ 176. (SEC. 60.) **Such trustees may require bonds from officers.** Such trustees may require the treasurer and all other officers and agents, before entering upon the duties of their respective offices, to give bonds in such sums and with such sureties as they deem proper and sufficient.

§ 177. (SEC. 61.) **Such trustees shall make annual report.** Such trustees are required, on or before the first day of January, annually, to report to the superintendent of public instruction a statement of the name of each trustee, officer, treasurer and student of such institution, with a statement of its property, the amount of stock subscribed, donated and bequeathed, and the amount actually paid in, and such other information as will tend to exhibit its condition and operations.

§ 178. (SEC. 62.) **Legal process, how served on corporation.** Service of any legal process on such corporation may be made on any one of the trustees thereof, if such trustee is in the county in which the institution is located; but if not, then by leaving a copy of such process with any officer in the employ thereof, at its principal place of business.

§ 179. (SEC. 63.) **Colleges, &c., subject to visitation.** Any college or institution incorporated under the provisions of this title is always subject to the visitation and examination of the superintendent of public instruction.

§ 180. (SEC. 64.) **Existing institutions may organize under this title.** Any institution of learning now in existence in this state, whether incorporated or not, may enjoy all the benefits of this title, by complying with the provisions thereof;

and may, by a vote of the majority of such corporation, company or association, to be taken according to the act of incorporation, by-laws, or other legal regulations thereof, determine to avail itself of the provisions of this title, and to take and assume corporate name and powers thereunder; and may, by like vote, transfer to such corporation, when formed, all its property, real, personal, and mixed; and thereupon said corporation to which such property is so transferred, shall take the same in the [same] manner, to the same extent, and with the like effect, as the same was previously owned and held by the corporation, company or association so transferring the same, and may, in its corporate name, sue for and collect all debts, dues, demands, subscriptions, devises and bequests thereof. The said corporation so taking such property shall take the same subject to all the liens, trusts and limitations, both legal and equitable, to which the same was subject before such transfer; and shall also be liable for all the debts and obligations of such previous corporation, company or association, and shall pay the same to the full extent of the value of such property at the time of so taking the same.

§ 181. (SEC. 65.) **Orphan asylums, powers and duties.** That any orphan asylum, incorporated under the laws of this state, may take and have the charge, custody and control of any destitute children in the state, under the age of twenty-one years, whose parents are dead or under legal incapacity, or have abandoned or neglected to provide for such children, with the consent of the county commissioners or any two of the county commissioners of the county where such children at the time reside or are found, subject, however to the duty on the part of such orphan asylum aforesaid properly to care and provide for such children while they exercise such charge, custody and control over them.

§ 182. (SEC. 66.) **May take charge of destitute children.** That any orphan asylum aforesaid may also assume and have the charge, custody and control of any destitute children within the state under the age aforesaid, whose parents are from any cause incapacitated or unable to provide and care properly for such children, with the consent of the parents, or either of the parents, subject to the duty specified in the foregoing section.

§ 183. (SEC. 67.) **Shall possess same powers as parents and guardians.** That any orphan asylum aforesaid shall possess the same authority and powers over the children in their charge and custody as parents and guardians possess over children subject to them, and may in their discretion bind out any such child to some suitable employment, until such child, if a male, shall attain the age of twenty-one years, and if a female, the age of eighteen years, or for a shorter period. But proper provisions shall in every case be made and inserted in the indentures by which the child shall be bound to service, for securing an education proper and fitting for the condition and circumstances in life of such child: *provided*, that nothing herein contained shall prevent the proper judicial tribunal from awarding the custody of any orphan child to any person, in its discretion.

#### AGRICULTURAL SOCIETIES.\*

\*§ 184. **Formation of such societies.** That any number of citizens of any county, or two or more counties jointly, who shall associate themselves together and comply with the provisions of this act, shall be a body politic and corporate, and shall be known as the agricultural society of such county or counties: *provided*, that only one society shall be organized under this act in any county. (1867, c. 21, §1.)

\*§ 185. **Powers of societies.** Such agricultural societies shall possess the following powers, to wit:

*First.*—To have perpetual succession.

*Second.*—To sue and be sued by their corporate name.

\*An act to provide for the organization of agricultural societies. Approved March 9, 1867. (Laws 1867, c. 21.)

*Third.*—To adopt corporate seals, which they may alter at pleasure.

*Fourth.*—To adopt such constitutions and by-laws, and to alter and amend the same from time to time, and to make such rules and regulations as they may deem proper or necessary for the good order and general management of such societies.

*Fifth.*—To purchase and hold any real or personal estate which shall be deemed necessary to promote the objects of such societies; and to sell and convey all such real estate, said conveyance being executed by the president and secretary of such society.

*Sixth.*—The officers of such societies, and also of the state agricultural society, shall have full jurisdiction and control of the grounds upon which the society may hold its fairs, and of the streets and grounds adjacent thereto, during such fair, so far as may be necessary to preserve and keep good order. And any person who shall wilfully violate the rules or regulations of such societies, during the days of the fair, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than five nor more than twenty-five dollars. Such offender may be tried before any justice of the peace. (1867, c. 21, § 2.)

\*§ 186. **Constitution and by-laws to be filed—annual reports.** Each agricultural society shall, upon its organization, file a copy of its constitution and by-laws in the office of the register of deeds in and for the county in which such society shall be located; and the secretary of such county agricultural society shall, at or before the annual meeting of such society, make an annual report of their proceedings during the year. The report shall contain a statement of the transactions of the society at its fair, showing the number of entries, the amount of money received, and from what source, together with the amount paid out for premiums and for other purposes; also a full statement of the entire receipts and disbursements of the society for the year. (*Id.* § 3.)

\*§ 187. **Annual meetings.** Each agricultural society shall hold, at such place as the society may determine, an annual meeting for the election of officers, and for the transaction of other necessary business. (*Id.* § 4.)

\*§ 188. **Delegates to state society.** The agricultural society of any county or counties may elect two delegates, who, together with the president of said society acting as delegate *ex officio*, shall represent said county or counties in the state agricultural society. (*Id.* § 5.)

\*§ 189. **Place of meeting of state society, etc.** The said delegates shall meet together at the city of St. Paul, or at any other place in the state that may be determined on by a majority of the delegates at any annual meeting of said society, on the first Wednesday in February in each year, and, at the first meeting after the passage of this act, shall file articles of their incorporation and constitution in the office of the secretary of state. (*Id.* § 6.)

\*§ 190. **Act extended to existing societies.** Agricultural societies which may be already organized in any county or counties of this state may have all the powers and privileges of societies organized under this act, by complying with the provisions of section three of this act. (*Id.* § 7.)

\*§ 191. **Standing appropriation, how not to be expended.** There is hereby annually appropriated out of any money in the state treasury belonging to the general revenue fund, not otherwise appropriated, until the legislature by law shall otherwise direct, to agricultural societies in the state of Minnesota, the sum of three thousand dollars, as follows, to wit:

The sum of one thousand dollars to the state agricultural society, and the further sum of two thousand dollars, to be divided equally among such county agricultural societies as shall comply with the requirements hereinafter mentioned, to be expended by said societies in such manner as they may deem best calculated to promote and improve the condition of agriculture, horticulture, and the mechanical, manufacturing and household arts and interests in this

state, either for the payment of premiums at the annual exhibitions of such societies, or in the purchase and distribution of choice seeds, cuttings, plants or tubers, which, having been tested, are found adapted to the soil and climate of this state, or in the prosecution of scientific investigation and experiments, and in collection and diffusion of information tending to develop the natural and agricultural resources of Minnesota: *provided*, that no part of the sums of money hereby appropriated shall be applied, either directly or indirectly, to the payment of any salaries or fees of any of the officers of said societies, or as premiums for horse-racing. (1868, c. 19, § 1.)

\*§ 192. **Appropriation, how to be drawn.** The sums of money hereby appropriated shall be paid to the treasurer of said societies in the month of August in each year, upon the order of the president and secretary upon the state auditor, who shall draw his warrant upon the treasury of the state for the same. (*Id.* § 3.)

\*§ 193. **Same—certificate required.** The treasurer of any county agricultural society, on making application to the state auditor for any moneys appropriated under this act, shall have, upon his order for the same, the certificate of the register of deeds of the county wherein such society is located, to the effect that said society has performed the requirements of section three, chapter twenty-one, general laws of Minnesota for one thousand eight hundred and sixty-seven, of an act entitled an act to provide for the organization of agricultural societies: *provided*, etc., as amended 1869, c. 43, § 1. (*Id.* § 4.)

\*§ 194. **Same—application, when to be filed.** County agricultural societies desiring to receive from the state treasury any moneys appropriated under this act, shall file their application for the same with the state auditor, on or before the first day of August in each year, in order to furnish the said state auditor with the proper data from which to make the proper division of the sum heretofore mentioned as appropriated to county agricultural societies. (*Id.* § 5.)

\*§ 195. **State society to account for appropriation—penalty.** It shall be the duty of the executive committee of the Minnesota state agricultural society, as also of each county agricultural society, to keep a correct account of the manner of expenditure of the sums of money received from the state, (in pursuance of an act approved February twenty-seventh, one thousand eight hundred and sixty-eight, being an act to appropriate money to agricultural societies,) and transmit a certified copy of said account, signed by the president and secretary of said society, to the governor of this state, on or before the first day of January in each year, to be laid by him before the legislature: *provided*, that a failure to make the required report of the disbursements of the fund received, for one year, shall make a forfeiture of the share of the fund which the defaulting society would otherwise have been entitled to for the year succeeding. (1871, c. 29, § 1.)

\*§ 196. **Duty of secretary of state society.** It shall be the duty of the secretary of the Minnesota state agricultural society, on or before the first day of November in each year, to transmit to the secretary of each county agricultural society appropriate blanks for making the returns required by section one of this act, a statement written or printed on the same, certifying the time when returns shall be made, what said returns must contain, and the penalty if returns are not made according to law. (*Id.* § 2.)

#### CHAMBERS OF COMMERCE AND BOARDS OF TRADE.\*

\*§ 197. **Formation of such corporations—for what purposes.** That any number of persons, not less than three, in any city or town in this state having a population of three thousand souls or upwards, may associate themselves and become incorporated as a chamber of commerce, or board of trade, for the purpose of advancing the commercial, mercantile and manufacturing interests of such city or town; for inculcating just and equitable principles of trade; for estab-

\* An act to authorize the organization of persons as a chamber of commerce or board of trade, and to incorporate such organization. Approved March 6, 1868. (Laws 1868, c. 20.)

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AMENDMENT OF 1869, c. 43, § 1.

\* § 193. Provided further, that said order shall be accompanied by a certificate from the Secretary of the Minnesota State Agricultural Society, to the effect that such county society has, prior to the tenth day of July, preceding such appropriation, made a report to the said Secretary of the State Agricultural Society of their transactions of the year previous.

lishing and maintaining uniformity in the commercial usages of such city or town; for acquiring, possessing and disseminating useful business information; and for adjusting the controversies and misunderstandings which may arise between individuals engaged in trade; and for promoting the general prosperity of such city or town. (1868, c. 20, § 1.)

\*§ 198. **Powers of corporation.** All persons so associating shall proceed in accordance with the provisions of title one hundred and eleven of chapter thirty-four of the general statutes, so far as the same are or may be applicable, and every such corporation shall be endowed with the following in addition to its ordinary powers, viz :

*First. Committees of arbitration and appeals.* Said corporation may constitute and appoint committees of reference and arbitrations, and committees of appeals, who shall be governed by such rules and regulations as may be prescribed in the rules, regulations or by-laws for the settlement of such matters of difference as may be voluntarily submitted for arbitration by members of the association, or by other persons not members thereof; the acting chairman of either of said committees, when sitting as arbitrators, may administer oaths to the parties and witnesses, and issue subpoenas and attachments, compelling the attendance of witnesses, the same as justices of the peace, and in like manner directed to any constable to execute.

*Second. Judgment on award—execution.* When any submission shall have been made in writing, and a final award shall have been rendered, and no appeal taken within the time fixed by the rules or by-laws, then, on filing such award and submission with the clerk of the circuit court, an execution may issue upon such award as if it were a judgment rendered in the circuit court, and such award shall thenceforth have the force and effect of such a judgment, and shall be entered upon the judgment docket of said court.

*Third. Appointment and powers of examiners and inspectors, etc.* Said corporation shall have power to appoint one or more persons, as they may see fit, to examine measures, weigh, gauge or inspect flour, grain, provisions, liquor, lumber, or any other article of produce or traffic commonly dealt in by the members of said corporation, and the certificate of such person or inspector as to the quality or quantity of any such article, or their brand or mark upon it, or upon any package containing such article, shall be evidence, between buyer and seller, of the quantity, grade or quality of the same, and shall be binding upon the members of said corporation, or others interested, and requiring or assenting to the employment of such weights, measures, gauges or inspectors; nothing herein contained, however, shall compel the employment by any one of any such appointee.

*Fourth. Fines may be imposed and collected.* Said corporation may inflict fines upon any of its members, and collect the same, for breach of its rules, regulations or by-laws, but no fine shall exceed five dollars; said fines may be collected by action of debt, before a justice of the peace, in the name of the corporation. (*Id.* § 2.)

\*§ 199. **Act extended to existing corporations.** Any corporation of the class specified in section one of this title, heretofore organized or attempted to be organized under former general laws, may conform their articles with the provisions of this act, and re-file the same with the secretary of state as herein provided, and thereafter, without any other act or ceremony, shall become entitled to all rights, benefits and privileges conferred herein. (*Id.* § 3.)

#### INDEPENDENT ORDER OF ODD FELLOWS.\*

\*§ 200. **Incorporation of subordinate lodges.** That any subordinate lodge or encampment of the Independent Order of Odd Fellows, instituted under the authority of the grand lodge or grand encampment of said order in this state, or of the

\*An act to provide for the incorporation of subordinate lodges and encampments of the Independent Order of Odd Fellows. Approved February 13, 1874. (Laws 1874, c. 62.)

grand lodge of said order of the United States, may become incorporated in the manner provided herein. (*1874, c. 62, § 1*)

\*§ 201. **Certificate of incorporation, what to contain—recording.** Such subordinate lodge or encampment shall cause to be prepared a certificate, which shall contain:

*First.*—The charter, name and number of such lodge or encampment.

*Second.*—The time when and the authority by which such lodge or encampment was instituted.

*Third.*—The names of the charter members of such lodge or encampment.

*Fourth.*—The location of such lodge or encampment.

*Fifth.*—The names, if a lodge, of its noble grand, vice-grand and secretary, and if an encampment, of its chief patriarch, high priest and scribe for the then current term of such lodge or encampment. Such certificate shall be under the seal of such lodge or encampment, and signed by the noble grand, vice-grand and secretary of such lodge, or the chief patriarch, high priest and scribe of such encampment, and shall be recorded in the office of the register of deeds of the county where such lodge or encampment is located. (*Id. § 2.*)

\*§ 202. **Powers of corporation.** Upon filing such certificate in the office of such register, such lodge or encampment shall become a body corporate, under its charter name and number, and shall have power to sue and be sued, by its corporate name, and in such name to acquire or receive, by purchase, gift, grant, devise or bequest, any property, real, personal or mixed, and the same to hold, sell, transfer, mortgage, convey, loan, let, or otherwise use in accordance with the laws and usages of said order; but said corporation has no power to divert any gift, grant or bequest from the specific purpose designated by the donor. (*Id. § 3.*)

\*§ 203. **Corporate seal.** The seal of such lodge or encampment shall be its corporate seal. (*Id. § 4.*)

\*§ 204. **Disposition of property upon surrender of charter.** Whenever the charter of any such subordinate lodge or encampment shall be surrendered to or taken away by said grand lodge or grand encampment of this state, or whenever, by the laws and usages of said order, such subordinate lodge or encampment shall become defunct, the corporate powers of such lodge or encampment shall cease and determine, except that such corporation, as such, shall have power to sell, convey and dispose of its property, and collect debts due it; and all such property and debts shall be delivered up to the grand lodge or grand encampment of this state, in accordance with the laws of said order. (*Id. § 5.*)

#### ANCIENT ORDER OF UNITED WORKMEN.\*

\*§ 205. **Incorporation of Subordinate lodges.** That any subordinate lodge of the Ancient Order of United Workmen instituted under the authority of the grand lodge of said order in this state, or of the supreme lodge of the United States, or any grand lodge in this state, instituted under the authority of the supreme lodge of the United States of said order, may become incorporated in the manner provided herein. (*Sp. Laws 1877, c. 5, § 1.*)

\*§ 206. **Certificate of incorporation, what to contain—recording.** Such subordinate lodge, or such grand lodge, shall cause to be prepared a certificate, which shall contain:

*First.*—The charter name and number of such lodge.

*Second.*—The time when and authority by which such lodge was instituted.

*Third.*—The names of the charter members of such lodge.

*Fourth.*—The location of such lodge.

*Fifth.*—The names of the elective officers of such lodge who hold said offices at the time of incorporation. Such certificate shall be under the seal of such lodge, and shall be signed by the said elective officers, and shall

\*An act to provide for the incorporation of subordinate lodges and grand lodges of the Ancient Order of United Workmen. Approved February 20, 1877. (*Sp. Laws 1877, c. 5.*)

be recorded in the office of the register of deeds of the county where such lodge is located and meeting at the time of such incorporation. (*Sp. Laws 1877, c. 5, § 2.*)

\*§ 207. **Powers of corporation.** Upon filing such certificate in the office of such register of deeds, such lodge shall become a body corporate, under its charter name and number, and shall have power to sue and be sued by its corporate name, and in such name to acquire or receive by purchase, gift, grant or bequest, any property, real, personal or mixed, and the same to hold, transfer, sell, mortgage, convey, loan, let, or otherwise use in accordance with the laws and usages of said order. (*Id. § 3.*)

\*§ 208. **Corporate seal.** The seal of said lodge shall be its corporate seal. (*Id. § 4.*)

#### TITLE 4.

##### RELIGIOUS CORPORATIONS.

§ 209. (SEC. 68.) **Religious corporations, how organized.** It shall be lawful for all persons of full age, belonging to any church, congregation or religious society not already incorporated, to assemble at the church or meeting-house, or other place where they stately attend for divine worship, and, by a plurality vote, elect any number of discreet persons of their church, congregation or society, not less than three nor more than nine in number, as trustees to take charge of the estate and property belonging thereto, and transact all affairs relative to the temporalities thereof.

§ 210. (SEC. 69.) **President to be chosen—who may vote.** Such church, congregation or religious society may choose a president of the said corporation, and of their meetings, by a vote as aforesaid; and at the election provided for in this chapter, every person of full age who has stately worshipped with such church, congregation or society, and has been formerly considered as belonging thereto, is entitled to a vote.

§ 211. (SEC. 70.) **Notice of election, how given.** The minister of such congregation or society, and, in case of his death or absence, one of the elders or deacons, church-wardens or vestrymen thereof, and, for want of such officers, any other person being a member or stated hearer in such church, congregation or society, shall publicly notify the congregation of the time when and the place where the said election shall be held, at least fifteen days before the day of election; and such notification shall be given for two successive sabbaths, on which such church, congregation or society stately meet for public worship, preceding the election.

§ 212. (SEC. 71.) **Election—how conducted—certificate.** Any two of the elders, deacons, church-wardens, or vestrymen of such church, congregation or society, or if such officers are not present, then any two voters present, to be nominated by a majority of the voters, shall preside at such election, receive the votes, and determine the qualification of voters; and they shall, immediately after the election, certify, under their hands and seals, the names of the persons elected to serve as trustees; in which certificate the name by which the said trustees and their successors in office shall forever thereafter be called and known, shall be particularly mentioned and specified.

§ 213. (SEC. 72.) **Certificate to be acknowledged and recorded.** Such certificate shall be acknowledged by the persons making the same, or proved by a subscribing witness thereto, before some officer authorized to take the acknowledgment of deeds, and recorded, together with the certificate of such acknowledgment or proof, by the register of deeds of the county within which the church or place of worship of such congregation is situated, in a book provided by him for that purpose, who shall be entitled to receive seventy-five cents for such record; and thereafter such trustees and their successors shall be a body corporate, by the name expressed in such certificate.



§ 214. (SEC. 73.) **Trustees to hold temporalities—common seal.** Such trustees may have a common seal, and alter the same at pleasure; they may take into their possession and custody all the temporalities of such church, congregation or society, whether the same consists of real or personal estate, and have been given, granted or devised directly or indirectly to such church, congregation or society, or to any other person for their use.

§ 215. (SEC. 74.) **General powers of trustees.** Such trustees may also, in their corporate name, sue and be sued in all courts and places; and they may recover and hold all the debts, demands, rights and privileges, all churches, buildings, burial-places, and all the estate and appurtenances belonging to such church, congregation or society, in whatsoever manner the same may have been acquired, or in whose hands soever the same may be held, as fully and amply as if the right and title thereto had been originally vested in the said trustees; and they may hold other real or personal estate, and demise, lease and improve the same; but the whole of such estate, real and personal, shall not exceed the yearly income of three thousand dollars.

§ 216. (SEC. 75.) **Trustees may erect and repair churches, etc.** The said trustees have authority to repair and alter their churches and meeting-houses, and, under the direction of the society or congregation, erect churches and meeting-houses, and dwelling-houses for their ministers, and other buildings for the use of their church, congregation or society.

§ 217. (SEC. 76.) **May make by-laws, rent pews, etc.** They have authority to make rules and orders for managing the temporal affairs of such church, congregation or society, and to dispose of all moneys belonging thereto; and to order and regulate the renting of pews or slips in their churches and meeting-houses, and the requisites for the breaking of the ground in the cemetery or church-yard, and in the said churches or meeting-houses, for burying the dead.

§ 218. (SEC. 77.) **May appoint clerk and treasurer—duties of clerk.** They may appoint a clerk and treasurer of their board, and a collector to collect and receive their rents and revenues, and may regulate the fees to be allowed to such clerk, treasurer and collector, and may remove them and appoint others in their stead at pleasure; and such clerk shall enter all rules and orders made by such trustees, and payments ordered by them, in a book to be procured by them for that purpose.

§ 219. (SEC. 78.) **Meetings of trustees—power of majority.** Any two of the trustees may at any time call a meeting of the trustees, and a majority of them, being lawfully convened, shall be competent to do and perform all matters and things which such trustees are authorized to do and perform.

§ 220. (SEC. 79.) **Term of office of trustees.**—The said trustees shall hold their offices for three years, and immediately after their first election as hereinbefore provided, the said trustees shall be divided by lot into three classes, numbered one, two and three; and the seats of the first class shall be vacated at the end of the first year, of the second class at the end of the second year, and of the third class at the end of the third year; and, as near as may be, one-third part of the whole number of trustees may be annually chosen.

§ 221. (SEC. 80.) **Expiration of term of office of trustees—notice of election.** The clerk of said trustees, at least one month before the expiration of the office of any of the said trustees, shall notify the same in writing to the minister, or in case of his death or absence, to the elders or church-wardens, and if there are no elders or church-wardens, then to the deacons or vestrymen of any such church, congregation or society, specifying in such notice the names of the trustees whose office will expire; and the minister or other officers receiving such notice shall, in the manner aforesaid, notify the members of such church, congregation or society, of such vacancies, and appoint the time and place for the election to supply the same.

§ 222. (SEC. 81.) **Election of trustees—when to be held.** Such election shall be held at least six days before vacancies happen as aforesaid, and all such subsequent

elections shall be held and conducted in the same manner as hereinbefore provided for the first election; and in case any vacancy happens by the death of a trustee, his refusal to act, or removal from the society before his term of office expires, or otherwise, notice thereof shall be given as aforesaid, and an election shall be held, and another trustee chosen in his stead for the remainder of such term.

§ 223. (SEC. 82.) **Qualifications of voters.** No person belonging to any such church, congregation or society, incorporated under the provisions of this chapter, is entitled to vote at any election after the first, until he has been an attendant on public worship in such church, congregation or society, at least six months before such election, and contributed to the support of such church, congregation or society, according to the usages and customs thereof.

§ 224. (SEC. 83.) **Clerk to keep register of stated hearers.** The clerk of the trustees shall keep a register of the names of all such persons as desire to become stated hearers in the said church, congregation or society, and shall therein note the time when such request was made; and the said clerk shall attend all subsequent elections, in order to test the qualifications of such voters in case they shall be questioned.

§ 225. (SEC. 84.) **Salary of minister.** Nothing in this chapter contained shall be construed to give to such trustees the power to fix or ascertain the salary or compensation to be paid to any minister; but the same shall be ascertained and fixed by a majority of such society, entitled to vote at the election of trustees.

§ 226. (SEC. 85.) **Sale, etc., of real estate of corporation—definition of "society."** It shall be lawful for any religious corporation, organized under the provisions of this title, by and through their trustees, to sell and convey, encumber, or otherwise dispose of any real estate belonging to such corporation: *provided*, however, that no such conveyance or encumbrance shall be made by the trustees except when first authorized to make the same by a resolution of such society, passed at a meeting thereof called for that purpose, notice of the time, place and object of which shall be given for at least four successive sabbaths on which such society statedly meet for public worship immediately preceding the time specified for such meeting; and proof of the facts of such notice, meetings, and resolutions may be made by the affidavits of one of such trustees, or by any of the members of such society cognizant of the facts. Such affidavits may be recorded at length in the office of the register of deeds of the county where the premises are situated, and the same and the records thereof aforesaid, or certified copies of such records, shall be presumptive evidence of the facts therein contained: *and provided further*, that by the word "society," as used in this section, shall be understood the religious body, constituted in accordance with its own principles of ecclesiastical polity, which forms the basis of the corporation designated in this title the church, society or congregation, and as contradistinguished from such corporation: and no person shall vote at any meeting called as aforesaid to authorize the said trustees to sell and convey, encumber, or otherwise dispose of any real estate belonging to such corporation, who is not a member of such religious body. (*As amended 1867, c. 17, § 1, and 1872, c. 54, § 1.*)

§ 227. (SEC. 86.) **Existing societies confirmed—reorganization of dissolved societies.** Every church, congregation or religious society heretofore incorporated in pursuance of law, and not since dissolved, is hereby established and confirmed; and in case of the dissolution of any such corporation, or of any corporation hereafter to be formed in pursuance of the provisions of this title, for any cause whatever, the same may be incorporated under the provisions of this title at any time within six years after such dissolution; and thereupon all the estate, real and personal, formerly belonging to the same, and not lawfully disposed of, shall vest in such corporation as if there had been no such dissolution.

§ 228. (Sec. 87.) **Descent of lands held by trustees.** All lands, tenements and hereditaments, lawfully conveyed by devise, grant, purchase or otherwise, to any persons as trustees, in trust for the use of any religious society organized, or which may hereafter be organized within this state, either for a meeting-house, burying-ground, or for the residence of a preacher, shall descend with the improvements in perpetual succession to, and shall be held by, such trustees in trust for such society.

§ 229. (Sec. 88.) **Certificate of the election or appointment of trustees.** Whenever, by the constitution, rules or usages of any particular church or religious denomination, trustees are required to be appointed, elected, or chosen in any way, by any minister, presiding elder, officer or officers, or by any conference, assemblage, body, or meeting of any kind, and trustees are so appointed, elected or chosen, such minister, presiding elder, officer or officers, or the presiding officer and secretary of such conference, assemblage, body or meeting so appointing, electing or choosing trustees, shall make and give to such trustees a certificate, under the hand and seal of the person or persons making the same, specifying the names of the trustees, the time when, and the person or body by which they were appointed, elected or chosen, and the corporate name assumed by such trustees, which certificate shall be acknowledged, proved and recorded as hereinbefore directed; whereupon such trustees and their successors, appointed or chosen in the same manner, shall be a body corporate, by the name expressed in such certificate, with all the rights, powers and privileges of other religious corporations constituted according to the provisions of this chapter. And in every case where trustees have been heretofore elected, appointed, or chosen in any way, by a conference or assembly of any kind, of any church or religious society, in accordance with the constitution, rules or usages of such church or religious society, and a certificate of such election, appointment or choice has been made by the presiding officer or secretary of such conference or assembly, specifying the corporate name by which such trustees should be known, and acknowledged, proved and recorded as provided in this chapter, with the intent to constitute such trustees a body corporate, such trustees shall be deemed, in all legal proceedings, to have become a religious corporation, within the provisions of this chapter, from the time of recording such certificate; and all their acts thereafter, as a body corporate, are and shall be considered valid and effectual as the acts of a religious corporation framed under the provisions of this chapter; and all conveyances to such trustees, as a body corporate, are confirmed and shall be considered valid to the same extent as conveyances to any religious corporation under the provisions of this said chapter. (*As amended 1877, c. 21, § 1.*)

§ 230. (Sec. 89.) **Certificate when minister, elders and deacons are trustees.** Whenever, by the constitution, rules and usages of any particular church or religious denomination, the minister or ministers, elders and deacons, or other officers elected by any church or congregation, according to such constitution, rules or usages, are thereby constituted the trustees of such church or congregation, such minister or ministers, elders and deacons, or other officers, may assemble together and execute, under their hands and seals, a certificate, stating therein the name by which they and their successors in office shall forever thereafter be called and known, which certificate shall be acknowledged or proved, and recorded as hereinbefore directed; whereupon such persons and their successors in office shall be a body corporate, by the name expressed in such certificate, with all the rights, powers and privileges of other religious corporations constituted according to the provisions of this title.

§ 231. (Sec. 90.) **Another mode of forming religious corporations.** The members of any church or religious society, not less than three, who, by its discipline or otherwise, does not desire to organize and become incorporated under the foregoing

provisions of this chapter, may organize and become a body corporat , capable of suing and being sued, holding, purchasing and receiving title by devise, gift, grant, or other conveyance of and to any property, real or personal, with power to mortgage, sell or convey the same, or any part or portion thereof, by adopting and signing articles containing

*First.*—The name of the corporation, its general purpose and plan of operation, and its place of location.

*Second.*—The terms of admission and qualification of membership, and the selection of officers and the filling of vacancies, and the manner in which the same is to be governed and managed. Such articles shall be recorded in the office of the register of deeds for the county in which the corporation is located, and in the office of the secretary of state; and thereupon such corporation will have all the powers hereinbefore specified, and may adopt and establish by-laws, and make all rules and regulations deemed necessary and expedient for the management of its affairs, in accordance with law. (*As amended 1876, c. 34, § 1, and 1877, c. 81, § 6, and 1878, c. 15, § 1.*)

§ 232. (SEC. 91.) **Incorporation of existing churches, etc.—vesting of property, etc.** Whenever any church or religious society now organized, or which may hereafter be organized, as a church or congregation, but not incorporated in pursuance of law, shall comply with the provisions of this title, and thereby become a body corporate, all the estate, real and personal, which has been lawfully conveyed to the said church or religious society, or to the trustees or vestry thereof in trust for the use of such church or society, whether by devise, gift, grant, purchase, or otherwise, and not lawfully disposed of, shall thereupon vest in said corporation as fully and amply as if the said church had been legally incorporated from the date of its religious organization: *provided*, that the name or title publicly assumed or borne by such church or society from the date of its organization as such, and none other, shall be the title by which it shall forever be known in law and as a body politic and corporate.

\*§ 233. **Incorporation of parishes of Episcopal Church.** Any parish of the Protestant Episcopal Church in this state that now is or hereafter may be organized under and in conformity with the constitution and canons of the diocese of Minnesota, or that hereafter may be organized under and in conformity with the constitution and canons of any diocese that may hereafter be created out of any part of the present diocese of Minnesota, may be incorporated in the manner provided herein. (*1877, c. 81, § 1.*)

\*§ 234. **Certificate of incorporation.** Said parish shall cause to be prepared a certificate which shall contain:

*First.*—The name and location of the parish.

*Second.*—The name of the rector, (if any,) and of the church-wardens, and the names and number of vestrymen, which shall not be less than three nor more than eight.

*Third.*—The date of the organization of said parish.

*Fourth.*—Said certificate shall be signed and duly acknowledged by said rector, (if any,) and by a majority of said wardens and vestrymen. (*Id.* § 2.)

\*§ 235. **Filing of certificate—powers of corporation.** Upon filing for record such certificate, so signed and acknowledged, in the office of the register of deeds in and for the county in which such parish is located, such parish shall be and become a body corporate by the name so assumed, shall have power to sue and be sued by its corporate name; to adopt a seal and the same to change at pleasure; by and through its said officers, to do and transact all the business of said parish, including the calling of a rector and determining his salary; and in such corporate name to acquire or receive, by purchase, gift, grant, devise or bequest, any property, real, personal or mixed, and the same to hold, sell, transfer, mortgage, convey, loan, let, or otherwise use for the use or bene-

fit of said parish: *provided*, however, that such use shall not contravene the laws and usages of the Protestant Episcopal Church in the state of Minnesota: *and provided*, that said corporation shall have no power to divert any gift, grant or bequest from the specific purpose in writing designated by the donor or devisor: *and provided further*, the said officers of said corporation shall have no power to sell or convey or mortgage the church or church site of said parish, without authority so to do first given them in parish meeting called for that purpose, nor in contravention of the canons of the diocese, or of the canons of the general convention of the Protestant Episcopal Church of the United States. (1877, c. 81, § 3.)

\*§ 236. **Annual meetings—election of vestry.** The annual meeting of said corporation shall be holden at the parish church, if any, and if not, at their usual place of worship, on Easter Monday of each year, at which time church-wardens and vestrymen shall be elected, in the manner, and by electors having the qualifications, which are or may be prescribed by the canons of the Protestant Episcopal Church of said diocese, and who shall hold their respective offices until the next succeeding Easter Monday, and until their successors are elected. (*Id.* § 4.)

\*§ 237. **President of vestry—meetings.** The rector of said parish shall, *ex officio*, be a member, and, when present, the presiding officer of the vestry, and entitled to a vote in all the meetings thereof. Such meetings may be called by the rector at his discretion, or by either of the wardens at the request of a majority of the vestrymen, three days' notice in writing having been given to each member of the vestry. (*Id.* § 5.)

\*§ 238. **Parishes heretofore incorporated.** Section four of this act shall be applicable to, and hereafter, in the particulars enumerated in that section, shall govern, all parishes in the Protestant Episcopal Church heretofore incorporated under the laws of this state. (*Id.* § 7.)

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## TITLE 5.

### CEMETERY ASSOCIATIONS AND PRIVATE CEMETERIES.

§ 239. (SEC. 92.) **Formation of cemetery associations.** Any number of persons residing in any county in this state, not less than seven, who desire to form an association for the purpose of procuring and holding lands to be used exclusively for a cemetery or place for the burial of the dead, may meet at such time and place as they or a majority of them agree upon, and appoint a chairman and secretary by the vote of a majority of the persons present at the meeting; and may proceed to form an association, by agreeing on a corporate name by which the association shall be known, and by determining upon the number of trustees to manage the affairs of the association, which number shall not be less than three, or more than nine; and thereupon they may proceed to elect by ballot the number of trustees so determined upon.

§ 240. (SEC. 93.) **Trustees to be divided into three classes, etc.** The chairman and secretary of such meeting shall, immediately after such election, divide the trustees by lot into three classes; those in the first class to hold their office one year; those in the second class, two years; and those in the third class, three years; but the trustees of each class may be re-elected, if they possess the qualifications hereinafter mentioned; such meeting shall also determine on what day in each year the future annual election of trustees shall be held.

§ 241. (SEC. 94.) **Certificate of organization to be made and filed.** The chairman and secretary of such meeting shall, within three days after the holding of the same, make a written certificate, which shall state the names of the associates who attended such meetings, the corporate name of the association determined

upon by the majority of the persons who met, the number of persons fixed upon to manage the concerns of the association, the names of the trustees chosen at the meeting, and their classification, the day of the year fixed upon for the annual election of trustees, and the manner of said election, whether by the associates named in said certificate, or the owners of lots in such cemetery; such certificate shall be signed by the said chairman and secretary, and acknowledged by them before some officer of the county authorized to take the acknowledgment of deeds; and they shall cause said certificate, so acknowledged, to be recorded in the register's office of the county in which the meeting was held. (*As amended 1873, c. 15, § 1.*)

§ 242. (SEC. 95.) **Effect of certificate—powers of association.** Whenever such certificate is duly acknowledged and recorded as aforesaid, the association mentioned therein shall be deemed legally incorporated, and shall have the general powers and privileges, and be subject to the liabilities and restrictions, as provided by the laws of this state in respect to incorporations.

§ 243. (SEC. 96.) **Trustees may adopt by-laws.** The trustees of any association incorporated agreeably to the provisions of this title, may enact by-laws for regulating the affairs of such corporation, not inconsistent with the laws of this state. (*As amended 1870, c. 30, § 1.*)

\* § 244. **Vacancies, how filled** That all vacancies occurring by death or otherwise in the membership of any cemetery association, heretofore or hereafter organized under title five of chapter thirty-four of the General Statutes, as amended by an act entitled "An act to amend title five of chapter thirty-four of the General Statutes," approved March 10th, 1873, may be filled by a vote of the surviving or remaining associates named in the certificate of association. All persons so selected to fill any such vacancy shall be entitled to vote at the election of trustees, and be eligible to the office of trustee of said incorporation, and shall have and be entitled to the same rights, powers and privileges as the original associates named in said certificate. (*1874, c. 33, § 1.*)

§ 245. (SEC. 97.) **Trustees to manage affairs of association, etc.** The affairs and property of such association shall be managed by the trustees, a majority of whom shall form a board for the transaction of business; the trustees shall annually appoint, from among their number, a president, and also appoint a secretary, treasurer and actuary, who shall hold their places during the pleasure of the board; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office.

§ 246. (SEC. 98.) **Actuary to keep record of interments, etc.** The actuary shall keep a record of interments, in which he shall enter, as carefully and correctly as may be, the name, age, sex, nativity and cause of death, with date of burial, of every person interred in such cemetery, which facts he shall procure from such friends or relatives of the deceased, or undertaker, as give order for the interment, at the time thereof; or in case the deceased is a pauper, stranger or criminal, from the coroner, county physician, overseer of the poor, or other public officer directing the burial of the same.

§ 247. (SEC. 99.) **Trustees to furnish summary of interments, etc.** Such register or record of interments shall be open to the inspection of the public; and the actuary or secretary of every cemetery association shall furnish to the commissioner of the statistical bureau, or to the health officers of any corporate town or city, or to the editors of newspapers within the state, when so desired, an accurate summary of all the interments during any particular year.

§ 248. (SEC. 100.) **Penalty for failure to keep register.** Any actuary who neglects or refuses to carefully keep such register of burials, and record all interments therein as hereinbefore provided, shall be subject to a fine for such offence, not exceeding ten dollars, nor less than two dollars, recoverable before any justice of the peace, for the benefit of the school fund of the district.

§ 249. (Sec. 101.) **Power to hold property—survey and platting—enlargement of cemetery—power to condemn land.** Any association incorporated agreeably to the provisions of this title, may take by purchase or gift, and hold, within the county in which the certificate of their incorporation is recorded, not exceeding eighty acres of land, to be held and occupied exclusively for a cemetery for the burial of the dead, and for purposes necessary or proper thereto; such land, or such portion thereof as may from time to time be required for that purpose, shall be surveyed and divided into lots of such size as the trustees direct, with such avenues, alleys and walks as the said trustees deem proper; and a map of such survey shall be filed and recorded in the registry of deeds of the county in which the lands lie. And whenever any such corporation, which is the owner of a burying-ground or place of sepulture, wishes to enlarge the limits of the same, and cannot agree with the owner or owners of the land proposed to be taken for such purpose, application may be made to the district court of the judicial district and in the county wherein said land is situated, giving twenty days' notice thereof to the owner or owners by leaving a copy with him or them, or at their usual place of abode; and said court shall appoint a committee of three disinterested persons, who, having been sworn faithfully and impartially to discharge the duties of their appointment, and after giving at least five days' notice to the owner or owners of the time and place of their meeting, shall proceed to examine the premises, and determine on the propriety, public necessity, and convenience of such enlargement, and upon the quantity, boundaries, damage and value of the land which they shall deem proper to be taken for that purpose, and make report thereof in writing to said district court by filing the same in the office of the clerk thereof; and shall give the same notice of the filing of their report as of their meeting; and the parties interested may appear before said court, and be heard thereon, at such time as the court shall appoint. And if said committee shall report that such enlargement is proper, and that public convenience and necessity require the same, and the court shall accept such report, the decision of such court thereon shall have the effect of a judgment; and execution may be issued thereon accordingly in favor of the person or persons to whom damages may be assessed, for the amount thereof: but said land shall not be taken or inclosed, or used for that purpose, until the damages so assessed shall be paid to said owner or owners, or deposited with the treasurer of the county for his or their use, which shall be done within thirty days after such report shall be accepted; and the title to said land shall thereupon become vested in such association; and a copy of the report of said committee, and of the judgment of the court thereon, certified by the clerk thereof, together with a certificate of the payment of the damages determined by the committee, sworn to by the president and treasurer of said association, shall be recorded in the office of the register of deeds of the county in which such premises are situated; and such record shall be notice to all parties of the title of said corporation therein, and may be read as evidence of such title in all the courts of this state. Such association may also purchase, or take by gift, and hold personal property, and may sell the same, and apply the proceeds thereof to the purposes mentioned in section one hundred and seven of this title, and no other; and all real and personal estate which shall have been given or granted to any such association for the maintenance of any monument, the keeping in good order or the embellishment of any lot or grounds situated within the enclosure of such association, shall remain forever to the uses to which the same shall have been given or granted, according to the true intent of the grantor. (*As amended, 1870, c. 30, § 2.*)

§ 250. (Sec. 102.) **When map is filed, trustees may sell lots.** After such map is filed in the register's office, as aforesaid, the trustees may sell and convey the lots, as

designated on such map, upon such terms, and subject to such conditions and restrictions, to be inserted in or annexed to the conveyances, as the said trustees shall prescribe; every conveyance of any such lots shall be expressly for burial purposes, and no other, and shall be in the corporate name of the association, signed by the president and treasurer thereof.

§ 251. (Sec. 103.) **Election and term of trustees—who may vote.** The annual election for trustees, to supply the place of those whose term of office expires, shall be holden on the day mentioned in the certificate of incorporation, and at such hour and place as the trustees direct. The trustees chosen at any election after the first shall hold their office for three years, and until others are chosen to succeed them; such election shall be by ballot, and every person who is the proprietor of a lot in the cemetery of the association, or if there is more than one proprietor of any such lot, then such one of the proprietors as a majority of the joint proprietors shall designate to represent such lot, or any person who is named as an associate in said certificate, as said certificate shall provide, may vote at such election; and the persons receiving the highest number of votes given at such election shall be declared elected trustees. (*As amended 1873, c. 15 § 2.*)

§ 252. (Sec. 104.) **Who may be trustees—vacancies.** In all elections after the first, the trustees shall be chosen from among the associates named in said certificate of incorporation, or in case said certificate provides for an election by the owners of lots in said cemetery, then from among the proprietors of lots in such cemetery; and the said trustees shall have the power to fill any vacancy in their number occurring during the term of office for which any trustee was elected. Public notice of every annual election shall be given in such manner as the by-laws of the association prescribe. (*As amended 1873, c. 15, § 3.*)

§ 253. (Sec. 105.) **Trustees may appoint day of election, when.** If the annual election is not held on the day fixed in the certificate of incorporation, the trustees have power to appoint another day, not more than sixty days thereafter, and shall give public notice of the time and place; at which time the election may be held with like effect as if holden on the day fixed in said certificate; and the terms of office of the trustees chosen at such election shall expire at the same time they would have done, had they been chosen on the day fixed in the said certificate of incorporation.

§ 254. (Sec. 106.) **Annual report of trustees.** The trustees, at each annual meeting, shall make a report in writing, containing a statement of their doings, and of the affairs of the association, and an account of the receipts and expenditures, during the year preceding.

§ 255. (Sec. 107.) **Proceeds of sale of lots, how applied.** The proceeds arising from the sale of lots in such cemetery shall be applied to the payment of any debts incurred by said association, in the purchase of cemetery grounds and property, in fencing, improving and embellishing such grounds and avenues leading thereto, and in defraying the necessary expenses in the management and care of the same, and for no other purpose.

§ 256. (Sec. 108.) **Penalty for injury to monuments, &c.** Any person who wilfully destroys, mutilates, injures or removes any tombstone, monument, gravestone, building, or other structure, placed in any cemetery, or any fence, railing, or other work, for a protection or ornament thereof, or wilfully destroys or injures any tree, shrub or plant, within the limits of such cemetery, incorporated under this title, shall be deemed guilty of a misdemeanor; and shall also be liable, in an action to be brought in the name of the association, for the payment of all damages by him occasioned; or any proprietor of a lot in such cemetery may sue for any injury done upon any lot owned by him.

\*§ 257. **Penalty for discharging fire-arms in cemeteries.** That it shall be unlawful for any person to discharge any fire-arm, unless authorized to do so by the trustees, upon or over the grounds of any cemetery which is now established, or may



hereafter be established, in this state; and any person so offending shall, upon conviction before any court or magistrate having jurisdiction, be fined any sum not exceeding twenty dollars and costs, or be imprisoned in the county jail for the period of ten days, or shall be subjected to both of said punishments, in the discretion of the court or magistrate. (1874, c. 34, § 1.)

\*§ 258. Trustees may appoint watchmen—their powers. That it shall be lawful for the trustees, directors, or other officers, of all organized cemeteries within this state, to appoint as many day and night watchmen of their grounds as they may deem expedient; and such watchmen, and also all their superintendents, gardeners and agents stationed on such grounds, are hereby authorized to take and subscribe before any mayor [or] justice of the peace, in the township where such cemeteries may be situate, an oath of office similar to the oath required by law of constables; and upon the taking of such oath, such watchmen, superintendents, gardeners and agents shall have, exercise and possess all the powers of police officers within and adjacent to said cemetery grounds; and they and each of them shall have power to arrest on view all persons engaged in violating the laws of this state in reference to the protection, care and preservation of cemeteries, and of the trees, shrubbery, structures and adornments therein, and to bring such persons so offending before a mayor or justice of the peace within such township, to be dealt with according to law. (*Id.* § 2.)

§ 259. (SEC. 109.) Property exempt from taxation and sale on execution. The cemetery lands and property of any association, formed pursuant to this title, are exempt from all public taxes and assessments, and not liable to be sold on execution, or applied in payment of debts of any individual proprietors; but the proprietors of lots in such cemetery, their heirs or legal representatives, may hold the same exempt therefrom, so long as the same remain appropriated to the use of a cemetery; and during that time no street or road shall be laid through such cemetery, or any part of the lands held by such association, for the purpose aforesaid, without the consent of the trustees of such association.

§ 260. (SEC. 110.) Restrictions on alienation of lots and interments. Whenever the lands of any such association are laid out in lots, and such lots or any of them are transferred [to individual proprietors, and after there has been an interment in any lot so transferred], such lot, from the time of such interment, shall forever thereafter be inalienable, and shall, upon the death of the proprietor, descend to the heirs of such proprietor, forever; but any one or more of such heirs may release to any other of said heirs his interest in the same; a copy of such release shall be filed with the clerk of the town or village, or with the register of the city, or register of deeds of the county, within which the said cemetery is situated. The body of any deceased person shall not be interred in such lot, unless it is the body of a person having, at the time of such decease, an interest in such lot, or the relative of some person having such interest, or the wife of such person, or her relative, except by consent of all persons having an interest in such lot.

#### PRIVATE CEMETERIES.

§ 261. (SEC. 111.) Private cemeteries, how established. Any person desiring to establish a cemetery upon any lands owned by himself, shall cause the same to be surveyed, and a plat thereof made, which shall particularly describe and set forth all the streets, alleys, commons or public grounds, and all the blocks, lots or fractional lots within said cemetery, giving the names, width, extent and courses of all such streets and alleys, and the length and width of all said lots, and the number thereof, and the letters or numbers of all said blocks therein.

§ 262. (SEC. 112.) Stone to be fixed at corner of cemetery. The proprietor of such cemetery shall, at the time of the surveying thereof, plant and fix, at some corner thereof, a good and sufficient stone for a mark, from which said survey shall be

made; and the point where the same may be found shall be designated on said plat.

§ 263. (SEC. 113.) **Plat to be certified and recorded.** Said plat, after having been completed, shall be certified to by the surveyor, upon what lands the same is laid out, and the extent and boundaries thereof, and that the same is correct; which said certificate shall be indorsed upon said plat, and shall be recorded therewith, and form a part thereof; and said plat shall thereupon be recorded in the register of deeds' office, in the county wherein said lands are situate.

§ 264. (SEC. 114.) **Effect of making and recording plat.** When the plat of such cemetery has been made out, certified and recorded as required by this title, every donation or grant to the public, or to any religious society, or individual, of any lands in said cemetery, shall be deemed in law and equity a conveyance of all such lands, subject to such conditions and restrictions as may be inserted in or annexed to the conveyance. Every conveyance of any such lots shall be expressly for burial purposes, and no other; and the lands intended to be used for, and designated on said plat for, streets, alleys, ways, commons, or other public uses, in any such cemetery, shall be held by such owner in trust to and for the uses and purposes set forth and intended in and by said plat. (*As amended 1868, c. 21, § 1.*)

§ 265. (SEC. 115.) **Exemption from taxation and sale on execution—streets, etc.** All land surveyed, and laid out, and dedicated as aforesaid, under the provisions of this title, not exceeding, however, eighty acres, shall be exempt from public taxes and assessments, and shall not be liable to levy and sale upon execution, or to be applied in payment of the debts of any such owner thereof, so long as the same remains appropriated to the use of a cemetery; and no street or road shall be laid through such cemetery without the consent of the owner thereof.

§ 266. (SEC. 116.) **District court may vacate cemeteries, etc.** The district courts are authorized and empowered, upon the application of the owners or proprietors of any cemetery within the proper county, to alter and vacate the same, and the alleys, streets, lots and blocks, any or either thereof, and the plat thereof, upon the like notice, and in the like manner, and shall require the like proof, and shall make the like order thereon, as is required by law in relation to town plats.

## TITLE 6.

### INSURANCE COMPANIES.\*

\*§ 267. **Object of this act—rule for construing it.** The object of this act is to revise simplify and amend the laws of this state in relation to insurance, with due regard to the legislation of other states, so as to secure mutual harmony in the promotion of the public interest, to define the relation of the state to companies and individuals, to insure the stability of companies, to protect the interests of the assured, and to encourage the employment of capital; and its provisions are to be construed liberally in furtherance of the protection of the insured, and so far as may be in harmony with the construction which may be given by the courts of other states adopting a like act. (*1872, c. 1, tit. 1, § 1.*)

\*§ 268. **Construction of certain words.** The words, "the substantial provisions of this act shall be enacted," shall be construed to mean the provisions of this act which define the right to do insurance business, and provide for the stability of companies, and the protection of the insured; and differences in respect to the organization of the insurance department, the constitution of companies, or the form of judicial remedies, shall not be deemed to impair the uniformity which this act is intended to secure. (*Id.* § 2.)

\**An act to establish a reciprocal general insurance law for the state of Minnesota, and to revise and amend the laws of said state, relating to home and foreign insurance companies. Approved Feb. 29, 1872, (Laws 1872, c. 1.)*

\*§ 269. **Retaliatory taxes, etc., on foreign companies.** When, by the laws of any other state or nation, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this state doing business in such other state or nation, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other state or nation doing business in this state, and upon their agents here. (1872, c. 1, tit. 1, § 3.)

\*§ 270. **The term "company" defined.** The term "company," as used in any provision of this act subjecting companies to any obligation or restriction, includes individuals, partnerships, joint-stock associations, and corporations. (*Id.* § 4.)

\*§ 271. **"American company" defined.** The term "American company," as used in this act, designates a company which exists by the laws of any state or territory of the United States, or by any law of the United States. All others are designated as foreign. (*Id.* § 5.)

\*§ 272. **"Company of a state, territory or nation" defined.** The expression "company of a state, territory or nation," as used in this act, means a company incorporated by or organized under the laws of such state, territory or nation. (*Id.* § 6.)

\*§ 273. **"Commissioner" defined.** The word "commissioner" designates the officer, by whatever name called, who is charged for the time being with the duties of commissioner of insurance. (*Id.* § 7.)

\*§ 274. **"Oath" defined.** The term "oath," in this act, includes affirmations.

**"Directors" defined.** The term "directors," in this act, designates the trustees, managers or officers constituting the executive board of a company. Directors are included in the term "officers," unless a contrary intention appears.

**"Agent" defined.** The term "agent" or "agents," in this act, includes an acknowledged agent, surveyor, and all other persons who shall in any manner, directly or indirectly, aid in transacting the business of insurance.

**Construction of powers of agent.** Nothing contained in this act shall be construed to imply that an agent has any power to bind a company, not expressly or by necessary implication given him by the company. (*Id.* § 8.)

#### INSURANCE COMMISSIONER.

\*§ 275. **Insurance commissioner—appointment—term of office.** It shall be the duty of the governor, by and with the advice and consent of the senate, to appoint one competent person, a resident and citizen of the state, and with the other qualifications hereinafter provided, who shall be styled the insurance commissioner, who shall be sworn in the manner provided by law for other state officers. He shall hold his office for two years, and execute the duties thereof, as herein provided, until his successor is appointed and qualified; and in case of a vacancy by death, removal, resignation, or otherwise, the governor shall fill the same by appointment.

**Disability to hold office—bond.** No person, who is a director, officer, agent, attorney, or stockholder of, or directly or indirectly interested in, any insurance company, except as insured, shall be commissioner; and no officer or agent of any insurance company doing business in this state shall be deputed to examine the affairs of a company under this act. The said commissioner shall keep his office at the capital of the state, and shall give bonds in the sum of \$5,000, with two sureties to be approved by the governor, for the faithful discharge of his duties. (1872, c. 1, tit. 2, § 1.)

\*§ 276. **Salary, how paid—penalty for receiving other pay.** Said commissioner shall be entitled to a salary of two thousand dollars per annum, which shall include and cover postage, stationery, and all other office expenses: *provided*, that said salary or expenses shall in no event be a charge upon the state treasury, over and above the fees and license receipts paid into the same by said commissioner. All necessary blanks, forms and circulars, together with such pamphlet copies of the insurance law as may be required for distribution

among persons affected by the provisions of this act, shall be furnished at the expense of the state. And if the said commissioner shall directly or indirectly receive any compensation or pay for any service or extra service, or for neglect or omission of service, other than is provided in this act, he shall be deemed guilty of a felony, and, on conviction thereof, shall be subject to a fine not exceeding five thousand dollars, or imprisonment in the state prison for a term not exceeding five years, or both, in the discretion of the court. (1872, c. 1, tit. 2, § 2, as amended 1873, c. 16, § 2.)

\*§ 277. **Employment and salary of clerk.** The insurance commissioner is hereby empowered to employ, in his office, a clerk, who shall receive for his services one thousand dollars per annum, to be paid out of the state treasury as other clerks of the state department are paid. (1875, c. 104, § 1.) See *ante*, c. 7, § 1.

\*§ 278. **Duties of commissioner.** It shall be the duty of such insurance commissioner :

1. **Execution of laws:** To see that all laws of this state respecting insurance companies are faithfully executed.

2. **Filing of papers—copies.** To file in his office every charter or declaration of organization of a company, with the certificate of the attorney general; and, on application of the corporators, to furnish to them a certified copy thereof.

3. **To calculate value of life policies.** He shall, as soon as practicable, in each year following the passage of this act, calculate or cause to be calculated, in his office, by officers or employes of his department, [or bureau,] the net value, on the 31st day of December of the previous year, of all the policies in force on that day, in each life-insurance company doing business in this state, organized by authority of this state, and every other life-insurance company doing business in this state, that shall fail to furnish him, as hereinafter provided, a certificate of the insurance commissioner of the state by whose authority the company was organized, or by the state in which it may elect to have its policies valued and its deposits made, in case the company is chartered by the government of the United States, giving the net values of all policies in force in the company on the 31st day of December of the preceding year.

4. **Basis of such calculations.** Calculations of the net value of each policy must be based upon the American Experience Table of Mortality, and 4½ per cent. interest per annum. And the net value of a policy at any time shall be taken to be the net single premium which will at that time effect the insurance, less the value at that time of the future net premiums called for by the table of mortality, and rate of interest designated above. (As amended 1876, c. 21, § 1.)

5. **To proceed against unsafe life companies.** In case it is found that any life-insurance company doing business in this state has not on hand the net value of all its policies in force, after all other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the insurance commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this state; and he shall require the company at once to cease doing new business; and he shall immediately institute proceedings, as required in this act, to determine what further shall be done in the case.

6. **To see that assets of life companies are sufficient.** It is hereby made the duty of the insurance commissioner, after having determined as above the amount of the net value of all the policies in force, and added thereto the amount of all other debts and claims against the company, exclusive of its capital stock, to see that the sum of all liabilities so ascertained, is fully equalled by the total of admitted assets of such company, comprising its real estate, premiums, loans, and notes, cash on hand, rents, and other convertible property, together with the safe legal securities of the description and character hereafter provided in this act. (As amended 1873, c. 16, § 1.)

7. **To accept valuations of other insurance commissioners, when.** He shall accept the valuations made by the insurance commissioner of the state under whose authority a life-insurance company was organized, when such valuations have

been properly made on sound and recognized principles and legal basis as above: *provided*, the company shall furnish to the insurance commissioner of this state, a certificate from the insurance commissioner of such state, setting forth the value, calculated on the data designated above, of all the policies in force in the company on the previous thirty-first day of December; and stating that, after all other debts of the company, and claims against it at that time, were provided for, the company had, in safe securities of the character specified in this act, an amount equal to the net value of all its policies in force; and that said company is entitled to do business in its own state.

8. **Failure of company to furnish certificate.** Every life insurance company doing business in this state during the year for which the statement is made, that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed lists of policies and securities to the insurance commissioner of this state, and shall be liable for all charges and expenses consequent upon not having furnished said certificate.

9. **To calculate reinsurance reserves for fire companies.** For every company doing fire-insurance business in this state, he shall calculate the reinsurance reserve for unexpired fire risks, by taking fifty per cent. of the premiums received on all unexpired risks that have less than one year to run, and a *pro rata* of all premiums received on risks that have more than one year to run: *provided*, that when the reinsurance reserve, calculated as above, is less than forty per cent. of all the premiums received during the year, the reinsurance reserve in this case shall be the whole of the premiums received on all its unexpired risks.

10. **Marine and inland insurance—reinsurance reserve.** In marine and inland insurance, he shall charge all the premiums received on unexpired risks as a reinsurance reserve.

11. **To proceed against company whose capital is impaired.** Having charged against a company the reinsurance reserve, as above determined, for fire, inland and marine insurance, and adding thereto all other debts and claims against the company, he shall, in case he finds the capital stock of the company impaired to the extent of ten per cent., give notice to the company to make good its whole capital stock within sixty days; and if this is not done, he shall require the company to cease to do new business within this state, and shall thereupon, in case the company is organized under the authority of this state, immediately institute legal proceedings, as required in this act, to determine what further shall be done in the case.

**Company to make good its capital.** Any company receiving the aforesaid notice of the commissioner to make good its whole capital stock within sixty days, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as the said commissioner shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said commissioner, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to any amount sufficient to make up the original capital of the company.

**When capital stock may be reduced.** Whenever the capital stock of any joint-stock fire or marine insurance company of this state becomes impaired, the commissioner may, in his discretion, permit the said company to reduce its capital stock and

the par value of its shares in proportion to the extent of impairment: *provided*, that, in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets: *and provided*, that no part of such assets and property shall be distributed to the stockholders: *and provided further*, that the capital stock shall not be reduced to an amount less than that required by law for the organization of a new company.

**To examine business of companies in detail.** To examine, or cause to be examined, every detail of the business of any company transacting business of insurance within this state, whenever in his judgment such examination is required by the interests of the policy-holders of such company. (*As amended 1873, c. 17, § 1, and 1877, c. 47, § 1.*)

12. **To examine affairs of unsafe life companies, etc.** It shall be the duty of the insurance commissioner, after he has notified a life-insurance company, organized under authority of this state, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the state, at once to cause a rigid examination in regard to all the affairs of such company. In case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge of its business for one year, provided there is, in his opinion, reason to believe that the company may eventually be able to re-establish the legal net value of all its policies in force.

13. **To proceed against such companies, when.** In case the insurance commissioner does not permit the company to continue in the control of its old business, it is hereby made his duty to institute the necessary proceedings for the protection of its policy-holders, in accordance with the laws of this state.

14. **To publish results of examinations.** To publish the result of his examination of the affairs of any company, whenever he deems it for the interest of the public so to do, in one or more papers of this state.

15. **To suspend business of companies, when.** To suspend the entire business of any company of this state, and the business, within this state, of any other company, during its non-compliance with any provisions of this act, or whenever its assets appear to him insufficient to justify its continuance in business, by suspending or revoking the certificate granted by him; and to give notice thereof to the insurance commissioner, or other similar officer, of every state, and publish the same in the papers in which, by law, state notices are required to be published.

16. **To institute winding-up proceedings.** To institute, or cause to be instituted, the necessary proceedings, under the laws of this state to close the affairs of any company of this state which shall appear to him, upon examination, to be insolvent, or fraudulently conducted.

17. **To report violations of law.** To report, in detail, to the attorney general, any violation of law relative to insurance companies, their officers or agents, or the business of insurance.

18. **To furnish blanks.** To furnish to the companies required by this act to report to him the necessary blank forms for the statements required.

19. **To keep records.** To reserve, in permanent form, a full record of his proceedings, and a concise statement of the condition of each company or agency visited or examined.

20. **To furnish copies of papers.** At the request of any person, and on payment of a [the] fee, to give certified copies of any record or papers in his office, when he deems it not prejudicial to public interests so to do, and to give such other certificates as this act provides for.

21. **To make annual report.** To make a written report to the governor, on or before the first day of July of each year, showing his official acts, the receipts and expenses of his department for the year, the condition of the companies doing

business in this state, and such other information as will exhibit the affairs of his department: which report shall be printed, to the number of one thousand, at the expense of the state, and distributed among the members of the succeeding legislature, and otherwise, as provided in this act. (*As amended 1873, c. 16, § 3.*)

22. **To send copies of annual report, etc.** To send a copy of his annual report to the insurance commissioner, or other similar officer, of every other state, and to each company doing business in this state.

23. **To notify other insurance commissioners, when.** On request, to communicate to the insurance commissioner of any other state in which the substantial provisions of this act shall be enacted, any facts which, by law, it is his duty to ascertain respecting companies of this state doing business within such state.

24. **To adopt seal.** To adopt, and to renew, from time to time, when necessary, with the approval of the governor, a seal of office, an impression and description whereof, with the governor's certificate of approval, should [shall] be filed in the office of the secretary of state.

25. **What companies may not issue life policies.** It shall be his duty to see that no company shall be hereafter permitted to issue policies of insurance on lives in this state that does a fire, marine or inland insurance business.

**Assets of fire companies—premium notes.** And in determining the capital or assets of any fire-insurance company, the commissioner shall exclude all notes given for premium[s] upon policies issued. (*1872, c. 1, tit. 2, § 3.*)

\*§ 279. **Powers of commissioner.** The insurance commissioner, for the purposes of examinations authorized by law, has power, either in person or by one or more examiners by him commissioned in writing—

1. **To have access to books.** To require free access to all books and papers, within this state, of any insurance company, or the agents thereof, doing business within this state.

2. **To examine under oath.** To summon and examine any person, being within this state, under oath, which he or any examiner may administer, relative to the affairs and condition of any company.

3. **To visit home office of companies, etc.** For probable cause, to visit, at its principal office, wherever it may be, any insurance company not of a state in which the provisions of law contained in this act shall be in force, and doing business in this state, for the purpose of investigating its affairs and condition; and to revoke its certificate in this state, if it does not permit an examination.

4. **To revoke certificates.** To revoke or modify any certificate of authority, when any conditions prescribed by law for granting it no longer exist.

5. **To institute suits, etc.** The insurance commissioner has also power to institute suits and prosecutions, either by the attorney general, or such other attorney as the commissioner may designate, for any violation of this act; and the commissioner is a necessary party to any proceeding instituted for the purpose of closing up the affairs of any company, when the same shall not be in the name of the state. (*Id. § 4.*)

\*§ 280. **Penalty for obstructing commissioner, etc.** Whoever, without justifiable cause, being within this state, refuses to appear and testify before the commissioner, whenever so required, or obstructs him in the discharge of his duty, shall, for each offence, be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year. (*Id. § 5.*)

\*§ 281. **Authentication of instruments by seal—recording.** Every instrument executed by the commissioner of this state, or any other state in which the substantial provisions of this act shall be enacted, pursuant to authority conferred by this act, and authenticated by his seal of office, shall be received as evidence in this state; and copies of papers in his office, certified by him, and so authenticated, shall be received as evidence in this state with the same effect as the originals. Every such instrument so executed and authenticated by the commissioner of this state shall be recorded in the same manner, and the

same and its record shall have the like effect, as if acknowledged or proved according to law. The impression of the seal may be directly on paper, with or without tenacious substance. (1872, c. 1, tit. 2, § 6.)

\*§ 282. **Fees to be paid—disposal of fees.** There shall be paid by every company to whom this act applies, the following fees toward defraying the expenses of executing its provisions:

Upon filing the declaration or certified copy of charter, twenty-five dollars.

Upon filing the annual statement, or certificate in lieu thereof, twenty dollars.

For each certificate of authority, and certified copy thereof, one dollar.

For every copy of any paper filed with the commissioner, the sum of twenty cents per folio; and for affixing the official seal to such copy, and certifying the same, one dollar.

For valuing policies of life-insurance companies, ten dollars per million of insurance, or any fraction thereof.

For official examinations of companies under this act, the actual expenses incurred.

For countersigning and registering policies and annuity bonds, the reasonable expenses of custody, registration, and issue.

All fees or fines received or collected by the commissioner under the provisions of this act shall be paid over to the state treasurer, accompanied with a statement in detail, on the last week-day of every month. (*Id.* § 7.)

\*§ 283. **Assessment of expenses on companies.** In case the necessary expense of said commissioner exceed the amount of the fees collected under this act, and paid into the state treasury, (exclusive of the tax upon premiums,) the excess of such expense shall be annually assessed by the commissioner, in equal shares, upon all the insurance companies doing business in this state; and the commissioner has power to collect such assessments and pay the same into the state treasury. (*Id.* § 8.)

\*§ 284. **Transfer of securities—duty of state treasurer.** No transfer by the insurance commissioner of securities of any kind, in any way held by him in his official capacity, is valid until countersigned by the treasurer of the state.

It is the duty of the state treasurer—

1. To countersign any such transfer presented to him by the commissioner, when satisfied of the propriety thereof;

2. To keep a record of all such transfers, stating the name of the company from whose account the transfer is made; the name of the transferee, unless transferred in blank; and a description of the security;

3. Upon countersigning, to advise by mail the company concerned, of the particulars of the transaction;

4. In his annual report to the legislature, to state the amount of transfers countersigned by him. (*Id.* § 9.)

\*§ 285. **Access to books of treasurer and commissioner.** For the purpose of verifying the correctness of records, the commissioner is entitled to free access to the treasurer's record required by section 9, and the treasurer is entitled to free access to the books and other documents of the insurance commissioner, relating to securities held by the commissioner. (*Id.* § 10.)

#### PROVISIONS APPLICABLE TO ALL CLASSES OF COMPANIES.

\*§ 286. **Unauthorized insurance forbidden.** It is unlawful for insurers or their agents to make, negotiate or solicit, within this state, any contract of insurance, except as authorized in this act. (1872, c. 1, tit. 3, § 1.)

\*§ 287. **Life insurance.** No company hereafter organized in this state shall make insurance upon the lives of individuals, nor grant, purchase or dispose of annuities, unless organized solely therefor, and doing such business exclusively. (*Id.* § 2.)



\*§ 288. Charters, etc., to be submitted to attorney general. No declaration of organization or charter of an insurance company formed under any general law of this state, and no alteration or amendment thereof, shall be operative until it has been submitted to the attorney general for examination, and found by him to be in accordance with the provisions of this act, and of such general law, and not inconsistent with the constitution and laws of the United States and of this state, and so certified by him, and delivered to the insurance commissioner. (1872, c. 1, tit. 3, § 3.)

\*§ 289. Investment of capital stock. The capital stock and accumulations of any insurance company of this state shall be invested in the bonds or treasury notes of the United States, or national-bank stocks, or bonds of this state or any other state of the United States, or of any city, town or county of this state, or of any other state of the United States having legal authority to issue the same, bearing interest, at their market value; or in any interest or dividend-paying stocks or bonds issued under the laws of this state, at their known market value; or they may be invested or loaned on mortgages of unencumbered real estate in this or any other state of the United States, worth at least double the amount loaned thereon, exclusive of buildings, except when such buildings are insured, and the policies duly assigned as additional security; or loaned on pledges of any of the securities named in this section: *provided*, always, that the current market value of such pledged securities shall be at all times during the continuance of such loans at least twenty per cent. more than the sum loaned on them, and all such loans are subject to the power of the company to terminate the same in case of depreciation of the securities below the limit: *and provided*, that in all investments made upon mortgage securities, the evidence of the debt shall accompany the mortgage or deed of trust.

*Dividends.* No dividends shall be paid except from surplus in excess of the minimum capital stock required by law, reserve fund for reinsurance of policies, and other liabilities of the company; but this section shall not be construed to affect the power of a company to make dividends not impairing its capital and its reserve. (*Id.* § 4.)

\*§ 290. Examination before state company begins business. Before any insurance company of this state shall do any business, the insurance commissioner shall cause an examination to be made, either by himself or by a disinterested person appointed by him for that purpose, who shall certify, under oath, that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company, has been paid in in money, and invested in such securities as are required by section four of this title. (*Id.* § 5.)

\*§ 291. Conditions precedent to commencing business. Before any insurance company shall commence business in this state, the following conditions must be complied with:

1. It must be fully organized.
2. If it be a company not of this state, a copy of its charter, duly accepted, or its declaration of organization or deed of settlement, duly approved, in section 3, and duly certified by the insurance commissioner or other proper officer of its own state or nation, with his certificate that the company is entitled to assume risks and issue policies therein, together with the stipulation respecting service of process in this state, required by section 21 of this title, and a statement of the place where it is located, must be filed with the insurance commissioner of this state.
3. It must procure from the insurance commissioner of this state a certificate that it has complied with the provisions of the law of this state applicable to it, and is entitled to assume risks and issue policies in this state. (*Id.* § 6.)

\*§ 292. Agents to have certificate of authority—penalty. No person shall act as agent in this state for any company not of this state, in any matter whatever relating

to risks, until the last section has been complied with on the part of the company, and he has received from the insurance commissioner a certificate of authority, stating that the foregoing requirements have been complied with, a record of which certificate shall be kept in the office of the commissioner. A renewal certificate must be procured and filed within sixty days from the first day of January in each year. Any such person or agent doing or attempting to do business in any way relating to insurance in this state, without such certificate of authority, in violation of this section, or after said certificate shall have been revoked, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars for each offence. (*1872, c. 1, tit. 3, § 7, as amended 1873, c. 16, § 4.*)

\*§ 293. **Location of company, etc, to be published.** Every insurance company or agent thereof doing business in this state, shall, in all advertisements of such company or agency, publish the location of the company, giving the name of the city, town or village in which the company is located, and the state or government under the laws of which it is organized; and in all advertisements and circulars in which the capital of the company so advertising is stated, the amount at risk on the preceding thirty-first of December shall be stated. (*Id. § 8.*)

\*§ 294. **Purpose for which real estate may be held.** It is unlawful for any insurance company of this state to purchase, hold or convey real estate anywhere, and for any other insurance company to purchase, hold or convey real estate within this state, except for the purposes, and in the manner and time following:

1. Such as shall be requisite for its accommodation in the transaction of its business; or

2. Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for moneys due; or

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages, obtained or made for such debts.

**When real estate must be sold.** Real estate lawfully acquired as aforesaid, and not necessary for the accommodation of the company in the transaction of its business, shall be sold and disposed of within five years after its acquiring title to the same; unless the company procures a certificate from the insurance commissioner that the interests of the company will suffer materially by a forced sale thereof, and extending the time for the sale to a period fixed in said certificate.

**What companies may hold real estate.** Any company of a state in which the provisions of law contained in this act shall be in force, may purchase, hold and convey real estate within this state, or any other of the said states, for the purposes and in the times and manner above provided for. (*Id. § 9.*)

\*§ 295. **Securities to be compared with record, etc.** Every insurance company having deposited security [ies] with the insurance commissioner, whether under this act or any other, must, by its president, secretary or attorney, examine the securities, and compare them with the books of the commissioner, once or more in each calendar year, at such times, in or during business hours, as the company may direct, and if found correct, give the commissioner a written acknowledgment that the same, designating the kinds and the amounts, are in his custody at the date of the acknowledgment. (*Id. § 10.*)

\*§ 296. **Penalty for violation of law and false representations.** If any insurance company doing business in this state shall violate any of the provisions of this act, or shall, by means of any advertisement, circular, notice or statement, printed or written, published, posted or circulated through and by the agency of any officer, agent, or other person, or by any other means, falsely represent or hold

out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such company is greater than its actual cash or market value, every director, officer or agent of such company, guilty of any wilful participation therein, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court; and if any such company, after any such false advertisement posted or circulated, shall receive any money, note or obligation for the payment of money, from any person, as a consideration for any insurance made, or policy issued or to be issued by such company, such money, note or obligation shall be deemed and taken to have been received without consideration; and the directors of such company, and any officer or agent receiving the same, shall be jointly and severally liable in a civil action for the repayment thereof, and shall also, in like manner, be liable to the person insured for the amount of the premium paid. (*1872, c. 1, tit. 3, § 11.*)

\*§ 297. Ann. Assn. Sup't, p. 71. Soc. Assn. Sup't, p. 71. \*§ 297.

\*§ 297. **Annual statement of condition and business.** Every insurance company doing business in this state must transmit to the insurance commissioner a statement of its condition and business for the year ending on the preceding 31st of December, which statement shall be rendered within sixty days thereafter, except that foreign companies shall transmit their statement of business, other than that done in the United States, prior to the following 1st day of July; said statement must be published at least three times in some newspaper of general circulation, printed and published either at the capital of the state, or in the county where the state agency of such insurance company is located. Statements for publication shall be made out on the blanks furnished by the insurance commissioner, and under his direction; and the insurance commissioner's certificate of authority to do business in the state shall be published in connection with the said statement of such company doing business in this state. Proof of publication, to wit, the printer's affidavit of the fact, shall be filed with the insurance commissioner in all cases. (*Id. § 12, as amended 1874, c. 25, § 1.*)

\*§ 298. **Form and contents of annual statement.** The annual statements required by the last section must be in form, and state the particulars as follows:

*First.*—The amount of the capital stock of the company actually paid in.

*Second.*—The property or assets held by the company, specifying:

1. The value, as nearly as may be, of the real estate held by said company.
2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited.
3. The amount of cash in the hands of agents, and in course of transmission.
4. The amount of loans, secured by mortgages and bonds constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.
5. The amount of loans on which interest shall not have been paid within one year previous to such statement.
6. The amount due the company on which judgments have been obtained.
7. The amount of stocks of this state, of the United States, of any incorporated city of this state, and of any other bonds or stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock on the day of making statement.
8. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value, and market value on day of making statement.
9. Amount of interest due and accrued not paid.

*Third*—The liabilities of such company, specifying :

1. The amount of losses due and yet unpaid.
2. The amount of claims for losses resisted by the company.
3. The amount of losses incurred during the year, including those claimed and not yet due, and including the probable amount of those reported to the company upon which no action has been taken : *provided*, that all such losses incurred in the state of Minnesota shall be reported separately and apart from those incurred in any other state or country.
4. The amount of dividends declared and due, and remaining unpaid.
5. The amount of dividends, if any, declared, but not yet due.
6. The amount of money borrowed, and security, if any, given for the payment thereof.
7. All other existing claims against the company.
8. The gross amount of risks taken during the past year.
9. The amount of risks taken in the state of Minnesota during the past year.
10. The whole amount of risks outstanding.
11. The amount of outstanding risks in the state of Minnesota.
12. The whole amount of unearned premiums on outstanding risks.
13. The amount of unearned premiums on outstanding risks in the state of Minnesota.

*Fourth*—The income of the company during the preceding year, specifying :

1. The whole amount of cash premiums received.
2. The amount of premiums received on policies issued in the state of Minnesota.
3. The whole amount of interest money received.
4. The amount of interest money received on loans in the state of Minnesota.
5. The whole amount of income received from other sources.

*Fifth*—The expenditures during the preceding year, specifying :

1. The whole amount of losses paid during the past year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.
2. The amount of losses paid upon risks taken in the state of Minnesota, during the past year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.
3. The amount of dividends paid during the past year.
4. The whole amount of salaries paid officers and agents of the company.
5. The amount of salaries paid officers and agents employed in the state of Minnesota.
6. The whole amount of commissions and fees paid officers and agents.
7. The amount of commissions and fees paid officers and agents employed in the state of Minnesota.
8. The whole amount of all and any other expenses not herein enumerated.
9. The amount of taxes paid, specifying separately and apart the amount paid in this state.
10. The amount of fees of all and every kind paid the treasurer of the state of Minnesota, specifying date, for what purposes, and amount.

*Sixth*—The number of agents and other officers employed in the state of Minnesota. (1872, c. 1, tit. 3, § 13.)

\*§ 299. Commissioner may require statement at any time. The insurance commissioner may require, at any time, statements from any company doing business within

this state, or any of its officers or agents, on such points as he deems necessary and proper to elicit a full exhibit of its business and standing. (1872, c. 1, tit. 3, § 14.)

\*§ 300. **Statement, how verified.** The statement required under this act must be verified by the signature and oath of the president or vice-president, with those of the secretary or actuary; or by those of a majority of the directors. (Id. § 15.)

\*§ 301. **No company to do business without statement.** No company having neglected to file a statement required from it, within the time and in the manner prescribed, shall do any new business, after a notification by the commissioner, while such neglect continues. (Id. § 16.)

\*§ 302. **Forfeiture for neglect to furnish statement.** Any company wilfully neglecting to make and transmit any statement required, shall forfeit one hundred dollars for each day's neglect. (Id. § 17.)

\*§ 303. **Penalty for false statement.** Any company or person wilfully making a false statement in any report to the commissioner, is liable to a penalty of \$500, which sum must be paid to the commissioner, in default of which the certificate of authority shall be revoked. (Id. § 18.)

\*§ 304. **Commissioner may defer publication of statement.** The insurance commissioner has authority to prevent publication of any part of the statement, made under this article, until his annual report to the legislature is made. (Id. § 19.)

\*§ 305. **Receiver or trustee of company to make statement.** Every receiver or other judicially appointed trustee of an insurance company of this state, must make the statements required under this article; and all the provisions of this article shall apply to such receivers or trustees. (Id. § 20.)

\*§ 306. **Stipulation as to service of process.** No insurance companies not incorporated under the laws of this state shall insure property or do business in this state until it has filed with the insurance commissioner a written stipulation, duly authenticated by the company, stipulating and agreeing that any legal process affecting such company, served on the insurance commissioner, shall have the same effect as if personally served on the company, or its authorized attorney in this state. (1876, c. 20, § 1.)

\*§ 307. **Commissioner to receive and file stipulations.** The insurance commissioner shall, within three months after the passage of this act, transmit a copy thereof, with proper blanks for such stipulation, to every company authorized to do business in this state, and shall receive and file the stipulations herein provided for, and the same shall be safely kept in his office. (Id. § 2.)

\*§ 308. **Stipulation not to be revoked.** So long as any liability of such stipulating company to any resident of this state shall continue, such stipulation shall not be revoked or modified, except that another shall be filed according to law. (Id. § 3.)

\*§ 309. **Service of process.** Service of process according to a stipulation provided in this act, shall be sufficient personal service on the company. (Id. § 4.)

\*§ 310. **Proof of service.** A copy of such stipulation, certified by the insurance commissioner, and a certificate that process has been duly served on him, shall be sufficient evidence thereof. (Id. § 5.)

\*§ 311. **Commissioner to notify company of such service.** When process against or affecting any company is served on the insurance commissioner, the same shall be by duplicate copies, one of which shall be filed in the office of said commissioner, and the other by him immediately mailed, postage prepaid, to home office of the company, or to the address of the authorized resident attorney in this state, as the company may designate in such stipulation. (Id. § 6.)

\*§ 312. **Meaning of "process."** The word "process" in this act shall include any writ, declaration, summons or order whereby any action, writ or proceeding shall be commenced, or which shall be issued in or upon any action, suit or proceeding authorized by law in this state. (Id. § 7.)

\*§ 313. **Failure of company to satisfy judgment—revocation of authority.** Whenever a judgment for the recovery of money has heretofore been or hereafter may be

recovered in any of the courts of this state, or in any of the courts of the United States having jurisdiction in this state, against any insurance company, or against any association, partnership, firm or individual engaged in the business of insurance, and holding a certificate of authority therefor from the state treasurer, under the laws of the state, or from the insurance commissioner under this act, and an execution thereon is issued and duly returned unsatisfied in whole or in part, proof is made by any person, by filing with the insurance commissioner a certified transcript of the docket of such judgment, together with a certificate of the clerk of the court in the county where the judgment roll in said action is filed and the judgment therein is docketed, that an execution has been issued on such judgment to the proper officer of such county and returned unsatisfied in whole or in part, and with the date of issuing and return, the insurance commissioner shall forthwith revoke all authority or license for the transaction of any kind of insurance business within this state conferred upon such insurance company, association, partnership, firm or individual by any certificate therefor granted by said commissioner to such company, association, partnership, firm or individual under the provisions of this act, and shall withhold therefrom any new certificate of authority, such as is contemplated herein, until such judgment so docketed against such company, association, partnership, firm or individual, is wholly paid and satisfied, and proof thereof filed with such commissioner by the official certificate of the clerk of the court in the county where the judgment roll is filed and judgment docketed, showing that the same is satisfied of record, and until the expenses and fees incurred in the case under the provisions of this title are also paid by such company, association, partnership, firm or individual; and the insurance commissioner shall also forthwith cause notice of such revocation of authority to be published in some daily newspaper, printed and published at the capital of the state, for at least one week; and during the time such authority or license remains so revoked, it shall be unlawful for the company, association, partnership, firm or individual holding such revoked certificate of authority, or any of its agents or officers, to issue or renew any policies of insurance, take any risks, or transact any business relating to insurance, except such as is absolutely necessary in closing up its affairs in this state. (1872, c. 1, tit. 3, § 26.)

\*§ 315. See 1880 Suppl. p. 54.

\*§ 314. **Transfer of duties to commissioner.** All duties heretofore required to be performed by, or responsibility imposed upon, the state treasurer of this state under the existing laws regulating insurance companies, shall hereafter be performed by the insurance commissioner, so far as such duties and responsibilities are not changed, modified or repealed by this act. (*Id.* § 27.)

\*§ 315. **Payment of percentage of premiums in lieu of taxes, etc.** All insurance companies organized under the laws of any other state or nation, doing business in this state under the provisions of this act, shall annually, at the time the certificate of authority is granted, pay the treasurer of state two per cent. on all premiums received in cash and other obligations, except what are denominated insurance deposit notes, representing dividends of the company, by their agents or attorneys in this state, during the year ending on the preceding thirty-first day of December, which sum shall be paid into the general revenue fund, and shall be in lieu of all other taxes or licenses to be collected from said companies in this state, except upon the real or personal property owned by said companies in this state, which shall be taxed the same as like property owned by individuals, and not otherwise. And all companies chartered by the laws of the territory or state of Minnesota, whether life, marine or fire, except upon the business of the latter done upon the mutual plan, shall pay two per cent. upon their premium receipts in the state; and all companies, whether life, marine or fire, shall pay taxes and assessments upon all real estate owned by

them within the state, in like manner and in like amount as real estate owned by individuals is taxed and assessed; and no additional taxes, fees or licenses shall be assessed against said companies, or any of them. (1872, c. 1, tit. 3, § 28, as amended 1876, c. 23, § 1.)

19 M. 267; 21 M. 241.

\*§ 316. **Responsibility of agents—penalty for embezzlement.** Agents or employes of any insurance company doing business in this state, appointed or authorized to solicit for applications for insurance, to issue policies, to collect premiums on the same, to adjust losses, or to transact any other duties or business for such companies, shall be held personally responsible to such company for any moneys or property received by them for such company; and in case any such agent or employe shall embezzle or fraudulently convert to his own use, or shall take or secrete, with intent to embezzle and convert to his own use, without the consent of such company, any money or other property belonging to such company which he shall have collected, or which shall otherwise come into his possession, or shall be under his care or control, by virtue of such agency or employment, or shall receive any consideration other than such allowed by the company for which he is acting, in the settlement or adjustment or payment of a loss, with intent to defraud either said company or any insurer, he shall be deemed guilty of the crime of larceny, and, on conviction therefor, shall be subject to the fines and penalties provided by statute for the punishment of larceny.

**False statements in sworn proofs of loss—penalty.** If any person or persons insured in any company doing business in this state, as provided in this act, shall wilfully make any false statement, under oath, in making any claim or proof of loss, as required by said company, they shall be deemed guilty of a felony, and shall suffer the pains and penalties of perjury as provided by the laws of this state. (Id. § 29.)

See 1881 Sup't. 71.

#### FIRE-INSURANCE COMPANIES.

\*§ 313.

\*§ 317. **Amount of capital required.** No joint-stock fire, inland or marine insurance company shall be organized in this state, unless it has one hundred thousand dollars capital. No joint-stock fire, inland or marine insurance company of any other state or nation shall do business in this state, unless it has at least two hundred thousand dollars capital. (1872, c. 1, tit. 4, § 1, as amended 1877, c. 46, § 1.)

\*§ 318. **Surplus required of mutual companies.** No mutual fire-insurance company, not of this state, shall do business in this state, unless it shall be possessed of at least two hundred thousand dollars of actual cash surplus, over and above all liabilities, including the reinsurance reserve fund required by the laws of this state. (Id. § 2, as amended 1877, c. 45, § 1.)

\*§ 319. **Limitation as to single risks.** No fire or inland insurance company of this state, or doing business in this state, shall expose itself to any loss on any one fire or inland navigation risk or hazard, either by one or more policies, to [an] amount exceeding five per cent. of its paid-up capital in case of a fire, or ten per cent. in case of an inland insurance company, whether reinsured or not. (Id. § 3.)

\*§ 320. **Dividends to be from surplus profits—reserve.** No fire-insurance company shall make any dividend, except from the surplus profits arising from its business. In estimating such profits, there shall be reserved therefrom—

1. A sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums:

2. All sums due the company on bonds and mortgages, bonds, stocks, and book-accounts, of which no part of the principal, nor the interest thereon, has been paid during the preceding year, and for which foreclosure or suit has not been commenced, or which, after judgment obtained thereon, shall have re-

mained more than two years unsatisfied, and on which interest shall not have been paid ; and,

3. All interest due or accrued and remaining unpaid.

*Provided*, that any company may declare dividends, not exceeding fifteen per cent. on its capital stock in any one year, that possesses an accumulated fund, in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities, equal to one half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to this section shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company, to the extent of the dividend received, beside the other penalties and punishments prescribed by law. This section shall not apply to the declaration of scrip dividends by participating companies ; but no such scrip dividend shall be paid, except from surplus profits, after reserving all sums as above provided, including the whole amount of premiums on unexpired risks. The word "year," wherever used in this section, shall be construed to mean the calendar year. (1872, c. 1, tit. 4, § 4.)

\*§ 321. **Participation of insured in profits.** Any joint-stock, fire-insurance company may (upon the written consent of the holders of three-fourths in amount of the stock) permit the insured to participate in the profits of its business, and provide how far any scrip, issued to the insured for such profits, shall be liable for the losses to be sustained; and any company so doing, whenever an amount not less than one hundred thousand dollars has been accumulated, and scrip so issued therefor, may, upon the written consent of the holders of three-fourths in amount of the stock, pay off and cancel an amount of the original cash capital equal to one-half of the accumulated profits, and so may continue from time to time until the whole amount of the original cash capital is paid off: *provided*, that before any portion of such capital stock shall be so paid off, proof shall be exhibited to the insurance commissioner that an amount of accumulated profits has been realized, scrip issued therefor, and investment made thereof, pursuant to the provisions of section 4 of title 3, of this act, at least equal to double the amount so desired to be paid off and cancelled; and the said commissioner shall also first certify that he is satisfied with such proof. (*Id.* § 5.)

\*§ 322. **No deposit required of certain companies.** No fire-insurance company of any other state of the United States in which the substantial provisions of this act shall be enacted, shall be required to make any deposit in this state. (*Id.* § 6.)

\*§ 323. **Deposit required of foreign companies.** No foreign fire-insurance company shall do business in this state, unless it has on deposit with the commissioner of this state, for the benefit of all its policy-holders in the United States, the sum of two hundred thousand dollars, invested and valued as prescribed in section 4 of title 3, or unless it has complied with the next section. (*Id.* § 7.)

\*§ 324. **When certificate filed, no deposit required.** A foreign fire-insurance company which has its principal office in the United States in any state where the provisions of law contained in this act shall be in force, may file with the insurance commissioner of this state a certificate made by the insurance commissioner of such other state, that he holds a deposit made by such company, such as is described in the last section. No deposit shall be required in this state from such company while the deposit so certified remains sufficient. (*Id.* § 8.)

\*§ 325. **Limit of single risks of foreign companies.** No foreign insurance company shall make any contract of insurance against loss or damage by fire or inland navigation risks, nor expose itself to any such loss by any one risk, for any greater amount in proportion to its capital, as determined by the following provisions, than companies of this state may. (*Id.* § 9.)

\*§ 326. **Capital of foreign companies defined—Trustees and their powers.** For the pur-



poses of this act, the capital of any foreign insurance company, doing fire-insurance business in this state, shall be deemed to be the aggregate value of its deposits with the insurance or other departments of this state, and of the other states of the United States, for the benefit of policy-holders in any such state, or in the United States, and its assets and investments, certified according to the provisions of this act, in the United States, after making the same deductions therefrom for losses and all liabilities within the United States, and for premiums on unexpired risks, as are made in the case of companies of this state: *provided*, that such assets and investments be vested in and held within the United States by trustees, citizens of the United States, appointed by the board of directors of the company, and approved by the insurance commissioner of the state where invested, for the benefit of the policy-holders and creditors in the United States. The trustees so chosen are hereby empowered to take, hold and convey real and personal property for the purposes of the trust, subject to the same restrictions as insurance companies of this state. (1872, c. 1, tit. 4, § 10.)

\*§ 327. **Certificate to state amount of capital.** The annual certificate of the insurance commissioner, given to any foreign fire-insurance company [or] its agents within this state, under section 8, must state the amount of capital of the company ascertained by him, as defined in the last section. (*Id.* § 11.)

\*§ 328. **Requirements of inland insurance companies.** All the provisions contained in this title respecting fire-insurance companies, shall apply to companies doing an inland insurance business, so far as, from the nature of the business of inland insurance, the same may be applicable. (*Id.* § 12.)

\*§ 329. **Companies doing farm business only.** Any fire-insurance company already organized under the laws of this state, and doing a farm business only, may continue to do such business by investing the accumulations of such company to the amount of thirty thousand dollars, which shall be held as a reserve fund for the security of the assured, as provided for in section four, title three, of this act; but such company may be exempt from complying with section 28, title 3, of this act. (*Id.* § 13, as amended 1876, c. 19, § 1.)

#### CREATION OF SAFETY FUNDS BY FIRE COMPANIES.\*

\*§ 330. **Guarantee surplus fund and special reserve fund.** Hereafter it shall be lawful for any fire-insurance company, organized under the laws of this state, to create the funds herein provided for, to be known and designated as the guaranty surplus fund and the special reserve fund, and to avail itself of the provisions of this act, upon complying with the requirements thereof. (1876, c. 18, § 1.)

\*§ 331. **Same—how created—examination and certificate—notice on policies.** Any fire-insurance company desiring to create such fund shall be, and it is hereby authorized to do so upon the adoption of a resolution by its board of directors at a regular meeting thereof, and filing with the insurance commissioner of the state a copy thereof, declaring the desire and intention of such company to create such funds, and to do business under the provisions of this act; and as soon after the filing of such copy of the resolution as convenient, the insurance commissioner shall make, or cause to be made, an examination of such company, and he shall make a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by such company at the date of such examination, which, under the provisions of this act, are to and may be equally divided between, and be set apart to constitute, said guaranty surplus and special reserve funds, which certificate shall be recorded in the insurance department; and from and after the date of the recording of said certificate, all the policies and renewals of policies issued by said company shall have printed thereon by said company a notice that the same are issued

\*An act to provide security against extraordinary conflagrations, and for the creation of safety funds by fire-insurance companies. Approved March 6, 1876, (Laws 1876, c. 18.)

under and in pursuance of this act, referring to the same by its chapter, date and title; and such policies and renewals shall be deemed to have been issued and received subject to the provisions of this act. (1876, c. 18, § 2.)

\*§ 332. **Limit of dividends—disposition of surplus.** After the date mentioned in any such resolution so passed and filed, it shall not be lawful for such company to make, declare or pay in any form, any dividend upon its capital stock exceeding ten per cent. per annum thereupon, and upon the surplus funds to be formed hereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its said capital stock; and the entire surplus profits of such company, above such annual dividend of ten per cent., shall be equally divided between, and be set apart to constitute, the said guaranty surplus fund and the said special reserve fund, which funds shall be held and used as hereinafter provided, and not otherwise; and any company doing business under this act, which shall declare or pay any dividend contrary to the provisions herein contained, shall be liable to be proceeded against by the attorney general for its dissolution. Such guaranty surplus fund and such special reserve fund may from time to time, after they shall together have accumulated to an amount equal to the capital stock, be still further increased out of any subsequent profits of the company: *provided*, however, that such profits shall, at each division thereof, be equally divided between the said funds. (*Id.* § 3.)

\*§ 333. **Guaranty fund, to what applicable.** Said guaranty surplus fund shall be held and invested by such company the same as its capital stock and surplus accumulation, and shall be liable and applicable in the same manner as the capital stock to the payment generally of the losses of such company. (*Id.* § 4.)

\*§ 334. **Special reserve fund, how invested—purposes of.** Said special reserve fund shall be invested according to existing laws relating to investments of capital by fire-insurance companies, and shall be deposited from time to time, as the same shall accumulate and be invested, with the insurance commissioner of the state, who shall permit the company depositing the same to change such deposits by substituting for those withdrawn others of equal amount and value, and to collect and receive the interest or dividends upon such securities as the same may accrue; and such special reserve fund shall be deemed a fund contributed by the stockholders to protect such company and its policyholders, other than claimants for losses already existing, or then incurred, in case of such extraordinary conflagration or conflagrations as hereinafter mentioned; and said fund shall not be regarded as any part or portion of the assets in possession of said company, so as to be or render the same liable for any claim or claims for loss by fire or otherwise, except as herein provided. (*Id.* § 5.)

\*§ 335. **Estimate of profit in making division.** In estimating the profit of any such company, for the purpose of making a division thereof between said guaranty surplus fund and such special reserve fund, there shall be deducted from the gross assets of the company, including for this purpose the amount of special reserve fund, the sum of the following items:

*First*—The amount of all outstanding claims;

*Second*—An amount sufficient to meet the liability of such company for the unearned premiums upon its unexpired policies, which amount shall be at least equal to one-half of the premiums received on policies having less than one year to run from date of policy, and a *pro rata* proportion of the premiums received on the policies having more than one year to run from date of policy, and shall be known as the re-insurance liability;

*Third*—The amount of its guaranty surplus fund and of its special reserve fund;

*Fourth*—The amount of capital of the company; and,

*Fifth*—Interest at the rate of ten per cent. per annum upon the amount of the capital and of the said funds for whatever time shall have elapsed since the

last preceding cash dividend. And the balance shall constitute the net surplus of the company, subject to an equal division between the said funds as herein provided. (1876, c. 18, § 6.)

\*§ 336. **Notice when claims exceed capital and fund—further proceedings.** In the event of any extensive conflagration or conflagrations, whereby the claims upon such company shall exceed the amount of its capital stock, and of the guaranty surplus fund provided for by this act, the said company shall notify the said insurance commissioner of the fact, who shall then make, or cause to be made, an examination of said company, and shall issue his certificate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability, and of other assets; and upon his issuing such certificate in duplicate, one copy to be given to the company, and one to be recorded in the insurance department, the said special reserve fund shall be immediately held to protect all policy-holders of said company, other than such as are claimants upon it at the time, or such as became such claimants in consequence of such conflagration or conflagrations; and the amount of said special reserve fund, and an amount equal to the unearned premiums of such company, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such company for the protection of policy-holders other than such claimants, and for the further conduct of its business; and such official certificate of the insurance commissioner shall be binding and conclusive upon all parties interested in such company, whether as stockholders, creditors or policy-holders; and upon the payment to the claimants for losses, or otherwise, existing at the time of or caused by such general conflagration or conflagrations, of the amount to which they are respectively entitled, in proportion to their several claims, of the full sum of the capital of such company, and of its guaranty surplus fund, and of its assets, excepting only such special reserve fund and an amount of its assets equal to the liability of the company for unearned premiums, as so certified by such insurance commissioner, such company shall be forever discharged from any and all further liability to such claimants, and to each of them; and the said insurance commissioner shall, after issuing his said certificate, upon the demand of such company, transfer to it all such securities as shall have been deposited with him by such company as such special reserve fund; unless said special reserve fund shall exceed the amount of the capital of such company, in which case the said insurance commissioner shall so transfer to the company only so much of said securities as shall, at their market value, equal its capital; and said insurance commissioner shall hold the balance thereof as a special reserve fund for the purpose and under the conditions set forth herein; and if the amount of such special reserve fund be less than fifty per cent. of the full amount of the capital of the company, a requisition shall be issued by the said insurance commissioner upon the stockholders, to make up such capital to that proportion of its full amount, in the manner now provided by law in the case of companies with impaired capital: *and provided further*, that any capital so impaired shall be made up to at least the sum of \$200,000; and in case said company, after such requisition, shall fail to make up its capital to at least said amount of \$200,000, as therein directed, such special reserve fund shall still be held as security, and liable for any and all losses occurring upon policies of such company after such conflagration or conflagrations. Such company shall, in its annual statement to the insurance department of this state, set forth the amount of such special reserve fund and of its guaranty surplus fund. The policy registers, insurance maps, books of records, account and other books in use by such company in its business, are not to be considered as assets, but shall be held by the company for its use in the protection of its policy-holders not claimants for losses at the time of such general conflagration. (*Id.* § 7.)

\*§ 337. **Impairment of capital, how made good—limit of single risks.** If, at any time after said special reserve fund shall have been accumulated by any company, it shall appear, upon examination by the said insurance commissioner, that the capital of such company has, in the absence of any such extensive conflagration, become impaired so as to cause him to order a call upon the stockholders to make up such impairment, the board of directors of such company may either comply with such order, and require the necessary payment by the stockholders, or, at their option, they may apply, for that purpose, so much of said special reserve fund as will make such impairment good. No company doing business under this act shall insure any larger amount upon any single risk than is permitted by law to a company possessing the same amount of capital, irrespective of the fund hereby provided for. So much and such parts of existing laws as are inconsistent with this act are hereby made and declared to be inapplicable to insurance companies doing business under and in conformity with this act. (1876, c. 18, § 8.)

TOWN INSURANCE COMPANIES.\*

\*§ 338. **Organization and powers.** It shall be lawful for any number of persons, not less than twenty-five, residing in adjoining towns in Houston, Goodhue, Dakota, Fillmore, Steele, Brown, Sibley, Freeborn, Wright, Chisago, Pine, Kanabec, Dodge, Rice, Chippewa, Swift, Olmsted, Pope, Washington, Lyon and Yellow Medicine, Meeker, Kandiyohi, and the seventh senatorial district of Winona county, who collectively shall own property of not less than twenty-five thousand dollars in value, which they desire to have insured, to form themselves into a company for mutual insurance against loss or damage by fire or lightning, which corporation may sue or be sued, contract or be contracted with, plead and be impleaded in any court of law or equity within the state, and it shall possess the usual duties of corporations, and the corporate name thereof shall embrace the name of the town in which the business office of said company shall be located. (1875, c. 83, § 1, as amended 1877, c. 69, § 1, and 1878, c. 36, § 1.)

\*§ 339. **Directors and officers.** Every company so formed shall choose of their number not less than five nor more than nine directors to manage the affairs of such company, who shall hold their office for one year, and until others are elected; and such directors shall choose one of their number president, and one secretary. (1875, c. 83, § 2.)

\*§ 340. **Directors to file articles, by-laws, etc.—to keep record, etc.** The directors of such company shall file their articles of association, together with a copy of their by-laws and the names of the officers of such company, in the clerk's office of the town in which the office of such company is located, and shall keep a record of their proceedings in a book to be kept for that purpose, together with the names of all persons insured, and the amount each person is insured, which record shall be kept open for the inspection of all the members of such company, from the hours of 9 o'clock A. M. to 4 o'clock P. M. of each secular day, the established holidays excepted. (Id. § 3.)

\*§ 341. **Issue of policies against loss by fire or lightning.** The directors of each company may issue such policies, signed by the president and secretary, agreeing in the name of the company to pay all losses or damages which may be sustained by fire or lightning, for a term not exceeding five years, by the holders of such policies, and not exceeding the sum named in such policy. (Id. § 4.)

\*§ 342. **Undertaking for payment of losses—cash premiums** Every person so insured shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns, to pay his *pro rata* share to the company of all losses or damages by fire or lightning, which may be sustained by

\*An act authorizing the formation of Town Insurance Companies. Approved March 9, 1875. Laws 1875, c. 83.)

any member thereof; and every such undertaking shall, within five days after the execution thereof, be filed in the office of secretary of such company, and shall remain on file in such office except when required to be produced in court as evidence. He shall also, at the time of effecting such insurance, pay such percentage in cash, and such reasonable sum for a policy, as may be required by the rules or by-laws of the company. (1875, c. 83, § 5.)

\*§ 343. **Proceedings in case of a loss.** Every member of such company who may sustain loss or damage by fire or lightning, shall immediately notify the president of such company, or, in case of his absence, the secretary thereof, who shall forthwith convene the directors of such company, whose duty it shall be, when so convened, to appoint a committee of not less than three nor more than five members of such company, to ascertain the amount of such loss; and in case of the inability of the parties to agree upon the amount of such damage, the claimant may appeal to the judge of the district court of such county, whose duty it shall be to appoint three disinterested persons as a committee of reference, who shall have full authority to examine witnesses and to determine all matters of dispute, who shall make their award in writing to the president, or, in his absence, to the secretary of such company, which award thereon shall be final. The said committee of reference shall each be allowed the sum of two dollars per day for each day's service so rendered, and the sum of five cents per mile for every mile necessarily travelled in the discharge of such duties, which shall be paid by the claimant, unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company. (*Id.* § 6.)

\*§ 344. **Classification of property to be insured—assessment.** The companies formed under the provisions of this act may classify the property insured, at the time of issuing policies thereon, under different rates, corresponding as nearly as may be to the greater or less risk from fire and loss which may attach to each several buildings or personal property insured. Whenever the amount of any loss shall be ascertained which exceeds in amount the cash funds of the company, the president shall convene the directors of said company, who shall make an assessment upon all property insured to the amount for which each several piece of property insured in such company shall pay to cover all unpaid losses, taken in connection with the rate of premium under which it may have been classified. (*Id.* § 7.)

\*§ 345. **Duty of secretary in collecting assessments.** It shall be the duty of the secretary, whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to his usual post-office address, of the amount of such loss, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made; but such time shall not be less than sixty nor more than ninety days from the date of such notice; and every person designated to receive such money may demand and receive two per cent., in addition to the amount due on such assessment as aforesaid, for his fees in receiving and paying over the same. (*Id.* § 8.)

\*§ 346. **Actions for neglect to pay assessments, etc.** Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act; and the directors of any company so formed, who shall wilfully neglect or refuse to perform the duties imposed upon them by the foregoing sections of this act, shall be liable in their individual capacity to the person sustaining such loss. (*Id.* § 9.)

\*§ 347. **Business to be confined to the town.** No company formed under this act shall insure any property out of the limits of the town or towns in which the said company is located, nor shall they insure any property other than detached dwellings and their contents, and farm buildings and their contents, and live-stock while on the premises or running at large, and hay and grain in the bin

or stack; nor shall they insure any property within the limits of any incorporated city in this state. (1875, c. 83, § 10.)

\*§ 348. **Directors, how chosen.** The directors of such company so formed shall be chosen by ballot, at the annual meeting thereof, which shall be held on the first Tuesday of January in each year, unless otherwise determined by a majority of the voters in such company; and every person shall have one vote for each two hundred dollars for which he or she may be insured, but no person shall be allowed to vote by proxy at such election, excepting a woman. (*Id.* § 11.)

\*§ 349. **Annual statement—what to contain.** It shall be the duty of the secretary of every company, as aforesaid, to prepare a statement showing the condition of such company on the day preceding their annual meeting, which statement shall contain the amount insured, the number of policies issued, and to whom, and the amount insured by each policy, and all other matters pertaining to the interest of such company, which statement shall be filed in the office of the town clerk in which said company may be located, on or before the fifteenth day of January in each year, and which statement shall also be read to the members of said company at their annual meeting. (*Id.* § 12.)

\*§ 350. **Right of withdrawal—notice.** Any member of such company may withdraw therefrom at any time, by giving notice in writing to the president, or, in his absence, to the secretary thereof, and paying his share of all claims then existing against said company; and the directors, or a majority thereof, shall have power to annul any policy by giving notice in writing to that effect to the holder thereof. And it shall also be the duty of the secretary, whenever any member of such company shall withdraw from his membership therein, to notify every other member thereof of such withdrawal, and in default of such notice, no claim by the company upon any member for assessment shall be binding upon such member. (*Id.* § 13.)

\*§ 351. **Non-resident members.** Non-residents of any town in this state, owning property therein, may become members of any company founded under this act, and shall be entitled to all rights and privileges appertaining thereto, except that it shall not be lawful for such non-resident to become a director of said company, unless he be at the time of such membership a resident of a town adjoining the town or towns in which said company has been formed under the provisions of this act. (*Id.* § 14.)

\*§ 352. **By-laws—pay of officers.** The company so formed may adopt such by-laws for its regulations as are not inconsistent with the provisions of this act, and may therein prescribe the compensation of its officers. (*Id.* § 15.)

\*§ 353. **Duration of company.** No company formed under this act shall continue for a longer term than thirty years. (*Id.* § 16.)

\*§ 354. **Provisions of general insurance law applicable.** Any company organizing under the foregoing provisions to do a farm business only, may do such business by complying with the provisions of title three of the general reciprocal insurance laws of this state, so far as the same are applicable, but shall be exempt from complying with section twenty-eight, title three, of the same. (*Id.* § 17.)

#### LIFE-INSURANCE COMPANIES.

\*§ 355. **Capital required of life companies.** No life-insurance company shall be organized or do business in this state, unless it has at least one hundred thousand dollars, capital or assets, invested as provided in this act. (1872, c. 1, tit. 5, § 1.)

\*§ 356. **Securities required of life companies.** No life-insurance company of this state shall do business in this state or elsewhere, and no other life-insurance company, except as provided in section 13 of this title, shall do business in this state, unless it has on deposit with the insurance commissioner or other financial officer of this state, as security for all its policy-holders, stocks or bonds of this state or of the United States to an amount the actual market value of which, exclusive of interest, shall never be less than one hundred thousand

dollars, which stock or bonds shall be retained by the commissioner or other designated officer, and disposed of as directed by law: *provided*, however, that personal obligations, secured by first mortgages on real estate within this state, worth, exclusive of all buildings, at least double the amount of the lien, and bearing an interest of not less than six per cent. per annum, may be received by the said financial officer of this state, instead of bonds or stocks, to the amount of not exceeding fifty thousand dollars. (1872, c. 1, tit. 5, § 2.)

\*§ 357. **Deposit to be held while liability exists.** As long as any policies of the depositing company remain in force, the insurance commissioner shall hold the deposit mentioned in the last section as security for all holders of its policies. (*Id.* § 3.)

\*§ 358. **Certificate from another commissioner to be in lieu of deposit.** Any life-insurance company of any other state of the United States in which the provisions of law contained in this act shall be in force, may file with the insurance commissioner of this state a certificate of the insurance commissioner of such other state, that, as such officer, he holds in trust and on deposit, for the benefit of all the policy-holders of such company, the deposit above described, stating the items of the securities so held; and that he is satisfied that such securities are worth one hundred thousand dollars. No deposit shall be required in this state while the said deposit so certified remains. (*Id.* § 4.)

\*§ 359. **Surrender of securities to company.** When any life-insurance company, doing business in this state, desires to relinquish its business, the insurance commissioner shall, on its application, under the oath of the president or vice-president, and secretary or actuary, give notice of such intention in a public newspaper, published at the state capital, at least twice a week for six months; and after such publication, he shall deliver up to such company, or its assigns, any securities held by him belonging to it, on being satisfied by the exhibition of its books and papers, and on examination, by himself or a person appointed by him, and upon the oath of the president or vice-president, and the secretary or actuary of the same, that all liabilities due or to become due, on any agreement made with any citizens of the United States, are paid and extinguished. And the commissioner may also, from time to time, deliver up to such company, or its assigns, any part of said securities, on being satisfied by any other competent proof that all liabilities, due or to become due on any agreement made by it, are less than one-half the amount of the securities he still retains. Any foreign life-insurance company, having made such publication, may, in the discretion of the insurance commissioner, withdraw one-half of its deposit of one hundred thousand dollars, on registering, according to the provisions of law for registered policies, all its outstanding policies issued to citizens or residents of the United States, and covenanting to maintain unimpaired the reinsurance deposit for such registered policies at all future times, and specially pledging for their security all future premiums payable on American policies. (*Id.* § 5.)

\*§ 360. **Provision for additional securities.** Any life-insurance company of this state may, at any time, assign to the insurance commissioner securities such as are described in section two, to the amount of twenty-five thousand dollars, or more, in addition to the deposits required by that section, to be held by him in trust for the benefit of all holders of its policies and bonds registered under section seven, and not to be transferred by him without the written application of the company, or its receiver duly appointed, and for the purpose of paying such holders. (*Id.* § 6.)

\*§ 361. **Registration, etc., of policies and annuity bonds.** Upon being furnished by the depositing company with policies and annuity bonds, consecutively numbered, executed by the company in duplicate, each bearing the words, "The present net value of this policy is secured by pledge of public stocks or bonds and mortgages," and of such denominations and amounts as the company may require, within the limits prescribed by section six, the commissioner shall regis-

ter the same in books provided for the purpose, and countersign, seal, and deliver to the company the originals, and file the duplicates. Mutilated registered policies and annuity bonds, issued to a company, shall be received back by the commissioner, and others delivered in lieu thereof, of like tenor and date; and in case of lost policies or bonds, he shall furnish certified copies of the duplicates on file. (1872, c. 1, tit. 5, § 7.)

\*§ 362. **Same—renewal receipts and cancellation, how regulated.** Receipts for renewal premiums on registered policies must be countersigned or stamped by the insurance commissioner, and no policies shall be marked off or cancelled on the books of a registering company, except those the renewal receipts for which are returned to the commissioner, or other proof satisfactory to the commissioner is furnished, that they have not been taken, or have ceased to be in force. (*Id.* § 8.)

\*§ 363. **Valuation of policies—withdrawal of securities.** The commissioner shall value the policies and annuity bonds chartered under the last section, according to the rules prescribed by section 3, title 2, and in no case shall the aggregate amount of the net value of said policies and bonds issued to any company exceed the value of the securities he holds by its transfer, as provided in section 2, title 5. He may, upon satisfactory proof presented in writing and filed with him, that the securities so held by him exceed the net present value of outstanding registered policies and annuity bonds issued to the depositing company, allow it to withdraw the excess. (*Id.* § 9.)

\*§ 364. **No liability on part of state.** Nothing in this act shall be construed as implying any obligation on the part of the state to pay policies or annuity bonds of companies, except as to the net value thereof by a proper application of the securities deposited or transferred to the objects declared by the act. (*Id.* § 10.)

\*§ 365. **Dividends on deposited securities.** So long as any deposit required by this article is kept good, and the depositing company is solvent, the commissioner may permit the company to collect the interest or dividends on its securities so deposited, and from time to time to withdraw any such securities, on depositing with him others of equal value and like character. (*Id.* § 11.)

\*§ 366. **Companies organized under act of congress.** Any life-insurance company, organized under a law of congress, shall elect one state in which its policies shall be valued; and the certificate of the proper officer of such state that such has been done, shall be received by the commissioner of this state as of the same force and effect as if such company had been organized under the laws of such state. And such company shall comply with the law of the state so selected as regards the deposit required to be made therein for the protection of policy-holders; and the certificate of the commissioner of such state that said deposit has been duly made, shall be received by the commissioner of this state as of the same effect as if said company had been organized under the laws of the state so selected. (*Id.* § 12.)

\*§ 367. **Exemption of mutual life companies.** Life-insurance companies doing business exclusively on the mutual plan, are hereby exempted from the provisions of sections one and two of this title, and may do business in this state, provided they have on hand, exclusive of all debts and liabilities, the net value of all their policies in force, calculated as provided in subdivision four of section three of title two of this act, subject, however, to all other regulations and provisions of this act. (*Id.* § 13.)

\*§ 368. **Societies exempted from general life-insurance laws.** That all associations or secret orders, such as Masons, Odd Fellows, Druids, Knights of Pythias, Ancient Order of United Workmen, firemen, and other benevolent or fraternal co-operative societies, associated or incorporated for the sole purpose of mutual protection and relief of its members, and for the payment of stipulated sums of money to the families of deceased members, are hereby declared not to be life-insurance companies in the sense and meaning of the general life-insurance



laws of the state, and they are and shall be henceforth exempt from the provisions of said general insurance law. (1877, c. 128, § 1.)

\*§ 369. **Fund exempt from legal process.** When any benevolent association or society, similar to those enumerated in section one of this act, set apart or appropriate a beneficiary fund to be paid over to the families of deceased, or to any member of said families, any such fund, not exceeding the sum of five thousand dollars, so provided and set apart, according to the rules, regulations or by-laws of said association or society, to the family of any deceased member, or to any member of said family, shall be exempt from execution, and shall under no circumstances be liable to be seized, taken or appropriated by any legal or equitable process, to pay any debt of such deceased member. (*Id.* § 2.)

## MARINE-INSURANCE COMPANIES.

\*§ 370. **Capital of future marine companies.** No joint-stock marine-insurance company shall hereafter be organized in this state, unless it has a paid-up capital of at least five hundred thousand dollars. (1872, c. 1, tit. 6, § 1.)

\*§ 371. **No deposit required of certain companies.** No marine-insurance company of any of the states in which the substantial provisions of this act shall be enacted, shall be required to make any deposit in this state. (*Id.* § 2.)

\*§ 372. **Capital required of foreign company.** No foreign marine-insurance company shall do business in this state, unless it has on deposit with the commissioner of this state the sum of four hundred thousand dollars invested, and valued as prescribed in section four of title three, or unless it has complied with the next section. (*Id.* § 3.)

\*§ 373. **Foreign company may file certificate in lieu of deposit.** A marine-insurance company of a foreign nation, which has its principal office for the United States in any state in which the substantial provisions of this act shall be enacted, may file with the insurance commissioner of this state a certificate made by the insurance commissioner of such other state, that he holds a deposit made by such company, such as is described in the last section. No deposit shall be required in this state from such company while the deposit so certified remains. (*Id.* § 4.)

\*§ 374. **Repeal of former acts—vested rights saved.** All acts and parts of acts and laws of this state now in force, inconsistent or in conflict with the several provisions of this act are hereby repealed; but the repeal of such acts and laws shall not in any manner affect, injure or invalidate any vested rights of any insurance company, or any contracts, suits, rights, claims or demands that may have been heretofore duly and lawfully issued, commenced, made, performed, or that may exist, in favor of or against any insurance company or other corporation, partnership, firm or person, under or by virtue or in pursuance of the said laws and acts, or any of them; but the same shall exist, be in force and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed. (*Id.* § 5.)

## TITLE 7.

## PLANK-ROADS AND TURNPIKES.

§ 375. (SEC. 126.) **Application of sections of title one.** The provisions of sections one, two, three and four, sections six to twenty-seven, inclusive, and sections thirty and thirty-two of title one, shall apply to and be observed by corporations and companies organizing under this title.

§ 376. (SEC. 127.) **Roads, where constructed—payment for land—power to hold land.** No plank-road or turnpike company shall lay out or construct their road through any orchard or garden, without the consent of the owner thereof, nor through any buildings or any fixtures or erections used or intended for the purpose of

trade or manufactures, or any yards or enclosures necessary to the use or enjoyment thereof, without permission from the owners; and when the said route is determined by the said company, it shall be lawful for them, their officers, agents, engineers, contractors and servants, to enter upon, take possession of, and use such lands to the width of four rods, upon their first making payment, at the time and in the manner hereinafter specified, of such compensation as the company may have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed: *provided*, that the said corporation shall not, in their corporate capacity, hold, purchase or deal in any lands other than the lands on which the said road shall run, or which may be actually necessary for the construction or maintenance thereof, and of the gates, toll-houses, and other fixtures connected therewith.

§ 377. (SEC. 128.) **Necessary lands, how acquired—use of public roads.** Any plank-road or turnpike company legally organized under the provisions of this title may procure, by purchase or gift from the owners thereof, any lands necessary for the construction of this road, or for the erection of gates, toll-houses, and other fixtures; and may also procure, by agreement with the supervisors of the township, and the county commissioners of the county, through or in which such road is to be located, the right to take and use any part of any public highway in such county for the construction of such proposed road, and agree with such commissioners and supervisors upon the amount of compensation and damages to be paid by such company for such highway; every such agreement shall be in writing, and shall be filed in the office of the register of deeds of the county; and such compensation and damages, when paid, shall be expended by the proper officers in improving the highways of the town through or in which such road is located.

§ 378. (SEC. 129.) **Survey to be made, acknowledged and recorded.** When any such company has procured all the lands necessary to be used for the construction of its road in any county, and the right to take and use such parts of the public highway in such county, as shall be necessary for that purpose, it shall cause an accurate survey of such road to be signed by its president and secretary, and acknowledged by them as conveyances of real estate are required to be acknowledged, and recorded in the office of the register of deeds of such county, and whenever such company has so procured the land, and the right to take and use the parts of public highways necessary to construct its road in any such county, and has caused such survey thereof to be made and recorded, said company may construct so much of its road as shall be intended to be constructed in any such county; and so much of any such road as shall be situated in any county may be embraced in one survey, and recorded as aforesaid.

§ 379. (SEC. 130.) **Compensation for land occupied, how appraised.** Whenever it is necessary for such company to enter upon and occupy, for the purpose of making said road, any lands, the owners of which refuse to permit such entry or occupation, and such company cannot agree with such owners upon the compensation and damages to be paid for the use of such land, it shall be lawful for the parties to appoint three disinterested persons, residents of the county, to estimate and appraise such compensation and damages; every such appraisement shall be reduced to writing, and signed by the appraisers, or a majority of them, and a duplicate copy thereof shall be furnished to each of the parties; the expense of said appraisement shall be paid by said company.

§ 380. (SEC. 131.) **Width and construction of plank-roads.** Every plank-road made by virtue of this title shall be laid out at least four rods wide, and shall be so constructed as to make, secure and maintain a smooth and permanent road, the track of which shall be made of timber, plank, or other hard material, so that the same shall form a hard and even surface, and be so constructed as to

permit carriages and other vehicles conveniently and easily to pass each other, and also, so as to permit all carriages to pass on and off, where such road is intersected by other roads.

§ 381. (SEC. 132.) **Width and construction of turnpikes.** Every turnpike road constructed by virtue of this title shall be laid out at least four rods wide, and shall be bedded with stone, gravel, or such other material as may be found on the line thereof, and faced with broken stone or gravel, so as to form a hard and even surface, with good and sufficient ditches on each side whenever the same are practicable; the arch or bed of such road shall be at least eighteen feet wide, and shall be so constructed as to permit carriages and other vehicles conveniently to pass each other, and to pass on and off such turnpike where it may be intersected by other roads.

§ 382. (SEC. 133.) **Toll-gates on plank-roads—rates of toll.** Whenever any plank-road company complete their road, or any five consecutive miles thereof, the said company may erect one or more toll-gates upon their road, but not within three miles of each other, and may demand and receive toll not exceeding two cents per mile for any vehicle drawn by two animals; and for any vehicle drawn by more than two animals, one cent per mile for every additional animal; for every vehicle drawn by one animal, one cent per mile; for every score of sheep or swine, and for every score of neat cattle, one cent per mile, and in the same proportion for any greater or less number of cattle, sheep or swine; for every horse and rider, or led horse, three-fourths of a cent per mile.

§ 383. (SEC. 134.) **Toll-gates on turnpikes—rates of toll.** Whenever any turnpike-road company completes their road, or any five consecutive miles thereof, the said company may erect one or more toll-gates upon their road, but not within three miles of each other, and may demand and receive toll not exceeding the following rates: For every vehicle drawn by one animal, three-quarters of a cent per mile; for every vehicle drawn by two animals, one and a half cents per mile; for every vehicle drawn by more than two animals, one-quarter cent additional a mile, for every animal more than two; for every score of neat cattle, one cent a mile; for every score of sheep or swine, one-half cent a mile, and in the same proportion for any greater or less number of neat cattle, sheep or swine; for every horse and rider, or horse, one-half cent a mile.

§ 384. (SEC. 135.) **Persons exempt from paying toll.** No toll shall be collected at any gate of any company incorporated under this title from any person passing to or from public worship, or a funeral, or from any person going for a physician, or returning from such errand, or from any person going to or returning from any court, when legally summoned as a juror or witness, or from any person going to a town meeting or election, at which he is entitled to vote, for the purpose of giving such vote, and returning therefrom; or from farmers going to and from their work on their farms; and no more than half the rate of toll provided for in this title shall be taken from persons living within one mile of the gate at which the toll is taken.

§ 385. (SEC. 136.) **Location of toll-gate, how changed.** The commissioners of any county in which a toll-gate may be located on any such road, whenever they or a majority of them are of opinion that the location of such gate is unjust to the public interests, by reason of the proximity of diverging roads, or for other reasons, may, by giving at least fifteen days written notice to the president or secretary of said company, apply to the district judge of the county in which such gate is located, for an order to alter or change the location of such gate. The said judge, on such application being made, and on hearing the respective parties, and on viewing the premises, if he deems such view necessary, shall make such order in the matter as to him may seem just and proper; and either party may, within fifteen days thereafter, appeal from such order to the dis-

district court of the county, on giving such security as the district judge shall require; such order, unless appealed from, shall be observed by the respective parties, and may be enforced by attachment or otherwise, as the said court shall direct; and if appealed from, the decision of the district court shall be final in the matter, and the said district court may direct the payment of costs in the premises, as shall be deemed just and equitable.

§ 386. (Sec. 137.) **Limit of debts—stockholders liable for excess.** The debts and liabilities of any company formed under this title, shall not exceed in amount, at any one time, fifty per cent. of the amount of its capital actually paid in; and if such debts and liabilities shall at any time exceed such amount, the stockholders who were such at the time any excess of debts or liabilities was created or incurred, shall be, jointly and severally, individually liable for such excess, in addition to their other individual liability, as provided in this title.

§ 387. (Sec. 138.) **Annual report to secretary of state.** The directors of every company formed under the provisions of this title shall report annually to the secretary of state, under the oath of two such directors, the cost of constructing their road; the amount of all moneys expended; the amount of their capital; how much of the same is paid in, and how much is actually expended; the whole amount of tolls or earnings expended on such road; the amount received during the previous year for tolls, and from all other sources, stating each separately; the amount expended; the amount of dividends made; the amount set apart for repairs; and the amount of indebtedness of such company, specifying the object for which the indebtedness accrued.

§ 388. (Sec. 139.) **Town supervisors as road inspectors—powers and duties.** The town supervisors are inspectors of roads within their town; and whenever a complaint in writing to any two supervisors is made, that any part of a plank-road or turnpike in their town is out of repair, they shall without delay view and examine the road complained of; and if they find such complaint to be true, they shall give notice in writing of the defect to the toll-gatherer or person attending the gate nearest to the place out of repair, and may in their discretion order such gate to be thrown open; but such supervisors shall not order such gate to be thrown open unless a notice in writing has been served on the gatekeeper nearest the place out of repair, particularly describing such place, at least three days previous to making such order.

§ 389. (Sec. 140.) **Order to open gate—service and effect.** Notice of such order shall be served on such gatekeeper, and immediately thereafter the gate ordered to be thrown open shall be opened; nor shall it again be shut, nor shall any toll be collected thereat, until two supervisors of the town where such road out of repair is located, shall grant a certificate that such road is in sufficient repair, and that such gate ought to be closed.

§ 390. (Sec. 141.) **Proceedings when road is in two counties.** Whenever any part of such road is out of repair, and the gate nearest to the place out of repair is situated in an adjoining county, any two supervisors of the town in such adjoining county where such gate may be, upon complaint made to them in writing, shall view and examine the road complained of, and proceed thereon as provided in the one hundred and thirty-ninth section of this title, in like manner as if the portion of road complained of was within the precinct where such gate is situated.

§ 391. (Sec. 142.) **Appeal from refusal to grant certificate.** Whenever any toll-gate is ordered to be thrown open, as herein provided, or whenever such supervisors refuse to grant a certificate that the road complained of is in sufficient repair, the company owning such gate, or the gatekeeper attending the same in their behalf, may appeal from the order or decision of such supervisors to the district judge of the same district where such supervisors reside, by delivering a statement in writing of their order or decision, and of such appeal, verified by affidavit, to such judge; and thereupon such district judge shall forthwith

proceed to view and examine the road complained of, and may reverse or confirm the order or decision of such supervisors respecting the same; and if he reverses their order or decision, then such gate may be closed; but if he confirms the same, then such gate shall not be closed until such district judge grants a certificate that such road is in sufficient repair.

§ 392. (SEC. 143.) **Penalty for not obeying order to open gate.** Every keeper of a gate ordered to be thrown open, who shall not immediately obey such order, or who shall not keep open such gate until a certificate permitting it to be closed shall be granted, or who, during the time such gate ought to be open, shall hinder or delay any person in passing, or take or demand any toll from any person passing, shall, for each offence, forfeit the sum of ten dollars to the party aggrieved.

§ 393. (SEC. 144.) **Fees of supervisors and district judges.** To each supervisor who shall view a plank or turnpike road, upon complaint made to him, and to each district judge for the like service, shall be allowed the sum of one dollar and fifty cents for each day spent by him in the performance of such duty; and if the road viewed shall be adjudged out of repair, such fees shall be paid by the company to which the road shall belong; otherwise they shall be paid by the party making the complaint.

§ 394. (SEC. 145.) **By whom such fees are to be paid.** Such fee, when payable by the company, shall be paid by the toll-gatherer nearest that part of the road adjudged out of repair, on demand, and out of the tolls received, or to be received by him, and may be recovered, with costs, of such toll-gatherer, if he neglects or refuses to make such payment.

§ 395. (SEC. 146.) **Penalty for delaying traveller or taking illegal toll.** Every toll-gatherer who at any such gate shall unreasonably hinder or delay any traveller or passenger, or shall demand and receive from any person more toll than by law he is authorized to collect, shall, for each offence, forfeit the sum of five dollars to the person aggrieved.

§ 396. (SEC. 147.) **Judgment against toll-gatherer, how collected.** Whenever a judgment is obtained against a toll-gatherer for a penalty, or for damages for acts done or omitted to be done by him in his capacity of toll-gatherer, and goods and chattels of the defendant to satisfy such judgment cannot be found, it shall be paid by the corporation whose officer he shall be; and if, on demand, payment is refused by such corporation, the amount of such judgment may be recovered, with costs, of such corporation.

§ 397. (SEC. 148.) **Printed list of rates of toll to be posted.** It shall be the duty of the directors of every such company, to affix and keep up, at or over each gate, in a conspicuous place, so as to be conveniently read, a printed list of rates of toll demandable at such gate.

§ 398. (SEC. 149.) **Persons not paying toll may be detained.** Each toll-gatherer may detain, and prevent from passing through his gate, all persons riding, leading or driving animals or carriages subject to toll, until they have paid respectively the tolls authorized by law.

§ 399. (SEC. 150.) **Company liable for damages, when.** Any such corporation is liable for all damages that may be sustained by any person in consequence of neglect or omission to keep such road in good condition and repair.

§ 400. (SEC. 151.) **Penalty for obstructing road.** Whoever wilfully obstructs, breaks, injures or destroys any road constructed under the provisions of this title, or any work, building, fixture or toll-gate attached to or in use upon the same, belonging to said company, shall, for every such offence, be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year.

§ 401. (SEC. 152.) **Penalty for wilfully running gate.** Whoever forcibly or fraudulently passes any toll-gate erected on such road in pursuance of this title, without having paid the legal toll, and whoever shall, with his carriage or horse, or other vehicle or animal liable to toll, turn out of such road, or pass any gate

thereon, or ground adjacent thereto, and enter again in such road, to avoid the payment of legal toll, shall, for each offence, be liable to a fine not exceeding ten dollars.

§ 402. (SEC. 153.) **Effect of failure to construct road.** Every company incorporated under this title shall cease to be a body corporate:

1. If, within two years from the filing of their articles of association, they shall not have commenced the construction of their road, and actually expended thereon at least ten per cent. of the capital stock of such company; and

2. If, within five years from such filing of the articles of association, such road shall not be completed according to the provisions of this title.

§ 403. (SEC. 154.) **Power of legislature over companies.** All companies formed under this title shall at all times be subject to visitation and examination by the legislature, or by a committee appointed by either house thereof, or by any agent or officer in pursuance of law; and the legislature may at any time establish rules and regulations for the government of any such corporation in relation to such road, the use of the same, and rates of toll to be collected thereon; and may alter, amend or repeal this title, or may annul and disfranchise any corporation formed or created under the same.

## TITLE 8.

### GENERAL PROVISIONS.

§ 404. (SEC. 155.) **General powers—meetings without the state—officers.** All corporations, when no other provision is specially made, may have a common seal, which they may alter at pleasure; they may elect all 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 conduct of their affairs, and the management of their property. The members of any corporation now or hereafter organized under the provisions of this chapter, and the directors and managers thereof, may meet and transact business without the state the same as within the state; but no corporation or association created or existing, or which shall exist, under this act, shall cease or expire from neglect on the part of the corporation to elect directors or officers at the time mentioned in their by-laws; and all officers elected by such corporation or association shall hold their offices until their successors are duly elected. (*As amended 1870, c. 26, § 2.*)

§ 405. (SEC. 156.) **First meeting, how called.** The first meeting of all corporations, when no other provision is specially made, shall be called by notice, signed by one or more of the persons named in, or associated as corporators under, the law by which it is incorporated, setting forth the time, place and purposes of the meeting; and such notice shall, at least twenty days before the meeting, be delivered to each member, or published in some newspaper in the county where the corporation is established, or if no newspaper is published in the county, then in some newspaper printed and published at the capital of the state.

§ 406. (SEC. 157.) **Meeting may be called by justice of peace, when.** When, by reason of the death, absence, or other legal impediment of the officers of the corporation, there is no person duly authorized to call or preside at a legal meeting thereof, any justice of the peace of the county where such corporation is established, may, on a written application of three or more of the members, issue a warrant to either of them, directing him to call a meeting, by giving such notice as had been previously required by law; and the justice may, in

the same warrant, direct such person to preside at such meeting, until a clerk is duly chosen and qualified, if no officer is present duly authorized to preside.

§ 407. (SEC. 158.) **Powers of company at such meeting.** A corporation, when so assembled, may elect officers to fill all vacancies, and act upon such other business as may lawfully be transacted at a regular meeting.

§ 408. (SEC. 159.) **Confirmation of proceedings at irregular meeting.** When all the members of a corporation are present at any meeting, however called or notified, and sign a written assent thereto, on the record of such meeting, the doings of such meeting shall be as valid as if legally called and notified.

§ 409. (SEC. 160.) **Scope of by-laws—penalties for violation.** Corporations may, by their by-laws, where no other provision is specially made, determine the manner of calling and conducting their meetings, the number of members that shall constitute a quorum, the number of shares that shall entitle the members to one or more votes, the mode of voting by proxy, the mode of selling shares for the non-payment of assessments, and the tenure of office of the several officers. They may annex suitable penalties to such by-laws, not exceeding twenty dollars for one offence.

§ 410. (SEC. 161.) **Remedies of company on subscription for stock.** If any subscriber for the stock of any corporation neglects to pay any instalment of his subscription when lawfully required by the directors or other managing officer of the corporation, he shall forfeit such stock, and the same may be sold in such manner as the directors in their by-laws prescribe, and after paying the amount of the instalment due or called for, and the expenses of sale, the balance of the proceeds of such sale shall be paid to such subscriber. An action may also be maintained against such subscriber upon his subscription.

§ 411. (SEC. 162.) **Power to convey lands.** Every corporation may convey lands to which it has a legal title.

§ 412. (SEC. 163.) **Shares not to be issued for less than par.** Corporations having capital stock divided into shares, unless specially authorized, shall not issue any shares for a less amount to be actually paid in on each share than the par value of the shares first issued: *provided*, that railroad, and navigation, and manufacturing corporations, created or organized under this chapter, or under any charter or special act of incorporation heretofore passed, shall have power to create, issue and dispose of such an amount of special, preferred or full paid stock of the capital stock of such corporation as may be deemed advisable by the board of directors of such corporation. (*As amended 1867, c. 18, § 2.*)

See ante, § 75.  
§ 413. (SEC. 164.) **Executors, etc., may vote as stockholders.** An executor, administrator, guardian or trustee shall represent the shares or stock in his hands at all meetings of the corporation, and may vote as a stockholder.

§ 414. (SEC. 165.) **Executors, etc., not to be personally liable.** Persons holding stock in a corporation as executors, administrators, guardians or trustees shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward or person interested in the trust fund would be, if they were respectively living and competent to act, and held the stock in their own names.

§ 415. (SEC. 166.) **Corporations, how dissolved.** When a majority in number or interest of the members of a corporation desire to close their concerns, they may apply by petition to the district court of the county where the corporation has its principal place of business, setting forth in substance the grounds of their application; and the court, after such notice as it deems proper to all parties interested, may proceed to hear the matter, and, for reasonable cause, adjudge a dissolution of the corporation. Corporations so dissolved shall be deemed and held extinct, in all respects, as if their charters had expired by their own limitation.

§ 416. (SEC. 167.) **Continuance for three years for certain purposes.** Corporations whose

charters expire by their own limitation, or are annulled by forfeiture or otherwise, shall, nevertheless, continue bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending actions by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock; but not for the purpose of continuing the business for which they were established.

§ 417. (Sec. 168.) **Appointment of receiver, etc., by district court.** When the charter of a corporation expires or is annulled, or the corporation is dissolved as provided herein, the district court of the county in which such corporation carries on its business, or has its principal place of business, on application of a creditor, stockholder or member, at any time within said three years, may appoint one or more persons receivers or trustees, to take charge of its estate and effects, and to collect the debts and property due and belonging to it, with power to prosecute and defend actions in the name of the corporation or otherwise, to appoint agents under them, and do all other acts which might be done by such corporation if in being, that are necessary to the final settlement of the unfinished business of the corporation. The powers of such receivers may be continued as long as the court deems necessary for said purposes.

§ 418. (Sec. 169.) **Powers of district court.** Said court shall have jurisdiction, in equity, of the application, and of all questions arising in the proceedings thereon; and may make such orders, injunctions and judgments therein as justice and equity require.

§ 419. (Sec. 170.) **Duties of receivers.** The receivers shall pay all debts due from the corporation, if the funds in their hands are sufficient therefor; and if not, they shall distribute the same ratably among the creditors who prove their debts in the manner directed by the court.

§ 420. (Sec. 171.) **Balance of assets, how distributed.** If there is a balance remaining, after the payment of the debts, the receivers shall distribute and pay it to and among those who are justly entitled thereto, as having been stockholders or members of the corporation, or their legal representatives.

§ 421. (Sec. 172.) **Duty of attorney general—powers of attorney general and legislature.** The attorney general, whenever required by the governor, shall examine into the affairs and condition of any corporation in this state, and report such examination in writing, together with a detailed statement of facts, to the governor, who shall lay the same before the legislature; and for that purpose the said attorney general has power to administer all necessary oaths to the directors and officers of any corporation; and to examine them on oath in relation to the affairs and condition thereof, and to examine the vaults, books, papers and documents belonging to such corporation, or pertaining to its affairs and condition; and the legislature, or either branch thereof, has full power to examine into the affairs and condition of any corporation in this state, and at all times; and for that purpose any committee appointed by the legislature, or either branch thereof, shall have full power to administer all necessary oaths to the directors, officers and stockholders of said corporation, and to examine them on oath in relation to the affairs and condition thereof, and to examine the vaults, safes, books, papers and documents belonging to such corporation, or pertaining to its affairs and condition, and to compel the production of all keys, books, papers and documents.

\* § 422. See 1881 Supp. 6, p. 76. And c. 423 to 440, incl. See 1883 Supp. 1, pp. 56 to 61, incl.