

COMPILATION

OF THE

CONSTITUTION AND LAWS

RELATING TO

RAILROADS

IN

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TEXAS.

This book not for circulation

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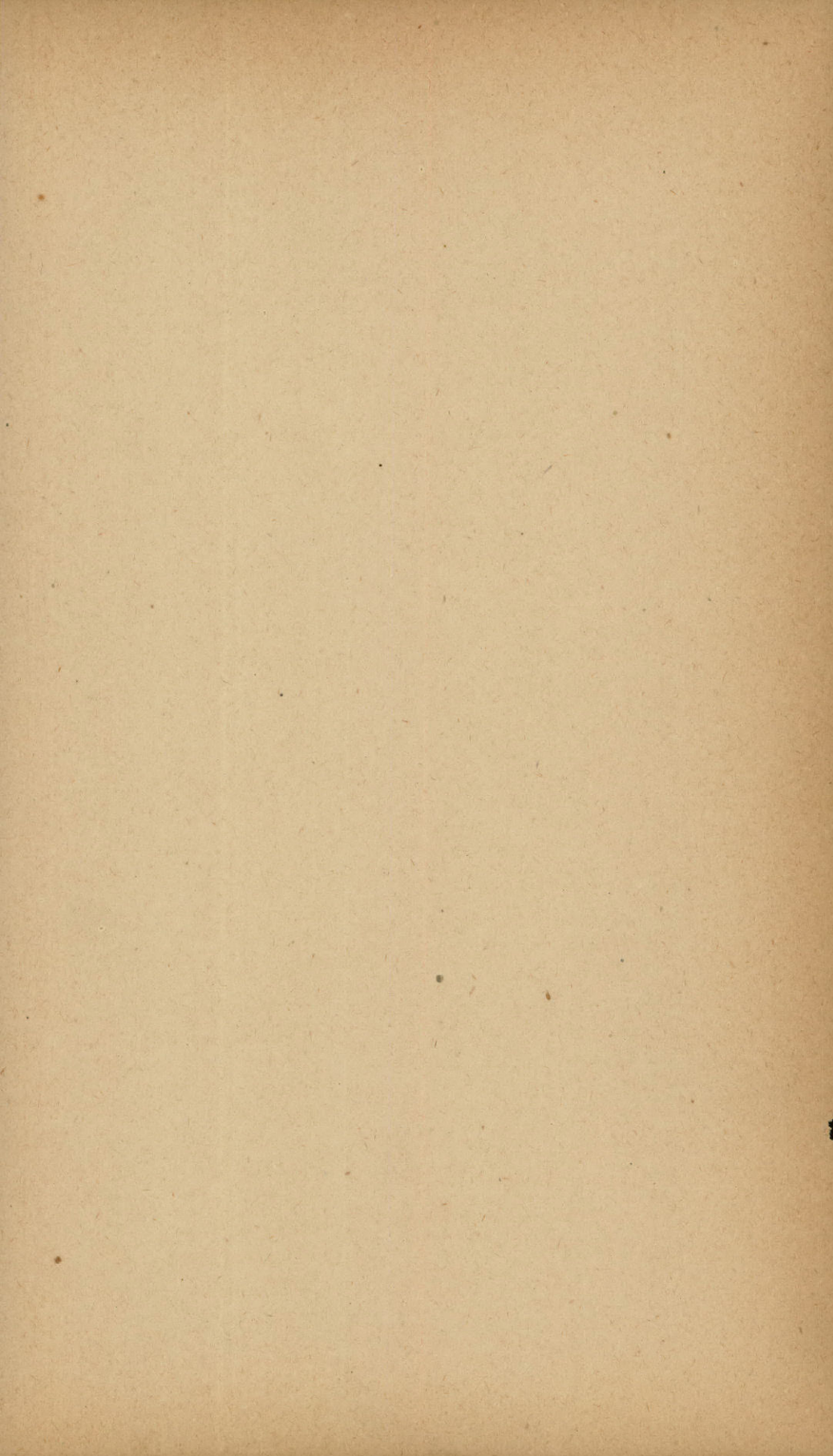
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PROVISIONS

OF THE

CONSTITUTION OF TEXAS, 1876,

RELATING TO

RAILROADS.

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III—Legislative department.

IV—Executive department.

VII—Education—The public free schools.

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ARTICLE I.

BILL OF RIGHTS.

SECTION 17. Eminent domain—Compensation for Land taken—Franchises, etc., subject to control of Legislature.

SEC. 17. **Eminent Domain—Compensation for Land taken—Franchises, etc., subject to Control of Legislature.**—No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being

made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrolable grant of special privileges or immunities shall be made; but all privileges and franchises of the Legislature, or created under its authority, shall be subject to the control thereof.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION

50. No power to lend credit of the State.
 51. No power to grant public money to corporation.
 52. No power to authorize county, city or town to do so.

SECTION

54. No power to release lien of State upon railroad.
 55. No power to release debts due State.
 56. No power to incorporate railroad company by special law.

SEC. 50. No Power to Lend Credit of the State.—The Legislature shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other; or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 51. No Power to Grant Public Money to Corporation.—The Legislature shall have no power to make any grant, or authorize the making of a grant, of public money to any individual, association of individuals, municipal or other corporations whatsoever: *Provided*, That this shall not be so construed as to prevent the grant of aid in case of public calamity.

SEC. 52. No Power to authorize County, City or Town to do so.—The Legislature shall have no power to authorize any county, city, town or other political corporation, or subdivision of the State, to lend its credit or to grant any public money or thing of value, in aid of or to any individual, association or corporation whatsoever; or to become a stockholder in such corporation, association or company. (a)

(a) Under the Constitution of 1845 it was competent for the Legislature to authorize a municipal corporation to subscribe to the capital stock of a railroad company and to issue bonds and to levy taxes for the liquidation of its subscription, if two-thirds of the electors of the corporation should vote in favor of the subscription at an election to be held for the purpose. *San Antonio vs. Jones*,

SEC. 54. No Power to Release Lien of State upon Railroad.—The Legislature shall have no power to release or alienate any lien held by the State upon any railroad, or in any wise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

SEC. 55. No Power to Release Debts due State.—The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any incorporation or individual to this State, or to any county, or other municipal corporation therein.

SEC. 56. No Power to incorporate Railroad Company by Special Law.—The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, * * * * * for incorporating railroads or other works of internal improvements.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 22. Attorney-General—To restrain corporations within their powers—To sue for forfeitures of charters.

SEC. 22. Attorney-General—To Restrain Corporations within their Powers—To sue for Forfeitures of Charters.
The Attorney General shall hold his office for two years and until his

28 Tex., 19; San Antonio vs. Gould, 34 Tex., 49. No case has yet been found in which a municipal corporation has been permitted, otherwise than by its common seal, to issue its negotiable bonds for the liquidation of its subscription to the stock of a company. San Antonio vs. Gould, 34 Tex., 49. Section 32 of article 12 of the Constitution of 1869, which authorized the granting of aid to internal improvements was not designed to determine the character of such aid or the manner in which it should be extended, but the conditions and extent of such aid." Austin vs. Gulf, etc., R. Co., 45 Tex., 234. County bonds may be made payable "in New York, Ib. Vote on subsidy, how submitted, Ib. Bonds might be issued when road was fit to be operated, although not yet operated. Ib. The act of countersigning and registering the bonds by the comptroller, contemplated by the charter of the the International Railroad Company, was not a mere clerical or ministerial duty, but it was the duty of the comptroller, as well as the Governor, to see to it that the proper and necessary work to be done by the company, before the bonds could issue under the law, had been performed. Bledsoe vs. International Railroad Company, 40 Tex., 537. In San Antonio vs. Lane, it was assumed as well settled that the Legislature might authorize municipal corporations to subscribe for stock in railroad companies, and to provide for the payment of such subscriptions, in any manner not repugnant to the Constitution. 32 Tex., 405. After an election held to take the sense of the voters on a proposition to issue county bonds as a donation in favor of a railroad, the county court made an order showing the election to have been duly held and the proposition to have been

successor is duly qualified. He shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and, from time to time, in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary of two thousand dollars, and no more, besides such fees as may be prescribed by law: *Provided*, That the fees which he may receive shall not amount to more than two thousand dollars annually. (a)

ARTICLE VII.

EDUCATION—THE PUBLIC SCHOOL FUND.

SECTION 2. Reservation of land for perpetual public school fund.

SEC. 2. **Reservation of Land for Perpetual Public School Fund.**—All funds, lands and other property heretofore set

adopted. The county court in thus officially declaring that the company had fully complied with the terms of the proposition, prior to the issuance of the the bonds, acted in their capacity of agents for the county, and after a tax had been levied and collected for their payment, it was no sufficient ground for cancelling the bonds, to allege a partial non-compliance by the railroad company with their proposition. *Anderson County vs. Houston, etc., R. Co., 52 Tex., 228.* An act of the Legislature entitled "An act to incorporate the San Antonio and Mexican Gulf Railroad," held unconstitutional in so far as it provided that certain municipalities might issue bonds to aid in the construction of the road; because it embraced a distinct object not expressed in the title of the act. *Peck vs. San Antonio, 51 Tex., 490.*

(a) In a suit instituted under this section it was held that the act of March 10, 1875, substituting for the causes and extent of forfeiture the failure to build the railway at the yearly rate of 40 miles (or 80 miles in two years), and on failure a forfeiture of the land grants upon that portion of the road not so constructed, is a repeal of so much of the original act, (act of Aug. 5, 1870) incorporating the International Railroad Company to the extent substituted thereby; and upon the failure to build said road at the rate of 80 miles every two years, the defendant company forfeited the right to the land grant as to that part of the road not so built. Such forfeiture is the extent of the penalty for such failure. After a forfeiture incurred by a failure to construct 80 miles in two years, the rapid construction so as to complete the entire road in the time contemplated in the relief act, will not restore the right to the land grant so forfeited. A grant of lands upon a completed section of ten miles is not effected by a subsequent failure to construct at a rate required by the relief law. *The State vs. International, etc., R. Co., 57 Tex., 534.* To authorize the institution of a suit in the name

ARTICLE X.

RAILROADS.

SECTION

1. Right to construct road, intersect and connect with other roads.
2. Railroads, public highways—Maximum rates to be fixed by legislation.
3. Public office to be maintained in State—Annual meeting of directors.
4. Rolling-stock is personal property and not exempt from execution.
5. Competing lines not to be consolidated or have any officers in common.

SECTION

6. No consolidation permitted with foreign corporation.
7. Right to construct street railroads.
8. Provisions of this constitution to be accepted by existing corporations.
9. Railroads to pass through county seats, unless, etc.

SEC. 1. Right to construct Road, Intersect and Connect with other Roads.—Any railroad corporation or association, organized under the law for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State-line with railroads of other States. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad; and shall receive and transport each the others' passengers, tonnage and cars, loaded or empty, without delay or discrimination, under such regulations as shall be prescribed by law.

SEC. 2 Railroads Public Highways.—Maximum Rates to be fixed by Legislature.—Railroads heretofore constructed, or that ^{which} may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The Legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

ceive all the assessment lists or books of the Assessors of their counties for their inspection, correction, equalization and approval. A petition for injunction to restrain the sale of land for taxes assessed under the act of Aug. 21, 1876, which taxes are alleged to be excessive, is not sufficient to authorize an injunction, if the petition shows no excuse for the failure of the plaintiff to take proper steps, at the proper time, to refer the valuation complained of to the Board of Equalization. *Houston, etc., R. Co., vs. Presido County*. 53 Tex., 518. See this case approved in *International, etc., R. Co., vs. Smith County*, *supra*. A party seeking by injunction equitable relief against an alleged unauthorized action by the Board of Equalization, must clearly establish facts showing the Board to have acted illegally and without authority. *International, etc., R. Co., vs. Smith County*, 54 Tex., 1; *Texas & Pacific R. Co., vs. Harrison County*, 54 Tex., 119. When a question of valuation for taxation has been once regularly referred to the proper Board of Equalization, the valuation of that tribunal is final. *Texas & Pacific R. Co., vs. Harrison County*, 54 Tex., 119.

adds "and to the further accomplishment of these objects and purposes many powers and restrictions shall be provided herein and elsewhere in this constitution in order to carry out the objects and purposes herein provided for."

This section amended 1890 as to authority creation of a commission to regulate the Board Resolution of Leg. 1877 Oct. 1889

SEC. 3. Public Office to be maintained in State—Annual meeting of Directors.—Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporations, books, in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amount owned by them respectively, the amount of stock paid, and by whom, the transfer of stock, with the date of the transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and the president or superintendent shall report annually, under oath, to the Comptroller or Governor, their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 4. Rolling Stock is Personal Property and not exempt from Execution.—The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and its real and personal property, or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the Legislature shall pass no laws exempting any such property from execution and sale.

SEC. 5. Competing Lines not to be Consolidated or have any Officers in Common.—No railroad or other corporation, or the lessees, purchasers and 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 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. (a.)

(a) The consolidation of the Houston & Great Northern and the International Railway Companies, was unauthorized and wrongful as to the stockholders of the former company, objecting thereto, and the same having been consummated by a wrongful appropriation of the stockholders' equitable interest, the consolidated company was equitably bound to him therefor. *International etc., R. Co., vs. Bremond*, 53 Tex., 96. Directors of one or two companies unlawfully consolidated by action of stockholders, are not liable to a non-assenting stockholder, nor to the corporation. Delay of two years by non-assenting stockholder to unlawful consolidation, how far laches. *Ib.*

The foundation of the liability of a consolidated corporation for the debts and liabilities of constituent corporations, must rest on agreement either express or implied. Ordinarily a consolidated

apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads, or other corporations, of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public school fund.

ARTICLE VIII.

TAXATION AND REVENUE.

SECTION

- 1. Corporate property taxed—Occupation and income taxes on corporations.
- 4. No surrender of power to tax corporations.
- 5. Railroad property to bear its share of municipal taxation.

SECTION

- 8. Railroad property, how assessed.
- 11. Corporate property, where assessed.
- 18. Board of Equalization created.

SEC. 1. Corporate Property taxed—Occupation and Income Taxes upon Corporations.—Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained, as may be provided by law. The Legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations, other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax: *Provided*, that two hundred and fifty dollars worth of household and kitchen furniture, belonging to each family in this State, shall be exempt from taxation; *And provided further*, that the occupation tax levied by any county, city or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one-half of the tax levied by the State for the same period on such profession or business.

SEC. 4. No Surrender of Power to tax Corporations.—The power to tax corporations and corporate property shall not be

of the State to forfeit the charter of a corporation, it is not necessary that the Legislature should, by some general or special statute, have authorized and directed it to be bought. When the State declares by its Legislature that a particular act of malfeasance or nonfeasance will amount to a forfeiture of a character, it is the duty of the proper State officers to give effect to that provision. Such a suit is properly instituted by the Attorney-General and the district attorney. *State vs. Southern Pacific R. Co.*, 24 Tex., 80. Contents of petition in suit to forfeit charter, *Ib.*

surrendered or suspended by act of the Legislature, by any contract or grant to which the State shall be a party. (a.)

SEC. 5. Railroad Property to bear its share of Municipal Taxation.—All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies, shall have power to require its rendition, and collect the usual municipal tax thereon, as on other property lying within said municipality.

SEC. 8. Railroad Property, how assessed.—All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the road-bed and fixtures as shall be in each county. The rolling-stock may be assessed in gross in the county where the principal office of the railroad is located, and the county tax paid upon it shall be apportioned by the comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

SEC. 11. Corporate Property, where assessed.—All property, whether owned by persons or corporations, shall be assessed for taxation, and the taxes paid in the county where situated, but the Legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the Comptroller of Public Accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

SEC. 18. Board of Equalization created.—The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation (the County Commissioners' Court to constitute a Board of Equalization); and may also provide for the classification of all lands with reference to their value in the several counties. (b.)

(a) The eleventh section of the act supplementary to the act to incorporate the Buffalo Bayou, Brazos and Colorado Railway Company, passed July 27, 1870, construed in connection with the 12th section of the charter of the International Railroad Company, does not exempt the first named corporation from the payment of taxes to the State. Galveston, etc., R. Co., vs. State, 38 Tex., 224.

(b) The Board of Equalization was created by this provision, and its duties were sufficiently defined in the act of August 21, 1876, (Laws, 1876, ch. 153, p. 265) to make it competent to determine the value of property listed when that question was properly referred to it, either under section 5 or section 17 of that act. International, etc., R. Co., vs. Smith county, 54 Tex., 1. The act of March 22d, 1879 (Laws 1879, ch. 47, p. 44) defines the duties of Commissioners' Courts when sitting as a Board of Equalization, and requires such courts to convene as Boards of Equalization, on the second Monday in June of each year, or as soon thereafter as practicable before the first day of July, to re-

fares, tolls or wharfage, shall at all times be subject to amendment, modification or repeal by the Legislature.

SEC. 6. Fictitious Issues of Stock and Bonds, Void.—No corporation shall issue stock or bonds except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void.

SEC. 7. Vested Rights Preserved.—Nothing in this article shall be construed to divest or affect rights guaranteed by any existing grant or statute, of this State, or of the Republic of Texas.

ARTICLE XIV.

PUBLIC LANDS AND LAND OFFICE.

SECTION

3. Lands granted to railroad companies, on what conditions.

SECTION

5. Lands granted to railroad companies to be alienated within a certain time.

SEC. 3. Lands Granted to Railroad Companies on what Conditions.—The Legislature shall have no power to grant any of the lands of this State to any railway company except upon the following restrictions and conditions:

1. That there shall never be granted to any such corporation more than sixteen sections to the mile, and no reservation of any part of the public domain for the purpose of satisfying such grant shall ever be made.

2. That no land certificate shall be issued to such company until they have equipped, constructed and in running order at least ten miles of road, and on the failure of such company to comply with the terms of its charter, or to alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forfeited to the State and become a portion of the public domain, and liable to location and survey. The Legislature shall pass general laws only, to give effect to the provisions of this section.

SEC. 5. Lands Granted to Railroad Companies to be Alienated within a Certain Time.—All lands heretofore or hereafter granted to railway companies, where the charter or law of the State required or shall hereafter require their alienation within a certain period, on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alien-

ated, in conformity with the terms of their charters, and the laws under which the grants were made, are hereby declared forfeited to the State and subject to pre-emption, location and survey, as other vacant lands. All lands heretofore granted to said railroad companies to which no forfeiture was attached, on their failure to alienate, are not included in the foregoing clause, but in all such last named cases it shall be the duty of the Attorney-General, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the State, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings in the county where the seat of government is situated, to forfeit such lands to the State, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the State and become a part of the vacant public domain, liable to pre-emption, location and survey.

ARTICLE XVI.

GENERAL PROVISIONS.

<p>SECTION 25. Drawbacks and abatements of freight prohibited.</p>	<p>SECTION 35. Laborers on railroads to be protected by lien for wages.</p>
<p>26. Homicide by corporation punished by exemplary damages.</p>	<p>37. Liens of mechanics, artisans and material men.</p>

SEC. 25. Drawbacks and Abatements of Freight prohibited.—That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing, baling, repairing, or for any kind of labor or service, of or to any cotton, grain or any produce or article of commerce in this State, paid or allowed, or contracted for, to any common carrier, shipper, merchant, commission merchant, factor, agent, or middleman of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the Legislature to pass effective laws punishing all persons in this State who pay, receive or contract for, or respecting the same.

SEC. 26. Homicide by Corporation punished by Exemplary Damages.—Every person, corporation or company that may commit a homicide, through willful acts or omission or gross neglect, shall be responsible in exemplary damages to the surviving husband, widow, heirs of his or her body, or such of them as there may be, with-

SEC. 6. No Consolidation permitted with Foreign Corporations.—No railroad company organized under the laws of this State shall consolidate by private or judicial sale or otherwise with any railroad company organized under the laws of any other State or of the United States.

SEC. 7. Right to construct Street Railroads.—No law shall be passed by the Legislature granting the right to construct and operate a street railroad within any city, town or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad.

SEC. 8. Provisions of this Constitution to be accepted by existing Corporations.—No railroad corporation in existence at the time of the adoption of this Constitution, shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this Constitution applicable to railroads.

SEC. 9. Railroads to pass through County Seats, unless, etc.—No railroad, hereafter constructed in this State, shall pass within a distance of three miles of any county seat without passing through the same, and establishing and maintaining a depot therein, unless prevented by natural obstacles, such as streams, hills, or mountains; *Provided*, such town or its citizens shall grant the right of way through its limits and sufficient ground for ordinary depot purposes.

ARTICLE XI.

MUNICIPAL CORPORATIONS.

SECTION 3. Subscriptions, etc., by municipal corporations to stock of railroad company prohibited.

SEC. 3. Subscriptions, etc., by Municipal Corporations to Stock of Railroad Company prohibited.—No county, city or other municipal corporation shall hereafter become a subscriber to

corporation, for the purpose of answering to the liabilities of the old corporations, is deemed the same as each of its constituents and may be sued under its new name for their debts, as if no change had been made in the name or organization of the original corporation (*Indianola R. Co., vs. Fryer*, 56 Tex., 609); but this rule is restricted to voluntary consolidation. *Houston, etc., R. Co., vs. Shirley*, 54 Tex., 125. The Texas & Pacific Railway Company was liable for damages caused by the Southern Pacific Railway Company prior to the 21st of March, 1872, the date when the consolidation of said companies was effected in pursuance of legislative enactments. *Texas & Pacific Ry. Co., vs. Murphy*, 46 Tex., 356.

the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law.

ARTICLE XII.

PRIVATE CORPORATIONS.

SECTION

1. To be created by general laws.
2. Continued—The public and stockholders to be protected.
3. Right to regulate freights.

SECTION

4. Extortion of illegal charges to be punished.
5. Laws regulating freights subject to amendment.
6. Fictitious issues of stock and bonds void.
7. Vested rights preserved.

SEC. 1. To be Created by General Laws.—No private corporation shall be created except by general laws. (*a*)

SEC. 2. Continued—The Public and Stockholders to be Protected.—General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

SEC. 3. Right to regulate Freights belongs to the State. The right to authorize and regulate freights, tolls, wharfage or fares levied and collected or proposed to be levied and collected by individuals, companies or corporations, for the use of highways, landings, wharves, bridges and ferries, devoted to public use, has never been and shall never be relinquished or abandoned by the State, but shall always be under legislative control and depend upon legislative authority.

SEC. 4. Extortion of Illegal Charges to be Punished.—The first Legislature assembled after the adoption of this Constitution shall provide a mode of procedure by the Attorney-General and district or county attorneys, in the name and behalf of the State, to prevent and punish the demanding and receiving or collection of any and all charges, as freight, wharfage, fares or tolls, for the use of property devoted to the public, unless the same shall have been specially authorized by law.

SEC. 5. Laws regulating Freights, Subject to Amendment.—All laws granting the right to demand and collect freights,

(*a*) Railroad charters are generally treated as private acts of the Legislature, of which courts do not take judicial notice. *Conley vs. Columbus Tap. Ry. Co.*, 44 Tex., 579.

out regard to any criminal proceeding that may or may not be had in relation to the homicide.

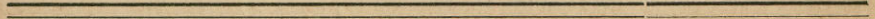
SEC. 35. Laborers on Railroads to be protected by Lien for Wages.—The Legislature shall, at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals and other similar public works, against the failure of contractors and subcontractors to pay their current wages when due, and to make the corporation, company or individual for whose benefit the work is done, responsible for their ultimate payment. (*a.*)

SEC. 37. Liens of Mechanics, Artisans and Material Men.—Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them, for the value of their labor done thereon, or material furnished therefor; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens. (*b.*)

(*a.*) This section did not give to laborers on railroads a lien on the property of the company on which they labored, as is provided by section 37, of this article to mechanics, artisans and material men. *Central, etc., R. Co. vs. Henning*, 52 Tex., 466.

(*b.*) See note to Sec. 35 *ante*.

RECEIVED



PROVISIONS

OF THE

REVISED STATUTES OF TEXAS, 1879,

RELATING TO

RAILROADS.



PROVISIONS

OF THE

Revised Statutes of Texas, 1879,

RELATING TO

RAILROADS.

TITLE 6.

ARBITRATION.

ARTICLE 55. Corporations may submit to arbitration.

ART. 55. **Corporations may submit to Arbitration.**—The provisions of this title shall apply to corporations as well as natural persons, and executors, administrators, and guardians may also consent to an arbitration of any controversy or matter of dispute relating to or affecting their respective trusts, with the consent of the court in which such administration or guardianship is pending.

TITLE 9.

ATTACHMENT AND GARNISHMENT.

CHAPTER 2.

OF GARNISHMENT.

ARTICLE

185. Application for writ.
 187. Contents of writ against corporation.
 191. Effect of service
 193. Garnishee discharged on what answer.

ARTICLE

208. Judgment against corporation for shares of
 stock owned therein.
 209. Continued—Sale of such shares.
 210. Continued— Effect of such sale.
 220. Garnishee discharged.

ART. 185. Application for writ.—Before the issuance of the writ of garnishment the plaintiff shall make application therefor in writing, under oath, signed by him, stating the facts authorizing the issuance of the writ, and that the plaintiff has reason to believe, and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his hands effects belonging to the defendant, or that the garnishee is an incorporated or joint stock company, and that the defendant is the owner of shares in such company or has an interest therein.

ART. 187. Contents of Writ against Corporation.—Where it appears from the plaintiff's affidavit that the garnishee is an incorporated or joint stock company, in which the defendant is the owner of shares, or is interested therein, the writ of garnishment shall further require the garnishee to answer upon oath what number of shares, if any, the defendant owns in such company, or owned when such writ was served, and what interest, if any, he has in such company, or had when such writ was served. (Act March 13, 1875, p. 102, §§ 1, 2.)

ART. 191. Effect of Service of Writ.—From and after the service of such writ of garnishment it shall not be lawful for the garnishee to pay to the defendant any debt or to deliver to him any effects, nor shall the garnishee, if an incorporated or joint stock company, in which the defendant is alleged to be the owner of shares or to have an interest, permit or recognize any sale or transfer of such shares or interest; and any such payment, delivery, sale or transfer shall be

GARNISHMENT.

Sup. 21. ✓

SEC. 1. Amends Revised Statutes, Article 191, relating to writs of garnishment.

CHAP. 1.—[S. S. B. No. 6.] An Act to amend Article 191, Chapter 2, Title 9, of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 191, of Chapter 2, Title 9, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 191. From and after the service of such writ of garnishment it shall not be lawful for the garnishee to pay to the defendant any debt or to deliver to him any effects; nor shall the garnishee, if an incorporated or joint stock company in which the defendant is alleged to be the owner of shares or to have an interest, permit or recognize any sale or transfer of such shares or interest; and any such payment or delivery, sale or transfer, shall be void and of no effect as to so much of said debt, effects, shares, or interest as may be necessary to satisfy the plaintiff's demand: *Provided, however,* That the defendant may at any time before judgment replevy any effects, debts, shares, or claims of any kind seized or garnished, by giving bond, with two or more good and sufficient sureties to be approved by the officer who issued the writ of garnishment, payable to the plaintiff, in double the amount of the plaintiff's debt, and conditioned for the payment of any judgment that may be rendered against the said garnishee in such suit, which bond when properly approved shall be filed among the papers in the cause in the court in which the suit is pending; and in all proceedings in garnishment where the defendant gives bond as herein provided for, such defendant may make any defense which the defendant in garnishment could make in such suit.

Approved, February 9, 1889.

than one owner of such block, then upon the written application of all the owners thereof uniting in such application, and such alley so vacated shall thereupon revert to and become the property of the owner of the block of which it was a part, or if more than one, then to the owners of the adjoining lots therein, each extending to the centre of the alley so vacated.

SEC. 2. The condition and exigencies of many cities in this state create an imperative public necessity that the rule requiring the bills to be read on three several days be suspended, and that this act shall take effect from and after the day of its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the senate, and passed the same by a vote of 25 yeas, 2 nays; and passed the house March 28, 1889.]

Approved, March 30, 1889.

CITIES AND TOWNS.

- SEC. 1. Amends Revised Statutes, Article 421, as to city bonds.
2. Emergency clause.

CHAP. 3.—[H. B. No. 377.] An Act to amend Article 421, of Title 17, of Chapter 4, of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 421, of Title 17, of Chapter 4, of the Revised Civil Statutes of the State of Texas, be so amended as hereafter to read as follows:

Article 421. All bonds shall specify for what purpose they were issued, and when any bonds are issued by the city a fund shall be provided to pay the interest and create a sinking fund to redeem the bonds, which fund shall not be diverted nor drawn upon for any other purpose: *Providing, however,*

void and of no effect as to so much of said debt, effects, shares or interest as may be necessary to satisfy the plaintiff's demand. (Act March 13, 1875, p. 104, § 6.)

ART. 193. Garnishee Discharged on what Answer.—Should it appear from the answer of the garnishee that he is not indebted to the defendant, and was not so indebted when the writ of garnishment was served on him, and that he has not in his possession any effects of the defendant, and had not when the writ was served; and when the garnishee is an incorporated or joint stock company in which the defendant is alleged to be the owner of any shares of stock or interested therein, if it shall further appear from such answer that the defendant is not and was not when the writ was served the owner of any of such shares, or interested in such company; and should the answer of the garnishee not be controverted, as hereinafter provided, the court shall enter judgment discharging the garnishee.

ART. 208. Judgment against Corporation for Shares of Stock owned therein.—Where the garnishee is an incorporated or joint stock company, and it appears from the answer, or otherwise, that the defendant is, or was when the writ of garnishment was served, the owner of any shares of stock in such company, or any interest therein, the court shall render a decree, ordering the sale under execution in favor of the plaintiff against the defendant of such shares, or interest of the defendant in such company, or so much thereof as may be necessary to satisfy such execution. (Act March 13, 1875, p. 103, § 3.)

ART. 209. Continued—Sale of such Shares.—The sale so ordered shall be conducted in all respects as other sales of personal property under execution, and the sheriff or constable making such sale shall execute a transfer of such shares or interest to the purchaser, with a brief recital of the judgment of the court under which the same was sold. (Act March 13, 1875, p. 103, § 5.)

ART. 210. Continued—Effect of such Sale.—Such sale shall be valid and effectual to pass to the purchaser all the right, title and interest which defendant had in such shares of stock, or in such company, and the proper officers of such company shall enter such sale and transfer on the books of the company in the same manner as if the same had been made by the defendant himself. (Act March 13, 1875, p. 104, § 3.)

ART. 220. Garnishee Discharged.—It shall be a sufficient answer to any claim of the defendant against the garnishee founded on any indebtedness of such garnishee, or on the possession by him of

any effects, or where the garnishee is an incorporated or joint stock company in which the defendant was the owner of shares of stock or other interest therein, for the garnishee to show that such indebtedness was paid, or such effects were delivered, or such shares of stock or other interest in such company were sold under the judgment of the court in accordance with the provisions of this chapter. (a)

TITLE 13.

CARRIERS.

CHAPTER I—Of the duties and liabilities of carriers.

II—Of the disposition of unclaimed or perishable property.

CHAPTER 1.

OF THE DUTIES AND LIABILITIES OF CARRIERS.

ARTICLE
277. Common law duties and liabilities.
278. No limitation of common law liability by bill of lading, etc.
279. Duty to receive and transport goods—Penalty for refusal.
280. Duty to give shipper a bill of lading.

ARTICLE
281. Liability as warehouseman.
282. Continued.
283. Goods to be forwarded in the order received.
284. Live stock to be fed and watered—Penalty for failure.

ART. 277. Common Law Duties and Liabilities.—The duties and liabilities of carriers in this State shall be the same as are prescribed by the common law, and the remedies against them shall be the same, except where otherwise provided by this title (b.)

(a) In garnishment proceedings the creditor is the actor, and the burden of proof lies on him when the garnishee, by answer, denies his indebtedness to the defendant. *East Line, etc., R. Co. vs. Terry*, 50 Tex., 129.

(b) A common carrier, as understood generally, and for all persons indifferently, is one who undertakes to convey goods, and to deliver them at a place appointed, for hire, with or without agreement as to price. *Chevallier vs. Straham*, 2 Tex., 117. This rule qualified by particular circumstances. *Haynie vs. Baylor*, 18 Tex., 507. It is immaterial whether he transports goods generally or occasionally. *Chevallier vs. Straham*, 2 Tex., 119; *Philheo vs. Sanford*, 17 Tex., 230. From considerations of public policy, common carriers are made liable under the statute and under the decisions at the courts of Texas, as at common law, for all losses not occasioned by the act of God or the public enemy; and any exception or special contract seeking to vary that liability are invalid. But if the shipper practices a fraud on the carrier by concealing, either through his acts or omissions, the value of the article shipped, the carrier is discharged. *Houston, etc., R. Co., vs. Burke*, 55 Tex., 323; see, also, *Chevallier vs. Straham*, 2 Tex., 122; *Philleo vs. Sanford*, 17 Tex., 230. The

Act of 22d Feb. 1891 Ch 45 P 48 regulates charges
of express companies and makes them
subject to control + regulation of railroad
commission

Act of Mch 4th 1894 - 22 Leg. Ch. 17 P 70 prohibits
any contract providing for any shorter limitation
on suit than two years.

Also that contracts providing for notice of claim
for damages as condition precedent to the right
to sue and void if it fixes less than ninety
days as the time for giving notice and that such
notice may be given to the master or any other
convenient local agent.

27

ART. 278. No Limitation of Common Law Liability by Bill of Lading, etc.—Railroad companies and other common carriers of goods, wares and merchandise, for hire, within this State, on land or in boats or vessels on the waters entirely within the body of this State, shall not limit or restrict their liability as it exists at common law, by any general or special notice, or by inserting exceptions in the bill of lading or memorandum given upon the receipt of the goods for transportation, or in any other manner whatever, and no special agreement made in contravention of the foregoing provisions of this article shall be valid. (Act Dec. 4, 1863, P. D. 452.)

ART. 279. Duty to receive and transport Goods—Penalty for Refusal.—Upon the tender of the legal or customary rates of freight on goods offered for transportation, to any common carrier whatever, such carrier shall receive and transport such goods, provided his vehicle or vessel has capacity safely to carry the goods so offered on the trip or voyage then pending, and such goods are of the kind usually carried upon such vehicle or vessel, and are offered at a reasonable time. Any common carrier refusing to transport goods, as above provided, taking the same in the order presented, shall be liable to the party injured for all damages sustained by reason of his refusal, and shall also be liable to a penalty of not less than five nor more than five hundred dollars, to be recovered in each case by the owner of the goods in any court having jurisdiction in the county where the wrong is done or where the common carrier resides. (P. D. 453.)

ART. 280. Duty to give Shipper a Bill of Lading.—Common carriers are required, when they receive goods for transportation, to give to the shipper, when it is demanded, a bill of lading or memorandum in writing, stating the quality, character, order and condition of the goods; and such goods shall be delivered, in the manner provided by common law, in like order and condition to the consignee, the unavoidable wear and tear and deterioration in due course of transportation only excepted; and in case such common carrier shall fail to deliver goods as above required, they shall be liable to the party injured for his damages, as at common law; and in case of their refusal to execute and deliver a bill of lading or memorandum in writing, as above required, they shall be liable to a penalty of not less

act of God defined. *Chevallier vs. Straham*, 2 Tex., 123; *Navigation Co., vs. Dwyer*, 29 Tex., 376. Where it was the custom to carry cotton on the river in open boats, and it was known to the owner that it was to be so carried, the carrier is not liable to damages resulting from rain. *Chevallier vs. Patton*, 10 Tex., 346, distinguishing *Chevallier vs. Straham*, 2 Tex., 124, and *Philleo vs. Sanford*, 17 Tex., 280.

than five nor more than five hundred dollars, to be recovered as in the preceding article. (Act. Feb. 4, 1860, P. D. 454.) (a)

ART. 281. Liability as Warehousemen.—Railroad companies, and other common carriers having depots or warehouses for storing goods, shall be liable as warehousemen are at common law for goods and the care of the same, stored in such depots or warehouses before the commencement of the trip or voyage on which said goods are to be transported; but shall be liable as common carriers from the commencement of the trip or voyage until the goods are delivered to the consignee at the point of destination. (P. D. 455.)

ART. 282. Continued.—If the carrier at the point of destination shall use due diligence to notify the consignee, and the goods are not taken by the consignee, and have in consequence to be stored in the depots or warehouses of the common carriers, they shall thereafter only be liable as warehousemen. (Ib.) (b)

ART. 283. Goods to be forwarded in the order received. Where common carriers receive goods for transportation into their warehouses or depots, they shall forward them in the order in which they are received, the first received to be first forwarded, without giving the preference to one over another, and in case they shall fail to do so, they shall be liable, absolutely, for all losses occurring while the goods remain, and for all damages occasioned or in any wise resulting from the delay: *Provided*, that the trip or voyage shall be considered

(a) "Unavoidable," means "inevitable accidents." And a bill of lading so signed makes the owners of the boat common carriers. *Fowler vs. Davenport*, 21 Tex., 631. The net value of the goods at the place of destination, is in general the true criterion of damages. *Fowler vs. Davenport*, 21 Tex., 635; *Wolfe vs. Lacy*, 30 Tex., 349. Interest is not recoverable unless stipulated for in the bill of lading. *Ib.* Measure of damages for loss or destruction of family portraits, which have no market value. *Houston, etc., R. Co., vs. Burke*, 55 Tex., 323. A wagoner's receipt of goods "in good order," is *prima facie* evidence that that they were so when received. *Austin vs. Talk*, 20 Tex., 166. And if he settles the damages, he can only disturb the settlement by proof of fraud and misrepresentation. *Ib.* What will constitute a delivery to the carrier. *Houston, etc., R. Co., vs. Hodds*, 42 Tex., 397; *Morgan vs. Dibble*, 29 Tex., 107; *Forbes vs. Davis*, 18 Tex., 273. Where cotton was shipped upon a boat, which failed to reach the port of destination, and the master failed to hire another boat, because he could not agree upon terms; and the owner some months afterwards, took possession of his freight in a damaged condition, the carrier was not entitled to any compensation. *Adams vs. Haught*, 14 Tex., 243, 248. The master of the vessel has no right to sell the cargo except in case of the irreparable interruption of the voyage or of the necessity of partial sales, etc. *Stillman vs. Herd*, 10 Tex., 111. Where a party at request and without compensation carried money to New Orleans for H, and on his arrival there finding the yellow fever in the city, left the money with a good commercial house, who called several times for H, and then wrote him; and the house afterwards failed and did not pay on demand; the carrier was held liable for ordinary diligence only. *Fulton vs. Alexander*, 21 Tex., 150.

(b) A railway company, as a common carrier, is responsible for the delivery of goods shipped by it to the consignee; and the company is liable on delivery to anyone else. The statute (Pasch. Dig. art. 455) altering the liability from that of common carriers to warehousemen, does not apply where no effort is made to notify the consignee of the arrival of the goods. *Houston, etc., R. Co., vs. Adams*, 49 Tex., 748.

Article 1512, Chapter 1, Title 51, of the Revised Civil Statutes, be amended as hereafter to read as follows:

Article 1512. Before entering upon the duties of his office the county judge and each commissioner shall take the oath of office prescribed by the Constitution, and shall also take an oath that he will not be directly or indirectly interested in any contract with or claim against the county in which he resides, except such warrants as may issue to him as fees of office, which oath shall be in writing, and taken before such officer authorized to administer oaths, and, together with the certificate of the officer who administered the same, shall be filed and recorded in the office of the clerk of the county court in a book to be provided for that purpose, and each commissioner shall execute a bond, with two or more good and sufficient sureties, to be approved by the judge of the county court of his county, in the sum of three thousand dollars, payable to the treasurer of his county, conditioned for the faithful performance of the duties of his office.

Approved, March 26, 1887.

REGULATING THE SALE OF SPIRITUOUS AND OTHER INTOXICATING LIQUORS.

SEC. 1. Amends an act approved April 4, 1881, amendatory of Secs. 1 and 4 of an act approved March 11, 1881; also amends Secs. 5 and 8 of the act of March 11, 1881, concerning sale, etc., of intoxicating liquors.

CHAP. 70.—[H. B. No. 101.] An Act to amend "An Act to amend sections one (1) and four (4) of An Act to regulate the sale of spirituous, vinous, or malt liquors, or medicated bitters; to fix the rate of occupation taxes upon all persons, firms, or associations of persons engaged in the sale of spirituous, vinous, or malt liquors, or medicated bitters; to define the manner and time of collecting such tax, and to affix penalties for failure to pay the same; and to repeal all laws and parts of laws in conflict with the provisions of this act, approved March 11, 1881," approved April 4, 1881; and to amend "An Act to regulate the sale of spirituous, vinous, or malt liquors, or medicated bitters; to fix the rate of occupation tax upon all persons, firms, or associations of persons engaged in the sale of spirituous, vinous, or malt liquors, or medicated bitters; to define the manner and time of collecting such tax, and to affix penalties for failure to pay the same; and to repeal all laws and parts of laws in conflict with the provisions of this act," approved March 11, 1881.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That section four (4) of an act to amend sections one (1) and four (4) of an act entitled "An Act to regulate the sale of spirituous, vinous, or malt liquors, or medicated bitters; to fix the rate of occupation taxes upon all persons, firms, or associations of persons engaged in the sale of spirituous, vinous, or malt liquors, or medicated bitters; to define the manner and time of collecting such tax, and affix penalties for the failure to pay the same; and to repeal all laws and parts of laws in conflict with the provisions of this act, approved March 11, 1881," approved April 4, 1881; and that sections five (5) and eight (8) of An Act to regulate the sale of spirituous, vinous, or malt liquors, or medicated bitters; to fix the rate of occupation tax upon all persons, firms, or associations of persons engaged in the sale of spirituous, vinous, or malt liquors, or medicated bitters; to define the manner and time of collecting such tax, and to affix penalties for the failure to pay the same; and to repeal all laws and parts of laws in conflict with the provisions of this act, approved March 11, 1881, be so amended as to hereafter read as follows:

Sec.

1. Cars for shipping sheep, goats, hogs, and calves, shall be double-decked.

Sec.

2. Prescribes rates for double-decked cars and penalties for evading this act—Railroads can charge only half rate where a single-decked car is furnished.
3. Emergency clause.

CHAP. 77.—[H. B. No. 256.] An Act to compel railroad companies to provide double-decked cars for shipment of goats, sheep, hogs, and calves, and to prevent discrimination against shippers thereof, and to provide penalties therefor.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all railroad companies operating any railroad, or any part thereof, within the limits of this State, be and the same are hereby required to provide cars with double decks for the shipment of sheep, goats, hogs, and calves; that the said cars must be in every way as large as those now in use upon the respective railroads in this State; that the distance between the floor and the second deck shall be the same as the distance between said second deck and the roof; that the floor of said second deck shall be so constructed as to protect the animals beneath; and that said cars must be furnished by the railroad company to any person who shall offer to ship at one time hogs, sheep, goats, or calves, in carload lots.

SEC. 2. It shall not be lawful for any railroad company to charge more for shipping a double-decked carload of sheep, goats, hogs, or calves, than is charged for shipping a carload of other cattle or horses the same distance and in the same direction; and any railroad company that shall fail or refuse to furnish double-decked cars of the dimension prescribed in the preceding section, to any person who may wish to ship as much as a double-decked carload of sheep, hogs, goats, or calves, or shall charge more for shipping a double-decked carload of sheep, hogs, goats, or calves, than for shipping a carload of other cattle or horses for the same distance and in the same direction, shall be liable to pay to the owner or shipper of said sheep, hogs, goats, or calves, the sum of five hundred dollars as liquidated damages, to be recovered in any court of competent jurisdiction: *Provided,* That if railroad companies shall transport sheep, hogs, goats, and calves, on single-decked cars at one-half the price per carload charged for shipping horses or other cattle, then the penalties prescribed in this act for failure to provide double-decked cars shall be inoperative.

SEC. 3. The near approach of the close of the session and the great number of bills yet to be disposed of by this Legislature creates an imperative public necessity, and an emergency exists for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended and this act placed upon its third reading and final passage, and it is so enacted.

Approved, March 26, 1887.

as having commenced from the time of the signing of the bill of lading, and the liability of the common carrier shall attach, as at common law, from and after such signing. (Ib.)

ART. 284. Live Stock to be fed and watered—Penalty for Failure.—It shall be the duty of a common carrier who conveys live stock of any kind to feed and water the same during the time of conveyance and until the same is delivered to the consignee, or disposed of as provided in this title, unless otherwise provided by special contract, and any carrier who shall fail to so feed and water said live stock sufficiently shall be liable to the party injured for his damages, and shall be liable also to a penalty of not less than five nor more than five hundred dollars, to be recovered by the owner of such live stock in any court having jurisdiction in any county where the wrong is done or where the common carrier resides.

CHAPTER 2.

DISPOSITION OF UNCLAIMED OR PERISHABLE PROPERTY.

ARTICLE

285. Unclaimed freight may be sold.
286. Continued—Notice of sale.
287. Account of sales to be kept.

ARTICLE

288. Live stock may be sold.
289. Perishable property may be sold.

ART. 285. Unclaimed Freight may be sold.—When any freight or baggage has been conveyed by a common carrier to any point in this State, and shall remain unclaimed for the space of three months at the office or depot nearest or most convenient to destination, and the owner, whether known or unknown, fails within that time to claim such freight or baggage, or to pay the proper charges if any there be against it, then it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each box, bale, trunk, valise or other article separately as consigned or checked. (Act, May 2, 1874, p. 203; P. D., 5884 a.)

ART. 286. Continued—Notice of Sale.—Thirty days notice of the time and place of sale, and a descriptive list of the packages to be sold, with names and numbers or marks found thereon, shall be posted up in three public places in the county where the sale is to be made, and on the door of the depot or warehouse, if any, where the goods are, and shall also give notice in at least one newspaper in the county, if any be published therein, for thirty days before sale;

and out of the proceeds of such sale the carrier shall deduct the proper charges on such freight or baggage, including costs of storing and costs of sale, and hold the overplus, if any, to the order of the owner at any time within five years, on proof of ownership made by the claimant or his duly authorized agent or attorney. (Ib. P. D. 5884 *b.*)

ART. 287. Account of Sales to be kept.—The carrier shall keep an account of sales, copy of the notice, a copy of the sale bill, and the expense thereof proportioned to each article sold. (Ib. P. D. 5885 *c.*)

ART. 288. Live Stock may be sold.—Should any live stock remain unclaimed for the space of forty-eight hours after its arrival at the place of its destination, the carrier may sell the same at public auction after giving five days' notice of the time and place of such sale, as prescribed in article 286, and apply the proceeds as prescribed in said article, after deducting reasonable expenses for keeping, feeding and watering said live stock from the time of its arrival at the place of its destination until disposed of as herein provided, and such carrier shall also keep an account of any such sale, copy of the notice, copy of the sale bill and an account of all expenses. (Ib. P. D. 5884 *d.*)

ART. 289. Perishable Property may be sold.—Should any perishable property remain unclaimed after arrival at its place of destination until in danger of depreciation, it shall be the duty of the carrier to sell the same at public auction, after giving five days' notice of the time and place of sale, as prescribed in article 286, and apply the proceeds as prescribed in said article, and keep an account of such sale, copy of the notice, copy of the sale bill and an account of all expenses. (Ib., P. D. 5884 *d.*)

TITLE 17.

CITIES AND TOWNS.

CHAPTER 4.

OF THE GENERAL POWERS AND DUTIES OF THE CITY COUNCIL.

<p>ARTICLE 386. To regulate hackmen, porters, railroad runners, etc.</p>	<p>ARTICLE 414. To control laying of tracks in streets.</p>
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ART. 386. **To regulate Hackmen, Porters, Railroad Runners, etc.**—To license, tax, and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for railroads, stages and public houses. (Act of March 15, 1875, p. 113, § 43.)

ART. 414. **To control laying of Tracks in Streets.**—To direct and control the laying and constructing of railroad tracks, turn-outs and switches, or prohibit the same, in the streets, avenues and alleys, unless the same shall have been authorized by law, and the location of depots within the city; to require that railroad tracks, turn-outs and switches, shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues and alleys, and that sufficient space shall be left on either side of said track for the safe and convenient passage of teams, carriages and other vehicles, and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and if ordered by the city council to construct and keep in repair suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines in said city, or to prevent and prohibit the use or running of the same within the city: *Provided*, that the provisions of this article shall apply to railroads known as steam railroads, and not to city, street or horse railroads. (Act of March 15, 1875, § 70.) (a)

(a) An obligation by the railroad company, that it "shall at all times keep the road-bed of said railroad in good repair, and shall keep said road-bed up to the level of the streets; in no case shall said road-bed be above or below the city grade of the streets, after said streets shall have been graded by the city"—does not oblige the railroad company to fill up the streets beneath its track, so as to keep its road-bed on a level with the street on each side of the track. Such an obligation merely requires the road to be kept in good repair, and does not bind the company to contribute to the expense of grading the streets, but merely to conform to and keep the level of the road-bed to that of the streets when graded. *Galveston vs. Galveston R. Co.*, 46 Tex., 435. Release by city council of company from an obligation "to construct and keep in good repair all cross culverts whenever the same may be required under their railroad tracks." lb. A charter to build a railroad to a city imports authority to extend the road within the corporate limits, and the right to use any public street in such city without making compensation therefor. *Houston, etc., R. Co., vs. Odum*, 53 Tex., 343. Distinction between the regulation or enlargement or use of a street, the property of the State, by the Legislature, and such enlargement of use of a dedicated street. Adjacent lot owners have no claim for damages in the former case, although they may have in the latter. *Houston, etc., R. Co., vs. Odum*, 53 Tex., 343. Conditional grant of right of way through certain streets of a town. Bond executed by a company in the sum of fifty thousand dollars, as stipulated damages, conditioned for the faithful performance of certain conditions. Having taken and used the right of way, the company cannot set up the defense that the contract was *ultra vires*. The amount named in the bond, was stipulated damages recoverable as such and not a penalty. *Indianola vs. Gulf, etc., Ry.* 56 Tex., 594.

CHAPTER 5.

OF TAXATION.

ARTICLE 435. Personal estate includes what.

ART. 435. **Personal Estate includes what.**—The term personal estate of property, as used in this title, shall be construed to include all household furniture, moneys, goods, capital, chattels, public stocks and stocks of corporations, moneyed or otherwise, and generally all property which is not real. (Act of March 15, 1875, p. 113, § 89.)

CHAPTER 6.

OF THE COLLECTION OF TAXES.

ARTICLE 449. City council may require inventory of tax- able property.		ARTICLE 440. Duty to render such inventory.
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ART. 439. **City Council may require Inventory of Taxable Property.**—The city council * * * * may by ordinance provide that any person, firm, or corporation having property subject to taxation or being liable for any tax under the provisions of this title, and neglecting to render a list, inventory and appraisal thereof, as required by ordinance of said city, shall be liable to fine and imprisonment. (Act of March 15, 1875, p. 118, § 92.)

ART. 440. **Duty to render such Inventory.**—Every person, partnership and corporation owning property within the limits of the corporation shall, within two months after published notice, hand in to the assessor and collector of the city a full and complete inventory of the property possessed or controlled by him, her, or them within said limits not exempt from taxation, on the first day of January of the current year, verified as required by ordinance; and any person failing or refusing to comply with the provisions of this article shall be liable to fine and imprisonment, and the city council shall, by ordinance, clearly define the duty of taxpayers herein, and make all necessary rules and regulations to secure the rendition of property and the collection of taxes due thereon. (Ib. § 93.)

TITLE 20.

CORPORATIONS—PRIVATE.

CHAPTER 1.

PRELIMINARY PROVISION.

ARTICLE
562. Corporations classified.
563. Public corporations defined.

ARTICLE
564. Private corporations defined.

ART. 562. **Corporations classified.**—Corporations are either public or private. (Act April 23, 1874, p. 120; P. D. 5932.)

ART. 563. **Public Corporation defined.**—A public corporation is one that has for its object the government of a portion of the State. (P. D. 5933.)

ART. 564. **Private Corporations defined.**—Private corporations are of three kinds: *First*, religious; *second*, corporations for charity or benevolence; and, *third*, corporations for profit. (P. D. 5934.)

CHAPTER 2.

OF THE CREATION OF CORPORATIONS.

ARTICLE
565. Three or more persons may form a corporation.
566. For what purposes.
567. Contents of charter.
568. Charter subscribed and acknowledged.
569. Charter filed with Secretary of State.

ARTICLE
570. Corporate existence dates from filing.
571. Amendment of charter.
572. Continued.
573. Continued.
574. Legislature may alter, reform or amend charter.

ART. 565. **Three or more Persons may form a Corporation.**—Private corporations may be created by the voluntary association of three or more persons for the purposes and in the manner hereinafter mentioned. (Act April 23, 1874; P. D. 5935.) (a)

(a) See Art. 4099.

Again amended by Acts of 1899 22^d Leg. Ch. 101 P 161
 By this 6th 5 omits "except a railroad" & has bridges for bridges
 7 " adds "which may be used for any or all modes of travel & transportation"
 11 " omits "and vessels"
 13 " inserts after word "and electric motor power or either of them"

ART. 566. **For what Purposes.**—The purposes for which private corporations may be formed, are—

1. The support of public worship.
2. The support of any benevolent, charitable, educational or missionary undertaking.
3. The support of any literary or scientific undertaking, the maintenance of a library, or the promotion of painting, music or other fine arts.
4. The encouragement of agriculture and horticulture.
5. The maintenance of public parks, and of facilities for skating and other innocent sports.
6. The maintenance of a public and private cemetery.
7. The purchase, location and subdivision of lands and the sale and conveyance of the same in lots and subdivisions or otherwise.
8. The construction and maintenance of any species of road except a railroad, and of bridges in connection therewith. (b)
9. The construction and maintenance of a bridge.
10. The construction and maintenance of a telegraph line.
11. The establishment and maintenance of a ferry.
12. The establishment and maintenance of a line of stages.
13. The building and navigation of steamboats and carriage of persons and property thereon.
14. The supply of water to the public.
15. The manufacture and supply of gas or the supply of light or heat to the public by any other means.
16. The transaction of any manufacturing, mining, mechanical or chemical business.
17. The transaction of a printing and publishing business.
18. The establishment and maintenance of a hotel.
19. The erection of buildings and the accumulation and loan of funds for the purchase of real property.
20. The improvement of the breed of domestic animals, by importation, sale or otherwise.
21. The transportation of goods, wares and merchandise or any valuable thing.

(b) See Art. 4099.

This article was amended making various changes in the purposes for which corporations might be formed by Act of March 27 1883 and again similarly amended by Act of March 23 1889 and of April 30 1889 in which case amendments were given.

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17 § Add "and to their suburbs"
 21 § An act for additions to this
 After 24 - Add a similar one for incorporation of wholesale merchants
 27 Add "Cotton Compresses grain elevators & wharfs"
 Several additional sections at end of act - clearing runs
 main power RR Bridges Bicycle & sporting clubs Trustees, trans-
 portation Cos Land Cos in other states

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GENERAL LAWS OF TEXAS.

TWENTIETH LEGISLATURE, 1888

PRIVATE CORPORATIONS.

Sec. 1. Amends Art. 566, Chap. 2, Title XX, Revised Statutes, as amended by the act of March 23, 1887, declaring for what purposes charters may be granted.

Sec. 2. Emergency clause.

CHAP. 1.—[H. B. No. 16.] An Act to amend Article 566, Chapter 2, Title XX, of the Revised Civil Statutes of the State of Texas, as amended by the Twentieth Legislature, approved March 23, 1887.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 566, of Chapter 2, Title XX, of the Revised Civil Statutes of Texas, as amended by the Twentieth Legislature, approved March 23, 1887, be so amended as to hereafter read as follows:

Article 566. The purposes for which private corporations may be formed are—

1. The support of public worship.
2. The support of any benevolent, charitable, educational, or missionary undertaking.
3. The support of any literary undertaking, the maintenance of a library, or the promotion of painting, music, or other fine arts.
4. The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock and farm products.
5. The maintenance of a public or private cemetery.
6. The construction and maintenance of any species of road except a railroad and a bridge in connection therewith.
7. The construction and maintenance of a bridge.
8. The construction and maintenance of a telegraph or telephone line.
9. The establishment and maintenance of a ferry.
10. The establishment and maintenance of a line of stages.
11. The building and navigation of steamboats, and the carriage of persons and property thereon.
12. The supply of water to the public.
13. The manufacture and supply of gas, or of the supply of light or heat to the public by any means.
14. The transaction of any manufacturing or mining business.
15. The transaction of a printing or publishing business, and in connection therewith the sale of goods, wares, and merchandise of a stationery and blank book manufacturing business.
16. The establishment and maintenance of a hotel.
17. The erection of buildings and the accumulation and loan of funds for the purchase of real property in cities, towns, and villages.
18. The transportation of goods, wares, and merchandise, or any valuable thing.
19. The promotion of immigration.

*As to powers to be exercised by corporations enacted under § 25—An Act of 1891 22 Leg. Ch. 1040 P. 166.

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28 b.

- 20. The construction and maintenance of sewers.
- 21. The construction and maintenance of a street railway.
- 22. The erection and maintenance of market houses and market places.
- 23. The construction and maintenance of canals for the purposes of irrigation, navigation, or manufacturing.
- 24. The purchase and sale of goods, wares, and merchandise, and agricultural and farm products. The number of persons incorporating for such purposes shall in no instance be less than ten, nor shall any person hold or own more than five hundred dollars of such stock; and any person owning or holding more than five hundred dollars of such stock shall be liable for all the debts of such corporation.
- * 25. The construction of harbors and canals on the coast of the Gulf of Mexico.
- 26. The growing, purchasing, and selling seeds, plants, trees, etc., for agricultural, horticultural, and ornamental purposes.
- 27. The construction and maintenance of mills and gins.
- 28. The accumulation and loan of money; but this subdivision shall not permit incorporations with banking or discounting privileges.
- 29. The construction and maintenance of stock yards and pens.
- 30. The construction and maintenance of establishments for slaughtering, refrigerating, canning, curing, and packing meat.
- 31. The construction and maintenance of establishments for the preserving and canning of fruits, vegetables, and fish.

Sec. 2. Whereas the present incorporation act restricts the amount of capital stock in the formation of corporation and co-operative associations to be organized under clause 24 of the first section of the act hereby amended to an extent injurious to public interest; and whereas it is of great public importance and necessity that corporations and co-operative associations, which tend to the rapid development of the State with greater capital stock than is now permitted by law, may be immediately organized; wherefore an emergency and an imperative public necessity exist, demanding that the constitutional rule requiring bills to be read on three separate days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House, and passed the same by a vote of 81 yeas, no nays; and passed the Senate by a vote of 23 yeas, 5 nays.]

Approved, April 30, 1888.

Clause 24 in Act of 1887 was as follows, being the only clause changed by this act.

24. The purchase and sale of agricultural and farm products, goods, wares and merchandise: *Provided*, That the capital stock of such corporations shall not exceed twenty thousand dollars: *Provided further*, That the number of persons incorporating for such purposes shall in no instance be less than ten, nor shall any person hold or own more than five hundred dollars of such stock; and any person owning more than five hundred dollars of such stock shall be liable for all the debts of such corporation.

~~SECTION 1. Be it enacted by the Legislature of the State of Texas: That Article 1034 of the Revised Civil Statutes of the State of Texas, relating to appeals and writs of error from the District and County Court to the Supreme Court and Court of Appeals of the State, be amended so as to hereafter read as follows:~~

The Act of 1885 was as follows

S. B. No. 8.]

CHAPTER 61.

An Act to amend chapter 2, article 566, of the Revised Civil Statutes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That chapter 2, article 566 of the Revised Civil Statutes of the State of Texas be so amended as hereafter to read as follows:

ARTICLE 566. The purpose for which private corporations may be formed are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational or missionary undertaking.
3. The support of any literary undertaking, the maintenance of a library, or the promotion of painting, music or other fine arts.
4. The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock and farm products.
5. The maintenance of a public or private cemetery.
6. For the purchase, subdivision and sale of land in cities, towns and villages.
7. The construction and maintenance of any species of road, except a railroad, and a bridge in connection therewith.
8. The construction and maintenance of a bridge.
9. The construction and maintenance of a telegraph or a telephone line.
10. The establishment and maintenance of a ferry.
11. The establishment and maintenance of a line of stages.
12. The building and navigation of steamboats, and the carriage of persons and property thereon.
13. The supply of water to the public.
14. The manufacture and supply of gas, or of the supply of light or heat to the public by any means.
15. The transaction of any manufacturing, mining, mechanical or chemical business.
16. The transaction of a printing or publishing business.
17. The establishment and maintenance of a hotel.
18. The erection of buildings and the accumulation and loan of funds for the purchase of real property in cities, towns and villages.
19. The transportation of goods, wares and merchandise, or any valuable thing.
20. The promotion of immigration.
21. The construction and maintenance of sewers.
22. The construction and maintenance of a street railway.
23. The erection and maintenance of market houses and market places.
24. The construction and maintenance of canals for the purpose of irrigation or for manufacturing purposes.

Approved March 27th, 1885.

S. H. B. No. 392.]

CHAPTER 62.

An Act to restore to and confer upon the county court of Zapata county the criminal jurisdiction heretofore belonging to it under the Constitution and general statutes of the State of Texas, to conform the jurisdiction of the district court to such change, and to repeal all laws in conflict with the provisions of this act.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the county court of Zapata county shall hereafter have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except cases in which the highest penalty of fine that may be imposed under the law, may not exceed two hundred dollars; and shall, also, have appellate jurisdiction in criminal cases of which justices of the peace, and other inferior tribunals of said county, have original jurisdiction.

SECTION 2. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said court has jurisdiction.

SECTION 3. The county judge of said county shall have authority, either in term time or vacation, to issue all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in all cases in which the Constitution has not conferred the power on the district courts or judges thereof.

SECTION 4. The district court of said county of Zapata shall no longer have jurisdiction of cases of which the county court of Zapata county, by the provisions of this act, has exclusive original or appellate jurisdiction; and it shall be the duty of the district clerk of said county, within thirty days after the passage of this act, to make a full and complete transcript of all orders on their respective dockets in cases now pending before said district court, of which cases, by the terms of this act, exclusive jurisdiction is given to the county court, and to deliver said transcript, together with the original papers, and a certified bill of costs, in each case, to the clerk of said county court, and said county clerk shall enter said cases on the docket of the county court for trial by said county court.

SECTION 5. The county court of said county shall hereafter hold its regular term for criminal business as provided in the Constitution and general laws of the State of Texas for civil and criminal terms of county courts; and all process heretofore issued from the district court of said county in cases to be transferred under this act to the county court shall be returnable to the first term of the said county court thereafter.

SECTION 6. All laws in conflict with the provisions of this act are hereby repealed.

SECTION 7. The crowded condition of the docket of the district court of Zapata county creates an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended.

Approved March 28th, 1885.

[Faint, illegible handwriting at the top of the page]

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For act regulating Guaranty & Fidelity Companies Re
Act 1891 22d Leg Ch. 112 P 176

may pre-empt, within any of the bays, bayous, and tide water tributaries situated in this State, five hundred and thirty-eight yards square, and fence off or stake off the same for the purpose of planting oyster beds; and such person so staking off or fencing as aforesaid shall be protected in his possession thereof against trespass thereon in like manner as freeholders are protected in their rights, and shall have ownership for twelve years after so staking or fencing off, and filing with the county clerk his pre-emption: *Provided*, That no person, firm, or corporation shall pre-empt within the waters of this State under this act nearer than the extreme low water mark in front of the shore or water front of another without the consent of the owner of such shore or water front: *And provided further*, That this act shall not in any manner whatever affect or interfere with the riparian proper right of land owners.

SEC. 3. That it shall not be lawful for any person or persons to take, capture, or catch oysters within any of the waters that are free within the limits of this State, by any means whatever, from the first day of May to the twenty-fifth day of August: *And provided*, That no oyster less than one and one-half inches in length "net" shall be caught or offered for sale.

SEC. 4. That it shall not be lawful for any person or persons to take, capture, or catch, by any means whatever, within any of the waters of this State, and offer them for sale, either crab or shrimp, except those that are grown; and whenever, in capturing or catching crabs and shrimps, any caught not grown shall be emptied back into water of sufficient depth that they may live and grow.

SEC. 5. That any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars: *Provided*, That all fines so collected shall be paid into

PRIVATE CORPORATIONS.

Sup. 48.

SEC.

1. Amends Article 568, Revised Statutes, concerning
creation of corporations.

SEC.

2. Emergency clause.

CHAP. 110.—[S. B. No. 134.] An Act to amend Article 568, Title 20, Chapter 2, of An Act to adopt and establish the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 568, of Title 20, Chapter 2, of An Act to adopt and establish the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as to hereafter read as follows:

Article 568. The charter of an intended corporation must be subscribed by three or more persons, two of whom at least must be citizens of this State, and must be acknowledged by them before an officer duly authorized to take acknowledgment of deeds: *Provided,* That all charters for the purposes named in clauses 2 and 3 of Article 566 of this chapter and title may be subscribed by married women, who may also be stockholders, officers, and directors thereof; and their acts, contracts, and deeds shall be as binding and effective for all the purposes of said corporation as if they were males, and the joinder and consent of their husbands and privy examinations separate and apart from them shall not be required.

SEC. 2. Whereas there is now in the city of Dallas a "Home for Sick Women," which cannot be properly organized because of the inability of married women to become incorporators and officers thereof, and because in many other places similar charities, much needed, cannot be organized for the same cause, a public emergency exists; therefore be it further enacted that this bill shall take effect from and after its passage.

Approved, April 2, 1887.

SEC. 5. The sum of fifty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, upon which the Comptroller shall draw his warrant as required in section four of this act; provided that the exhaustion of the appropriation herein made shall terminate the liability of the State, and absolve it from any future claims of any and all persons who may have claims, real or pretended, under the provisions of this act.

SEC. 6. Chapter 119, entitled, "an act to protect stock raisers, providing for the destruction of wolves and other wild animals, approved April 2, 1887," be and the same is hereby repealed.

SEC. 7. Whereas, there is now no adequate law for the protection of stockraisers, farmers and horticulturists against the destruction of wild animals; and whereas, a great number of cattle, sheep, swine, colts and other stock, as well as poultry are being daily destroyed and other damages incurred throughout the stock raising and agricultural portions of the State, and the public good requires immediate relief therefore, an emergency and public necessity exists that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the House in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the Constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

PRIVATE CORPORATIONS.

Sec. 1. Amends article 566, chapter 2, title 20, R. S., as amended by act of April 30, 1888.—Purposes for which private corporations may be formed.

2. Emergency clause.

CHAP. 101.—[S. S. B. No. 100.] An act to amend an act entitled "an act to amend article 566, chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the twentieth Legislature, approved March 23, 1887, and as amended at the special session of the twentieth Legislature, approved April 30, 1888.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That article 566 of chapter 2, title 20, of the Revised Civil Statutes of the State of Texas, as amended by the twentieth Legislature, approved March 23rd, 1887, and as amended at the special session of the twentieth Legislature, approved April 30, 1888, be so amended to hereafter read as follows:

Article 566. The purposes for which private corporations may be formed are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational or missionary undertaking.
3. The support of any literary undertaking, the maintenance of a library or the promotion of painting, music and other fine arts.
4. The encouragement of agriculture and horticulture by associations

for the maintenance of public fairs and exhibitions of stock and farm products.

5. The maintenance of a public or private cemetery.
6. The construction and maintenance of any species of road and bridges in connection therewith.
7. The construction and maintenance of a bridge which may be used for any or all modes of travel and transportation.
8. The construction and maintenance of a telegraph and telephone line.
9. The establishment and maintenance of a ferry.
10. The establishment and maintenance of a line of stages.
11. The building and navigation of steamboats and vessels, and the carriage of persons and property thereon.
12. The supply of water to the public.
13. The manufacture and supply of gas, and the supply of light, heat and electric motor power or either of them, to the public by any means.
14. The transaction of any manufacturing or mining business.
15. The transaction of a printing or publishing business and in connection therewith, the sale of goods, wares and merchandise of a stationery and blank book manufacturing business.
16. The establishment and maintenance of a hotel.
17. The erection of buildings and accumulation and loan of funds for the purchase and sale of real property in cities, towns and villages and their suburbs.
18. The transportation of goods, wares and merchandise or of any valuable thing.
19. The promotion of immigration.
20. The construction and maintenance of sewers.
21. For the constructing, acquiring, maintaining and operating street railways and suburban or belt lines of railway within and near cities and towns, which may also construct, own and operate union depots. But no street railway company shall ever be exempt from the payment of assessments that may be legally levied or charged against it for street improvements.
22. The erection and maintenance of market houses and market places.
23. The construction and maintenance of canals for the purpose of irrigation, navigation or manufacturing.
24. The purchase and sale of goods, wares and merchandise, and agricultural and farm products. The number of persons incorporating for such purposes shall in no instance be less than ten, nor shall any person hold or own more than \$500 of such stock; and any person holding or owning more than \$500 of such stock shall be liable for all the debts of such corporation.
25. For the purpose of buying and selling goods, wares and merchandise of any description by wholesale; but the limitations upon stock and stockholders in corporations created under subdivision 24 of this article shall not apply to corporations created under this subdivision.
26. The construction of harbors and canals on the coast of the Gulf of Mexico.
27. The growing, selling and purchasing of seeds, plants, trees, etc., for agricultural, horticultural and ornamental purposes.
28. The construction and maintenance of mills, gins, cotton compresses, grain elevators and wharfs.

29. The accumulation and loan of money; but this subdivision shall not permit incorporations with banking or discounting privileges.

30. The construction and maintenance of stockyards and pens.

31. The construction and maintenance of establishments for slaughtering, refrigerating, canning, curing and packing meat.

32. The construction and maintenance of establishments for the preserving and canning of fruits, vegetables and fish.

33. The establishment and maintenance of clearing houses.

34. To construct and maintain water power.

35. For the purpose of constructing railroads and bridges for railroad companies.

36. To support and maintain bicycle clubs and other innocent sports.

37. To act as trustee or assignee or receiver, when designated by any person, corporation or court so to do, and to do a general fiduciary and depository business. To act as surety and guarantor of the fidelity of employes. To act as executor and testamentary guardian when designated as such by a decedent. Provided, that each corporation organized under this section shall publish in some newspaper of general circulation in the county where such company is organized, on the first day of February of each year, a statement of its condition on the previous thirty first day of December, showing under oath its assets and liabilities, and that a copy of this statement be filed with the Commissioner of insurance, statistics and history, and a fee of \$25 is paid to that officer for filing the same, and that an examination of its affairs be made at any time by the Commissioner of insurance, statistics and history; such examination to be at the expense of the company.

38. For establishing transportation companies with power to buy, construct, lease, own, operate, maintain and convey all kinds of steamships, vessels and other water crafts, and may navigate the same between all ports of the globe and upon rivers; and construct, buy, lease, own, maintain, operate and convey warehouses, docks and wharves, and to buy, lease, receive, own, hold and enjoy real and personal property necessary in the transaction of its business; to receive, purchase, hold, use and convey such rights, privileges, franchises and property, and to exercise, beyond the jurisdiction of this State, such powers as may be granted to or conferred upon it by any foreign government, state or municipality; to have officers and agents and to maintain offices at all points at which the company may do business; to act as principal or agent in buying and selling merchandise in all foreign countries; to carry passengers, freight, express and mail.

39. The establishment of land companies to buy, own, sell and convey real estate in any state or foreign country; but such company shall only own such real estate in this State as may be necessary for its office.

SEC. 2. The large number of bills now pending before the Legislature, and the advanced state of the session, and the large number of enterprises in Texas now doing business in Texas, but desiring to incorporate under the laws of Texas, create an emergency and imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate and passed the same March 5, 1891—vote not given; and passed the House April 3, 1891—vote not given.]

[NOTE.—The foregoing act was presented to the Governor of Texas

for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

RAILROADS—RELIEF OF.

Sec.

1. Certain railroads relieved from operation of articles 605 and 4278, R. S.; confirmation of incorporation, etc.; does not revive claim on subscriptions.

Sec.

2. Time for construction extended; corporate existence, rights, etc., restored; applies only where fifty miles have been constructed; does not revive any claim against the State for land or other privileges.

3. Emergency clause.

CHAP. 102.—[S. S. B's. for H. B's. Nos. 16 and 109.] An act to relieve railroad companies chartered under the Revised Statutes of Texas, which have in good faith constructed any part of their roads prior to the first day of January, 1889, from the operation of articles 605 and 4278 of the Revised Statutes as to the roads so constructed, and to relieve railway companies which have constructed fifty miles or more of railroad from the operation of said articles and of article 4114 of the Revised Statutes for two years.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That any railroad company incorporated under title 84 of the Revised Statutes of the State of Texas since the first day of January, 1881, which may have constructed at any [time] before January first, 1889, any part of the railroad which it was incorporated to construct, as to such railroad so constructed it is hereby relieved from the operation of article 605 and 4278 of the Revised Statutes, and the subsequent amendments thereof, and as to such road is hereby constituted a corporation from the date of its articles of incorporation, with all the rights, powers, duties and liabilities prescribed by said title and other laws of the State, to the same extent as though said articles 605 and 4278 had never been contained therein, and all of the acts done, rights acquired and liabilities incurred, which but for said articles would have been valid, are hereby re-organized, ratified and confirmed. Provided, that this act shall not be so construed as to revive any claim of such company on subscriptions to its stock which may have been lost by failure to comply with the provisions of said articles.

SEC. 2. That the time in which any railroad or branch railroad is required to be constructed by article 4278 and the subsequent amendments thereof, or by 4114 of the Revised Statutes of Texas, is hereby extended for a period of two years from the time this act shall take effect and the corporate existence and powers or any part thereof of any railway company which may have been lost by failure to comply with said articles or either of them or the amendments thereto is hereby revived, restored and re-established, but after the expiration of said period and not before shall be subject to the operation and effect of said articles. Provided, this section shall only apply to railway companies which have constructed and operated fifty miles or more of railroad. Provided, nothing herein shall revive any claim against the State for land or revive any claim for any other privilege than that of constructing and operating its road.

SEC. 3. The fact that there are existing railway corporations which

have lost the right of extending their railroad or branches, and that it is to the interest of the State that they should have the right to extend, and the near approach of the end of the session creates an imperative public emergency that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

RAILROADS—SEPARATE COACHES REQUIRED.

Sec. 1. Amends section 6, act of March, 1891.

(6.) Instances wherein this act does not apply.

HAP. 103.—[S. B. No. 365.] An Act to amend section 6 of an act entitled "An act to require railroad companies in this State to provide separate coaches for white and negro passengers, and to prohibit passengers from riding in coaches other than those set apart for their race, and to confer certain powers upon conductors, and to provide penalties for the violation of this act, passed by the Twenty-second Legislature, and approved March, 1891.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That section 6 of the above entitled act be so amended as to hereafter read as follows:

Section 6. The provisions of this act shall not be so construed as to prohibit nurses from traveling in the same coach with their employers, or employes upon the train in the discharge of their duties, nor shall it be construed to apply to such freight trains as carry passengers in cabooses, neither shall it apply to street and suburban railway cars; provided, that nothing herein contained shall be construed to prevent railroad companies in this State from hauling sleeping cars or chair cars attached to their trains to be used exclusively by either white or negro passengers, separately but not jointly.

SEC. 2. The near approach of the close of the present session of the Legislature creates an emergency and an imperative public necessity exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is so suspended and this act shall take effect and be in force from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and 5 nays; and passed the house—vote not given.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated, with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

HARBORS, CHANNELS, ETC.—CONSTRUCTION AND MAINTENANCE OF.

Preamble.

Sec.

1. Corporations organized under laws of Texas for construction of deep water harbors, etc., may purchase lands, islands, etc., at \$2.00 per acre.
2. Price of lands, shores, etc., where company owns frontage on shallow bays, etc.; three miles of water front allowed; Tolly and Lydia Ann islands not subject to purchase; proceeds of sale.
3. Applications for purchase, how made.
4. Authority for survey; payment of purchase money; penalty for failure to secure twenty feet of water; forfeiture.

Sec.

5. Right to construct docks, wharves, etc; tolls, control subject to railroad commission; railroad between mainland and deep water harbor, rights and control of; exercise of rights under this act deemed contract with State; forfeiture.
6. Exercise of rights herein granted shall not hinder completion of railroad on Harbor Island.
7. Release required to be filed by the corporation.
8. Emergency clause.

CHAP. 104.—[S. B. No. 346.] An Act to encourage the construction and maintenance of deep water harbors, navigable channels, docks and wharves on the gulf coast within the State of Texas, and to define the rights and duties, and fix the liabilities of the corporations that may acquire land or privileges under this act.

Whereas, Deep water harbors, navigable channels, docks and wharves on the gulf coast of Texas are of great importance to the development and prosperity to the State of Texas and the entire northwest; now, therefore,

SECTION 1. Be it enacted by the Legislature of the State of Texas: That any corporation organized under the laws of Texas, which is now authorized or which may hereafter be authorized by an act of Congress of the United States to construct, own, operate or maintain with private capital, a deep water harbor, navigable channel, docks or wharves on the gulf coast of Texas, shall be permitted to purchase from the State of Texas at two dollars per acre so much of any public lands, islands, shores or shallow bays belonging to the State of Texas that may be situated within one-half mile from any point or points on the construction works of any jetties or any such deep water channel leading into the main harbor from the open sea; provided, that in no case shall such strip or body of land be more than one-half mile in width, and such person, company or corporation may also purchase from the State at the same price per acre any lands, shores, islands or shallow bays within one-fourth mile of each side of every navigable channel, that such company or corporation may construct through or across such shallow bays in the prosecution of such work.

SEC. 2. Any such company or corporation owning in whole or in part any lands fronting or abutting upon any shallow bays in which any such work is being constructed, may purchase at the same price per acre any lands, shores or shallow bays adjoining and lying in front of such lands; provided, that such purchase shall not extend into such bay so as to include land covered with water having an average depth of more than three and one-half feet at mean low tide. That the purchasers under the provisions of this section shall not extend a greater distance along the front of the survey on the shore than three miles, nor a greater distance into the bay than one-half mile; provided, that the islands known as Tolly island and Lydia Ann islands, situated in Aransas Bay, shall not be subject to purchase under the provisions of this act; provided, that one-half of the proceeds of the sale of the lands as provided for in this act shall belong to the permanent free school fund of this State.

SEC. 3. All applications of a purchaser to buy under the provisions of this act shall be made in writing to the Commissioner of the General Land Office, accompanied by one-fifth of the purchase money, and also by a copy of the act of Congress authorizing the construction of such deep

water harbor, navigable channel, docks or wharves, and a complete plat or map showing the location and design of such improvements, and said plat or map shall also show the public lands, shores, islands and shallow bays applied for, and the depths of such shallow bays in feet, determined by actual survey or as shown by the United States coast survey map.

SEC. 4. Upon the payment of one-fifth of the purchase money as hereinbefore provided, the Commissioner of the General Land Office shall issue a receipt therefor, and attach thereto a copy of the application and plat filed by said purchaser, which said receipt shall be sufficient authority to the proper county surveyor to survey the lands, shores, islands or shallow bays sold; provided, that the remainder of the purchase money may be paid at any time within five years after date of first payment, and deferred payments shall bear interest at the rate of five per cent per annum payable annually. If any individual, association of individuals, company or corporation purchasing any land, island or shallow water bays under this act shall fail to secure twenty feet of water over the bar between the Gulf of Mexico and the main harbor within five years from the date of such purchase and maintain said twenty feet of water continuously for two years, then all such rights shall revert to the State. If the purchaser of any island, shallow water bay, land or either under this act, shall fail to pay the annual interest upon any part of the purchase money when such interest shall become due, or if such purchaser shall fail to pay the principal when the same shall become due, then all rights acquired under such purchases shall be forfeited with all payments made thereon, without any judicial ascertainment of such forfeiture, and the Commissioner of the General Land Office shall indorse upon the contract of purchase, that the same is forfeited, whereby all rights so acquired shall be forfeited and revert to the State. If any such corporation shall fail to conform to the act of Congress in prosecuting such work or if such corporation shall fail to secure twenty feet of water at low tide upon the bars and other obstructions between the main harbor and the Gulf of Mexico within five years after the date at which this act shall take effect, if such corporation now exist, or within five years of the date of the filing of the charter of any such company hereafter to be formed, then all islands, lands, shallow bays and other rights acquired under this act shall be forfeited and shall revert to and vest in the State of Texas.

SEC. 5. Any corporation organized under the laws of this State which has such authority as mentioned in the first section of this act conferred upon it by act of the Congress of the United States, may construct, own and maintain, upon the gulf coast of Texas, in connection with its deep water harbor and navigable channels, docks and wharves and navigable channels for the accommodation of commerce, and such corporation may charge, demand and receive reasonable and just tolls, and charge for the use of such docks and wharves; but all navigable channels so constructed shall forever remain open and free to all vessels without fee or charge; the tolls and charges for the use of said docks and wharves shall be equal, just and uniform to all vessels, persons and corporations without discrimination as to amount charged or delay in handling the same, and all such tolls and charges shall be under the control of the Legislature of the State of Texas; and until otherwise directed by the Legislature shall be subject to control and regulation by the Railroad Commission under the rules prescribed for the regulation of railroads so far as applicable. Any railroad or other means of transportation which may be constructed between the mainland and any deep water harbor or channel

shall be a public highway, and all rates and charges for the transportation of freights and passengers thereon shall be subject to the control and regulation of the Railroad Commission as a railroad; such railroad or other means of transportation shall receive from each and every ship, boat and vessel or from the wharf on which the same is discharged, all freights and passengers and transport and deliver them to the consignee or any connecting line of railroad without discrimination-as to charges or delay in transportation and delivery, and shall in like manner receive from every person and from every connecting line of railroad all freight and passengers and transport and deliver the same to each and every ship, boat, vessel, person or corporation for delivery to such ship, boat or vessel or like equal and just terms without discrimination as to charges and delay in transportation or delivery thereof. Nothing herein shall be construed to affect any rights acquired before the passage of this act. The acceptance of this act or the exercise of any rights or privileges granted in this act by said corporation or any person or corporation holding under the same, shall be deemed and held to be a contract with the State; that any wilful violation of the provisions of this act, or the doing of any act herein prohibited, shall work a forfeiture of all rights acquired under this act so far as then held or claimed by the person or corporation guilty of such violation.

SEC. 6. The privileges and rights granted in this act shall never be exercised so as to in any way hinder or interfere with the completion of any railroad heretofore chartered to be built to and upon Harbor Island, in and upon the location designated in such charter; nor with any such railroads acquiring and controlling all necessary depot grounds, wharf grounds and deep water fronts that it may or could have acquired legally, had not this act been enacted.

SEC. 7. Before any rights can vest in any corporation by virtue of any purchase of public lands, islands, shores or shallow bays, the said corporation shall file with the Secretary of State a release to the State of Texas of all claim or right to have its tolls or charges imposed for any use to be made of such property or structures thereon regulated by any act of Congress now existing or hereafter to be passed.

SEC. 8. And whereas, deep water improvements are of vital importance to the country, and whereas, the present Legislature will not likely remain long in session, now, therefore, an imperative public necessity and an emergency exists requiring the suspension of the constitutional rule requiring bills to be read on three several days, and the rule is suspended, and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate and passed the same by a vote of 21 yeas and 4 nays; and passed the House by a vote of 61 yeas and 20 nays.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

22. The promotion of emigration.
23. The construction and maintenance of sewers.
24. The construction and maintenance of a street railway.
25. The erection and maintenance of market houses and market places.
26. The construction and maintenance of canals for the purpose of irrigation or manufacturing purposes.
27. For any other purpose intended for mutual profit or benefit not otherwise especially provided for and not inconsistent with the Constitution and laws of this State.

ART. 567. Contents of Charter.—A charter must be prepared, setting forth—

1. The name of the corporation.
2. The purpose for which it is formed.
3. The place or places where its business is to be transacted.
4. The term for which it is to exist.
5. The number of its directors or trustees, and the names and residences of those who are appointees of the first year.
6. The amount of its capital stock, if any, and the number of shares into which it is divided.
7. The charter of a bridge or ferry company shall also state the stream intended to be crossed by the bridge or ferry.

8. The charter of a road company must also state: *First*, the kind of road intended to be constructed; *second*, the places from and to which the road is intended to be run; *third*, the counties through which it is intended to be run; *fourth*, the estimated length of the road (*a.*)

ART. 568. Charter Subscribed and Acknowledged.—The charter of an intended corporation must be subscribed by three or more persons, two of whom, at least, must be citizens of this State, and must be acknowledged by them before an officer duly authorized to take acknowledgments of deeds. (*Ib.*, § 8; P. D., 5939.) (*b.*)

ART. 569. Charter Filed with Secretary of State.—Such charter shall thereupon be filed in the office of the Secretary of State, who shall record the same at length in a book to be kept for that purpose, and retain the original on file in his office. A copy of the charter,

(*a.*) See art. 4101.

(*b.*) See art. 4099.

or of the record thereof certified under the great seal of the State, shall be evidence of the creation of a corporation. (Ib., § 9; P. D., 5940.) (a)

ART. 570. Corporate Existence dates from Filing.—The existence of the corporation shall date from the filing of the charter in the office of Secretary of State, and the certificate of the Secretary of State shall be evidence of such filing. (Ib., § 10; P. D., 5941.) (b)

ART. 571. Amendment of Charter.—Any private corporation heretofore organized or incorporated, or which may hereafter be organized or incorporated, for any of the purposes mentioned in this chapter, may amend or change its charter or act of incorporation, by filing, authenticated in the manner required by this chapter as to an original charter of incorporation, such amendments or changes with the Secretary of State; and in case of a corporation created by special act of the Legislature, said corporation shall cause the amendments or changes to its charter to be authenticated as required in the case of an original charter of incorporation, and filed with the Secretary of State, together with the original charter of such company, and such amendments thereto, or changes therein, if any, as have been made by special act of the Legislature, and the same shall be recorded by the Secretary of State, followed by the proposed amendments or changes thereof. (Ib., §10; P. D., 6011b.) (c)

ART. 572. Continued.—The amendments or changes provided for in the preceding article shall take effect and be in force from the date of the filing thereof with the Secretary of State, and the certificate of the Secretary of State shall be evidence of such filing. (Ib.) (d)

ART. 573. Continued.—No amendments or changes violative of the constitution or laws of this State, or of any of the provisions of this title, shall be of any force or effect; and no amendments or changes shall be of any force or effect which are not germane to the original purposes or charter of incorporation, and calculated to carry out and effect of the same. (Ib.)

ART. 574. Legislature may Alter, Reform or Amend Charter.—All charters, or amendments to charters, under the pro-

(a) See arts. 4102, 4103.

(b) See art. 4104.

(c) See art. 4108 *et seq.*

(d) See art. 4110.

visions of this chapter, shall be subject to the power of the Legislature to alter, reform or amend the same. (Ib.) (a)

CHAPTER.

OF THE POWERS AND DUTIES OF PRIVATE CORPORATIONS.

ARTICLE

- 575. General powers of.
- 576. Increase of capital stock.
- 577. Borrowing money.
- 578. Opening books for subscription.
- 579. Quorum of directors—Annual, election of.
- 580. Election of officers.
- 581. By-laws—Adoption and amendment of.
- 582. Increase of number of directors.
- 583. Failure to elect directors.
- 584. Trustees of religious corporations.
- 585. Powers of directors—Disposition of unsubscribed stock.
- 586. Stock books and records—Open to stockholders.

ARTICLE

- 587. Reports to stockholders—Declaration of dividends.
- 588. Acceptance of these provisions by existing corporations.
- 589. Corporation restricted to legitimate objects.
- 590. Stock, personalty, and how transferable.
- 591. Payment of calls.
- 592. Continued—Forfeiture of stock for non-payment.
- 593. Corporation may sue its members.
- 594. Fraudulent dividends—Liability of directors.

ART. 575. General Powers of.—Every private corporation, as such, has power :

1. To have succession by its corporate name for the period limited in its charter, not to exceed fifty years, and when no period is limited for twenty years. (b.)
2. To maintain and defend judicial proceedings. (c.)
3. To make and use a common seal. (d.)
4. To hold, purchase, sell, mortgage or otherwise convey such real and personal estate as the purposes of the corporation shall require, and also to take, hold and convey such other property, real personal or mixed, as shall be requisite for such corporation to acquire in order to obtain or secure the payment of any indebtedness or liability due or belonging to the corporation. (e)

(a) Chapter 15, Acts 1879, provides that the department of State shall charge and collect a fee of five dollars for each charter, or amendment, or supplement thereto of a private corporation created for religious, literary, benevolent or scientific purposes; and a fee of twenty-five dollars for each charter, or amendment, or supplement thereto of a private corporation created for any other purpose (except railway and telegraph purposes, which pay a fee of one hundred dollars); the fees to be paid on filing same for record.

(b) See arts. 4106, 4209.

(c) See art. 4209.

(d) See art. 4210.

(e) See art. 4211.

5. To appoint and remove such subordinate officers and agents as the business of the corporation shall require, and to allow them suitable compensation. (a)

6. To make by-laws not inconsistent with existing laws for the management of its property, the regulation of its affairs, and the transfer of its stock. (b)

7. To enter into any obligation or contract essential to the transaction of its authorized business.

8. To increase or diminish, by vote of its stockholders, cast as its by-laws may direct, the number of its directors or trustees to be not less than three nor more than thirteen. (P. D., 5942.)

ART. 576. Increase of Capital Stock.—Any corporation may increase its capital stock to any amount not exceeding double the amount of its authorized capital, by a vote of the stockholders, in conformity with the by-laws thereof, and if a majority of the stockholders shall vote for the increase of the stock, the same may be increased by the board of directors, trustees or other business managers of such corporation; and upon such increase of stock being made in accordance with the by-laws, the date and amount shall be certified to the Secretary of State by the directors or trustees, and from the time such certificate is filed, the increase in stock shall become a part of the capital thereof. Such certificate shall be filed and recorded in the same manner as the charter. (Ib., § 12; P. D., 5943.) (c)

ART. 577. Borrowing Money.—Corporations shall have power to borrow money on the credit of the corporation, not exceeding its authorized capital stock, and may execute bonds or promissory notes therefor, and may pledge the property and income of the corporation. (Ib., § 13; P. D., 5944.) (d)

ART. 578. Opening Books for Subscription.—Whenever the full amount of the capital stock of a corporation having a capital stock shall not have been already subscribed in good faith, the directors or trustees named in the charter, or a majority of them, may, within three months after the filing of the charter, cause books to be opened for receiving subscriptions to the capital stock of the corporation, at such time or times, and at such place or places as they may determine, after having given at least thirty days' notice in a news-

(a) See art. 4132.

(b) See art. 4135.

(c) See art. 4145 *et seq.*

(d) See art. 4219 *et seq.*

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paper published or generally circulated in one or more counties where books of subscription are to be opened, of the time and place of opening books, which books may be kept open till the whole amount of capital stock is subscribed. (Ib., § 14; P. D., 5945.)

ART. 579. Quorum of Directors—Annual Election of.—A majority of the directors or trustees shall constitute a quorum, and be competent to fill vacancies in the board, and to transact all business of the corporation. (a). An annual election shall be held for directors or trustees, at such time and place as the by-laws of the corporation may require. (Ib., § 15; P. D., 5946.) (b)

ART. 580. Election of Officers.—The directors or trustees shall choose one of their number president, and shall appoint a secretary and treasurer and such other officers as they may deem necessary for the corporation. (Ib., § 16; P. D. 5947.) (c)

ART. 581. By-laws—Adoption and Amendment of.—The directors or trustees may adopt by-laws for the government of the corporation; (d) but such by-laws may be altered, changed or amended by a majority vote of the stockholders at any election or special meeting ordered for that purpose by the directors or trustees, on a written application of a majority of the stockholders or members. (Ib. § 17; P. D. 5948.) (e)

ART. 582. Increase of Number of Directors.—All corporations heretofore created and now in existence under any law of this State are hereby authorized to increase the number of directors or trustees of any such corporation. (Ib., § 18; P. D. 5949.) (f)

ART. 583. Failure to elect Directors.—In case it should happen that an election for directors or trustees should not be held on the day appointed by the by-laws of any corporation, such corporation shall not for that reason be deemed to be dissolved, but it shall be lawful on any other day to hold a meeting and elect its directors or trustees in such manner as shall be prescribed by the by-laws thereof. (Ib., § 19; P. D. 5950.) (g)

(a) See art. 4160.

(b) See art. 4125.

(c) See art. 4131.

(d) See arts. 4135, 4136.

(e) See art. 4137.

(f) See art. 575, (8), *ante*.

(g) See art. 4129.

ART. 584. Trustees of Religious Corporations.—The secular affairs of a religious corporation shall be under the control of a board of trustees to be elected by the members of such corporation, and the title to all property of any such corporation shall vest in such trustees. (Ib., § 20; P. D. 5951.)

ART. 585. Powers of Directors—Disposition of unsubscribed Stock.—The directors or trustees shall have the general management of the affairs of the corporation, (a) and may dispose of the residue of the capital stock at any time remaining unsubscribed in such manner as the by-laws may prescribe. (Ib., § 21; P. D. 5952.)

ART. 586. Stock Books and Records—Open to Stockholders.—They shall cause a record to be kept of all stock subscribed and transferred, and of all business transactions, (b) and their books and records shall, at all reasonable times, be open to the inspection of any and every stockholder. (Ib., § 21.) (c)

ART. 587. Reports to Stockholders—Declaration of Dividends.—They shall, also, when required by one-third of the stockholders thereof, present reports in writing of the situation and amount of business of the corporation, (d) and declare and make such dividends of the profits of the business of the corporation as they shall deem expedient, or as the by-laws may prescribe. (Ib., § 21.) (e)

ART. 588. Acceptance of these Provisions by existing Corporations.—Any corporation heretofore organized and now in existence under any general or special law of the Republic or State of Texas may, by a vote of its board of directors, accept any or all the provisions of this title, and have and exercise all the rights, power and privileges conferred by this title, by filing a copy of their acceptance with the Secretary of State; whereupon, that portion of its charter inconsistent with this title, or the portion accepted, shall cease to be applicable to such corporation; and it shall have the exclusive right to carry out the objects of said corporation, as described in its act of incorporation, or certificate, filed with the Secretary of State, if acting under a general law within the limits or boundaries described in said act of incorporation, or certificate, as the case may be, without any limitation as to time, and shall possess all the privileges and franchises conferred by its act of incorporation or certificate filed with the Secre-

(a) See art. 4130.

(b) See arts. 4116, 4117.

(c) See arts. 4117, 4121, 4141.

(d) See arts. 4150, 4151.

(e) See arts. 594, 4133.

tary of State, not abandoned in the copy of acceptance of any or all the provisions of this title. (Ib., § 22; P. D. 5953.)

ART. 589. Corporations restricted to Legitimate Objects.—No corporation created under the provisions of this title shall employ its stock, means, assets, or other property, directly or indirectly, for any other purpose whatever, than to accomplish the legitimate objects of its creation. (Ib., § 23; P. D. 5954.) (a)

ART. 590. Stock, Personalty and how Transferable.—The stock of any corporation created under this title shall be deemed personal estate; and shall be transferable only on the books of the corporation in such manner as the by-laws may prescribe. (Ib., § 24; P. D. 5955) (b)

ART. 591. Payment of Calls.—The board of directors or trustees of any corporation may require the subscribers to the capital stock of the corporation to pay the amount by them respectively subscribed, in such manner and in such installments as may be required by the by-laws. (Ib., § 25; P. D. 5956.) (c)

ART. 592. Continued—Forfeiture of Stock for Non-Payment.—If any stockholder shall neglect to pay any installment, as required by the board of trustees, the directors or trustees may declare his stock and all previous payments forfeited to the use of the company; but no stock shall be forfeited until the directors or trustees have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same his stock and all previous payments thereon will be forfeited for the use of the company; which notice may be served, as aforesaid, at least thirty days previous to the day on which such payment is required to be made. (Ib., § 26, P. D. 5957.) (d)

ART. 593. Corporation may sue its Members.—All bodies corporate may sue for, recover and receive from their respective members, all arrears or other debts, dues or other demands, which now are, or hereafter may be owing to them, in like mode, manner and form, as they might sue for, recover and receive the same from any person not a member of their body. (Ib., § 27; P. D. 5958.)

(a) See art. 4142.

(b) See art. 4138.

(c) See art. 4139.

(d) See art. 4140.

ART. 594. Fraudulent Dividends—Liability of Directors.—If the directors of any corporation shall knowingly declare and pay any dividend when the corporation is insolvent, or any dividend, the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted, as long as they shall respectively continue in office. The amount for which they shall all be so liable shall not exceed the amount of such dividend; and if any of the directors shall be absent at the time of making the dividend, or shall object thereto at the time such dividend is declared, and shall file their objections in writing with the secretary or other officer of the corporation having charge of the books, they shall be exempted from said liability. (Ib., § 28; P. D. 5959.) (a)

CHAPTER 4.

MISCELLANEOUS PROVISIONS.

ARTICLE

595. Stockholders made liable on execution.
 596. Names of stockholders to be furnished.
 597. Principal office to be kept in State.
 598. Misnomer of corporation not to vitiate grants, etc.
 599. Estoppel to deny corporate existence.

ARTICLE

600. Corporation may convey lands, how.
 601. Authentication of corporate records as evidence.
 602. Organizations under act of 1871 validated.
 603. Business firms to give notice of intention to incorporate.

ART. 595. Stockholders made liable on Execution.—If any execution shall have been issued against property or effects of a corporation, except a railway or a religious or charitable corporation, and there cannot be found any property whereon to levy such execution, then the execution may be issued against any of the stockholders to an extent equal to the amount of stock unpaid; but no execution shall issue against any stockholder, except upon an order of the court in which the action, suit or other proceeding shall have been brought or instituted, made upon motion in open court, after reasonable notice in writing to the person or persons sought to be charged; and upon such motion, such court may order execution to issue accordingly; or the plaintiff in execution may proceed by action to charge the stockholders with the amount of his judgment, in accordance with the liability of the stockholders. (P. D., 5960.) (b)

(a) See art. 4133.

(b) See art. 4143.

ART. 596. Names of Stockholders to be furnished.—The secretary or other officer having charge of the books of any corporation, on demand of the plaintiff in any execution against the corporation, his agent or attorney, shall furnish such plaintiff, his agent or attorney, with the names and places of residence of the stockholders as far as known, and the amount of stock held by each, as shown by the books of the corporation. (P. D., 5961.)

ART. 597. Principal Office to be kept in State.—Each corporation or joint stock company, of every description, whether organized and acting under a special charter or general law of the State, shall keep its principal office within this State. (P. D., 5962.) (a)

ART. 598. Misnomer of Corporation not to vitiate Grants, etc.—No misnomer of any corporation shall defeat or vitiate any gift, grant, conveyance, devise [devise] or bequest to the same. (P. D., 5965.)

ART. 599. Estoppel to deny Corporate Existence.—No person who assumes an obligation to an ostensible corporation as such, shall resist the enforcement of such obligation on the ground that there was in fact no such corporation, until that fact has been adjudged in a direct proceeding had for the purpose.

ART. 600. Corporation may convey Lands, how.—Any corporation may convey lands by deed, sealed with the common seal of the corporation, and signed by the president or the presiding member or trustee of said corporation; and such deed, when acknowledged by such officer to be the act of the corporation, or proved in the manner prescribed for other conveyances of lands, may be recorded in like manner and with the same effect as other deeds. (P. D., 5966.)

ART. 601. Authentication of Corporate Records as Evidence.—The records of any company incorporated under the provisions of any statute of this State, or copies thereof duly authenticated by the signature of the president and secretary of such company, under the corporate seal thereof, shall be competent evidence in any action or proceeding to which such corporation may be a party. (P. D., 5967.)

ART. 602. Organizations under Act of 1871, validated. All articles of association filed in the State department in accordance with the provisions of an act entitled "An act concerning private corporations," purporting to have been passed December 2, 1871, are hereby validated as fully as if filed under the provisions of this title.

(a) See art. 415.

ART. 603. Business Firms to give Notice of Intention to Incorporate.—Whenever any banking, mercantile, or other business firm desire to become incorporated without a change of the firm name, such firm shall, in addition to the notice of dissolution required at common law, give notice of such intention to become incorporated, for at least four successive weeks, in some newspaper published at the seat of State government, and in the county in which such firm has its principal business office, if there be a newspaper in such county, and if not, then in some newspaper in some adjoining county, and until such notice shall have been so published for the full period above named, no change shall take place in the liability of such firm or the members thereof.

CHAPTER 5.

OF THE DISSOLUTION OF PRIVATE CORPORATIONS.

ARTICLE
 604. Corporation, how dissolved.
 605. Continued.—By failure to begin operations in three years.
 606. Winding up of business—Directors, trustees.

ARTICLE
 607. Continued.—Liability of such trustees.
 608. Liability of stockholders to creditors.
 609. Continued.—Contribution among stockholders.
 610. Continued.—Limit of liability.

ART. 604. Corporation, how dissolved.—A corporation is dissolved:

1. By the expiration of the time limited in its charter.
2. By a judgment of dissolution rendered by a court of competent jurisdiction. (P. D. 5968.)

ART. 605. Continued—By Failure to begin Operations in three Years.—Every corporation created under this title, or any general law of this State, shall commence active operations within three years after filing its charter with the Secretary of State, and in default thereof, said corporation shall be dissolved and its charter become void. (P. D. 5969.) (a)

ART. 606. Winding up of Business—Directors, Trustees.—Upon the dissolution of any corporation already created by or under the laws of this State, unless a receiver is appointed by some court of competent authority, the president and directors or managers of the affairs of the corporation at the time of its dissolution, by what-

(a) See art. 4278.

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CHAP. 126.—[S. . No. 140.] An Act to legalize and validate the ordinances of cities and towns incorporated under the provisions of Title 17 of the Revised Civil Statutes of the State of Texas, wherein any ordinance imposing a penalty, fine, imprisonment, or forfeiture, for violation of its provisions, has not been published in the official paper for ten days as required by law.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That in any city or town in this State incorporated under the provisions of the general charter for cities containing one thousand inhabitants or over, contained in Title Seventeen of the Revised Civil Statutes of the State of Texas, the city council shall have, prior to the passage of this act, adopted any ordinance or ordinances imposing a penalty, fine, imprisonment, or forfeiture, and which by Article 486 of said act of incorporation are required to be published in every issue of the official paper for ten days before taking effect, and shall have failed or neglected to make publication of said ordinances, by reason of the fact of there not being a daily paper published in such city or town, but shall have had the same published in pamphlet form and distributed among the inhabitants thereof, such ordinance or ordinances are hereby legalized and validated, and shall have force and effect from and after the passage of this act in all respects the same as if they had been duly published in the official paper for ten days, and proof of such publication and distribution shall be conclusive evidence of the legal publication and promulgation of such ordinance or ordinances in all courts of this State.

SEC. 2. The necessity for the preservation of law and order in the several towns and cities of this State creates an emergency that this act take effect from and after its passage, and it is so enacted.

Approved, April 2, 1887.

hill, Lipscomb, Ochiltree, Hansford, Sherman, Hardeman, Dallam, Smith, Upshur, Cass, San Jacinto, Camp, Frio, Dimmit, Maverick, Kinney, Cameron, Jackson, and the unorganized county of Zavala: *Provided*, That the exemption from the operation of this law shall not apply to Article 425: *And provided*, That the counties of Grimes, Angelina, Van Zandt, Walker, Trinity, Parker, Jack, Young, and Bell are hereby exempted from Articles 425, 426, 426½, 427, 428, and 429: *And provided*, That the county of Houston is hereby exempted from the provisions of Articles 426, 426½, 427, and 429 of this act: *And provided*, That the counties of Fannin and Hopkins are hereby exempted from the provisions of Articles 426 and 426½: *And provided*, That the counties of Lee and Fayette are hereby exempted from the provisions of Articles 426 and 429: *And provided*, That the counties of Bastrop and Brazoria are hereby exempted from the provisions of Article 429: *And provided*, That the county of Kaufman is hereby exempted from the provisions of Articles 428 and 429: *And provided*, That the counties of Collin and Robertson are hereby exempted from the provisions of Articles 426, 426½, 427, 428, and 429: *And provided*, That the counties of Gonzales, Karnes, Wilson, Atascosa, and Morris are hereby exempted from the provisions of Articles 426, 426½, 427, and 428: *And provided*, That the county of Bowie is hereby exempted from the provisions of Articles 427, 428, and 429: *Provided further*, That the counties of Franklin, Titus, and Wood shall be exempt from the provisions of Arti-

- SEC.
1. Foreign corporations required to file charters and procure a permit.
 2. Shall not exercise rights until complying with this act.
 3. Forfeiture of permits for removal of causes from State to Federal Courts.

- SEC.
4. Forfeit recoverable by the State against corporations not securing permits from January 1, 1888. Foreign corporations defined.
 5. Penalty against agents of corporations doing business without a permit.

CHAP. 128.—[H. B. No. 316.] An Act to require foreign corporations to file their articles of incorporation with the Secretary of State, and imposing certain conditions upon such corporations transacting business in the State, and providing penalties for a violation of the same.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That hereafter any corporation for pecuniary profit, organized under the laws of any other State, or of any Territory of the United States, or of any foreign country, desiring to transact business in this State, shall be and is hereby required, on and after January 1, 1888, to file with the Secretary of State a certified copy of its articles of incorporation, duly attested, accompanied by a resolution of its board of directors or stockholders, authorizing the filing thereof, and also authorizing service of process to be made upon any of its officers or agents in this State engaged in transacting its business, and requesting the issuance to such corporation of a permit to transact business in this State, said application to contain a stipulation that said permit shall be subject to each of the provisions of this act. And thereupon the Secretary of State shall issue to such corporation a permit for the general transaction of the business of such corporation; and upon the receipt of such permit such corporation shall be permitted and authorized to carry on its business in this State.

SEC. 2. No foreign corporation which has not in good faith complied with the provisions of this act, and taken out a permit, shall hereafter be authorized to exercise the power of eminent domain, or exercise any of the rights and privileges conferred upon corporations until it has complied herewith and taken out such permit.

SEC. 3. Any foreign corporation sued or impleaded in any of the courts of this State, upon any contract made or executed in this State, or to be performed in this State, or for any act or omission, public or private, arising, originating, or happening in the State, which shall remove any such cause from such State court into any of the Federal courts held or sitting in this State, for the cause that such corporation is a non-resident of this State, or a resident of another State than that of the adverse party, or of local prejudice against such corporation, shall thereupon forfeit and render null and void any permit issued or granted to such corporation to transact business in this State; such forfeiture to be determined from the record of removal, and shall date from the date of the filing of the application on which such removal is effected or sought to be effected. And whenever any corporation shall thus forfeit its said permit, no new permit shall be issued to said corporation for the space of six months thereafter.

SEC. 4. Any foreign corporation that shall carry on its business and transact the same on and after January 1, 1888, in the State of Texas, by its officers, agents, or otherwise, without having complied with this statute, and taken out and having a valid permit, shall forfeit and pay to the State for each and every day in which such business is transacted and carried on the sum of one hundred dollars, to be recovered by suit in any court having jurisdiction. A foreign corporation, within the meaning of this act, is meant any corporation not organized under and by virtue of the laws of this State.

SEC. 5. Any agent, officer or employe who shall knowingly act or transact such business for such corporation when it has no valid permit as provided herein, shall be guilty of a misdemeanor, and for each offense shall be fined not to exceed one hundred dollars, or imprisonment in the county jail not to exceed thirty days.

Approved, April 2, 1887.

This act repeals a new law on subject - as amendment - insurance companies may do business in this State on Dec 1889 Laws 21 Leg. Chap. 78 P. 88
 For law regulating tempo in which foreign in this State on Dec 1889 Laws 21 Leg. P. 88

fect lay off said county into four commissioners precincts and convenient justices precincts, not to exceed eight in number; also a convenient voting precinct for the election of county officers and designate places in each of said precincts where elections shall be held. Said committee shall within ten days thereafter order an election to be held for county officers and for selection of a county seat for said county, and they shall appoint presiding officers of elections for each voting precinct as prescribed by law in other cases. The election returns shall be made to said committee, who shall count the votes and issue certificates of election to the persons elected, and shall approve the bonds of said officers and administer to them the oath of office. Said committee shall keep a record of all the proceedings and file the same in the office of the county clerk when elected, who shall record the same; that any two of said committee shall constitute a quorum for the transaction of business, and any one of said committee shall have power to administer the oath of office to the officers elected.

SEC. 4. That the new county shall pay a pro rata share of the existing legal debts of the county from which it is taken, and there shall be set apart so much of the county taxes levied and collected on the property within said new county as shall be sufficient to speedily liquidate said existing debts if any, and said pro rata to be based upon the value of the property for each year of the existence of said debt to be determined from the tax rolls of said county as made by the board of equalization.

SEC. 5. That the county of Coke is hereby attached to the thirty-fifth judicial district for judicial purposes, to the eleventh congressional, twenty-eighth senatorial, and eighteenth representative districts for purposes of representation.

SEC. 6. Whereas the county commissioners court of Tom Green County is about to levy taxes for the present year, therefore an emergency exists and an imperative public necessity requires the rule requiring that bills be read on three several days be suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote 83 yeas, no nays; and passed the senate by a vote of 25 yeas, no nays.]

Approved, March 13, 1889.

CORPORATIONS—FOREIGN.

- SEC.
1. Foreign corporations for pecuniary profit required to file copy of its articles with secretary of state.
 2. Time within which such corporations now transacting business must comply.
 3. No such corporation can maintain any suit or action unless complying with provisions hereof.

- SEC.
4. Corporations exempted from provisions hereof.
 5. Schedule of fees.
 6. Permit to extend for period of ten years.
 7. Evidence.
 8. Repealing clause.
 9. Emergency clause.

CHAP. 78.—[S. B. No. 291.] An Act to require foreign corporations to file their articles of incorporation with the secretary of state, and imposing certain conditions upon such corporations transacting business in this state, and to repeal an act approved April 2, 1887, entitled "An Act to require foreign corporations to file their articles of incorporation with the secretary of state, and imposing certain conditions upon such corporations transacting business in the state, and providing penalties for a violation of the same."

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That hereafter any corporation for pecuniary profit (except as hereinafter provided), organized or created under the laws of any other state, or of any territory of the United States, or any municipality of such state or terri-

tory, or of any foreign government, sovereignty or municipality, desiring to transact business in this state, or solicit business in this state, or establish a general or special office in this state, shall be and the same are hereby required to file with the secretary of state a duly certified copy of its articles of incorporation, and thereupon the secretary of state shall issue to such corporation a permit to transact business in this state. If such corporation is created for more than one purpose the permit may be limited to one or more purposes.

SEC. 2. All such corporations now transacting business in this state shall have four months from the date when this act takes effect to comply with the conditions hereof by filing their articles of incorporation as provided in section 1 of this act.

SEC. 3. Hereafter no such corporation can maintain any suit or action, either legal or equitable, in any of the courts of this state upon any demand, whether arising out of contract or tort, unless at the time such contract was made or tort committed the corporation had filed its articles of incorporation under the provisions of this act in the office of the secretary of state for the purpose of procuring its permit.

SEC. 4. The provisions of this act shall not apply to corporations created for the purpose of constructing, building, operating, or maintaining any railway, or to such corporations as are required by law to procure permits to do business from the commissioner of agriculture, insurance, statistics, and history.

SEC. 5. Such corporation shall, if its capital stock be one hundred thousand dollars or less, pay a fee of twenty-five dollars to procure such permit; if its capital stock be more than one hundred thousand dollars, and less than five hundred thousand dollars, it shall pay a fee of fifty dollars; if its capital stock be five hundred thousand dollars, and less than one million dollars, it shall pay a fee of one hundred dollars; if its capital stock exceed one million dollars, it shall pay a fee of two hundred dollars.

SEC. 6. No permit shall be issued for a longer period than ten years from the date of filing such articles of incorporation in the office of the secretary of state.

SEC. 7. Either the original permit or certified copies thereof by the secretary of state shall be evidence of the compliance of [on] the part of any corporation with the terms of this act. A certificate of the secretary of state to the effect that the corporation named therein has failed to file in his office its articles of incorporation shall be evidence that such corporation has in no particular complied with the requirements of this act.

SEC. 8. The act of April 2, 1887, entitled "An Act to require foreign corporations to file their articles of incorporation with the secretary of state, and imposing certain conditions upon such corporations transacting business in the state, and providing penalties for a violation of the same," be and the same is hereby repealed.

SEC. 9. The near approach of the end of this session of the legislature creates an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and it is so suspended.

[NOTE.—The foregoing act originated in the senate, and passed the same March 14, 1889; and passed the house April 2, 1889.]

Approved, April 3, 1889.

ever name they may be known in law, shall be trustees of the creditors and stockholders of such corporation, with full power to settle the affairs, collect the outstanding debts, and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation at the time of its dissolution as far as such money and property will enable them; and for this purpose they may maintain or defend any judicial proceedings. (P. D. 5970.) (a)

ART. 607. Continued—Liability of such Trustees.—The trustees mentioned in the preceding article shall be severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall have come to their hands. (P. D. 5971.) (b)

ART. 608. Liability of Stockholders to Creditors.—If any corporation created under this title or any general statute of this State, except railway, or charitable or religious corporations, be dissolved, leaving debts unpaid, suit may be brought against any person or persons who were stockholders at the time of such dissolution, without joining the corporation in such suit, and if judgment be rendered and execution satisfied, the defendant or defendants may sue all who were stockholders at the time of dissolution for the recovery of the portion of such debt for which they were liable, and the execution upon the judgment shall direct the collection to be made from property of each stockholder respectively; and if any number of stockholders, defendants in the case, shall not have property enough to satisfy his or their portion of the execution, then the amount of deficiency shall be divided equally among all the remaining stockholders, and collections made accordingly, deducting from the amount a sum in proportion to the amount owned by the plaintiff at the time the company dissolved. (P. D. 5972.)

ART. 609. Continued—Contribution among Stockholders.—If any stockholder pay more than his due proportion of any debt of the corporation, he may compel contribution from the other stockholders by action. (P. D. 5973.)

ART. 610. Continued—Limit of Liabilities.—No stockholder shall be liable to pay debts of the corporation beyond the amount unpaid on his stock. (P. D. 5974.) (c)

(a) See art. 4264.

(b) See art. 4264.

(c) See art. 4143.

TITLE 29.

DISTRICT AND COUNTY COURTS, AND PRACTICE THEREIN.

- CHAPTER II—Of pleading in general.
- IV—Of the venue of suits.
- VI—Of process and returns.
- VIII—Of the pleadings of the defendant.

CHAPTER 2.

OF PLEADING IN GENERAL.

ARTICLE 1190. Pleading charter or act of incorporation.

ART. 1190. Pleading Charter or Act of Incorporation.—
 In pleading the charter or act of incorporation of any corporation, public or private, it shall not be necessary to set out at length such charter or act of incorporation, but it shall be sufficient to allege that such corporation was duly incorporated, and such allegation by either party shall be taken as true, unless denied by the affidavit of the adverse party, his agent or attorney. (Act Feb. 14, 1860, p. 116, § 1; P. D., 1518, as amended by Laws 1883, Regular Session, ch. 1, p. 103.)

CHAPTER 4.

OF THE VENUE OF SUITS.

ARTICLE 1198. Suits against railroad corporations.

ART. 1198. Suits against Railroad Corporations.—No person who is an inhabitant of this State shall be sued out of the county in which he has his domicile, except in the following cases to wit: * * * * *

8. Where the foundation of the suit is some crime, or offense, or trespass, for which a civil action in damages may lie, in which case the suit may be brought in the county where such crime, or offense, or

An Act prescribing and fixing the venue of suits against foreign corporations, joint stock companies or associations, or acting corporations or associations, doing business within this State, and to provide the mode of serving process on such corporations or associations.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That foreign, private or public corporations, joint stock companies or associations, or acting corporations or associations not incorporated by the laws of this State, and doing business within this State, may be sued in any court within this State having jurisdiction over the subject matter in any county where the cause of action or a part thereof accrued, or in any county where such company may have an agency or representation in the county in which the principal office of such company may be situated, or when the defendant corporation has no agent or representative in the State, then in the county where the plaintiffs or either of them reside.

SECTION 2. In any suit against a foreign, private or public corporation, joint stock company or association or acting corporation or association, citation or other process may be served on the president, vice-president, secretary or treasurer, or general manager, or upon any local agent within this State, of such corporation, joint stock company or association, or acting corporation or association.

Approved March 31st, 1885.

S. B. No. 48.]

CHAPTER 85.

An Act to prevent fishing and hunting on the enclosed lands of another.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That any person who shall enter upon the enclosed and posted land of another without the consent of the owner, proprietor or agent in charge, and therein hunt with firearms, or therein catch or take any fish from any pond, lake or tank, shall be punished by fine of not less than five nor more than one hundred dollars.

SECTION 2. No one shall be liable to the penalty prescribed in section 1 unless the owner or proprietor of such enclosure shall at each entrance thereto keep a board in a conspicuous place, with the word "posted" plainly marked thereon, which shall constitute posting within the meaning of this act, provided further, that this act shall not apply to enclosures including two thousand acres in one enclosure.

Approved March 31st, 1885.

B. No. 193.]

CHAPTER 86.

SEC. 2. Any person, firm, or corporation failing, neglecting, or refusing to post and keep posted their occupation license, as required in section one of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in double the amount of their occupation tax for each offense, and each day any person, firm, or corporation shall violate the provisions of this act shall constitute a separate offense.

SEC. 3. If from any cause any certificate of occupation license shall be lost or destroyed, it shall be the duty of the clerk, upon application of the person, firm, or corporation who formerly had such license, to furnish a new certificate for the remainder of the term covered by the license lost or destroyed.

SEC. 4. Any person violating the provisions of this act may be arrested without warrant by any peace officer, and carried before the nearest justice of the peace for trial; and any peace officer who shall fail or refuse to arrest such person, on his own knowledge, or upon information from some credible person, shall be punished by fine not exceeding five hundred dollars.

SEC. 5. Whereas there is no law for the enforcement of the collection

GRAND JURIES.

SEC. 1. Amend Chapter 2, Title 8, of the Penal Code, by adding Article 198a, prescribing penalty for divulging secrets of grand jury.

CHAP. 136.—[H. B. No. 370.] An Act to create Article 198a, of Chapter 2, Title 8, of the Penal Code of Texas, for the punishment of persons who divulge the secrets of grand juries.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 198a, of Chapter 2, Title 8, of the Penal Code of Texas, is hereby created, to read as follows:

Article 198a. Any grand juror, or any person who shall appear before any grand jury, in this State, and who after being sworn according to law

SEC.

1. Amends Section 1, Chapter 83, Acts of 1885—Prescribes the venue in suits against foreign corporations, etc.

SEC.

2. Emergency clause.

CHAP. 137.—[S. B. No. 174.] An Act to amend section one of an act entitled "An Act prescribing and fixing the venue of suits against foreign corporations, joint stock companies or associations, or acting corporations or associations, doing business within this State, and to provide the mode of serving process on such corporations or associations," approved March 31, A. D. 1885.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That section one of an act entitled "An Act prescribing and fixing the venue of suits against foreign corporations, joint stock companies or associations, or acting corporations or associations doing business within this State, and to provide the mode of serving process on such corporations or associations," approved March 31, A. D. 1885, be and the same is hereby amended so as to hereafter read as follows:

Section 1. *Be it enacted by the Legislature of the State of Texas:* That foreign, private, or public corporations, joint stock companies or associations, not incorporated by the laws of this State, and doing business within this State, may be sued in any court within this State having jurisdiction over the subject matter, in any county where the cause of action or a part thereof accrued, or in any county where such company may have an agency or representative, or in the county in which the principal office of such company may be situated; or when the defendant corporation has no agent or representative in the State, then in the county where the plaintiffs or either of them reside.

SEC. 2. Whereas the near approach of the close of the session of the Legislature creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, therefore said rule is hereby suspended, and this act shall take effect and be in full force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate, and passed the same by a vote of 27 yeas, no nays; and passed the House by a vote of 71 yeas, 11 nays.]

Approved, April 4, 1887.

trespass was committed, or in the county where the defendant has his domicile. (a.) * * * * *

19. Suits in behalf of the State for the forfeiture of the charters of private corporations chartered by act of the Legislature, shall be commenced in the district court of the county in which the seat of government may be. (Act Aug. 21, 1876, p. 312, § 12.) * * *

20. Suits on behalf of the State to forfeit land fraudulently or colorably alienated by railroad companies in fraud of the rights of the state, under the laws granting lands to railway companies, shall be brought in the county in which the seat of government may be. (Const., art. 14, § 5.) * * * * *

21. Suits against any private corporation, association or joint stock company may be commenced in any county in which the cause of action or a part thereof arose, or in which such corporation, association or company has an agency or representative, or in which its principal office is situated. And suits against a railroad corporation, or against any assignee, trustee or receiver, operating its railway, may also be brought in any county through or into which the railroad of such corporation extends or is operated. (Act March 21, 1874, p. 31; Act Feb. 21, 1879; P. D., 6011f, 6011h.) (b)

- see Acts of 1885 + 1887 -

CHAPTER 6.

OF PROCESS AND RETURNS.

ARTICLE 1223. Service of process in suits against corporations.

ART. 1223. Service of Process in Suits against Corporations.—In suits against any incorporated company or joint stock as-

(a) Against persons committing trespass, suit may be brought in the county wherein the trespass was committed. (Pasch. Dig., art. 1423). A railroad company is a person within the meaning of this act, and is liable to be sued in any county in which its agents may have committed a trespass. *Bartee vs. Railway Co.*, 36 Tex., 648.

(b) The title to the act of March 21, 1874, conforms to the requirements of the Constitution. The act is operative, and is the law of the State as to venue in suits against railroad companies. *Breen Texas, etc., Ry. Co.*, 44 Tex., 302. This act applied to an action pending when enacted. *Houston, etc., R. Co., vs. Graves*, 50 Tex., 181. Section one of this act which authorizes suit against a railway company in any county where it had an agency, was not repealed by the first section of a subsequent act of the same Legislature. (Act of April 17, 1874, Laws 1874, p. 107.) The first act was intended to extend the right to institute suits more particularly against railroad companies in counties other than that of the domicile of the company; while the second act was designed to extend a like remedy to any association, joint stock or insurance company. *Houston, etc., R. Co. vs. Ford*, 53 Tex., 364.

sociation, the citation may be served on the president, secretary or treasurer of such company or association, or upon the local agent representing such company or association in the county in which suit is brought, or by leaving a copy of the same at the principal office of the company during office hours. (Acts, March 21, 1874, p. 32 § 2; April 17, 1874, p. 10, § 2; Feb. 6, 1854, p. 53, § 9; Feb. 7, 1854, p. 55, § 4; P. D. 1430, 4888.) (a)

*For service on foreign corporation see Act 1885 on preceding page
For service of notice of interrogatories see Act of 1867 above*

CHAPTER 8.

OF THE PLEADINGS OF THE DEFENDANT.

ARTICLE 1265. Denial of incorporation to be verified by affidavit.

ART. 1265. Denial of Incorporation to be verified by Affidavit.—An answer setting up any of the following matters, unless the truth of the pleadings appear of record, shall be verified by affidavit: * * * * *

7. That the plaintiff or the defendant, alleged in the petition to be duly incorporated, is duly incorporated as alleged. (Act of April 2, 1874, p. 52, § 1; P. D. 6829c.)

(a) In general, as to service of process, see *Ward vs. Latimer*, 2 Tex., 247; *Burleson vs. Henderson*, 4 Tex., 51, 53; *Little vs. Marler*, 8 Tex., 108; *Saunders vs. Gilmer*, 8 Tex., 296; *Cumming vs. Rice*, 9 Tex., 527; *Thomas vs. Womack*, 13 Tex., 582; *Dikes vs. Monroe*, 15 Tex., 237; *Kirk vs. Murphy*, 16 Tex., 654; *Anderson vs. Brown*, 16 Tex., 554; *Andrews vs. Ennis*, 16 Tex., 46; *Powell vs. Wilson*, 16 Tex., 60; *Thompson vs. Griffis*, 19 Tex., 115; *Wright vs. Wilmot*, 22 Tex., 398. While the office of a corporation created in this State and carrying on its business here, is kept, as required by law, at some place on the line of the road, and a party has full opportunity to obtain service upon the company, as provided by statute, it cannot be truly averred that the corporation is beyond the limits of the State. *Sherman vs. Buffalo Bayou, etc., R. Co.*, 21 Tex., 349. The Texas and Pacific Railway Company is not a non-resident, and service upon the attorney of record of writ of error is insufficient. *Stephenson vs. Texas and Pacific R. Co.*, 42 Tex., 162. Service of process made "by leaving with the within named defendant, the H. & T. C. R. Co., at their chief office in Houston," a true copy of the citation and the accompanying certified copy of plaintiff's petition, held valid. The second section of the act of March 21, 1874, entitled "An act to fix the venue in certain cases," and the second section of the act of April 17, 1874, entitled "An act to confer jurisdiction in certain cases," did not repeal by implication the provisions of art. 4888 of Paschal's Digest, but were intended to be cumulative. *Houston, etc., R. Co., vs. Willie*, 53 Tex., 318. Service on one alleged to be agent of the defendant company, at an office of the defendant, is sufficient to hold the defendant to answer the petition, and no judicial ascertainment of the agency is required to authorize a judgment by default. *Houston, etc., R. Co., vs. Burke*, 55 Tex., 323. Service upon directors, as trustees, after sale of corporate property. *Witherspoon vs. Texas Pacific R. Co.*, 48 Tex., 309. Service upon one who executed a note as president of the company, the petition averring that he was still president, was held proper. *Galveston, etc., R. Co., vs. Shepherd*, 21 Tex., 279.

DEPOSITIONS OF WITNESSES.

SEC. 1. Depositions, service of notice of intention to take.

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CHAP. 39.—[S. B. No. 155.] An Act to amend Article 2219, of Chapter 2, Title 38, of the Revised Civil Statutes of the State of Texas, on the subject of taking depositions of witnesses in civil cases.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 2219, of Chapter 2, Title 38, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 2219. The party wishing to take the deposition of a witness in a suit pending in court shall file with the clerk or justice of the peace, as the case may be, a notice of this intention to apply for a commission to take the answers of the witness to interrogatories attached to such notice. The notice shall state the name and residence of the witness, or the place where he is to be found, and the suit in which the deposition is to be used, and a copy thereof, and of the attached interrogatories, shall be served upon the adverse party, or his attorney of record, five days before the issuance of a commission; and whenever the adverse party is a corporation, or joint stock association, service may be made upon the president, secretary, or treasurer of such corporation or association, or upon the local agent representing such corporation or association in the county in which the suit is pending, or by leaving a copy of the notice and attached interrogatories at the principal office of such corporation or association during office hours.

Approved, March 15, 1887.

three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

SEC. 3. All laws and parts of laws in conflict with this act are hereby repealed.

[NOTE.—The foregoing act originated in the House, and passed the same by a vote of 78 yeas, no nays; and passed the Senate by a vote of 26 yeas, no nays.]

Approved, March 17, 1867.

LIMITATIONS.

SEC. 1. Limitation not to run against State, nor favor adverse holder of street, road, etc.

CHAP. 41.—[S. B. No. 4.] An Act to amend Article 3200 of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 3200 of the above recited act shall hereafter read as follows:

Article 3200. The right of the State shall not be barred by any of the provisions of this chapter, nor shall any person ever acquire, by occupancy or adverse possession, any right or title to any part or portion of any road, street, sidewalk or grounds which belong to any town, city or county, or which have been donated or dedicated for public use to any such town, city

APPEARANCE DAY—PROCESS AND RETURN.

Sec.
 1. Amends articles 1228, 1229 and 1280, R. S.
 Article 1228. Time of service of citation.
 Article 1229. Service of citation had less
 than ten days before return day, good
 for succeeding term.

Sec.
 Article 1280. Second day is appearance day.
 2. Emergency clause.

CHAP. 76.—[S. H. B. No. 79.] An act to amend articles 1228, 1229 and 1280 of the Revised Civil Statutes of the State of Texas.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That articles 1228, 1229 and 1280 of the Revised Civil Statutes of the State of Texas, be so amended as to read hereafter as follows :

Article 1228. The citation shall be served before the return day thereof, and in order to compel the defendant to plead at the return term of the court, the citation must be served at least ten days before the first day of such return term exclusive of the days of service and return.

Article 1229. If the citation be issued too late, or if it can not be served at least ten days before the first day of such return term, exclusive of the days of service and return, the officer to whom it is delivered shall nevertheless proceed to serve the same at any time before the return day thereof, and such service shall compel the defendant to plead at the next succeeding term of the court.

Article 1280. The second day of each term of the District or County court is termed appearance day.

SEC. 2. The fact that the Legislature has before it for consideration a large number of bills of importance creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.

Approved April 13, 1891.

TITLE 32.

COURTS—JUSTICES'.

CHAPTER 5—Of the venue.

9—Of the pleadings.

CHAPTER 5.

OF THE VENUE.

ARTICLE 1556. Suits against corporations where brought.

ART. 1556. Suits against Corporations where brought.

Every suit in the court of a justice of the peace, shall be commenced in the county and precinct in which the defendant, or one or more of several defendants resides except in the following cases, and such other cases as are or may be provided by law: * * * * *

10. Suits against private corporations, associations and joint stock companies may be brought in any county and precinct in which the cause of action, or a part thereof arose, or in which such corporation, association or company has an agency or representative, or in which its principal office is situated.

11. Suits against railroad and canal companies, or the owners of any line of mail stages or coaches, for any injury to person or property upon the road, canal or line of stages or coaches of the defendant, or upon any liability as a carrier, may be brought in any precinct through which the road, canal or line of stages or coaches may pass, or in any precinct, where the route of such railroad, canal, stages or coaches may begin or terminate. (Act of Aug. 17, 1876, § 8.)

CHAPTER 9.

OF THE PLEADINGS.

ARTICLE 1574. Denial of incorporation to be verified by affidavit.

ART. 1574. **Denial of Incorporation to be verified by Affidavit.**—An answer or other pleading, setting up any of the fol-

lowing matters, shall be in writing and signed by the party or his attorney, and verified by affidavit: * * * * *

7. That the plaintiff or defendant, suing or sued as a corporation, is not a corporation as alleged.

TITLE 39.

OF EXECUTIONS.

ARTICLE
2294. Levy on shares on stock, how made.

ARTICLE
2297. Shares of stock may be sold

ART. 2294. **Levy on Shares of Stock, how made.**—A levy on the stock of any corporation or joint stock company is made by leaving a notice thereof with any officer of such company. (Act March 13, 1875, p. 102.)

ART. 2297. **Shares of Stock may be sold.**—Shares of stock in any joint stock or incorporated company may be sold on execution against the person owning such stock. (Ib.)

TITLE 47.

GUARDIAN AND WARD.

CHAPTER 14.

OF CLAIMS AGAINST THE ESTATE.

ARTICLE
2624. Authentication of claim of corporation.
2625. Continued.

ARTICLE
2626. Continued.

ART 2624. **Authentication of Claim of Corporation.**—When a claim belongs to a corporation, the cashier, treasurer or managing agent of such corporation shall make the affidavit required to authenticate it. (Act of Aug. 18, 1876, p. 189, § 156.)

ART. 2625. **Continued.**—When an affidavit authenticating a claim is made by an officer of a corporation, an executor, administra-

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or not; said application shall designate the amount of tax, asked to be levied, and the order of said court shall state:

1st. When said election shall be held.

2nd. At what point or points the polls shall be opened.

3rd. The amount of tax to be voted on; provided, that no election shall be held to determine the levy of a tax exceeding twenty cents on the one hundred dollars valuation of property.

The Commissioners court shall order the Sheriff to give notice of such election by posting three notices in the district for three weeks before the election, and the Sheriff shall obey such order. Not more than one such election shall be held in the same scholastic year.

SEC. 2. There being no law permitting elections to be held in many districts for levying a special school tax, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days should be suspended and it is so suspended and this act shall take effect and be in force from and after its passage.

[NOTE.—The foregoing act originated in the House and passed the same by a vote of 79 yeas and 4 nays, and passed the Senate—vote not given.]

Approved April 13, 1891.

PLEADING.

- Sec. 1. Amends article 1574, title 32, R. S.—Certain pleadings to be in writing under oath.
2. Emergency clause.

CHAP. 66.—[H. B. No. 118.] An Act to amend Article 1574, title 32, of the Revised Civil Statutes of the State of Texas.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That article 1574, title 32, of the Revised Civil Statutes of the State of Texas, be so amended as to hereafter read as follows:

Article 1574. An answer or other pleading setting up any of the following matters shall be in writing and signed by the party or his attorney and verified by affidavit:

1. That the suit is not commenced in the proper county or precinct.
2. That the Plaintiff has not legal capacity to sue.
3. That the Plaintiff is not entitled to recover in the capacity in which he sues.
4. That there is another suit pending in this state between the same parties for the same cause of action or counter claim.
5. That there is a defect of parties, plaintiff or defendant.
6. That the plaintiffs or defendants suing or sued as partners or receiver, are not partners or receiver as alleged.
7. That the plaintiff or defendant suing or sued as a corporation is not a corporation as alleged.
8. That a written instrument purporting to be signed by him and relied on by the other party was not executed by him or by his authority.
9. That the endorsement or assignment of a written instrument pleaded by the adverse party was not executed by the party by whom it purports to have been executed, or by his authority.
10. That a written instrument pleaded by the adverse party is without consideration, or that the consideration of the same has failed, in whole or in part.

11. That an account pleaded by the adverse party, and duly verified by affidavit, as provided in Article 2266, is not just, and in such case the answer shall set forth the items and particulars which are unjust.

12. That the contract sued upon is usurious.

SEC. 2. The fact that the law in relation to pleadings of receivers is uncertain creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate by a vote of 23 yeas and 1 nay.]

Approved April 13, 1891.

OFFICIAL BONDS—SUITS ON.

- Sec. 1. Sureties on more than one official bond may be joined as defendants in one suit, when.
- 2. Superior and subordinate officers and sureties on official bonds may be joined as defendants in one suit, when.

- Sec. 3. Suit may be instituted in name of the State for benefit of all parties in interest.
- 4. Emergency clause.

CHAP. 67.—[H. B. No. 563.] An act authorizing principals and sureties on different official bonds to be joined as defendants in one and the same suits on official bonds to be instituted in the name of the State alone.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That in any suit brought by the State of Texas or any county therein against any officer who has held such office for more than one term or who has given more than one official bond, the sureties on each and all such officer's official bonds may be joined as defendants in one and the same suit whenever it is alleged in the petition that it is difficult to determine when the default sued for occurred and which of the official bond therefor.

SEC. 2. That [in] any suit by the State of Texas upon the official bond of any state officer, any subordinate officer who has given bond payable either to the state or to such superior officer to cover the default sued for or any part thereof, together with the sureties on his official bond, may be joined as defendants in one and the same suit with such superior officer and his bondsmen, whenever it is alleged in the petition that both of such officers are liable for the money sued for, to the end that all equities may be adjusted between them in one suit.

SEC. 3. Whenever any official bond is made payable to the State of Texas, or any officer thereof and a recovery thereon is authorized by or would inure to the benefit of parties other than the State, suit may be instituted on such bond in the name of the state alone for the benefit of all parties entitled to recover thereon.

Sec. 4. The fact that there is no law authorizing the suits herein provided for, and the fact that the enactment of such a law is of great importance, creates an imperative public necessity, that the rule requiring bills to be read on three several days in each house be suspended, and that this act take effect from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same by a vote of 81 yeas and 2 nays; and passed the Senate by a vote of 22 yeas and 2 nays.]

Approved April 13, 1891.

tor, trustee, assignee, agent or attorney, it shall be sufficient to state in such affidavit " that he has made diligent inquiry and examination, and that he does verily believe that nothing has been paid and delivered towards the satisfaction of such claim, except the amount credited, (if any), that there are no counterclaims which have not be allowed, and that the sum claimed is justly due." (Ib., § 157.)

ART. 2626. **Continued.**—The affidavit authenticating a claim may be made before any officer authorized to administer oaths.

TITLE 48.

HEADS OF DEPARTMENT.

CHAPTER 5.

OF THE ATTORNEY-GENERAL.

ARTICLE
2805. Duty to enforce forfeiture of charters.

ARTICLE
2806. To restrain abuse of corporate powers.

ART. 2805. **Duty to enforce Forfeiture of Charters.**—It shall be the duty of the Attorney-General, unless otherwise expressly directed by law, whenever sufficient cause exists therefor, to seek a judicial forfeiture of the charters of private corporations; and he shall at once take steps to seek such forfeiture in all cases where satisfactory evidence is laid before him that any corporation receiving State aid has by the non-performance of its charter conditions or the violations of its charter, or by any act or omission, mis-user or non-user, forfeited its charter or any rights thereunder. (Act August 21, 1876, p. 312, § 1.)

ART. 2806. **To restrain Abuse of Corporate Powers.**—He shall also especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State, take such legal action as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. (Const., art. 4, § 22.)

TITLE 52.

OF INJURIES RESULTING IN DEATH—ACTIONS FOR.

ARTICLE
 2899. Actions may be brought in what cases.
 2900. For what acts.
 2901. Exemplary damages recovered.
 2902. Criminal prosecution need not precede ac-
 tion.
 2903. Beneficiaries in this action.
 2904. Continued—Any one or all may sue.

ARTICLE
 2905. Continued—Executor may sue.
 2906. Suit does not abate by death of either
 party.
 2907. Suit abates, when.
 2908. Executor of defendant a party, when.
 2909. Damages.

ART. 2899. **Action may be brought in what Cases.**—An action for actual damages on account of injuries causing the death of any person, may be brought in the following cases:

1. When the death of any person is caused by the negligence or carelessness of the proprietor, owner, charterer or hirer of any railroad, steamboat, stage coach or other vehicle for the conveyance of goods or passengers, or by the unfitness, gross negligence or carelessness of their servants or agents. (*"Gross" omitted in amendment of 1887*)

2. When the death of any person is caused by the wrongful act, negligence, unskillfulness or default of another. (Act Feb. 2, 1860, p. 32, § 1; P. D., 15.) (a)

ART. 2900. **For what Acts.**—The wrongful act, negligence, carelessness, unskillfulness or default mentioned in the preceding article must be of such a character as would, if death had not ensued, have entitled the party injured to maintain an action for such injury. (Ibid.)

ART. 2901. **Exemplary Damages recovered.**—When the death is caused by the willful act or omission, or gross negligence of the defendant, exemplary as well as actual damages may be recovered. (Const., art. 16, § 26.) (b)

(a) The act of Feb. 2, 1860, authorizing suit in this class of cases, was not abrogated by the Constitution of 1869 on the same subject. *Houston, etc., R. Co., vs. Moore*, 49 Tex., 31, approving *Houston, etc., R. Co., vs. Bradley*, 45 Tex., 171. In suits for damages for causing death, the right to such actions being given by statutes, parties who seek to avail themselves of their benefit must be governed by their provisions. *Galveston, etc., R. Co., vs. Le Gierse*, 51 Tex., 189. Damages cannot be recovered for the death of an employe while in the performance of a service not within the scope of his duty, if his opportunity for observing the danger was equal to that of the company; nor is the company guilty of negligence if the performance of an unusually dangerous service was directed for good reasons, as for the safety of passengers. *Houston, etc., R. Co., vs. Fowler*, 56 Tex., 453. An action for actual damage lies in favor of the parent, etc., against a corporation for negligently causing death, whether an action ever accrued in favor of the deceased or not. Such an action lies in case of instantaneous death. *International and Great Northern R. Co. vs. Kindred*, 57 Tex., 491. As to negligence, and contributory negligence, see note, art. 4249, subdiv. (12) *post*; note to art. 4215, *post*.

(b) Section 26 of art. 16 of the Constitution of 1876, giving exemplary damages, is cumulative of the act of the Legislature, (Paschal's Dig., arts. 15-18), together, they give compensatory and ex-

INJURIES RESULTING IN DEATH—ACTIONS FOR.

SEC. 1. Amends the first clause of Article 2899, Revised Statutes.

CHAP. 62.—[S. B. No. 239.] An Act to amend Article 2899 of the Revised Civil Statutes of the State of Texas in relation to the recovery of damages for injuries resulting in death.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 2899 of the Revised Civil Statutes of the State of Texas be so amended as to hereafter read as follows:

Article 2899. An action for actual damages on account of injuries causing the death of any person may be brought in the following cases:

1. When the death of any person is caused by the negligence or carelessness of the proprietor, owner, charterer, or hirer of any railroad, steamboat, stage coach, or other vehicle for the conveyance of goods or passengers, or by the unfitness, negligence, or carelessness of their servants or agents.

2. When the death of any person is caused by the wrongful act, negligence, unskillfulness, or default of another.

Approved, March 25, 1887.

JUDICIAL DISTRICTS—THIRTY-EIGHTH DISTRICT.

SEC.

1. Fixes times of holding court in several counties of said district.

SEC.

2. Repealing clause.
3. Emergency clause.

CHAP. 61.—[H. B. No. 185.] An Act to amend Section 38 of an act entitled "An Act to redistrict the State into judicial districts and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884," approved April 9, 1883.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That section thirty-eight of an act entitled "An Act to redistrict the State into judicial districts and to fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884," approved April 9, 1883, be so amended as hereafter to read as follows:

Section 38. The Thirty-eighth Judicial District shall be composed of the counties of Uvalde, Comal, Kendall, Kerr, Bandera, and Medina, and the district courts therein shall be held as follows:

County of Uvalde on the second Monday after the first Monday

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ART. 2902. Criminal Prosecution need not precede Action.—The action may be commenced and prosecuted, although the death shall have been caused under such circumstances as amounts in law to a felony, and without regard to any criminal proceeding that may or may not be had in relation to the homicide. (Ibid.)

ART. 2903. Beneficiaries in this Action.—The action shall be for the sole and exclusive benefit of the surviving husband, wife, children and parents of the person whose death shall have been so caused, and the amount recovered therein shall not be liable for the debts of the deceased. (Ibid., § 2; P. D., 16.) (a)

ART. 2904. Continued—Any one or all may sue.—The action may be brought by all of the parties entitled thereto, or by any one or more of them for the benefit of all. (Ibid.) (b)

ART. 2905. Continued—Executor may sue.—If the parties entitled to the benefit of the action shall fail to commence the same within three calendar months after the death of the deceased, it shall be the duty of the executor or administrator of the deceased to commence and prosecute the action, unless requested by all of the parties entitled thereto not to prosecute the same. (Ibid.) (c)

emplary damages. Galveston, etc., R. Co., vs. Le Gierse, 51 Tex., 189. Exemplary damages for causing the death of a passenger, *Ib.* For causing the death of an employe. Houston, etc., R. Co., vs. Cowser, 57 Tex., 293. Where actual and exemplary damages are claimed, the better practice is, that they should be claimed by proper allegations, in the nature of distinct counts on different causes of action. The court should instruct the jury according to the facts, and as to the law of governing them as to the measure of damages; and the jury should, in their verdict, ascertain what are actual and what are exemplary damages. Galveston, etc., R. Co., vs. Le Gierse, 51 Tex., 189. A failure of the jury to thus discriminate will not, of itself, authorize the reversal of the judgment, when the point is, for the first time, raised in the Supreme Court. Texas and Pacific R. Co., vs. Casey, 52 Tex., 112.

(a) A compromise by the natural guardian of a minor's claims under the statute, will not affect his rights. Houston, etc., R. Co., vs. Bradley, 45 Tex., 171. Declarations of widow in such a case that the money would be invested for the benefit of the children, excluded, *Ib.*

(b) Only one suit can be brought under the statute. Houston, etc., R. Co. vs. Bradley, 45 Tex., 171; Galveston, etc., R. Co. vs. LeGierse, 51 Tex., 189. The action by whomsoever brought is for the benefit of all and to the exclusion of none of the parties interested. *Ib.* Houston, etc., R. Co. vs. Moore, 49 Tex., 31. The better practice is to join all entitled to participate in the damages as parties; but should any be omitted, the petition should state who are entitled to share in the recovery. When it is evident, from the petition, that all are not so described, exceptions on that account should be allowed. Where the pleadings show the parties so entitled to share in the judgment, and an apportionment of the damages among the parties is not made in the judgment, such failure is error. Houston, etc., R. Co. vs. Moore, 49 Tex., 31. The amount so recovered must be apportioned by the jury (or court) among those entitled to the judgment. If all the parties in interest are not before the court as actual plaintiffs, the suit should proceed in the name of one or more, for the use also, of all others interested. Non-joinder of parties apparent of record can be reached by demurrer. Galveston, etc., R. Co. vs. LeGierse, 51 Tex., 189. It is not material whether suit is brought in the name of the guardian for his ward, or in the name of the ward by his guardian. Houston, etc., R. Co. vs. Bradley, 45 Tex., 171. A widow who had compromised her right of action is not a necessary party to a suit by her children. Houston, etc., R. Co. vs. Bradley, 45 Tex., 171.

(c) The statute does not limit the right to sue after three months to the administrator or executor. Houston, etc., R. Co. vs. Bradley, 45 Tex., 171.

ART. 2906. Suit does not abate by Death of either Party.—The action shall not not abate by the death of either party to the record if any person entitled to the benefit of the action survives. If the plaintiff die pending the suit, when there is only one plaintiff, some one or more of the parties entitled to the money recovered may, by order of the court, be made plaintiff and the suit be prosecuted to judgment in the name of such plaintiff for the benefit of the persons entitled. (Ibid., § 4; P. D. 18.) (a)

ART. 2907. Suit abates, when.—If the sole plaintiff die pending the suit, and he is the only party entitled to the money recovered the suit shall abate.

ART. 2908. Executor of Defendant a Party, when.—If the defendant die pending the suit, his executor or administrator may be made a party and the suit be prosecuted to judgment, as though such defendant had continued alive. The judgment in such case, if rendered in favor of the plaintiff, shall be, to be paid in due course of administration. (Ibid.)

ART. 2909. Damages.—The jury may give such damages as they may think proportioned to the injury resulting from such death; and the amount so recovered shall be divided among the persons entitled to the benefit of the action, or such of them as shall then be alive, in such shares as the jury shall find by their verdict. (Ibid., § 2; P. D. § 16.) (b)

(a) See R. S., art. 1255, and in connection therewith *Watson vs. Loop*, 12 Tex., 14; *Taney vs. Edwards*, 27 Tex., 225; *Gibbs vs. Belcher*, 30 Tex., 79; *Harrison vs. Moseley*, 31 Tex. 608.

(b) It is a question whether, under the statute (Paschal's Dig., 15; R. S., arts. 2899, 2909) with proper allegations, damages allowed "proportioned to the injury resulting from such death" are restricted to loss to parents during the minority of the child killed, for which suit may be brought. *Houston, etc., R. Co. vs. Nixon*, 52 Tex., 19. In an action for damages by the surviving parent (mother) for the death of her adult son, evidence of her poverty is admissible to show the reasonable expectation of pecuniary assistance from the deceased, but not for the purpose of increasing the amount of damages. *International, etc., R. Co. vs. Kindred*, 57 Tex., 491. Damages may be recovered for the negligent killing of plaintiff's son, although the son was over 21 years of age at the time of his death. The measure of actual damages in such a case is the actual pecuniary injury which resulted from the act complained of. The means of estimating this actual pecuniary injury, stated. *Houston, etc., R. Co. vs. Cowser*, 57 Tex., 293. In such a case the jury are not limited in damages to the present value of an annuity for the probable duration of life of the plaintiff for the amount shown to have been actually furnished her per annum by the deceased son. *International, etc., R. Co. vs. Kindred*, 57 Tex., 491. Measure of damages in case of personal injuries to employes and others not passengers. See note to art. 4249 subdiv. (12) *post*. Measure of damages in case of injuries to passengers. See note to art. 4215, *post*. As to apportionment, see note (b) p. 47, *ante*.

TITLE 57.

JURIES IN CIVIL CASES.

CHAPTER 1.

OF QUALIFICATIONS AND EXEMPTIONS OF JURORS.

ARTICLE 3014. Station agents exempt.

ART. 3014. **Station Agents Exempt.**—The following persons shall be exempt from jury service when they may claim such exemption:

* * * * *

6. All publishers of newspapers, schoolmasters, druggists, undertakers, telegraph operators, railroad station agents, ferrymen, and all millers engaged in grist, flouring and saw-mills. (Act, Aug. 1, 1876, p. 78, § 25.)

7. All presidents, vice-presidents, conductors and engineers of railroad companies when engaged in the regular and actual discharge of the duties of their respective positions.

TITLE 59.

LAWS.

CHAPTER 4.

OF THE CONSTRUCTION OF LAWS.

ARTICLE 3140. Meaning of certain words.

ART. 3140. **Meaning of Certain Words.**—The following

H. R.—4.

meaning shall be given to each of the following words, unless a different meaning is apparent from the context:

* * * * *

2. "Person" includes a corporation.

TITLE 62.

LIMITATIONS.

CHAPTER 2.

OF THE LIMITATION OF PERSONAL ACTIONS.

ARTICLE 3202. Action for death to be commenced within one year.

ART. 3202. Action for Death to be commenced within one Year.—There shall be commenced and prosecuted within one year after the cause of action shall have accrued, and not afterwards, all actions or suits in court, of the following description :

1. Actions for injuries done to the person of another. (a)
4. Actions for injuries done to the person of another where death ensued from such injuries ; and the cause of action shall be considered as having accrued at the death of the party injured.

TITLE 79.

THE PUBLIC LANDS.

- CHAPTER I—Of the public domain.
 V—Of land certificates.
 XI—Of land reservations.

(a) A statute provided that "all actions for injuries done to a person of another, as of assault, battery, wounding or imprisonment, * * * shall be commenced and sued within one year, next after the cause of such action or suit, and not after." This statute included actions for injuries from accidents on railroads. The classes enumerated in the statute were examples merely, and not designed to restrict its operation. *Tobin vs. Houston, etc., R. Co.*, 56 Tex., 641.

CHAPTER 1.

OF THE PUBLIC DOMAIN.

ARTICLE

3796. No reservation to satisfy grant to railroad company.

3797. Issue of land certificates—Alienation and forfeiture of land.

ARTICLE

3798. Alienation and forfeiture continued.

3799. Fraudulent and colorable alienations.

ART. 3796. No Reservation to satisfy Grant to Railroad Company. No reservation of any part of the public domain, for the purpose of satisfying a grant of lands to any railway company in this State, shall ever be made. (Const. art. 14, § 3.)

ART. 3797. Issue of Land Certificates.--Alienation and Forfeiture of Land. No land certificate shall be issued to such railway company until it shall have equipped, constructed and in running order, at least ten miles of the road, and on the failure of such company to comply with the terms of its charter or alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forfeited to the State and become a portion of the public domain, and liable to location and survey. (Ib.)

ART. 3798. Alienation and Forfeiture, continued. All lands heretofore or hereafter granted to railway companies, where the charter or law required or shall hereafter require their alienation within in a certain period on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alienated, in conformity with the terms of their charters and the laws under which the grants were made, are hereby declared forfeited to the State and subject to pre-emption, location and survey, as other vacant lands. (Ib., § 5.)

ART. 3799. Fraudulent and Colorable Alienations. All lands heretofore granted to said railroad companies to which no forfeiture was attached on their failure to alienate, are not included in the foregoing clause, but in all such last named cases it shall be the duty of the attorney-general, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the State, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings, in the county where the seat of government is situated, to forfeit such lands to the State, and if such alienation be judicially ascertained to be fraudulent and color-

able as aforesaid, such lands shall be forfeited to the State and become a part of the vacant public domain, liable to pre-emption, location and survey. (Ib.)

CHAPTER 5.

OF LAND CERTIFICATES.

ARTICLE 3877. Railroad certificates.

ART. 3877. Railroad Certificates. Railroad certificates are described as follows, viz :

1. Certificates for six hundred and forty acres granted as a bonus to aid in building of railroads in the State.
2. Certificates for six hundred and forty acres granted as a bonus to railroads, to be located on the odd sections, the even sections being reserved to the state for the school fund. (Act, Jan. 30, 1854.)
3. International certificates issued to the International railroad company, privileged to be located as headright certificates and exempted from taxes for twenty-five years. (Act, March 10, 1875, special laws, pp. 70, 71.)

CHAPTER 11.

OF LAND RESERVATIONS.

ARTICLE
3968. Mississippi and Pacific railroad reservation opened up.

ARTICLE
3969. Lapsed reservations reserved from location.

ART. 3968. Mississippi and Pacific Railroad Reservation Opened up. The Mississippi and Pacific Railroad reservation, created by the act of December 21, 1853, the boundaries of which are defined in said act and in the act of December 21, 1857, shall be considered as opened up and made subject to location, sale and settlement, on and after the first day of January, 1857. (Acts, Aug 26, 1856, Dec. 21, 1857; [special] Dec. 21, 1853, p. 7; P. D. 5038, 5039.)

ART. 3969. Lapsed Reservations reserved from Location. All reservations of the public domain for the benefit of any

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railroad or railroad company heretofore made by law, and the right to which reservation has lapsed since January 1, 1872, or may hereafter lapse, are hereby declared then to have been severed from the mass of the public domain, and in the event of forfeiture to the State are expressly reserved from location, except the three million acres of land reserved for constructing a new State capitol and other public buildings, and to actual settlers under the laws, and whenever a pre-emption or homestead donation survey of one hundred and sixty acres or of eighty acres shall be made for any settler, a like quantity shall be made adjoining said pre-emption survey for the public free school fund. (Act, Aug. 17, 1876, p. 168; Acts, Extra Session, 1879, ch. 24.) (a)

TITLE 81.

PUBLIC SCHOOL, ASYLUM AND UNIVERSITY LANDS.

CHAPTER 2.

OF THE PUBLIC FREE SCHOOL LANDS.

ARTICLE 4031. Reservation of land for perpetual public school fund.

ART. 4031. Reservation of Land for Perpetual School Fund.—All the alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made to railroads,

(a) Chapter 155, acts 1879, provides that any railroad company, in whose favor a reservation from the public domain may heretofore have been created by any law, general or special, may surrender its exclusive right to further locate lands within said reservation; and whenever any such railroad company shall file in the office of the Secretary of State, within ninety days from the passage of the act, an instrument in writing, approved as to form by the Attorney-General, relinquishing or surrendering its claim to such reservation, said relinquishment shall, upon the payment of all costs of suit, if one has been instituted, be accepted by the State, instead of a judicial forfeiture of the reservation, and shall be deemed a satisfaction of said suit; and it is especially provided that the lands so relinquished shall be subject to location only under the provisions of law embraced in this chapter. The surrender is not to affect the right of the company to construct its road in accordance with its charter, nor its relation to the laws regulating railroads and granting land subsidies to aid in their construction. Any action taken by any railroad company under the provisions of the act, is to be held to be a complete acceptance of all the provisions of the Constitution applicable to railroads, and of the laws of the State regulating railroads.

or other corporations, of any nature whatever, one-half of the public domain, and all other lands heretofore set apart, or that may hereafter be set apart, for the benefit of public free schools, shall constitute a part of the perpetual public free school fund. (Const., art. 7 § 2.)

TITLE 83.

QUARANTINE.

ARTICLE 4095a. Quarantine stations for railroad trains.

ART. 4095a. Quarantine Stations for Railroad Trains.— It shall be the duty of all health officers and quarantine authorities to establish stations where they do not now exist, whereat railway trains or any other public or private conveyance coming from any infected port or district and entering within any county, town or city in this State may be stopped, the passengers examined and sworn in accordance with the provisions of this title, and such further action had and taken under such rules as may be prescribed by the Governor and State Health Officer. (New section by ch. 30, Laws, 1883, Regular Session, p. 20.)

TITLE 84.

RAILROADS.

- CHAPTER I. Of the incorporation of railroad companies.
2. Of amending or changing the charter.
 3. Of the public office and books.
 4. Of the officers of railroad corporations.
 5. Of the by-laws.
 6. Of the stock and stockholders.
 7. Of meetings of directors and stockholders.
 8. Of the right of way.
 9. Of other rights of railroad corporations.
 10. Of restrictions upon, duties and liabilities of railroad companies.
 11. Of collection of debts from railroad corporations.
 12. Of lands of railroad corporations.
 13. Of forfeiture of the charter.

De Law further regulating quarantine in State
Act 1891 22^d Leg. Ch. 118 P 188

For Act authorizing creation of railway corporation in accordance as far as applicable with the provisions of this title for the purpose of acquiring, owning, operating, completing and extending any railroad sold out in compliance with laws of state. See
 Acts of 1891 22^d Leg. Ch. 86 P 128.
 Acts of 1889 21st Leg. Ch. 24 P 19

See Amendment of this Article by acts of 1891
 Laws 21st Leg. Ch. 21 P 17 It adds to the 2^d paragraph a proviso about local or suburban roads

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Sec. 2. Whereas the remaining vacant public domain is being daily sold to the great detriment of the State, an imperative public necessity exists which requires that the constitutional rule requiring bills to be read on three several days should be suspended, and said rule is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the senate, and passed the same by a vote of 23 yeas, 5 nays; and passed the house by a vote of 12 yeas, 15 nays.]

Approved, March 7, 1889.

RAILROADS.

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| <p>Sec.
1. Amends Revised Statutes, Article 4101, as to incorporation of railroads.
2. Amends Revised Statutes, Article 4278, as to forfeiture of charters for failure to construct.</p> | <p>Sec.
3. Bill to take effect from date of passage.
4. Suspends the rules.</p> |
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CHAP. 21.—[S. B. No. 336.] An Act to amend Article 4101, Title 84, Chapter 1, and Article 4278, Title 84, Chapter 13, of the Revised Civil Statutes of the State of Texas, providing for and regulating the incorporation of railroad companies.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That Article 4101, Title 84, Chapter 1, of the Revised Civil Statutes of the State of Texas, providing for and regulating the incorporation of railroad companies, be and the same is hereby amended so as hereafter to read as follows:

Article 4101. The persons proposing to form a railroad corporation shall adopt and sign articles of incorporation, which shall contain:

1. The name of the proposed corporation.
2. The places from and to which it is intended to construct the proposed railroad, and the intermediate counties through which it is proposed to construct the same: *Provided, however,* That local suburban railways may be constructed for any distance less than ten miles from the corporate limits of any city or town, in addition to such mileage as they may have within the same, and in such case the general direction shall be given from the beginning point.
3. The place at which shall be established and maintained the principal business office of the proposed corporation.
4. The time of the commencement and the period of the continuation of the proposed corporation.
5. The amount of the capital stock of the corporation.
6. The name and places of residence of the several persons forming the association for incorporation.
7. The name of the members of the first board of directors, and in what officers or persons the government of the proposed corporation and the management of its affairs shall be vested.
8. The number and amount of shares in the capital stock of the proposed corporation.

SEC. 2. That Article 4278, Title 84, Chapter 13, of the Revised Civil Statutes of the State of Texas, be and the same is hereby amended so as hereafter to read as follows:

Article 4278. If any railroad corporation organized under this act shall not, within two years after its articles of association shall be filed and recorded as provided in the second section of this act, begin the construction of its

road, and construct, equip, and put in good running order at least ten miles of its proposed road; and if any such railroad corporation, after the first two years, shall fail to construct, equip, and put in good running order at least twenty additional miles of its road each and every succeeding year until the entire completion of its line, such corporation shall, in either of such cases, forfeit its corporate existence, and its powers shall cease as far as relates to that portion of said road then unfinished, and shall be incapable of resumption by any subsequent act of incorporation. The provisions of this article shall not apply to or in any manner affect railway companies incorporated for the construction and operation of urban, suburban, and belt railroads for a distance of less than ten miles, as provided in clause two of section one of this act: *Provided*, That all such companies shall, within twelve months from the date of their charter, complete a portion of their road and commence and continue the running of cars thereon.

SEC. 3. Whereas the speedy construction of suburban local railroads is demanded by the needs of the growing cities of this state; and whereas the general interests of the people will be promoted by such speedy construction; therefore an emergency exists for the passage of this act, to take effect immediately: therefore be it further enacted that this act shall take effect from and after the date of its passage.

SEC. 4. The near approach of the end of this session rendering it improbable that this bill can be read on three several days creates an imperative public necessity requiring the suspension of the constitutional rule requiring such reading, and said rule is hereby suspended.

[NOTE.—The foregoing act originated in the senate, and passed the same by a vote of 23 yeas, 2 nays; and passed the house by a four-fifths vote.]

Approved, April 8, 1889.

RAILROADS.

- SEC. 1. Adds Article 4205a to Chapter 8, Title 84, Revised Statutes, as to suits against.
2. Emergency clause.

CHAP. 22.—[H. B. No. 364.] An Act to amend Chapter 8, Title 84, of the Revised Civil Statutes of the State of Texas, by adding thereto Article 4205a.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Chapter 8, Title 84, of the Revised Civil Statutes of the State of Texas, be amended by adding thereto Article 4205a, which shall read as follows:

Article 4205a. When any railroad company is sued for any property occupied by it for railroad purposes or for damages thereto, the court in which such suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, upon petition or cross bill asking such remedy by defendant, but the plea for condemnation shall be an admission of the plaintiff's title to such property.

SEC. 2. The near approach of the end of this session of the legislature creates an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and it is so suspended.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 89 yeas, no nays; and passed the senate the sixteenth day of March, 1889.]

Approved, March 19, 1889.

CHAPTER 1.

OF THE INCORPORATION OF RAILROAD COMPANIES.

ARTICLE 4099. Not less than ten persons may form a company. 4100. Amount of stock which must be subscribed and paid. 4101. Articles of incorporation—Shall contain what. 4102. Continued—Shall be submitted to the Attorney-General.	ARTICLE 4003. Continued.—Shall be filed in office of Secretary of State. 4104. Corporate existence begins when. 4105. Corporators may proceed to act when. 4106. Limitation of corporate existence. 4107. Renewal of corporate existence.
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ART. 4099. Not less than Ten Persons may form a Company.—Any number of persons, not less than ten, being subscribers to the stock of any contemplated railroad, may be formed into a corporation for the purpose of constructing, owning, maintaining and operating such railroad, by complying with the requirements of this chapter. (Act, Aug. 15, 1876, p. 141, § 1.)

ART. 4100. Amount of Stock which must be subscribed and paid.—No railroad corporation shall be formed until stock to the amount of one thousand dollars for every mile of said road so intended to be built shall be in good faith subscribed, and five per cent. of the amount subscribed paid in to the directors of such proposed company. (Ib.)

ART. 4101. Articles of Incorporation—Shall contain what.—The persons proposing to form a railroad corporation shall adopt and sign articles of incorporation, which shall contain—

1. The name of the proposed corporation.
2. The places from and to which it is intended to construct the proposed railroad and the intermediate counties through which it is proposed to construct the same.
3. The place at which shall be established and maintained the principal business office of the proposed corporation,
4. The time of the commencement and the period of the continuation of the proposed corporation.
5. The amount of the capital stock of the corporation.
6. The names and places of residence of the several persons forming the association for incorporation.
7. The names of the members of the first board of directors, and in what officers or persons the government of the proposed corporation and the management of its affairs shall be vested.
8. The number and amount of shares in the capital stock of the proposed corporation. (Ib. § 3.)

ART. 4102. Continued—Shall be submitted to the Attorney-General.—The articles of incorporation, when so prepared, adopted and signed, shall be submitted to the Attorney-General of the State, whose duty it shall be to carefully examine the same, and if he finds them to be in accordance with the provisions of this chapter and not in conflict with the laws of the United States or of this State, he shall attach thereto a certificate to that effect. (Ib. § 2.)

ART. 4103. Continued—Shall be filed in Office of Secretary of State.—When said articles have been examined and certified, as provided in the preceding article, the same shall be filed in the office of the Secretary of State, accompanied by an affidavit in writing, signed and sworn to by at least three of the directors named in such articles, before some officer of the State authorized by law to administer oaths, which affidavit shall state that the amount of one thousand dollars for every mile of such proposed road has been in good faith subscribed, and that five per cent. of the amount subscribed has been actually paid to the directors named in such articles; and the Secretary of State shall cause such articles, together with said affidavit, to be re-recorded in his office, and shall attach a certificate of the fact of such record to said articles and return the same to such corporation. (Ib. § 3.) (a)

ART. 4104. Corporate Existence begins when.—The existence of such corporation shall date from the filing of the articles of incorporation in the office of the Secretary of State, and the certificate of the Secretary of State, under the seal of the State, shall be evidence of such filing. (Ib. § 5.) (b)

ART. 4105. Corporators may proceed to act, when.—When the articles of incorporation have been filed and recorded as herein provided, the persons named as corporators therein shall thereupon become and be deemed a body corporate, and be authorized to proceed to carry into effect the objects set forth in such articles, in accordance with the provisions of this title. (Ibid, § 4.)

(a) A charter provided that the commissioners should receive no subscriptions to the stock of the company unless five per cent. thereof in cash should be paid to them at the time of the subscription; and should they receive subscriptions to said stock without payment, they should be personally liable to pay the same to the corporation when organized. Under this provision it was held that the fact that the commissioners did not exact the five per centum from subscribers could afford no defense to a stockholder who gave his note for the stock. *Blair vs. Rutherford*, 31 Texas 465.

(b) The mere fact, that in a contract with the company the defendant has designated it by a name which is appropriate to a corporate body, does not admit its legal corporate existence, unless it be distinctly stated in the contract that it is an incorporated company. *Holloway vs. The Memphis, etc., R. R. Co.*, 23 Tex., 465. A domestic corporation created by a private act of the Legislature, in order to maintain a suit as plaintiff, must aver and prove, that it is a body corporate, duly constituted by competent authority. A petition, wanting the averment that such plaintiffs are a corporation, is insufficient, *Ib.*

ART. 4106. Limitation of Corporate Existence.—No railroad corporation shall be formed to continue more than fifty years in the first instance, but such corporation may be renewed from time to time for periods not longer than fifty years, in the manner provided in the succeeding articles. (Ib., p. 144, § 8.)

ART. 4107. Renewal of Corporate Existence.—The manner of renewing a railroad corporation which has expired by lapse of time shall be as follows :

1. By a resolution in writing adopted by a majority of three-fourths of the stockholders of the company at a regular meeting of the stockholders, which resolution shall specify the period of time for which the corporation is renewed.

2. Those desiring a renewal of the corporation shall purchase the stock of those opposed thereto at its current value.

3. The resolution, when adopted, shall be certified to by the president of the company, and he shall state in his certificate thereto that it was adopted by a majority vote of three-fourths of all the stockholders of said company, at a regular meeting of such stockholders, and that the stockholders desiring such renewal have purchased the stock of those who oppose such renewal, and such certificate shall be attested by the secretary of the company under the seal of the company.

4. The said resolution and certificate shall then be filed and recorded in the office of the Secretary of State, and the renewal of said corporation shall date from said filing. (Ib.) (a)

CHAPTER 2.

OF AMENDING OR CHANGING THE CHARTER.

ARTICLE

4108. Articles of incorporation may be amended.
4109. Manner of amending.
4110. Amendments take effect when.
4111. Special charters not amendable.
4112. Continued.

ARTICLE

4113. Branch line may be projected by amendment.
4114. Continued—Time for completion of branch line.

ART. 4108. Articles of Incorporation may be amended.
Any railroad corporation may amend or change its articles or act of

(a) Chapter 15, acts 1879, requires the department of State to charge and collect a fee of one hundred dollars "for each and every charter, or amendment or supplement thereto of a private corporation, created for the purpose of operating or constructing a railroad, or magnetic telegraph line, or street railway, in a town or city, authorized or required by law to be recorded in said department, to be paid when the same is filed for record."

incorporation in the manner provided in the following articles of this chapter. (Act, Aug 15, 1876, p. 142, § 5.)

ART. 4109. Manner of Amending.—Said amendment or change shall be made in the manner following:

1. It shall be in writing and signed by the president and board of directors of the corporation, and attested by the secretary under the seal of the corporation.

2. It shall be submitted to the Attorney-General as in the case of original articles of incorporation, and examined and certified by him in the same manner.

3. It shall then be filed and recorded in the office of the Secretary of State.

4. In the case of a corporation created by a special act of the Legislature, the said amendment or change, together with the original charter and such amendments and changes as have been made by special act of the Legislature, shall be filed and recorded in the office of the Secretary of State. (Ib., § 5.)

ART. 4110. Amendments take effect when.—Such amendment or change shall be in force from the date of the filing of the same in the office of the Secretary of State in accordance with the provisions of this chapter. (Ib.)

ART. 4111. Special Charters not amendable.—Where, by the special act or articles [of] incorporating any railroad company, any privileges, rights or benefits are conferred upon said corporation, such as it could not claim, exercise or receive under this title or the general laws, then the said corporation shall not be permitted so to amend or change its charter or articles of incorporation as to relieve it from any of the requirements of such special act or acts conferring said privileges, rights or benefits. (Ib.)

ART. 4112. Continued.—Nothing in this chapter shall be so construed as to allow any railroad company incorporated under the provisions of this title or under a special act of the Legislature, to amend or change any part of its charter requiring it to build its road through and to maintain passenger and freight depots in or near any city or town in this State, and within the time named in its charter. (Ib.)

ART. 4113. Branch Line may be projected by Amendment.—Any railroad corporation may, by amendment to its charter, project and provide for the locating, constructing, owning, maintaining and operating a branch line to its original or trunk line of railroad from any point on the said original main or trunk line to any other

This Article Amended Act 1891 22^d Reg. Ch. 105 P 169

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RAILROADS—BRANCH LINES OF.

Sec. 1. Amends article 4113, R. S.

Article 4113. Company may locate, construct, etc., branch lines; certain articles of incorporation validated.

2. Emergency clause.

CHAP. 105.—[H. B. No. 482.] An Act to amend article 4113 of the Revised Statutes of the State of Texas, and to validate all charter amendments in accordance with the article as amended.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That article 4113 of the Revised Statutes of Texas shall hereafter read as follows:

Article 4113. Any railroad company may by its original articles of incorporation or by amendment to its charter project and provide for the locating, constructing, owning and operating of branch lines from any points on its main line or from any points on its branch lines (constructed or projected) to any other points, making an angle of at least 25 degrees in the general course from the main line (if the branch commence from the same), or from the branch line, if it commence at a point on the same; provided, that the same may commence at the terminus of a branch line and continue in its general course, and may by amendment to its charter provide for the continuation in its general course of the main line; that any and all amendments of charters, acts or articles of incorporation approved by the Attorney General of the State or his lawful representative, by which any branch railroad or railroads has or have been constructed in accordance with the provisions of this article as herein provided, are authorized, validated, sanctioned and confirmed to the same extent as though this article had always read as it does as now amended.

SEC. 2. The fact that there is now no clear and adequate provision for the construction of branch lines of railroads and the near approach of the end of the session creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended, and this act shall take effect from and after its passage.

[NOTE.—The foregoing act originated in the House and passed the same by a vote of 81 yeas and no nays; and passed the Senate by a vote of 21 yeas and 6 nays.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the eleventh day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

COUNTY FINANCES.

- Sec. 1. Amends section 1, chapter 79, of Twenty-first Legislature, approved April 4, 1889. Commissioners court authorized to compromise indebtedness created prior to January 1, 1891; may issue bonds.
2. Emergency clause.

CHAP. 106.—[S. B. No. 336.] An Act to amend section 1 of chapter 79 of an act passed at the regular session of the 21st Legislature, approved April 4, 1889, entitled an act to authorize counties to fund their indebtedness and to provide means to pay the same.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That section 1 of chapter 79, of an act passed at the regular session of the 21st Legislature, approved April 4, 1889, entitled "an act to authorize counties to fund their indebtedness and to provide means to pay the same," be amended so as to hereafter read as follows:

That the county Commissioners court of any county in this State is hereby authorized and empowered to compromise, compound, refund, settle with and to fund any existing indebtedness lawfully made and undertaken by such county by authority of law created prior to January 1st, 1891, and for this purpose the said Commissioners courts are hereby authorized and empowered to issue bonds in denomination of not less than five hundred dollars with interest coupons payable annually, said bonds to become due and payable in twenty years from the date of their issuance; provided that said bonds may be paid off at any time after two years from the date of their issuance if the Commissioners court should so elect, and provided further that such bonds shall not be sold for less than their face or par value, said bonds to bear interest not exceeding six per cent per annum. And the said Commissioners court are further authorized and empowered to levy a tax upon all real and personal property situated in the county, not to exceed twenty-five cents on the hundred dollars on the assessed value of such property in any one year to pay the annual interest, and not less than two per cent annually of the principal of said bonds, besides the expense of assessing and collecting the same, and no bonds shall be issued under this act until a levy as herein provided shall have been made, and when such levy shall have been so made, the same shall continue in force until the whole amount of the principal and interest shall have been fully paid. Provided that nothing herein shall be construed to authorize any county to levy any tax in excess of that authorized by the constitution and laws now in force; provided further, that it shall not authorize the taking up of bonds heretofore issued and issuing new bonds in lieu thereof unless such new bonds shall bear a less rate of interest than the bonds so taken up.

SEC. 2. The near approach of the close of this session creates an emergency and an imperative public necessity exists, requiring that the constitutional rule requiring bills to be read three several days be suspended and that this act take effect and be in force from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the Senate and passed the same by a vote of 24 yeas and no nays; and passed the House—vote not given.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his

point in this State, by a branch line to the main line, making an angle with said main line of at least twenty-five degrees in the general course of said branch line, and also so projected that said branch line shall in no case be so located as to be or become such a line of railroad as that, if the same were owned by another corporation, the corporation owning the main line or any one of the other branches thereof, would be forbidden by the Constitution and laws from consolidating therewith on account of the lines being parallel or competing lines. (Ib., p. 143, § 7.)

ART. 4114. Continued—Time for Completion of Branch Line.—Any such corporation making such amendment to its charter as is authorized by the preceding article, shall complete and put in good running order at least ten miles of its said branch line in said amendment proposed within one year from the filing of such amendment, and an additional extent of at least twenty miles each and every succeeding year until the entire extent of the projected branch line is completed. (Ib.)

CHAPTER 3.

OF THE PUBLIC OFFICE AND BOOKS.

- ARTICLE 4115. Public office to be maintained within the State.
- 4116. Corporate meetings, transfers of stock and general business done there.
- 4117. Stock books, etc., to be kept there.
- 4118. Location of public office may be changed.

- ARTICLE 4119. Notice of establishment of public office.
- 4120. Public office the domicile of the corporation.
- 4121. Books open to inspection of stockholders and certain State officers.
- 4122. Continued—Legislature may examine.

ART. 4115. Public Office to be maintained within the State.—Every railroad corporation shall have and maintain a public office at some place upon the line of its road in this State. (Const., art. 10, § 3; Act Aug. 15, 1876, p. 144, § 10.) *See Sec. 1 Act of '85 - P. 60 & a. Also Act 1889 Ch. 106 - P. 130*

ART. 4116. Corporate Meetings, Transfers of Stock and General Business done there.—All meetings of the stockholders and directors of such corporation shall be held at such public office, and all transfers of stock in such corporation shall be made at such office, and the general business of such corporation shall be transacted at such office. (Ib.) *See Sec. 2 Act of '85 - on P. 60 a. Also Act 1889 Ch. 106 P. 130*

ART. 4117. Stock Books, etc., to be kept there.—There shall be kept at such office, for the inspection of the stockholders of such corporation, books in which shall be recorded—

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1. The amount of capital stock subscribed.
 2. The names of the owners of the stock, and the amounts owned by each of them respectively.
 3. The amount of stock paid and by whom.
 4. The transfer of the stock with the date of transfer.
 5. The amount of the assets and liabilities of the corporation.
 6. The names and places of residence of its officers. (Ib., § 10.)

See Sec 1 Act of 1855 in opposite page - Act 1889 Ch. 166 P. 130

ART. 4118. Location of Public Office may be changed.—Every railroad corporation may change at pleasure its public office by publishing a notice of such change in some newspaper published on the line of its road, if any there be, and if not, then in some newspaper in the State, and having a general circulation in the State, for four successive weeks prior to such change. (Act, Feb. 7, 1854; P. D., 4888.)

ART. 4119. Notice of Establishment of Public Office.—Every railroad corporation shall also, as soon as it has in the first instance established its public office, give notice of such establishment by a like publication as required in the preceding article.

ART. 4120. Public Office the Domicile of the Corporation.—The public office of a railroad corporation shall be considered the domicile of such corporation. (Act, Aug. 15, 1876, p. 150, § 32.)

ART. 4121. Books open to Inspection of Stockholders and certain State Officers.—The books of such corporation kept at its public office shall, at all reasonable business hours, be open to the inspection of each stockholder and to any agent or officer of the State whose duty it may be to inspect such books. (Act, Dec. 19, 1857; P. D., 4909.)

ART. 4122. Continued—Legislature may examine.—The Legislature may examine the books of any railroad corporation, by committee or otherwise, as often as may be deemed necessary. (Act, Feb. 7, 1854; P. D., 4906.)

An Act to compel railroads and other corporations to establish and maintain public offices in the State of Texas, and providing what books shall be kept thereat, and what said books shall contain, and requiring them to keep said books open for inspection, and to compel them to report to the Comptroller or Governor the true status of said corporations, and such other matters as may be required by said Governor or Comptroller, and providing appropriate penalties for a failure to comply herewith.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That every railroad or other corporations organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office in the locality where its principal business is carried on in this State for the transaction of its business, where transfers of stock shall be made, where the auditor, treasurer, general traffic manager and general superintendent of such roads, or where an agent of such corporation, duly authorized to adjust and settle all claims against such corporations for damages, shall have their respective offices, and where shall be kept for inspection of the stockholders of such corporation books in which shall be recorded: 1st, The amount of capital stock subscribed;

2nd. The names of the owners of the stock and the amounts owned by them respectively;

3rd. The amount of stock paid and by whom;

4th. The transfer of stock with the date of the transfer;

5th. The amount of its assets and liabilities;

6th. The names and places of residence of each of its officers; provided, that railroad corporations shall be required to keep such office at some place on the line of its road in this State.

SECTION 2. The directors of every railroad company shall hold one meeting annually at their office in this State; public notice of which shall be given at least thirty days before said meeting, said notice to be published in some daily newspaper printed and published in this State.

SECTION 3. The president or superintendent of every railroad company doing business in this State shall report annually under oath to the Comptroller or Governor the true status of said railroad and such other matters and things as may be inquired about by said Comptroller or Governor.

SECTION 4. The books of such corporation kept at its public office shall at all reasonable business hours be open to the inspector of each stockholder and to any officer or agent of the State whose duty it may be to inspect such books.

SECTION 5. The Legislature may, by committee or otherwise, examine the books of any railroad corporation at such times and as often as may by said Legislature be deemed necessary.

SECTION 6. It shall be unlawful for any railroad or other corporation to fail or refuse to comply with any of the provisions of this act, and if said railroad or other corporation shall fail or refuse to comply with any part thereof, it shall be liable to pay to the State of Texas the sum of one thousand dollars for each and every month that said rail-

road or other corporation shall fail or refuse to comply therewith, said sum to be recovered by the State in any court in this State of competent jurisdiction; provided that an honest mistake in the entries in its books shall not subject a railroad company to the penalties of this section, if the office of said company shall be kept in this State in compliance with this act.

SECTION 7. It shall be the duty of the Attorney-General of this State to bring suits against said corporations and prosecute them to judgment for any violation of the provisions of this act.

SECTION 8. All railroads within this State shall have six months after this act goes into effect, within which time to comply with the provisions hereof.

Approved March 28th, 1885.

S. B. No. 248.]

CHAPTER 69.

An Act to amend articles 2725 and 2726 of the Revised Statutes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That articles 2725 and 2726 shall hereafter read as follows:

ARTICLE 2725. The Secretary of State shall deliver by mail or otherwise to each Justice of the Supreme Court, each judge of the Court of Appeals, each judge of the circuit and district courts of the United States for the district of Texas, each district judge, the Attorney General and each county judge for the use of the courts of his county, a copy of each volume of the reports of the Supreme Court, and Court of Appeals hereafter issued.

ARTICLE 2726. The following officers shall be entitled to receive one copy each of all general and special laws hereafter passed by the Legislature, to wit: The Governor and heads of departments, each member of the Legislature, the judges of the several courts throughout the State, and the clerks of said courts, and each county attorney. The following officers shall be entitled to receive one copy each of all general laws hereafter passed by the Legislature, to wit: County attorney, county treasurer, county surveyor, sheriff, assessor of taxes, collector of taxes, inspector of hides and animals, justice of the peace, constable and county commissioner.

SECTION 2. The near approach of the close of the session, and the fact that there are a great many bills before the Legislature to be acted upon, and the necessity for the passage of this bill at the present session, create a public necessity requiring the suspension of the rule requiring bills to be read on three several days, and it is so suspended.

Approved March 30th, 1885.

department of the state, paid over directly to such treasurer of the board of trustees, who shall execute the proper receipts therefor; and all moneys and funds arising from the assessment and collection of any special tax in such city or town for public free school purposes, shall be by the assessor and collector, or the collector or other proper officer of such city or town whose duty it is to collect the taxes, turned over directly to the treasurer of the board of trustees of such city or town, who shall execute and deliver his receipt to such collector, and the mayor and council or board of aldermen of such city or town shall have no power or control over such funds.

SEC. 4. In such cities and towns as have assumed the exclusive control of the public free schools within their limits, and have decided under the laws providing therefor that a special tax shall be levied for the support of such public free schools, the mayor and council or board of aldermen of such city or town shall annually assess and levy such tax by ordinance duly passed and approved in the same manner as is required in the assessment and levy of taxes for general purposes in such city or town. In cities and towns which have voted upon and directed the levy of a special tax not exceeding one-half of one per cent, the mayor and council or board of aldermen of such city or town shall annually levy such rate of taxes for public school purposes, not exceeding one-half of one per cent, as shall be sufficient for the support of the public free schools for the term as required by law, but in such cities and towns as have voted upon and decided at an election held for that purpose that a specific rate of taxes shall be assessed and levied in such city or town for the support of its public free schools, the mayor and council or board of aldermen of such city or town shall have no discretion in fixing the rate at which such tax shall be levied, but shall assess and levy the same at the rate fixed in the proposition as submitted and adopted by the qualified voters of such city or town at the election held for that purpose.

SEC. 5. That the provisions of this act shall apply to cities organized under special charters or special acts of incorporation, but not to cities and towns organized and incorporated under the general law.

SEC. 6. That difference in opinion as to the construction of the law as it now exists as to the powers and duties of the mayor and council or board of aldermen, and as to the powers and duties of the board of trustees in certain cities of this state in which the exclusive control and management of their public free schools has been vested in a board of trustees, has produced such contention and conflict of authority that not only the efficiency of the schools are impaired, but even their continuance imperiled, which constitutes an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended as to this act, and also creates an emergency which requires the immediate passage of this act, and that it take effect at once, wherefore it is enacted that this act take effect from and after its passage.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 62 yeas, 33 nays; and passed the senate by a vote of 27 yeas, 1 nay.]

Approved, March 27, 1889.

RAILROADS.

Sec.

1. Herein as to place of general offices of railroad companies.

Sec.

2. Herein as to offices to be maintained at such place etc.

3. Penalty for violating provisions of this act.

CHAP. 106.—[H. B. No. 77.] An Act to require all railroad companies to keep and maintain permanently their general offices, machine shops, and round houses within the state of Texas, at certain places, and to keep all books, accounts, etc., at said offices, and to provide penalties for failing to comply therewith.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That every railroad company chartered by this state, or owning or operating any line of railway within this state, shall keep and maintain permanently its general offices within the state of Texas, at the place named in its charter for the locating of its general offices; and if no certain place is named in its charter where its general offices shall be located and maintained, then said railroad company shall keep and maintain its general offices at such place within this state where it shall have contracted or agreed, or shall hereafter contract or agree to locate its general office for a valuable consideration; and if said railroad company has not contracted or agreed for a valuable consideration to maintain its general office at any certain place within this state, then such general offices shall be located and maintained at such place on its line in this state as said railroad companies may designate to be on its line of railway. And such railroads shall keep and maintain their machine shops and round houses, or either, at such place or places as they may have contracted to keep them for a valuable consideration received; and if said general offices and shops and round houses, or either, are located on the line of a railroad in a county which has aided said railroad by an issue of bonds in consideration of such location being made, then said location shall not be changed; and this shall apply as well to a railroad that may have been consolidated with another as to those which have maintained their original organization.

SEC. 2. It shall be the duty of said railroad company to keep and maintain at the place within this state where its said general offices are located, the office of its president or vice-president, also the office of its secretary, treasurer, local treasurer, auditor, general freight agent, traffic manager, general manager, general superintendent, general passenger and ticket agent, chief engineer, superintendent of motive power and machinery, master mechanic, master of transportation, train master, stock and fuel agent, claim agent, and each and every one of its general offices shall be so kept and maintained, by whatever name it is known, and the persons who perform the duties of said general offices, by whatever name known, shall keep and maintain their offices at the place where said general offices are required to be located and maintained, and the persons holding said general offices of a railroad shall reside at the place and keep and maintain their offices at the place where the general offices of said railroad are required by law to be kept and maintained, and if the duties of any of the above named offices are performed by any person, but his position is called by a different name, it is hereby made the duty of said railroad company to have and maintain said offices at the place where its general Texas offices are kept and maintained as required by this act: *Provided,* That if the judgment of the court shall be to forfeit the charter, then it shall allow the railroad company six months from the date of the judgment within which to comply with the requirements of this act, and if said railroad shall comply within the said time no forfeiture shall occur, but if the railroad company shall not comply then the judgment shall be final, the object and meaning of this statute being to require every railroad company owning or operating a line of railway within this state, to keep and maintain its general offices within this

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state at such place as required herein, and the name of the above as general offices shall not be understood to allow the railroad company to have any of the offices usually known as general offices at any other place than the one it is required to keep its general offices at, and each and every railroad is hereby required to have and maintain its general offices at the place named herein.

SEC. 3. Each and every railroad company chartered by this state, or owning, operating, or controlling any line of railroad within this state, which shall violate any of the provisions of this act, shall forfeit the charter by which it operates its railroad in this state to the state of Texas, and it is hereby made the duty of the attorney-general of this state, upon the application of any interested party or on his own motion, to proceed at once against every railroad company owning, operating, or controlling any line of railway within this state by quo warranto to forfeit the charter of the railroad company so offending or violating any of the provisions of this law, shall in addition to forfeiting the charter to that part of the railroad situated within this state be subject to a penalty of five thousand dollars for each and every day it violates any of the provisions of this act, said penalty to be recovered in the name of the state of Texas by a suit which shall be filed by the attorney-general in any court in this state having jurisdiction, and on the trial the court shall (if it finds that the railroad company has violated any of the provisions of this act) render judgment in the name of the state of Texas at the rate of the sum of five thousand dollars for each and every day said court shall find that said railroad company violated any of the provisions of this act. And any money recovered from any railroad company under the provisions of this act shall be paid over into the state treasury and become a part of the available public free school fund.

Approved, March 27, 1889.

RAILROADS.

Exception

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| <p>SEC. 1. Collection of claims not exceeding fifty dollars against railroads.</p> | <p>SEC. 2. Said section not to be construed to repeal any other remedy.</p> <p>3. Emergency clause.</p> |
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CHAP. 107.—[H. B. No. 307.] An Act to regulate the presentation and collection of personal services or labor, or for damages or for overcharge on freight against railway corporations doing business in this state in case where the amount claimed does not exceed fifty dollars, and to fix the measure of damages recoverable in certain of such cases.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That after the time when this act shall take effect any person in this state having a valid bona fide claim for personal services rendered or labor done, or for damages, or for overcharges on freight, or claims for stock killed or injured by the train of any railway company, provided that such claims for stock killed or injured shall be presented to the agent of the company nearest to the point where such stock was killed or injured, against any railway corporation operating a railroad in this state, and the amount of such claim does not exceed fifty dollars, may present the same, verified by his affidavit, for payment to such corporation by filing it with any station agent of such corporation in any county where suit may be instituted for the same, and if, at the expiration of thirty days after such presentation, such claim has not been paid or satisfied, he may immediately institute suit thereon in the proper court; and if he shall finally establish his claim, and obtain judgment for the full amount thereof, as presented for payment to such corporation in such court, or any court to which the suit may have been appealed, he shall be

H. C. & A. T. Ry. Co. vs Ellis on Constitutionality Vol 21 S. W. Rep
H. C. & A. T. Ry. Co. vs Farmer 22 S. W. Rep p 182
contra H. C. & A. T. Ry. Co. vs Wuchan

entitled to recover the amount of such claim and all costs of suit, and in addition thereto all reasonable attorneys fees, provided he has an attorney employed in his case, not to exceed ten dollars, to be assessed and awarded by the court or jury trying the issue.

SEC. 2. Nothing in the foregoing section shall be construed to repeal or in any manner affect any provision of law now in force giving a remedy to persons having claims against railway corporations.

SEC. 3. There being no law now in force in this state providing an effectual remedy for persons having such claims as are mentioned in this act, therefore an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act immediately pass, and that it take effect and be in force from and after its passage.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 81 yeas, 8 nays; and passed the senate by a vote of 26 yeas, 3 nays.]

Approved, April 5, 1889.

RAILROADS—SEPARATE COACHES FOR PASSENGERS OF DIFFERENT COLORS.

- SEC. 1. Authorizes railroad companies to provide separate coaches for passengers of different colors.
- 2. Separate coaches to be of equal comfort, and character designated.
- 3. The words "different colors" defined.

- SEC. 4. Separate coaches and their use.
- 5. Penalty for violations of this act.
- 6. Conductors authorized to enforce provisions of this act.
- 6. Emergency clause.

CHAP. 108.—[H. S. S. B. No. 18.] An Act to authorize railroad companies in this state to provide separate coaches for white and colored passengers.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That after the taking effect of this act all railroad companies in this state who are common carriers of passengers for hire, whose trains are propelled by steam, are authorized and empowered to make provision to transport passengers of different colors in separate coaches on such trains on such portions of their road or roads as may be deemed necessary or proper.

SEC. 2. Said separate coaches shall be of equal character as to comfort, etc., and shall be designated by appropriate words and letters indicating the character of the coach.

SEC. 3. The words "different colors," as used in section 1 of this article, refer to what are commonly known as white people and colored people of African descent.

SEC. 4. It shall be deemed a separate coach within the meaning of this article to divide the coach equally by a substantial partition with a door in same, one division of which shall be used exclusively for colored passengers and the other for white passengers.

SEC. 5. If any passenger upon a train provided with separate coaches for colored passengers shall ride or attempt to ride in a coach or division of same not designated for his or her color, after having been forbidden to do so by the employe of the railroad in charge of the train, he shall be guilty of a misdemeanor and punished by a fine of not less than five nor more than twenty dollars: *Provided,* That the railway companies shall have the right to regulate and control the travel on all other coaches in each of their said trains except the two coaches or double coach, as the case may be, provided for in this act.

SEC. 6. Conductors of passenger trains in this state have the power while

on their respective trains to enforce the provisions of this act in reference to the separation of passengers of different colors.

The near approach of the close of the session is such an imperative public necessity as justifies the suspension of the constitutional rule requiring this bill to be read on three several days, and said rule is hereby suspended.

[NOTE.—The foregoing act originated in the house, and passed the same March 28, 1889; and passed the senate April 5, 1889, by a vote of 25 yeas, 1 nay.]

[NOTE.—The foregoing act was presented to the governor of Texas for his approval on the sixth day of April, A. D. 1889, and was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—J. M. MOORE, Secretary of State.]

REGISTRATION.

- SEC. 1. As to registration of justices transcripts.
2. Emergency clause.

CHAP. 109.—[H. B. No. 618.] An Act to record certain certified transcripts from justices courts in same manner and with like effect deeds are admitted to record.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That whenever land sold under execution or order for sale issuing out of a justice court in this state, upon the application of any party interested in said land, it shall be the duty of the justice of the peace having the custody of the execution and judgment upon which said execution issued to make from said records a complete transcript of said judgment and the execution issued thereon and levied on land, together with the levy and return of the officer executing the same thereon endorsed, and to certify to the correctness thereof officially, then said transcript shall be admitted to record in the county where the land is situated in the same manner in which deeds are recorded and with like effect, which said transcript or certified copy thereof, under the hand and seal of the county clerk of the county where said transcript has been recorded, shall be admitted in evidence in all the courts of this state in like manner and with like effect that the original judgment and execution with endorsements thereon would have if offered.

SEC. 2. The near approach of the close of the session of the present legislature creates an emergency and imperative public necessity for the constitutional rule requiring bills to be read on three several days to be suspended, and such rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 80 yeas, 1 nay; and passed the senate by a vote of 25 yeas, no nays.]

Approved, April 6, 1889.

ROADS.

<p>Sec. 1. Herein as to opening roads on lands in actual use by the state, etc.</p>	<p>Sec. 2. Repealing clause. 3. Emergency clause.</p>
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CHAP. 110.—[S. B. No. 255.] An Act to prevent the opening up of public roads across lands owned and used or for actual use by state, educational, eleemosynary, or other public state institutions without the consent of the state, and to close roads heretofore opened across such grounds whenever the state deems it necessary.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That no public road shall be opened across lands owned and used or for actual use by the state, educational, eleemosynary, or other public state institutions for public purposes and not subject to sale under the general laws of the state, without the consent of the trustees of said institution and the approval of the governor of the state, and the roads heretofore opened across such lands may be closed by the authorities in charge of any such lands whenever they deem it necessary to protect the interests of the state, upon repayment to the county where the land is situated, with eight per cent interest, the amount actually paid out by said county for the condemnation of said lands as shown by the records of the commissioners court.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

SEC. 3. The fact that public roads have heretofore been opened across grounds occupied by educational and other institutions of the state without the consent of the state's agents, to the injury and detriment of the public interests, and that additional roads are contemplated across such grounds, creates an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the senate, and passed the same by a vote of 21 yeas, 6 nays; and passed the house by a vote of 76 yeas, no nays.]

Approved, March 26, 1889.

ROADS.

<p>Sec. 1. Road commissioners—appointment, bond of, etc. 2. Power of road commissioners over overseers, etc. 3. Expenditure of money by road commissioner, etc. 4. Reports of road commissioners to commissioners court. 5. Penalty for willful failure of road commissioners to comply with the provisions hereof. 6. Duty of commissioners court as to expenditure of funds, etc.</p>	<p>Sec. 7. Commissioners courts authorized to make rules, etc. 8. Commissioners courts and road commissioners authorized to accept donations of labor, money, etc. 9. This law not to be construed as repealing any existing law. 10. Emergency clause.</p>
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CHAP. 111.—[S. S. Rs. Nos. 79, 91, 92, and H. B. No. 636.] An Act to create a more efficient road system for this state, and authorizing the employment of road commissioners, define their duties and powers, and fixing a penalty for failure of duty, and further defining the duties and powers of county commissioners courts.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That each county commissioners court of this state may employ not exceeding four road commissioners for their respective counties, who shall be resident citizens of the district for which they are employed, and when more than one is employed, the district that each road commissioner is to control shall be defined and fixed by the court; such road commissioners when employed shall receive such compensation as may be agreed upon by the court, not to exceed two dollars per day for the time actually engaged. Each road commis-

CHAPTER 4.

OF THE OFFICERS OF RAILROAD CORPORATIONS.

ARTICLE
 4123. Directors—Number in board.
 4124. Continued—Qualifications of.
 4125. Continued—How elected.
 4126. Continued—Quorum of stockholders at election of.
 4127. Continued—Vacancy in board filled as by-laws direct.
 4128. Continued—Manner of voting for.
 4129. Continued—Omission to elect how supplied.

ARTICLE
 4130. Continued—Corporate powers vested in.
 4131. President and subordinate officers, how chosen.
 4132. Continued—Majority necessary to elect.
 4133. Fraudulent dividend—Directors liable for declaring.
 4134. Officers signing liable for false representations in report.

ART. 4123. **Directors—Number in Board.**—Every railroad corporation shall have a board of directors of not less than seven or more than nine persons. (Act, Aug. 15, 1876, p. 144, § 11.)

ART. 4124. **Continued—Qualifications of.**—Each director shall be a stockholder in said corporation, and a majority of said directors shall be resident citizens of this State, and shall so remain resident citizens during their continuance as such directors. (Ib., p. 145, § 14.) (a)

ART. 4125. **Continued—How Elected.**—The board of directors shall be elected by the stockholders of the corporation, at their regular annual meeting in each year, in such manner as may be prescribed in the by-laws of such corporation and by this title, and the directors shall hold their offices until their successors are elected. (Ib., p. 144, § 11.)

ART. 4126. **Continued—Quorum of Stockholders at Election of.**—It shall require a majority in value value of the stock of such corporation to elect any member of such board of directors. (Ib., p. 145, § 14.)

ART. 4127. **Continued—Vacancy in Board filled as By-laws direct.**—The by-laws of the corporation shall prescribe the manner and time of electing directors, and the mode of filling a vacancy in the office of director, and such provisions in such by-laws shall not be changed, except at a regular annual meeting of the stockholders,

(a) The failure of the president or vice-president and a majority of the directors of a railroad corporation to reside in this State after the 19th of June, 1858, as required by the act of 1857, is a good ground for the forfeiture of a charter. *State vs. Southern Pacific R. R. Co.*, 24 Tex., 80. The absence of the officers of a corporation created in this State and carrying on its business here, beyond the State, is not the absence of the corporation itself, so as to bring such corporation within the exception contained in the 22d section of the statute of limitations. *Sherman vs. Buffalo Bayou, etc.*, R. Co., 21 Tex., 349. Declarations of directors inadmissible against company. *East Line, etc.*, R. Co., vs. *Garrett*, 52 Tex., 133.

and by a majority in value of the stockholders of such corporation. (Ib., p. 144, § 11.)

ART. 4128. Continued—Manner of Voting for.—In all elections for directors of such corporation, every stockholder shall have the right to vote in person or by proxy for the number of shares of stock owned by him, for as many persons as there are directors to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors to be elected multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he may see fit; and such directors shall not be elected in any other manner (Ib., p. 149, § 29.)

ART. 4129. Continued—Omission to Elect, how supplied. In case it shall happen at any time that an election of directors shall not be made on the day designated by the by-laws of the corporation for that purpose, the stockholders shall meet and hold an election for directors in such manner as shall be provided by the by-laws of the corporation. (Ib., p. 145, § 14.)

ART. 4130. Continued—Corporate Powers vested in.—All the corporate powers of every railroad corporation shall be vested in and be exercised by its legally constituted board of directors. (Ib., p. 144, § 11.)

ART. 4131. President and Subordinate Officers, how chosen.—There shall be a president of the corporation, who shall be chosen from and by the board of directors, and such other subordinate officers as the corporation by its by-laws may designate, who may be elected or appointed, and shall perform such duties and be required to give such security for the faithful performance thereof as the corporation, by its by-laws, shall require. (Ib. p. 145, § 15.)

ART. 4132. Continued—Majority necessary to elect.—In all cases it shall require a majority of the directors to elect or appoint any officer of the corporation. (Ib.) (a)

(a) The representations, declarations and admissions, of the agent of a corporation stand upon the same footing with those of the agent of an individual. As natural persons are liable for wrongful acts and neglects of their servants and agents, done in the course and in the scope of their employment, so are corporations, upon the same grounds, in the same manner, and to the same extent. Nothing is better settled than that the fraud of an authorized agent will invalidate a contract entered into by him, on behalf of his principal, although in perpetrating the fraud, the agent acted without the knowledge or consent of the principal. *Henderson vs. Railroad Co.*, 17 Tex., 560. But an incorporated company cannot be called on to answer in damages in its corporate capacity, for the false and fraudulent representations of its agent, unless it authorized the representations. *Houston, etc., R. Co., vs. McKinney*, 55 Tex., 176, distinguishing *Henderson vs. Railroad Co.*, 17 Tex., 560. A railroad company, receiving property under a contract made by its agent, is estopped thereby from denying the authority of such agent, and will be bound to pay therefor. *Conley vs. Columbus Tap Ry. Co.*, 44 Tex., 579.

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ART. 4133. Fraudulent Dividend—Directors liable for declaring.—If the directors of any railroad company shall declare and pay any dividend when the company is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted so long as they shall respectively continue in office: *Provided*, That if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall within thirty days thereafter, or after their return, if absent, file a certificate of their absence or objection in writing with the clerk of the company and with the clerk of the county in which the principal office of said company is located, they shall be exempt from said liability, (P. D., 4866.)

ART. 4134. Officers signing liable for False Representations in Report.—If any certificate or report made, or public notice given by the officers of any such company, in pursuance of the provisions of this title, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the company contracted while they are officers or stockholders thereof. (P. D., 4887.)

CHAPTER 5.

OF THE BY-LAWS.

ARTICLE
4135. Power to make by-laws.
4136. Each share entitled to a vote upon.

ARTICLE
4137. When and by what vote enacted or amended.

ART. 4135. Power to make By-Laws. Every railroad corporation shall have the power to make such by-laws as it may think proper for the government of such company, the same not being inconsistent with the charter of such company or the laws. (Act, December 19, 1857, p. 95; P. D., 4911.)

ART. 4136. Each Share entitled to a Vote upon. In the enactment of a by-law, the stock-holders of the corporation shall be entitled to one vote for each share of stock held by them, and a stock-holder may vote in person or by a written proxy. (Ib.)

ART. 4137. When and by what Vote enacted and amended. No by-law shall be enacted, altered, amended, added to, repealed or suspended, except at a regular annual meeting of the

stockholders and by a majority vote of two-thirds in value of all the stock of the corporation.

CHAPTER 6.

OF THE STOCK AND STOCK-HOLDERS.

- ARTICLE
- 4138. Railroad stock, personal estate—How transferable.
 - 4139. Calls made in discretion of directors.
 - 4140. Sale of stock may be ordered to pay calls.
 - 4141. Corporate books and papers open to stockholders.
 - 4142. Purchase of its own and other stock, and loans to directors prohibited.
 - 4143. Liability of stock-holders for corporate debts.
 - 4144. Trustees and pledgees of stock not liable.
 - 4145. Increase of capital stock.
 - 4146. Continued—Notice of stock-holders meeting to authorize.
 - 4147. Continued—Contents of notice.
 - 4148. Continued—Two-thirds vote required.

- ARTICLE
- 4149. Continued—Record of increase made with Secretary of State.
 - 4150. Annual meeting—Statement of affairs of corporation.
 - 4151. Special meeting—Statement of affairs of corporation.
 - 4152. Loans for construction and equipment, how negotiated.
 - 4153. President, directors, and other officers may be removed by stock-holders.
 - 4154. Stock and bonds issued only for value.—Stock issued only at par value.
 - 4155. Fictitious dividends and increase of stock and debts void.
 - 4156. Penalty upon officers of corporation for violation of last two sections.

ART. 4138. Railroad Stock, Personal Estate--How transferred. The stock of a railroad corporation shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the corporation; but no such transfer shall be valid until the same shall have been made on the stock and transfer books of company; nor shall any share be transferable until all previous calls thereon have been paid. (Act, Aug. 15, 1876, p. 145, § 17; p. 144, §10.) (a)

ART. 4139. Calls made in Discretion of Directors. The directors of such corporation may require the subscribers to the capi-

(a) The by-laws of the company authorized the transfers of stock in writing by the owner thereof, or on separate paper; and on the delivery thereof to the secretary together with the original certificate of stock, for registration, new stock would be issued to the assignee. The stock certificates contained a recital to the same effect. It was held that the company was estopped from denying that it would hold, for the benefit of the holder of the certificate, the amount of stock therein specified, until it was presented for cancellation, and new stock issued. The non-production of the original certificate of stock was notice to the company that a superior title might be in a third party. *Strange vs. Houston etc. R. Co.*, 53 Tex. 162.

The non-production of the original certificate, by one who receives in lieu thereof new stock, would not be necessarily fatal to his title to the new stock. If he purchased bona fide, his title to the new stock would be good. The remedy of a stock-holder whose stock has been illegally and wrongfully cancelled and new stock in lieu thereof issued to an unauthorized person, is against the company, whether the wrongful issue of the new stock was the result of negligence or fraud. *Baker vs. Wasson*, 53 Tex. 150. Shares in an incorporated company though not visible and capable of manual delivery, having value, possess the characteristics of property. Shares in railway companies are in Texas recognized as personal property, and are subject to execution and sale under process of garnishment. *Baker vs. Wasson*, 53 Tex. 150.

tal stock of corporation to pay the amount by them respectively subscribed, in such manner and in such installments as the directors may deem proper. (Ib. p. 145, § 16.)

ART. 4140. Sale of Stock may be ordered to pay Calls.

If any stockholder shall neglect to pay any installment as required by a resolution or order of the board of directors, the said board shall be authorized to advertise said stock for sale by publication once a week for thirty days in some newspaper published on the line of said road, if there be one, and if not, in some newspaper published in the State having a general circulation in the State, which notice shall name the stock to be sold and the time and place of such sale, and all stock so sold shall be sold at the public office or place of business of such company, and between the hours of 10 o'clock a. m. and 4 o'clock p. m., and to the highest bidder for cash, the proceeds of such sale to be credited to the delinquent stockholder. (Ib., p. 145, § 16.)

ART. 4141. Corporate Books and Papers Open to Stockholders. All stockholders shall at all reasonable hours have access to and may examine all books, records and papers of such corporation. (Ib., p. 145, § 13.)

ART. 4142. Purchase of its own and other Stock, and Loans to Directors, Prohibited.—It shall not be lawful for any railroad corporation to use any of the funds thereof in the purchase of its own stock, or that of any other corporation, or to loan any of its funds to any director or other officer thereof, or to permit them, or any of them, to use the same for other than the legitimate purposes of the corporation. (Ib., § 17.)

ART. 4143. Liability of Stockholders for Corporate Debts.—Each stockholder of any railroad corporation shall be held individually liable to the creditors of such corporation to an amount not exceeding the amount unpaid on the stock held by him, for any and all debts and liabilities of such corporation until the whole amount of the capital stock of such corporation so held by him shall have been paid. (Ib., p. 146, § 20.)

ART. 4144. Trustees and Pledges of Stock not Liable. No person holding stock in any railroad corporation as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as a

(a) The individual members of an incorporated company are deemed strangers to the artificial body created by the act of incorporation, and may maintain their rights of action, of whatever nature, against the company in the same manner as those who are not members. *Henderson vs. Railroad Company*, 18 Tex. 560.

stockholder of such corporation, but the estate or person owning such stock shall be considered as holding the same and liable as a stockholder accordingly. (Ib., § 19.)

ART. 4145. Increase of Capital Stock.—In case the capital stock of any railroad corporation shall be found insufficient for constructing and operating its road, such corporation may, with the concurrence of two-thirds in value of all its stock, increase its capital stock from time to time to any amount required for the purposes aforesaid. (Ib., § 18.)

ART. 4146. Continued—Notice of Stockholders' Meeting to authorize.—Such increase shall be sanctioned by a vote in person, or by written proxy, of two-thirds in amount of all the stock of such corporation, at a meeting of such stockholders called by the directors of the corporation for such purpose, by giving notice in writing to each stockholder, to be served personally or by depositing the same in a post-office directed to the post-office addresses of each of said stockholders severally, postage prepaid, at least sixty days prior to the day appointed for such meeting, and also by advertising the time, place and purpose of such meeting in some newspaper published in each county through or into which the said road shall run or be intended to run (if any newspaper shall be published therein) at least sixty days next preceding the day appointed for such meeting. (Ib.)

ART. 4147. Continued—Contents of Notice.—Such notice shall state the time and place of the meeting, the object thereof, and the amount to which it is proposed to increase such capital stock. (Ib.)

ART. 4148. Continued—Two-thirds Vote required.—At such meeting the capital stock of the corporation may be so increased by a vote of two-thirds in amount of the capital stock of the corporation, to an amount not exceeding the amount mentioned in the notice so given. (Ib.)

ART. 4149. Continued—Record of Increase made with Secretary of State.—Every order or resolution increasing the capital stock of any such corporation shall be recorded in the office of the Secretary of State, and such increase shall not take effect until such order or resolution has been so recorded. (Ib.)

ART. 4150. Annual Meeting—Statement of Affairs of Corporation.—At the regular annual meeting of the stockholders it shall be the duty of the president and directors to exhibit a full, distinct and accurate statement of the affairs of the corporation to the stockholders. (Ib., p. 145, § 13.)

ART. 4151. Special Meeting—Statement of Affairs of

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Corporation.—The stockholders may, at any special meeting of stockholders; require statements similar to the one required by the preceding article from the president and directors, and when so required it shall be the duty of such president and directors to furnish the same. (Ib.)

ART. 4152. Loans for Construction and Equipment, how negotiated.—At a regular annual meeting of stockholders, or at a special meeting called for the purpose, the stockholders may, by a majority in value of all the stock of such corporation, determine the amount of loans which may be negotiated by such company for the construction of its railway and its equipments, and fix the rate of interest which may be paid and provided for the security of such loans. (Ib.)

ART. 4153. President, Directors and other Officers may be removed by Stockholders.—The stockholders may, by a two-thirds vote in value of all the stock, at any regular or special meeting of stockholders, remove the president or any director, or other officer of such corporation, and elect others instead of those so removed, in accordance with the by-laws of such corporation and this title. (Ib.)

ART. 4154. Stock and Bonds issued only for Value—Stock issued only at Par Value.—No railroad corporation shall issue any stock or bonds except for money, labor or property actually received and applied to the purpose for which such corporation was organized; nor shall it issue any shares of stock in said company, except at its par value and to actual subscribers who pay or become liable to pay the par value thereof. (Ib., p. 148, § 25; P. D., 4921.)
(a)

ART. 4155. Fictitious Dividends and Increase of Stock and Debts Void.—All fictitious dividends and other fictitious increase of the capital stock or indebtedness of any such corporation shall be void. (Ib.)

ART. 4156. Penalty upon Officers of Corporation for Violation of last two Sections.—Every officer or director of a railroad company who shall violate, or consent to the violation of either of the two preceding articles, shall become personally liable to the stockholders and creditors of such company for the full par value of such illegal stock, or for the full amount of such fictitious dividends, increase of stock or indebtedness, as the case may be. (P. D., 4921.)

(a) Watered stock issued under a general resolution of the company is not a valid substitute for *bona fide* paid up stock. Van Alstyne vs. Houston, etc., R. Co., 56 Tex., 373.

CHAPTER 7.

OF THE MEETINGS OF DIRECTORS AND STOCKHOLDERS.

ARTICLE

- 4157. Annual meeting of directors—Public notice of.
- 4158. Annual meeting of stockholders—Public notice of.
- 4159. Annual meetings of directors and stockholders at same time and place.
- 4160. Quorum of directors and of stockholders.
- 4161. Special meetings of stockholders, how called.

ARTICLE

- 4162. Continued—Public notice of.
- 4163. Adjournment of stockholders' meeting from day to day in absence of quorum.
- 4164. Proxy must be dated within six months of meeting.
- 4165. Stock issued within thirty days of meeting not voted.

ART. 4157. Annual Meeting of Directors—Public Notice of.—The directors of every railroad company shall hold at least one meeting annually, at the public office or place of business of such corporation in this State, public notice of which shall be given thirty days' previously of the time and place of such meeting in some newspaper published in each county through or into which its railway shall run, or be intended to run, if there be any newspaper published in said counties, and if not, then in some newspaper published in the State and having a general circulation in the State. (Const., art. 10, § 3.)

ART. 4158. Annual Meeting of Stockholders—Public Notice of.—The stockholders of every railroad corporation shall hold at least one meeting annually, at the public office or place of business of such corporation in this State, and it shall be the duty of the board of directors to cause public notice to be given of the time and place of such meeting for thirty days previously thereto, as provided in the preceding article. (Act, Aug. 15, 1786, p. 144, § 12.)

ART. 4159. Annual Meeting of Directors and Stockholders at same Time and Place.—The annual meetings of the board of directors and of the stockholders provided for in the two preceding articles, may be called to meet and may be held at the same time and place, in which case one notice shall answer the purpose of both meetings, provided it be so stated in said notice.

ART. 4160. Quorum of Directors and Stockholders.—A majority of the directors of any railroad corporation shall constitute a quorum to transact business, and a majority in value of two-thirds of all the stock owned by such corporation shall constitute a quorum of stockholders to transact business. (Ib., § 12.)

ART. 4161. Special Meetings of Stockholders, how called.—A special meeting of stockholders may be called at any time during the interval between the regular annual meetings of such

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stockholders by the directors, or by stockholders owning not less than one-fourth of all the stock of the company. (Ib.)

ART. 4162. Continued—Public Notice of.—When any such special meeting of stockholders is called, notice of the time and place of such meeting shall be given for at least thirty days prior to the time fixed for such meeting, in the same manner as is required in the case of a regular annual meeting, and such notice shall specify the purpose or purposes for which the said special meeting is called, and no other business shall be transacted at such special meeting, except that specified in such notice. (Ib.)

ART. 4163. Adjournment of Stockholders Meeting from Day to Day in Absence of Quorum.—If at any meeting of stockholders a majority in value of the stockholders equal to two-thirds of the stock of such corporation shall not be represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business, and if within said three days two-thirds in value of such stock shall not be represented at such meeting, then the meeting shall be adjourned and another meeting called, and notice thereof given as hereinbefore provided. (Ib., p. 145, § 14.)

ART. 4164. Proxy must be dated within Six Months of Meeting.—Every proxy from a stockholder shall be dated within six months previous to the meeting of the stockholders at which it is proposed to vote by virtue thereof, and if not dated within such time shall not be voted. (P. D., 4908.)

ART. 4165. Stock issued within Thirty Days of Meeting not voted.—Stock issued within thirty days before any stockholders' meeting shall not entitle the holder to vote thereat, except at the first stockholders' meeting under their articles or act of incorporation for organization; nor shall any stock be voted upon, except in proportion to the amount paid thereon, or secured to be paid, by good security, in addition to the subscription and stock. (P. D., 4928.)

CHAPTER 8.

OF THE RIGHT OF WAY.

ARTICLE

4166. Right to construct road, intersect and connect with other roads.
 4167. Right of way over public lands granted.
 4168. Lineal survey may be made.
 4169. Right of way two hundred feet in width—Trees may be felled.
 4170. May construct road across waters, streets, highways, etc.
 4171. Culverts to be constructed.
 4172. Navigation not to be obstructed.
 4173. Assent of municipal corporation to construction required.
 4174. Assent of owners of highways, plank roads, turnpikes and canals required.
 4175. May cross, intersect and unite with other railroads.
 4176. Other railroad corporations to facilitate connection.
 4177. In case of disagreement with connecting line.
 4178. May take material from adjacent land.
 4179. Continued—Value to be first ascertained.
 4180. Eminent domain may be exercised.
 4181. Continued—Land not to be taken until value ascertained.
 4182. Continued—Mode of condemnation.
 4183. Continued—Board of three freeholders to assess damages.
 4184. Continued—Freeholders to be sworn.
 4185. Continued—Board to appoint a day and place for hearing.
 4186. Continued—Notice of hearing to parties.
 4187. Continued—Service of notice of hearing.
 4188. Continued—Return of notice of hearing.

ARTICLE

4189. Continued—Notice of hearing served on guardian, executor, etc.
 4190. Continued—Service of notice of hearing by publication.
 4191. Continued—Proceedings of the board.
 4192. Continued—Powers of the board.
 4193. Continued—Rule of damages
 4194. Continued—The same.
 4195. Continued—The same.
 4196. Continued—The same.
 4197. Continued—Finding of the board filed with county judge.
 4198. Continued—Vacancies upon the board, how filled.
 4199. Continued—Pay of commissioners.
 4200. Continued—Costs of notice, how paid.
 4201. Continued—Costs of proceedings adjudged against either party.
 4202. Continued—Objections to award heard by county judge.
 4203. Continued—Award final if objections not filed within ten days.
 4204. Continued—Costs of proceedings of board, how ascertained.
 4205. Continued—Damages to be paid before taking condemned property.
 4206. Right of way an easement only—Not lost by forfeiture of charter.
 4207. Right of way reserved out of lands granted to railroad companies.
 4208. Judgment of the court vests right of way.

ART. 4166. Right to construct road, intersect and connect with other Roads.—Any railroad corporation shall have the right to construct and operate a railroad between any points within this State and to connect at the State line with railroads of other States. (Const., art. 10, § 1.) (a)

(a) A corporation has only such powers as have been conferred on it by its charter, or with which it has been otherwise vested by law. *Rio Grande R. Co. vs. Brownsville*, 45 Tex., 88. A railroad company is not liable for damages resulting from the negligent management of one of the trains used and controlled by construction contractors, for construction purposes, on a portion of its road built under the construction contract and not yet turned over to the railroad company. Test to determine who is a contractor. *Cunningham vs. International R. Co.*, 51 Tex., 503. The duty of ordinary care in supplying a proper road-bed and track of a railroad, and in keeping that road-bed and track in repair, is incumbent on a railroad corporation. It cannot escape the consequences of the negligence of the agents whom it has charged with a duty of that nature; and this, whether the injury complained of as resulting from a defective road-bed is inflicted on a fellow-servant of the corporation or another. *Houston, etc., R. Co., vs. Dunham*, 49 Tex., 181. Injury to employe through open ditch in track. *Houston, etc., R. Co., vs. Randall*, 50 Tex., 254. When the contractor for the construction of the road is an irresponsible person and it is apparent that he will be unable to complete the road by the desired time, the company may break off the contract without paying him all the profits he would have realized from the construction of the road. *Waco Tap R. Co., vs. Shirley*, 45 Tex., 355.

therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884," passed at the regular session of the Eighteenth Legislature, be so amended as to read as follows:

SECTION 9. The ninth judicial district shall be composed of the counties of Chambers, Liberty, Hardin, San Jacinto, Polk and Angelina, and the district court therein shall be held as follows:

In the county of Chambers on the first Mondays in March and September, and may continue in session two weeks;

In the county of Hardin, on the sixth Mondays after the first Mondays in March and September, and may continue in session two weeks;

In the county of San Jacinto on the eighth Mondays after the first Mondays in March and September, and may continue in session five weeks;

In the county of Polk on the thirteenth Mondays after the first Mondays in March and September, and may continue in session five weeks;

In the county of Angelina on the eighteenth Mondays after the first Mondays in March and September, and may continue in session four weeks;

In the county of Liberty on the twenty-second Mondays after the first Mondays in March and September, and may continue in session four weeks.

SECTION 2. All writs and process returnable to the district courts of the several counties mentioned in this act shall be returnable to the several terms of said courts, respectively, begun and held under the provisions of this act, except as in this act is otherwise provided, and shall be as valid as if no change had been made in the times of holding said courts.

SECTION 3. This act shall take effect and be in force from and after the first day of August, 1885.

Approved March 24th, 1885.

An Act to require railroad companies to place and keep that portion of their road bed and right of way over or across which public county roads may run, in proper condition for the use of the traveling public.

★ SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That it shall be the duty of every railroad company in this State to place and keep that portion of its road bed and right of way, over or across which any public county road may run, in proper condition for the use of the traveling public, and in case of its failure to do so for thirty days after written notice given to the section boss of the section where such work or repairs are needed by the overseer of such public road, it shall be liable to a penalty of ten dollars for each and every week such railroad company may fail or neglect to comply with the requirements of this act recoverable in any court having jurisdiction of the amount involved, in a suit in the name of the county in which the cause of action accrued. Such penalty shall go to the road and bridge fund of the county in which the suit is brought; and it shall be the duty of the county attorney, upon the making of an affidavit of the facts by any person, to at once institute against the company violating the provisions of this act, suit in the proper court to recover such penalty or penalties, and his wilful failure or refusal to do so shall be sufficient cause for his removal from office, unless it is evident that such suit could not have been maintained. The proceedings under this act shall be conducted in the same manner as civil suits, and the county attorney attending to such suits shall be entitled to a fee in each case, of ten dollars, to be taxed as a part of the costs of the case; provided, that when two or more penalties are sought to be recovered in one and the same suit, but one such fee shall be allowed; and provided further, if the county be cast in the suit, no costs shall be charged against the county.

Whereas, the fact that many crossings are not in proper condition for the use of the public, and the further fact that this session is far spent, create an emergency and an imperative public necessity which require that the constitutional rule that bills be read on three several days be suspended, and it is so enacted.

Approved March 24th, 1885.

ART. 4167. Right of Way over Public Lands Granted.—

Every such corporation shall have the right of way for its line of road through and over any lands belonging to this State, and to use any earth, timber, stone or other material upon any such land necessary to the construction and operation of its road through or over said land.

ART. 4168. Lineal Survey may be Made.—

Every railroad corporation shall have the right to cause such examination and survey for its proposed railway to be made as may be necessary to the selection of the most advantageous route, and for such purpose may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damage that may be occasioned thereby. (Act, Aug. 15, 1876, p. 147, § 23.)

ART. 4169. Right of Way Two Hundred Feet in Width

—Trees may be felled.—Such corporation shall have the right to lay out its road not exceeding two hundred feet in width, and to construct the same; and for the purpose of cuttings and embankments to take as much more land as may be necessary for the proper construction and security of its railway, and to cut down any standing trees that may be in danger of falling upon or obstructing the railway, making compensation in the manner provided by law. (Ib.) (a)

ART. 4170. May construct Road across Waters, Streets and Highways, etc.—Such corporation shall have the right to construct across, along or upon any stream of water, water-course, street, highway, plank road, turnpike or canal which the route of said railway shall intersect or touch; but such corporation shall restore the stream, water-course, street, highway, plank road, turnpike or canal thus intersected or touched, to its former state, or to such state as not to unnecessarily impair its usefulness, and shall keep such crossing in repair. (Ib.)

ART. 4171. Culverts to be constructed.—In no case shall any railroad company construct a road-bed without first constructing the necessary culverts or sluices, as the natural lay of the land requires for the necessary drainage thereof. (Ib.) (b)

(a) It cannot be questioned that a railroad for travel or the transportation of produce through the country at large, is a "public use" for the construction of which private property may be taken, upon adequate compensation therefor being made; therefore, it cannot be said that a railroad company by entering upon and appropriating private property which, by their charter, they are authorized to take, commit a trespass. Where the Constitution does not prescribe a rule for determining what constitutes adequate compensation for property taken for public use, it may be done in any manner that the Legislature may prescribe; provided the means presented are effectual for fairly ascertaining the adequate compensation. Buffalo, etc., R. Co., vs. Ferris, 26 Tex., 588.

(b) Injury to land from overflow by reason of the culvert of insufficient capacity. Duty to provide against ordinary rains, but not against extraordinary floods, such as cannot be reasonably

ART. 4172. Navigation not to be obstructed.—Nothing in this chapter shall be so construed as to authorize the erection of any bridge or any other obstruction across or over any stream or water navigable by steamboats or sail vessels at the place where any bridge or other obstruction may be proposed to be placed, so as to prevent the navigation of such stream or water. (Ib.)

ART. 4173. Assent of Municipal Corporation to Construction required.—Nothing in this chapter shall be so construed as to authorize the construction of any railroad upon or across any street, alley, square or highway of any incorporated city or town without the assent of the corporation of said city or town. (Ib.)

ART. 4174. Assent of Owners of Highways, Plank Roads, Turnpikes and Canals required.—In case of the construction of any railway along highways, plank roads, turnpikes or canals, such railroad corporation shall either first obtain the consent of the lawful authorities having control or jurisdiction of the same or condemn the same under the provisions of law. (Ib.)

ART. 4175. May cross, intersect and unite with other Railroads.—Such corporation shall have the right to cross, intersect, join and unite its railway with any other railway before constructed at any point upon its route and upon the grounds of such other railway corporation, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connection. (Ib.)

ART. 4176. Other Railroad Corporations to facilitate Connection.—Every corporation whose railway is or shall be hereafter intersected by any new railway shall unite with the corporation owning such new railway in forming intersections and connections, and grant to such new railway facilities therefor. (Ib.)

ART. 4177. In case of Disagreement with Connecting Line.—If the two corporations cannot agree upon the amount of compensation for any such crossing, intersection or connection, or the

anticipated. *Houston, etc., R. Co., vs. Parker*, 50 Tex., 330. It is a sufficient defense to an action by the widow and children of an employe killed in the wrecking of a train caused by a washout of the track, that the track, culvert, etc., were substantial and durable, and constructed under the supervision of competent engineers, so as to be able to withstand all ordinary storms of the locality. *Houston, etc., R. Co., vs. Fowler*, 56 Tex., 452. Degree of care due from railway companies for the safety of their passengers. Duty to provide against injury to track from an ordinary rainfall, and freshets peculiar to the particular sections of the country. Not bound to provide against extraordinary floods, unknown to common experience, and which could not have been reasonably anticipated in the construction of the road. *International, etc., R. Co., vs. Hallorhe*, 53 Tex., 46. Measure of damages in case of overflow of land. *Houston, etc., R. Co., vs. Knapp*, 51 Tex., 592.

For Act providing for condemnation in Dist.
Court on cross bill where Ry Co is sued
for the property see
Act. Mich. 19th 1889. - 21 Leg Ch. 22
See Act opposite P 27 ante

points and manner of the same, their differences shall be adjusted in the manner provided by law. (Ib.)

ART. 4178. May take Material from Adjacent Land.—Any railroad corporation may enter upon and take from any land adjacent to its road, earth, gravel, stone, or other materials, except fuel and wood, necessary for the construction of its railway, paying, if the owner of such land and the corporation can agree thereto, the value of such material taken and the amount of damage occasioned to any such land or appurtenances, and if such owner and corporation cannot agree, then the value of such material and the damage occasioned to such real estate may be ascertained, determined and paid in the manner provided in this chapter. (Ib, § 22.)

ART. 4179. Continued—Value to be first ascertained.—The value of such material and the damage to such real estate shall in all cases be ascertained, determined and paid before such corporation can enter upon and take such material. (Ib.)

ART. 4180. Eminent Domain to be exercised.—If any railroad corporation shall at any time be unable to agree with the owner for the purchase of any real estate or the material thereon required for the purposes of its incorporation or the transaction of its business, for its depots, station buildings, machine and repair shops, or for the right of way, or any other lawful purpose connected with or necessary to the building, operating or running its road, such corporation may acquire such property in the manner provided in this chapter. (Ib, p. 146, § 21.) (a)

ART. 4181. Continued—Land not to be taken until Value ascertained.—No railroad company shall enter upon, except for a lineal survey, any real estate whatever, the same being private property, for the purpose of taking and condemning the same or any material thereon, for any purpose whatever, until the said company shall

(a) When land is appropriated by a railway company without recourse to the method pointed out for condemnation of the same, the owner does not waive his right to compensation by standing by and permitting the company to construct the road over his land. *Galveston, etc., R. Co., vs. Pfeuffer*, 54 Tex., 66. A railway company verbally agreed with a land owner in consideration of a grant of right of way over his premises to construct ditches to carry off water. The road was constructed and operated for a series of years. Ditches also were dug. Seventeen years afterwards the owner sued for damages from construction of road over his land and also damages to adjoining land, crops, etc., from overflow. It was held that the doctrine of dedication or of estoppel *in pais* applied to the right of way for a railroad, railroads being public highways. *Texas and New Orleans Ry. Co. vs. Sutor*, 56 Tex., 496. In a suit for damages against a railway company for taking land for their road-bed, the pleadings should identify the land taken by metes and bonds, and a judgment for the plaintiff should, after awarding his damages, vest possession of the land in the company. Such an action is maintainable only by the person who owned or possessed the property at the time damages were inflicted. *Central R. Co. vs. Merkel*, 32 Tex., 723. See, also, *Galveston, etc. R. Co., vs. Pfeuffer*, 56 Tex., 66.

agree with and pay the owner thereof all damages that may be caused to the lands and property of said owner by the condemnation of said real estate and property, and by the construction of such road. (P. D., 4922.)

*Amended
Arts
the next
page*
ART. 4182. **Continued—Mode of Condemnation.**—If such company and said owner cannot agree upon the damages, it shall be the duty of said company to state in writing the real estate and property sought to be condemned, the object for which the same is sought to be condemned, the name of the owner thereof and his residence, if known, and file the same with the county judge of the county in which such property is situated. (P. D., 4922.)

ART. 4183. **Continued—Board of Three Freeholders to assess Damages.**—Upon the filing of such statement the county judge shall forthwith, either in term time or in vacation, appoint three disinterested freeholders of said county as special commissioners to assess said damages, giving preference to those that may be agreed on between said corporation and said owner. (Ib.) (a)

ART. 4184. **Continued—Freeholders to be Sworn.**—The said commissioners shall be sworn by the county judge, or by any officer authorized by law to administer oaths, to assess said damages fairly and impartially and in accordance with law. (Ib.)

ART. 4185. **Continued—Board to appoint a Day and Place of Hearing.**—Said commissioner shall, without delay, appoint a day and place for hearing said parties, and the day appointed shall be the earliest practicable day, and the place selected for such hearing shall be as near as practicable to the property in controversy, or at the county seat of the county in which the property is situated. (Ib.)

ART. 4186. **Continued—Notice of Hearing to Parties.**—The commissioners shall issue a notice in writing to each of the parties, notifying them of the time and place selected for the hearing. (Ib.)

ART. 4187. **Continued—Service of Notice of Hearing.**—Said notice shall be served upon said parties at least five days before the day of hearing, exclusive of the day of service, and shall be served by delivering a copy of the same to the party, his agent or attorney, and may be served by any person competent to testify.

ART. 4188. **Continued—Return of Notice of Hearing.**—

(a) The charter of the Houston Tap and Brazoria Railway Company, passed in 1856, provided for the appointment, by the district court, of appraisers to determine the compensation due to owners of land taken by the company for its road, such appraisalment to be reported to the court, and if confirmed, to be made a judgment thereof. This provision is not in conflict with the constitutional guarantee of trial by jury, or other constitutional provisions. *Houston, etc. R. Co. vs. Melburn*, 34 Tex., 224, citing with approval *Railway Co. vs. Ferris*, 26 Tex., 588.

S. B. No. 165.]

CHAPTER 56.

An Act to amend articles 4182 and 4190 of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That article 4182 of the Revised Civil Statutes of the State of Texas be so amended as hereafter to read as follows:

ARTICLE 4182. If such company and said owner can not agree upon the damages, it shall be the duty of said company to state in writing the real estate and property sought to be condemned, the object for which the same is sought to be condemned, the name of the owner thereof, and his residence if known, and file the same with the county judge of the county in which such property or a part thereof is situated; provided, if the owner resides in either county in which a portion of the land is situated, the same shall be filed in the county of his residence.

SECTION 2. That article 4190 be so amended as to read as follows:

ARTICLE 4190. When the property in controversy belongs to a non-resident of this State or to an unknown person, or to a person whose residence is unknown or who secretes himself so that the process of law cannot be served upon him, such notice may be served upon such owner by publication in the same manner as is provided for service of citation in article 1235 of the Revised Civil Statutes.

Approved March 26th, 1885.

S. B. No. 235.]

CHAPTER 55.

An Act to authorize the several county commissioners' courts of the State of Texas to provide for more than four terms of the county court annually for the transaction of civil, criminal and probate business and fix the times at which all the terms of said courts may be held.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the county commissioners' courts of the several counties in this State may at a regular term thereof by an order entered upon the records of said courts provide for more terms of the county court for the transaction of civil, criminal and probate business and fix the times at which each of the four terms required by the Constitution and the terms exceeding four, if any, shall be held not to exceed six annually, and may fix the length of said terms, provided that when the commissioners' court shall have fixed the number of terms of the county court by an order entered of record said court shall not change the number of terms of the county court for one year from the date of the entry of the original order fixing the terms of the county court.

SECTION 2. That the action of the several county commissioners' courts of this State, stipulating the number of terms of the county court for the transaction of civil, criminal and probate business for their respective counties and fixing the times for holding of all the terms of said county courts, had under and in accordance with chapter twenty-three of the general laws of the State of Texas passed at the special session of the Eighteenth Legislature held at Austin, Texas, in the year 1875, be and the same shall be confirmed and the same shall have full force and effect.

An Act to confer upon certain county courts whose civil jurisdiction has been heretofore, or may hereafter be diminished, jurisdiction in all matters of eminent domain.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all county courts whose civil jurisdiction has been heretofore, or may hereafter be diminished by law, to such extent as to no longer be able to exercise jurisdiction in matters of eminent domain shall, in addition to the powers and jurisdiction now lawfully exercised by them, be clothed with full jurisdiction in and over all matters of eminent domain over which the county courts have jurisdiction by the general laws of this State.

SECTION 2. Whereas the time is exceedingly short which remains to this session, and there is a vast amount of business pending, there is thereby created an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is suspended, and whereas the immediate operation of the provisions of this act will be highly beneficial to Panola and perhaps other counties whose jurisdiction was diminished by the Sixteenth Legislature, there is thereby created an emergency, and a public necessity that this act take effect from and after its passage, and it is so enacted.

I do hereby certify that the within S. B. No. 278 originated in the Senate and passed the same March 25, 1885, by vote of yeas 21, nays none.

WM. NEAL RAMEY,
Secretary of the Senate.

I do hereby certify that the within S. B. No. 278 passed the House March 28, 1885, by vote of yeas 73, nays 2.

A. D. SADLER,
Chief Clerk House of Representatives.

Approved March 31st, 1885.

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SECTION 4. The fourth judicial district shall be composed of the counties of Rusk, Harrison, Panola and Shelby, and the district courts shall be held therein as follows:

In the county of Rusk on the first Mondays in January and July and may continue in session six weeks.

In the county of Harrison on the sixth Monday after the first Mondays in January and July, and may continue in session eight weeks.

In the county of Panola on the fourteenth Monday after the first Mondays in January and July and may continue in session four weeks.

In the county of Shelby on the eighteenth Monday after the first Mondays in January and July and may continue in session three weeks.

SECTION 2. All writs and process returnable to the district courts as heretofore fixed in the counties affected by this act, and all such writs and process that may hereafter be issued before this act shall take effect and made returnable to the terms of said district courts as now fixed by law, shall be as valid and binding as if no change had been made.

SECTION 3. All laws and parts of laws in conflict with the provisions of this act be, and they are hereby repealed.

Approved March 31st, 1885.

S. S. B. No. 10.]

CHAPTER 82.

An Act to amend article 4 title 2 of the Revised Statutes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That article 4, title 2, of the Revised Civil Statutes of the State of Texas, be amended, so as to hereafter read as follows:

ARTICLE 4. All oaths, affidavits or affirmations necessary, or required by law, may be administered, and a certificate of the fact given, by any judge or clerk of a court of record, or by any notary public within this State.

SECTION 2. The fact that no general authority is invested in the judicial officers of the State to administer oaths, creates

The person making such service shall return the original notice to said commissioners, or any one of them, on or before the day set for the hearing, with his return in writing thereon stating how and when the same was served.

ART. 4189. Continued—Notice of Hearing served on Guardian, Executor, etc.—When the property in controversy is the property of the estate of a deceased person or of a minor, and such estate has a legal representative or such minor has a guardian, the notice shall be served upon such legal representative or guardian. (Ib.)

ART. 4190. Continued—Service of Notice of Hearing by Publication.—When the property in controversy belongs to a non-resident of this State, or to an unknown person, or to a person whose residence is unknown, such notice may be served upon such owner by publication in the same manner as is provided for service of citation by publication in civil suits. (P. D., 4922.)

ART. 4191. Continued—Proceedings of the Board.—When service of notice has been perfected, the commissioners shall, at the time and place appointed, or at any other time and place to which said hearing has been adjourned, proceed to fully hear said parties; but if upon the day set for the hearing the service of notice has not been perfected, the said hearing shall be postponed from time to time until such service has been perfected.

ART. 4192. Continued—Powers of the Board.—Said commissioners for the purpose mentioned in this chapter shall have power to compel the attendance of witnesses and the production of testimony, and to administer oaths, and punish for contempt as fully as is provided by law for the district or county court.

ART. 4193. Continued—Rule of Damages.—Said commissioners shall hear evidence as to the value of the property sought to be condemned, and as to the damages which will be sustained by the owner thereof by reason of such condemnation, and as to the benefits that will result to the remainder of such property belonging to such owner, if any, by the construction and operation of such railroad, and shall according to this rule assess the actual damage that will accrue to such owner by said condemnation.

ART. 4194. Continued.—The Same.—When the whole of a person's real estate is condemned, the damages to which he shall be entitled shall be the market value thereof in the market in which the same is located.

ART. 4195. Continued.—The Same.—When only a portion of

a person's real estate is condemned, the commissioners shall estimate the injuries sustained and the benefits received thereby by the owner as to the remaining portion of such real estate; whether such remaining portion is increased or diminished in value by such condemnation, and the extent of such increase or diminution, and shall assess the damages accordingly.

ART. 4196. **Continued.—The Same.**—In estimating either the injuries or the benefits, as provided in the preceding article, those injuries or benefits which the owner of such real estate sustains or receives in common with the community generally, and which are not peculiar to him and connected with his ownership, use and enjoyment of the particular parcel of land, shall be altogether excluded from such estimate.

ART. 4197. **Continued.—Finding of the Board filed with County Judge.**—When said commissioners shall have assessed the damages, they shall reduce their decision to writing, stating therein the amount of damages due to the owner of such real estate, if any be found to be due, and shall date the same and sign it, and shall file said assessment, together with all other papers connected with the case, with the county judge without delay.

ART. 4198. **Continued—Vacancies upon the Board, how filled**—Should the said commissioners, or either of them, from any cause be unable or fail to act as such, the county judge may at any time appoint another commissioner or commissioners to supply the place or places of those who are unable or who fail to act.

ART. 4199. **Continued—Pay of Commissioners.**—Commissioners appointed under this chapter shall be entitled to receive for services three dollars each for every day they may be engaged in the performance of their duties as such commissioners, and they may withhold their decision until their said fees are paid to them.

ART. 4200. **Continued—Costs of Notice, how paid.**—The railroad company seeking to condemn property shall defray all expenses of serving notice upon the owner of such property, but shall be entitled to recover said expenses from such owner in case it shall be decided that said owner shall pay the costs of the proceeding.

ART. 4201. **Continued—Costs of Proceedings adjudged against either Party.**—The commissioners may adjudge the costs against either party, and shall make out a statement in writing of all the costs which may have accrued before them, and shall state therein against which party the said costs have been adjudged, and shall sign the same and deliver it, with the other papers of the cause, to the county judge.

Act of 1889 21st Leg. ch. 22 P 18 Adds Article 4205a
permitting condemnation or Cross Bill when
sued for possession of lands.

ART. 4202. Continued—Objections to Answer heard by County Judge.—If either party be dissatisfied with the decision of such commissioners he may, within ten days after the same has been filed with the county judge, file his opposition thereto in writing, setting forth the particular cause or causes of his objection, and thereupon the adverse party shall be cited, and said cause shall be tried and determined as in other civil causes in said court. (P. D., 4922.)

ART. 4203. Continued—Award Final if Objections not filed in Ten Days.—If no objections are filed to such decision within the time prescribed in the preceding article, the county judge shall cause the said decision to be recorded in the minutes of his court, and shall make the same the judgment of said court, and may issue the necessary process to enforce the same.

ART. 4204. Continued—Costs of Proceedings of Board, how ascertained.—The costs of the proceedings before the commissioners and in the court shall be determined as follows, to wit: If the said commissioners shall award greater damages than the said company offered to pay before the proceedings commenced, or if objections are filed to the decision in the county court under the provisions of this chapter, and the judgment of the court is for a greater sum than the amount awarded by the commissioners, then the said company shall pay all costs; but if the amount awarded by said commissioners as damages, or if the judgment of the county court shall be for the same or less amount of damages than the amount offered by the company before proceedings was commenced, then the costs shall be paid by the owner of the property. (Ib.)

ART. 4205. Continued—Damages to be paid before taking condemned Property.—In no case shall such corporation be entitled to enter upon and take the property condemned without first having paid whatever amount of damages and costs may have been awarded or adjudged against it. (Const., art. 1, § 17.)

ART. 4206. Right of Way an Easement only—Not lost by Forfeiture of Charter.—The right of way secured or to be secured to any railroad company in this State, in the manner provided by law, shall not be so construed as to include the fee simple estate in lands, either public or private, nor shall the same be lost by the forfeiture or expiration of the charter, but shall remain subject to an extension of the charter or the grant of a new charter over the same way without a new condemnation. (Act, Feb. 7, 1861, p. 12.)

ART. 4207. Right of way reserved out of Lands granted to Railroad Companies.—The right of way is hereby reserved to any railroad companies incorporated by the laws of this State, or that

may hereafter be so incorporated, to the extent of one hundred feet on each side of said road, or roads that cross over, or extend through any lands granted, or that may be hereafter granted to any railroad company by the Legislature, with the right to take from the lands so granted such stone, timber and earth as such road may need in the construction of its line of road. (P. D., 7389a.)

ART. 4208. Judgment of the Court vests Right of Way. Whenever the right of way has been acquired as hereinbefore provided, the judgment of the court shall vest such right in the company so acquiring the same.

CHAPTER 9.

OF OTHER RIGHTS AND POWERS OF RAILROAD CORPORATIONS.

ARTICLE
4209. To have succession—Sue and be sued.
4210. To have a seal.
4211. To purchase and hold real estate, etc.
4212. To take grants of land, etc., in aid of construction.
4213. Lands to be alienated, when.
4214. Continued—Exception.
4215. To carry persons and property.
4216. To erect only necessary buildings, etc.
4217. To regulate time and rate of transportation, subject, etc.

ARTICLE
4218. Continued
4219. To borrow money and issue bonds secured by mortgage.
4220. Continued—Mortgage to be authorized by stockholders, how.
4221. Continued—Resolution of stockholders to be filed with Secretary of State.
4222. Bonds may be exchanged for stock.

ART. 4209. To have Succession—Sue and be sued.—All railroad corporations shall have succession, and in their corporate name may sue and be sued, plead and be impleaded. (Act, Aug. 15, 1876, p. 142, § 4.)

ART. 4210. To have a Seal.—Any corporation may have and use a seal, which it may alter at pleasure. (Ib.) (a)

ART. 4211. To purchase and hold Real Estate.—Any railroad company shall have the right to purchase, hold and use all such real estate and other property as may be necessary for the construction and use of its railway and the stations and other accommodations necessary to accomplish the objects of its incorporation, and to convey the same when no longer required for the use of such railway. (Ib., p. 143, §§ 6, 23.)

ART. 4212. To take Grants of Land, etc., in Aid of Construction.—Such corporation shall have the right to take, hold and

(a) Distinction between use of seal by trading and by municipal corporations. Relaxation in the rule as to the former does not apply to the latter. San Antonio vs. Gould, 34 Tex., 50.

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use such voluntary grants of real estate and other property as shall be made to it in aid of the construction and use of its railway, and to convey the same when no longer required for the uses of such railway, in any manner not incompatible with the terms of the original grant. (Ib.) (a)

ART. 4213. Lands to be alienated, when.—All lands purchased by or donated to a railroad corporation, except such as are used for depot purposes, reservations for the establishment of machine shops, turn-outs and switches, shall be alienated and disposed of by said company in the same manner and time as is required where lands have been received from the State. (Ib.) (b)

ART. 4214. Continued—Exception.—The three preceding articles shall apply to such corporations as are prohibited by their acts of incorporation from purchasing or receiving donations of land, as well as to those corporations that are not so prohibited. (Ib. p. 143, § 6.)

ART. 4215. To Carry Persons and Property.—Such corpo-

(a) If the construction of a road within some certain and reasonable time was the essential inducement to the making of a contract to donate lands to the company, or to subscribe to the stock therein—if that was the real intention of the contract, and that was the obligation which it imposed on the company—the extension of time for building the road by the Legislature could not have the effect to discharge the company from that obligation. *Henderson vs. The Railroad Co.*, 17 Tex., 560. The cost of the construction of a road and the time within which it will be completed to a given point are not matters about which every one is presumed to be equally capable of judging, in such sense as would relieve the contract of the company from the ordinary effects of misrepresentations as to those particulars where they were the essential inducements to the contract, *Ib.* A promise to pay a railroad company a sum of money when it shall have constructed its road, between certain points named, and kept the same in operation for the period of one year, conveying passengers and freight between said points, is for a valuable consideration and binding. *Rose vs. San Antonio, etc.*, R. Co., 31 Tex., 49. A deed conveying right of way to a railroad company, and accepted by it, which recites that it is made in consideration of one dollar in hand paid by the company, and the “further consideration that the said company will locate its railroad on my lands in Marion county,” is not only a receipt for purchase money paid, but a contract between the parties that the grantor had conveyed the right of way, and the company would construct its road over the same. *East Line, etc.*, R. Co., vs. *Garrett*, 52 Tex., 133. See in connection with this case, *Galveston, etc.*, vs. *Pfeuffer*, 56 Tex., 66. Measure of damages for breach of contract granting right of way to company, on condition that adjoining land be protected from overflow. *Sabine, etc.*, R. Co., vs. *Joachimi*, 58 Tex., 456. Parties who, by deed, convey the right of way to a railroad, are conclusively presumed to have assented to bear all loss and take all profit which may incidentally result from the location and construction of the road in proper manner over that roadway. *Houston, etc.*, R. Co., vs. *Adams*, 58 Tex., 476.

(b) The agent of a railway company acting under a general power to procure a right of way for the road, has not, as incidental to his authority, the right to locate depots along the line. His agreement to locate a depot at a particular point as the consideration of a deed to the company of a certain right of way, will not be binding on the company. If the location of the depot upon or near the land of the grantor is not mentioned in the deed as a part of the consideration, parol evidence will not be admitted in a suit against the company that such location of the depot was in fact a part of the consideration for the deed. *Houston, etc.*, R. Co., vs. *McKinney*, 55 Tex., 176; *Galveston, etc.*, R. Co., vs. *Pfeuffer* 56 Tex., 66.

rations shall have the right to receive and convey persons and property on its railway by the power and force of steam or by any mechanical power. (Ib., p. 147, § 23.) (a)

ART. 4216. To Erect only Necessary Buildings, etc.—Such corporation shall have the right to erect and maintain all necessary and convenient buildings and stations, fixtures and machinery for the accommodation and use of passengers, freights and business interests, or which may be necessary for the construction or operation of its railway; but no railway company shall have the power, either by its own employes or other persons, to construct any buildings along the line of their railroad to be occupied by their employes or others, except at their respective depot stations and section houses, and at such places only such buildings as may be necessary for the transaction of their legitimate business operations, and for shelter for their employes, nor shall they use, occupy or cultivate any part of the right of way over which their respective roads may pass, with the exception aforesaid, for any other purpose than the construction and keeping in repair their respective railways. (Ib.)

ART. 4217. To Regulate Time and Rate of Transportation, Subject, etc.—Such corporation shall have the right to regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, subject, nevertheless, to the provisions of this or any other law that may hereafter be enacted. (Ib.) (b)

(a) The greatest degree of care and prudence is required of railway companies as carriers of passengers. What will constitute contributory negligence on the part of a passenger. *Houston, etc., R. Co., vs. Gorbett*, 49 Tex., 573. Petition need not negative the existence of contributory negligence, unless the facts unexplained *prima facie* establish a case of negligence on the part of the plaintiff. *Texas and Pacific Ry. Co. vs. Murphy*, 46 Tex., 356. Measure of damages for unlawful expulsion of a passenger. *Hays vs. Houston, etc., R. Co.*, 46 Tex., 272; exemplary damages in such a case, *Ib.*; a verdict of \$2,500 actual damages sustained. *Texas and Pacific R. Co., vs. Casey*, 52 Tex., 112. No special damage from inconvenience, disappointment or loss of time being proven, a verdict of \$750 for the expulsion of a passenger was held to be excessive. *Houston, etc., R. Co., vs. Ford*, 53 Tex., 364. The suffering or permanent injury caused by erysipelas, resulting proximately from personal injuries caused by the negligence of a railway company, constitutes an element in estimating damages. This rule is not affected by the fact that such a disease would not ordinarily result from the injury suffered. *Houston, etc., R. Co., vs. Leslie*, 57 Tex., 83. Facts held sufficient to sustain a verdict of \$1,500 damages against a railway company for injury to a passenger, producing a more aggravated condition of hernia than had before existed. *Houston, etc., R. Co. vs. Shafer*, 54 Tex., 641. In the case of a passenger injured through the negligence of a carrier, whereby a miscarriage is produced, the latter is liable for all immediate results of such injury. *Sawyer vs. Dulany*, 30 Tex., 479. Elements of damage in case of injury to passenger. A verdict of five thousand dollars for actual damages for personal injuries, upheld. *Houston etc., R. Co., vs. Boehm*, 57 Tex., 152. The amount of damages is peculiarly for the jury, and unless, in view of the evidence, the damages are so excessive and disproportioned to the injury alleged as to indicate that the verdict was the result of passion, prejudice or partiality, the judgment will not, on appeal, be set aside. *International, etc., R. Co., vs. Stewart*, 57 Tex., 166.

(b) A railroad company, although a common carrier, has the right to make reasonable regu-

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ART. 4218. Continued.—In all cases where any such corporation, to induce aid in its construction, either by donation or subscription to its capital stock, shall desire to fix the rates for any period of time for the transportation of passengers or property, such corporation may adopt a resolution fixing such rates and the time during which the same shall continue, and have such resolution recorded in the office of the recorder of deeds in the several counties through which said road runs or is proposed to be run, and during the time for which said rates are so fixed, the same shall in no case be amended by said corporation or its successors: *Provided*, that said rates shall not exceed the rates allowed by law. (Ib., 149, § 30.)

ART. 4219. To borrow Money and issue Bonds secured by Mortgage.—Such corporation shall have the right from time to time to borrow such sums of money as may be necessary for constructing, completing, improving or operating its railway, and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its corporate property and franchise to secure the payment of any debt contracted by such corporation for the purposes aforesaid. (Ib., p. 147, § 23.) (a)

ART. 4220. Continued—Mortgage to be Authorized by Stockholders, how.—No mortgage by such corporation shall be

lations for conducting its business. *Houston, etc., R. Co. vs. Moore*, 49 Tex., 31. A regulation excluding passengers from freight trains is reasonable. Habitual disregard of this regulation will vitiate it. Burden of proof in such cases, *Ib.* Death from riding upon freight train contrary to regulations of the company confers no right of action. *Houston, etc., R. Co., vs. Moore*, 49 Tex., 31. It is a reasonable regulation that passengers shall not stop off a train and complete their trip without obtaining "stop over checks." *Texas and Pacific R. Co., vs. Breen*, 50 Tex., 43. The individual check of a conductor is not the equivalent of a "stop over check," *Ib.* Where the ticket on being presented was detached from the stub and had printed on it, the words, "not good if detached," the conductor acted properly in rejecting it. *Houston, etc., R. Co., vs. Ford*, 53 Tex., 364. By his ticket the passenger acquires the right only to be carried according to the custom of the road. He has the right to be transported to the place which his ticket calls for on any train that usually carries passengers to that place, but he cannot insist on being carried out of the customary course of the road. *Beauchamp vs. International R. Co.* 56 Tex., 239. The right to eject a passenger at a regular stopping place for failure to pay fare or produce a good ticket cannot be questioned. *Breen vs. Texas and Pacific R. Co.*, 50 Tex., 43. The words "any usual stopping place," as used in art. 4892 of *Paschal's Digest*, defined, "A place at which a train is stopped for wood or water only, is not "a usual stopping place." *Texas and Pacific R. Co. vs. Casey*, 52 Tex., 112. A passenger voluntarily leaving his seat in the passenger coach to continue his ride in the baggage car, who receives an injury in the wreck of the train which he would have avoided had he remained in the passenger coach, is guilty of contributory negligence, and cannot recover damages on account of such injury. *Houston, etc., R. Co. vs. Clemmons*, 55 Tex., 88. Authority of to make arrests. Liability of company for wrongful arrest of a passenger. *Galveston, etc., R. Co., vs. Donahoe*, 56 Tex., 162.

(a) The Constitution of 1866 did not prevent the franchise of a railway company from being mortgaged and sold under a degree of foreclosure or by a trustee empowered to sell. *Houston, etc., R. Co., vs. Shirley*, 54 Tex., 125. It is proper that the sheriff be named by the decrees authorized to enforce it by making sale of road, road-bed and franchise of a company against which a decree of foreclosure is rendered. *Waco Tap R. Co. vs. Shirley*, 45 Tex., 355.

valid unless authorized by a resolution adopted by a vote of two-thirds of all the stock of such company, after notice and in a manner provided in this title for increasing the capital stock of such corporations. (Ib.)

ART. 4221. Continued—Resolution of Stockholders to be filed with Secretary of State.—When any such resolution has been adopted in the manner provided by the preceding article, it shall be recorded in the office of the Secretary of State, and no such resolution shall take effect until so recorded. (Ib.)

ART. 4222. Bonds may be exchanged for Stock.—The directors shall be empowered, in pursuance of any such resolution, to confer on any holder of any bond, for money so borrowed as aforesaid, the right to convert the principal of such bond into the stock of such corporation at any time not exceeding ten years after the date of such bond, under such regulations as may be provided in the by-laws of such corporation. (Ib.)

CHAPTER 10.

OF RESTRICTIONS UPON, DUTIES AND LIABILITIES OF RAILROAD CORPORATIONS

ARTICLE
 4223. Road shall pass through county seat, when.
 4224. Surveys of twenty-five miles—Location of depot.
 4225. Continued.
 4226. Time tables—Regular trains—Duty to receive and transport passengers.
 4227. Damages for refusal to transport.
 4228. Employee badge.
 4229. Continued—No right to act without.
 4230. Baggage to be checked—Penalty for refusal.
 4231. Railroad crossings—Signs—Penalty for refusal to erect.
 4232. Railroad crossings—Bell to be rung—Penalty.
 4233. Making up mixed train—Passenger coach in the rear—Penalty.
 4234. Brakes—Brakeman at end of train.
 4235. Must carry U. S. Mails—Compensation, how fixed.
 4236. Suitable depot buildings to be erected—Damages for failure.
 4237. Fees for storage, when allowed.
 4238. Depots of connecting lines—Duty to receive and deliver freight, etc.
 4239. Switch cars to be furnished—Penalty.
 4240. Cattle-guards.
 4241. Continued.
 4242. Continued.

ARTICLE
 4243. Continued—Owner of adjoining land may construct, when.
 4244. Continued—Damages for failure to construct.
 4245. Killing stock—Road to be fenced.
 4246. Competing lines not to be consolidated, leased or purchased—No officers in common.
 4247. Continued.
 4248. Profile of road filed in general land and county offices.
 4249. Annual report—Contents of.
 4250. Continued—Penalty for neglect to make.
 4251. Connecting lines—Must receive passengers, freight and cars of each other—Compensation, how fixed.
 4252. Continued—Cars to be hauled how often.
 4253. Continued—Penalty for refusal to haul.
 4254. Continued—Terms of hauling to be advertised—Penalty for refusal to carry on.
 4255. Continued—State engineer to compel regular connections—Powers in case of refusal.
 4256. Maximum rate of passenger fare.
 4257. Maximum rate of freight—Discrimination.
 4258. Penalty for violation of two preceding articles.

ART. 4223. Road shall pass through County Seat, when.
 No railroad hereafter constructed in this State shall pass within a dis-

See Railroad Commission Act - Laws of 1891
22^d Leg Ch 57 P 55

See Act in regard to presentation & collection
of claims for personal services or damages or
overcharges or for stock killed or injured
Laws 1889 Ch. 107 P 131.

The National Convention of the
 American People
 held at
 New York
 on the
 15th of
 July
 1852

tance of three miles of any county seat without passing through the same and establishing and maintaining a depot therein, unless prevented by natural obstacles, such as streams, hills or mountains: *Provided*, Such town or its citizens shall grant the right of way through its limits and sufficient ground for ordinary depot purposes. (Const., art. 10, § 9.) (a)

ART. 4224. Surveys of Twenty-Five Miles—Location of Depots.—Every railroad company organized under this title shall make an actual survey of its route or line for a distance of twenty-five miles on its projected route, and shall designate the depot grounds along said first twenty-five miles before the road-bed is begun, and no railway company shall change its route or depot grounds after the same have been so designated. (Act, Aug. 15, 1876, p. 142, § 5.)

ART. 4225. Continued.—Every railroad company organized under this title shall, on the completion of the first twenty-five miles of its road-bed, make a survey of the next twenty-five miles, and of each subsequent twenty-five miles as the preceding twenty-five miles shall be completed, and every subsequent twenty-five miles shall be controlled by the provisions applicable to the first twenty-five miles of the road. (Ib.)

ART. 4226. Time Tables—Regular Trains—Duty to receive and transport Passengers.—Every such corporation shall start and run their cars for the transportation of passengers and property at regular times, to be fixed by public notice, (b) and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or be offered for transportation at the place of starting, and the junction of other railroads, and at sidings and stopping places established for receiving and discharging way passengers and freights, (c)

(a) A railway company obligated itself to locate its depot at the nearest practicable point within one mile of a certain court-house. The word *practicable* as used in this contract was held to be not synonymous with *possible*. The company was bound only to locate its depot at the nearest point within one mile of the court-house, at which it could be done at a reasonable and ordinary cost, with reference to all the circumstances under which the location was to be made, and in view of the objects and purposes inducing the contract. *Wooters vs. International, etc., R. Co.*, 54 Tex., 294.

(b) The time table of a railway company, which announces on its face that it is for the government and information of employes only, and in terms reserves to the company the right to vary therefrom at pleasure, is not admissible in evidence in a suit for damages against the company for not stopping the train at a place mentioned in the time table, but at which no station was ever really established. *Beauchamp vs. International R. Co.*, 56 Tex., 239.

(c) Duty of railway companies to provide reasonable accommodation at their stations for passengers, and to keep platforms and surroundings of stations in safe condition. *Stewart vs. International, etc., R. Co.*, 53 Tex., 289. A petition held sufficient which alleged that the company neglected to provide "proper lights and accommodations for passengers at its freight depot," Ib.

and shall take, transport and discharge such passengers and property at, from and to such places on the due payment of the tolls, freight or fare legally authorized therefor. (P. D., 4893.) (a)

ART. 4227. Damages for Refusal to transport.—In case of refusal by such corporation, or their agents, so to take and transport any passenger or property, or to deliver the same, or either of them, at the regular or appointed time, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit. (P. D., 4894.)

ART. 4228. Employes' Badge.—Every conductor, baggage master, engineer, brakeman or other servant of any such railroad corporation, employed in a passenger train or at stations for passengers, shall wear upon his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. (P. D., 4891.)

ART. 4229. Continued—No Right to act without.—No conductor or collector without such badge shall demand or be entitled to receive from any passenger any fare, toll, ticket, or exercise any of the powers of his office, and no other of the said officers or servants, without such badge, shall have any authority to meddle or interfere with the passengers, their baggage or property. (Ib.)

ART. 4230. Baggage to be checked—Penalty for Refusal. A check shall be affixed to every package or parcel of baggage when taken for transportation by the agent or servant of such corporation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in an action of debt; and, further, no fare or toll shall be collected or received from such passenger; and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train. (P. D., 4895.)

ART. 4231. Railroad Crossings—Signs—Penalty for Refusal to erect.—Such corporations shall erect at all points where its road shall cross any first or second class public road, at a sufficient

(a) Chapter 95, acts 1879, provides as follows: "Any railroad or railway company in this State, whose line of road does now or may hereafter terminate at the boundary line of this State, shall stop its trains at least thirty minutes at said line, or at their depot established thereat: *Provided*, Said company have a depot within three hundred yards of said line." And a fine of not less than fifty nor more than two hundred dollars is prescribed for any violations of the law by conductors, engineers or agents in charge of trains. Breach of a statutory duty in the operation of trains amounts to negligence *per se*. *Texas and Pacific Ry. Co. vs. Murphy*, 46 Tex., 356. Failure of the company to stop its train five minutes at the station as required by law. (*Paschal's Dig. art. 6532*), will not justify a passenger in attempting to get on or off the cars while in motion. *Galveston, etc., R. Co., vs. LeGierse*, 51 Tex., 189; *Houston, etc., R. Co., vs. Leslie*, 57 Tex., 33.

RAILROADS.

Sept. 191

SEC. 1. Amends Article 4227, Revised Statutes, concerning refusal or delay in transportation.

CHAP. 127.—[H. B. No. 94.] An Act to amend Article 4227, Chapter 10, Title 84, of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 4227, Chapter 10, Title 84, of the Revised Civil Statutes, be so amended as hereafter to read as follows:

Article 4227. In case of the refusal by such corporation or their agents so to take and transport any passenger or property, or to deliver the same, or either of them, at the regular or appointed time, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit, and in case of the transportation of property, shall, in addition, pay to such party special damages at the rate of five per cent per month upon the value of the same at the time of shipment, for the negligent detention thereof beyond the time reasonably necessary for its transportation: *Provided*, That in all suits against such corporation under this section the burden of proof shall be on such corporations to show that the delay was not negligent.

Approved, April 2, 1887.

and it is further provided that upon the filing by said Veal of the official oath and bond as herein provided for, his official acts as notary public shall be and are hereby validated and made legal from the date of his appointment.

SEC. 2. Whereas the legality and validity of many titles to property and other matters of public and private interest are involved in the official acts of the said Wm. Veal as a notary public for said county of Stephens; and whereas the present session is near its close; therefore an emergency exists, and an imperative public necessity is created that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate, and passed the same by a vote of 23 yeas, no nays; and passed the House by a vote of 79 yeas, 6 nays.]

Approved, April 2, 1887.

LEGALIZING ORDINANCES OF CITIES AND TOWNS.

SEC.

1. Validating ordinances not published according to Article 486. Revised Statutes—Evidence of

SEC.

2. Emergency clause.

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elevation from such public road to admit of the 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. (P. D., 4890.)

ART. 4232. Railroad Crossings—Bell to be rung—Penalty.—A bell of at least thirty pounds weight, or a steam-whistle, shall be placed on each locomotive engine, and the whistle shall be blown, or the bell rung, at the distance of at least eighty rods from the place where the railroad shall cross any public road or street, and that such bell shall be kept ringing until it shall have crossed such public road or stopped, and each locomotive engine approaching a place where two lines of railway cross each other, shall, before reaching such railroad crossing, be brought to a full stop; and any engineer having charge of such engine, and neglecting to comply with any of the provisions of this act, shall be fined in any sum not less than five nor more than one hundred dollars for such neglect, and the corporation operating such railroad shall be liable for all damages which shall be sustained by any person by reason of any such neglect. (P. D., 4897, as amended by Laws 1883, Regular Session, p. 28.) (a)

(a) The failure of the servants of the company to ring the bell or blow the whistle, as required by law, does not of itself render the company liable for damages to a person injured at the highway crossing. The true rule is that the failure to ring the bell or blow the whistle is negligence, and if by reason thereof, the deceased was not aware of the approach of the train, and this negligence was the proximate cause of the injury, then the defendant is liable. *Houston, etc., R. Co. vs. Nixon*, 52 Tex., 19. The court was asked to instruct the jury that the failure of one about to cross a railroad track to look each way for an approaching engine, is negligence; also, if the train was running at such a rate of speed as would have enabled deceased to have seen and avoided it, then his unsuccessful attempt to do so in front of it was negligence. It was held that these charges took the question of contributory negligence from the jury, and were rightfully refused. *Houston, etc., R. Co. vs. Waller*, 56 Tex., 331; *Texas & Pacific R. Co. vs. Chapman*, 57 Tex., 75. The sobriety or intoxication of a pedestrian injured at a highway crossing is a proper subject for the consideration of a jury in determining whether he exercised due care or not. *Houston, etc., R. Co. vs. Waller*, 56 Tex., 331. The law presumes that a person walking upon a railroad track will leave the same in time to prevent injury from an approaching train, of which he has knowledge or should have, by the use of the senses of hearing or seeing, and the managers of the train may act on this presumption. *Houston, etc., R. Co. vs. Smith*, 52 Tex., 178. One lying drunk on a railroad track who is run over and injured by a train is guilty of contributory negligence, which constitutes a bar to his action for damages, unless his injuries were wantonly or willfully inflicted. Duty of railway company to guard against injuring a trespasser on its track, who, from a providential cause has become insensible while there and is lying in open view. The doctrine that a railway company owes no duty to one unlawfully on its track, and is not liable in damages for injury to such a one unless wantonly inflicted, discussed and disapproved. *Houston, etc., R. Co. vs. Sympkins*, 54 Tex., 615. Liability for injury to a child trespassing upon the track, and the question of imputed negligence, examined. *Texas & Pacific Ry. Co. vs. O'Donnell*, 58 Tex., 27.

ART. 4233. Making up mixed Train—Passenger Coach in the Rear—Penalty.—In forming a passenger train, baggage or freight or merchandise or lumber cars shall not be placed in rear of passenger cars; and if they or any of them, shall be so placed, and any accident happen to life or limb, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor and engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly. (P. D., 4896.)

ART. 4234. Brakes—Brakeman at End of Train.—Every such company shall have a good and sufficient brake upon the hindmost car on all trains transporting passengers and merchandise, and also permanently stationed there a trusty and faithful brakeman, under a penalty of not exceeding one hundred dollars for each offense, to be recovered by suit in the name of the State. (P. D., 4907.)

ART. 4235. Must Carry U. S. Mail—Compensation, how fixed.—Every such corporation shall, when appled to by the Postmaster-General, convey the mail of the United States on its road or roads; and in case such corporation shall not agree as to the rate of transportation therefor, and as to the time, rate or speed, manner and condition of conveying the same, it shall be lawful for the Governor to appoint three commissioners, who, or a majority of them, after fifteen days' notice, in writing, of the time and place of meeting, to the corporation, shall determine and fix the prices, terms and condition aforesaid; but such price shall not be less for conveying such mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car; and in case the Postmaster-General shall require the mail to be carried at other hours, or at a higher speed than the passenger train be run at, the coporation shall furnish an extra train for the mail and be allowed an extra compensation for the expenses and wear and tear thereof and for the services, to be fixed as aforesaid. (P. D., 4903.)

ART. 4236. Suitable Depot Buildings to be erected—Damages for Failure.—Each and every railroad company is hereby required to erect at each and every depot, station or place established by such company for the reception and delivery of freight, suitable buildings or inclosures to protect produce, goods, wares and merchandise and freight of every description from damage by exposure to the weather, stock or otherwise, in default of which such railroad company shall be liable to the owner of such produce, goods, wares or merchandise for the amount of damages or loss sustained by reason of such im-

RAILROADS—RELATIONS WITH EXPRESS COMPANIES.

Sept. 195

SEC.

1. Railroad Companies shall furnish equal facilities and rates to express companies, etc.

SEC.

2. Liable in damages for failure to comply with this act, and are subject to *mandamus*.
3. Emergency clause.

CHAP. 123.—[S. B. No. 115.] An Act to compel all railroads operating in the State to furnish reasonable and equal facilities and accommodations to all corporations and persons engaged in express business, for transportation of themselves, agents, servants, merchandise, and other property.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That every railroad company operating a railroad within this State shall furnish reasonable and equal facilities and accommodations, and upon reasonable and equal rates, to all corporations and persons engaged in the express business, for the transportation of themselves, agents, servants, merchandise, and other property, and for the use of their cars, depots, buildings, and grounds, and for exchanges at points of junction with other roads.

SEC. 2. Any railroad company which shall fail to comply with the provisions hereof, shall be liable to the aggrieved party, in an action on the case, for damages, and such railway company, in addition to liability to said action for damages, shall be subject to a writ of *mandamus*, to be issued by any court of competent jurisdiction, to compel compliance with the provisions of section (1) one of this act, and the said writ of *mandamus* shall issue at the instance of any party or corporation aggrieved by a violation hereof, and any violation of said writ shall be punishable as a contempt.

SEC. 3. The near approach of the close of the present session rendering it impracticable to read this bill on three several days, creates an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved, April 2, 1887.

the same have been destroyed by fire, or have been rendered worthless by long use, to be evidenced by the certificate of the officer demanding to be resupplied with such report.

SEC. 2. The near approach of the close of the session creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved, April 2, 1887.

NOTARY PUBLIC—STEPHENS COUNTY.

SEC.

1. Validating acts of Hon. Wm. Veal as notary public.

SEC.

2. Emergency clause.

CHAP. 125.—[S. B. No. 68.] An Act to validate the official acts of Wm. Veal, Notary Public of Stephens County, Texas, and to permit him to file the bond and oath required by law of notaries public.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That whereas the official bond and oath of Wm. Veal, who was duly appointed and commissioned on the first day of June, 1885, as a notary public for Stephens County, Texas, by the Governor of said State, has been lost or mislaid, before being recorded by the county clerk of said Stephens County as required by law; that the said Wm. Veal may and he is hereby authorized to file with the county clerk of said Stephens County the bond and oath required of him by law under said appointment, which to all intents and purposes shall and is hereby declared to be as valid and binding as the original oath and bond of said Veal had the same been duly recorded;

Laws of 1889 Act 21 Leg. Ch. 108 P 132 authorize
 separate coaches for white & colored passengers
 & provide penalty against passenger refusing to
 occupy car so provided - Ann. P. 60 e.
 Laws 1891 - Act 22^d Leg. Ch. 41 P 44 require such
 separate coaches to be provided with penalties
 for violation (This Act on next page)

See Acts 1891 22^d Leg. Ch. 45 P 48 regulating Exp-
 Companies -

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ensuing term to be held in said county, under the provisions of this act, and such process is hereby validated; and all grand and petit juries drawn and selected under the law as it now exists, shall be considered as legally drawn and selected for the terms of Court as provided in this act.

SEC. 7. That all laws and parts of laws in conflict with any of the provisions of this act be, and the same are hereby repealed.

SEC. 8. Whereas the increase in the population of the Counties named in this act, and the inability of the District Judge of the 28th Judicial District, as now constituted, to transact all the business in the District Court of said Counties, creates an imperative public necessity and an emergency exists wherefore the constitutional rule requiring bills to be read on three several days, be suspended, and that this act take effect from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same by a vote of 82 yeas and no nays; and passed the Senate by a vote of 21 yeas and 2 nays.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 13th day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

AGRICULTURAL AND MECHANICAL COLLEGE AND PRAIRIE VIEW NORMAL SCHOOL.

Sec.

1. Apportions between said schools moneys received from the United States.

Sec.

2. L. S. Ross, President, etc., to receive money and give receipts.

3. Emergency clause.

CHAP. 40.—[S. B. No. 235.] An act to apportion between the Agricultural and Mechanical College and Prairie View State Normal School, the fund due Texas under an act of the 51st Congress of the United States, for the more complete endowment and maintenance of colleges established under an act of Congress approved July 2, 1862, and to designate a person to whom payments of said money shall be made.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That all moneys apportioned to the State of Texas under an act of the fifty first Congress of the United States, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of Agricultural and Mechanical Arts, established under the provisions of an act of Congress approved July 2, 1862," shall be apportioned between the Agricultural and Mechanical College and the Prairie View State Normal School on the following basis, to-wit: three fourths to the Agricultural and Mechanical College, and one fourth to the Prairie View State Normal School.

SEC. 2. L. S. Ross, President of the Agricultural and Mechanical College, or his successors in office are hereby authorized to receive and receipt for all moneys due and to become due to the Agricultural and Mechanical College and the Prairie View State Normal School, under the act of Congress aforesaid.

SEC. 3. The fact that the treasurer of the United States refuses to pay any moneys now due the State under the said act of Congress until the

legislature has apportioned said funds between the aforesaid institutions, creates an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the senate and passed the same by a vote of 25 yeas, and no nays; and passed the house by a vote of 80 yeas and no nays.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 14th day of March A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

RAILROADS—SEPARATE COACHES REQUIRED.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Railroads to provide separate coaches for white and negro passengers. 2. Term "negro" defined. 3. Each compartment deemed a separate coach; lettering on coach to show race for which it is set apart. 4. Penalty for failure to provide separate coaches; each trip a separate offense. 5. Passenger riding in coach not for his race is guilty of misdemeanor, when; penalty. 6. This act does not apply to nurses traveling in same coach with employers; does not apply to freight trains carrying passengers; does not prevent hauling of sleeping cars or chair cars for white or negro passengers separately. | <p>Sec.</p> <ol style="list-style-type: none"> 7. Law to be posted in conspicuous place in passenger depot and coach. 8. Does not apply to excursion train for either race. 9. Duty and authority of conductors. 10. Fines collected under this act go to available school fund; when prosecutions may be instituted. 11. Repealing clause. 12. Emergency clause. |
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CHAP. 41.—[S. B. No. 97.] An act to require railroad companies in this State to provide separate coaches for white and negro passengers, and to prohibit passengers from riding in coaches other than those set apart for their race, and to confer certain powers upon conductors and to provide penalties for the violation of this act.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That every railroad company, lessee, manager or receiver thereof, doing business in this state as common carriers of passengers for hire shall provide separate coaches for the accommodation of white and negro passengers, which separate coaches shall be equal in all points of comfort and convenience.

SEC. 2. That the term negro as used herein includes every person of African descent as defined by the statutes of this state.

SEC. 3. Each compartment of a coach divided by a good and substantial wooden partition with a door therein shall be deemed a separate coach within the meaning of this act, and each separate coach shall bear in some conspicuous place appropriate words in plain letters indicating the race for which it is set apart.

SEC. 4. Any railroad company, lessee, manager or receiver thereof which shall fail to provide its trains, carrying passengers, with separate coaches as above provided for, shall be liable for each and every such failure to a penalty not less than one hundred nor more than one thousand dollars to be recovered by suit in the name of the State in any court of competent jurisdiction. And each trip run with any such train without such separate coaches shall be deemed a separate offense.

SEC. 5. If any passenger upon a train provided with separate coaches

shall ride in any coach not designated for his race, after having been forbidden to do so by the conductor in charge of the train, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than twenty-five dollars.

SEC. 6. The provisions of this act shall not be so construed as to prohibit nurses from travelling in the same coach with employers or employes upon the train in discharge of their duties; nor shall it be construed to apply to such freight trains as may carry passengers in cabooses, neither shall it apply to street railway cars; provided, that nothing herein contained shall be construed to prevent railroad companies in this state from hauling sleeping cars or chair cars attached to their trains to be used exclusively by either white or negro passengers separately but not jointly.

SEC. 7. Every railroad company carrying passengers in this state shall keep this law posted in a conspicuous place in each passenger depot, and in each passenger coach, provided for in this act.

SEC. 8. The provisions of this act shall not apply to any excursion train run strictly as such for the benefit of either race.

SEC. 9. Conductors of passenger trains provided with separate coaches shall have the authority to refuse any passenger admittance to any coach in which he is not entitled to ride under the provisions of this act, and the conductor in charge of the train shall have the authority, and it shall be his duty to remove from a coach any passenger not entitled to ride therein under the provisions of this act. And upon his failure or refusal to do so, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five, and not more than twenty-five dollars.

SEC. 10. All fines collected under the provisions of this act shall go to the available common school fund of the county in which conviction is had. Prosecutions under the provisions of this act may be instituted in any court of competent jurisdiction in any county through or into which said railroad may be run or have an office.

SEC. 11. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 12. There being no adequate law on this subject creates an emergency and an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read on three several days and the same is hereby suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the nineteenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

JUDICIAL DISTRICT—THIRTIETH.

- Sec. 1. Counties composing Thirtieth district; terms of court.
2. Act takes effect from passage; repealing clause.
3. Emergency clause.

CHAP. 42.—[S. B. No. 269.] An Act to reorganize the thirtieth Judicial District and to fix the times for holding Courts therein.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the thirtieth Judicial District shall be composed of the counties of

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Young, Archer, Clay and Wichita, and terms of the District Court shall be held therein each year as follows:

In the county of Young on the fifth Mondays after the first Mondays in January and July and may continue in session three weeks.

In the county of Archer, on the eighth Mondays after the first Mondays in January and July and may continue in session two weeks.

In the county of Clay, on the tenth Mondays after the first Mondays in January and July and may continue in session six weeks.

In the county of Wichita, on the sixteenth Mondays after the first Mondays in January and July and may continue in session until the business is disposed of.

SEC. 2. That this act take effect and be in force from and after its passage and all laws and parts of laws in conflict herewith be and the same are hereby repealed.

SEC. 3. The fact that the near approach of the end of this session renders it improbable that this bill can be considered on three several days, and the fact that it is desired and proper that this bill should go into effect at once, creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days and that this act take effect from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the Senate and passed the same by a vote of 20 yeas and 1 nay; and passed the house by a vote of 73 yeas and 1 nay.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the nineteenth day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

COKE COUNTY.

Sec. 1. Amends section 5 of act of March 13, 1889. (5.) Coke county attached to Fifty-first judicial, Eleventh congressional, Twenty-eighth senatorial and Eightieth representative districts.

Sec. 2. Emergency clause.

CHAP. 43.—[H. B. No. 572.] An Act to amend section 5 of an act to create the county of Coke out of Tom Green County and to provide for its organization, approved March 13, 1889.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That section 5 of an act to create the county of Coke out of Tom Green County and to provide for its organization approved March 13th 1889, be and the same is hereby amended so as to hereafter read as follows, to wit:

Sec. 5. That the county of Coke is hereby attached to the fifty first judicial district for judicial purposes, to the eleventh congressional, twenty eighth senatorial, and to the eightieth representative districts for purposes of representation.

SEC. 2. The fact that the District Court will meet in less than ninety days after the adjournment of the Legislature and the lateness of the session, creates an imperative necessity and emergency that the constitu-

been replevied, shall remain in the hands of the officers pending the final disposition of the main case and until it shall be finally disposed of, or until the time for perfecting an appeal has elapsed and no appeal has been perfected, when said order disposing of the property shall be carried into effect; Provided, that pending the final disposition of the main case the defendant shall have the right at any time to replevy the property in the same manner as is provided for in article 170 of this chapter or if the property has been sold he may replevy the proceeds of such sale by giving a bond in double the amount of the money arising from such sale, with like conditions as are contained in article No. 170. And any replevy bond given in such case, whether before or after the quashing or vacating such attachment, shall be as valid and binding as if such attachment had never been quashed or vacated.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Whereas there is no law authorizing the courts of last resort to revise the rulings of trial of courts in quashing or vacating attachments creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this law be in force from and after its passage and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same February 12, 1891; and passed the Senate by two-thirds vote ayes 24 noes 0.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval, on the tenth day of March A. D. 1891, and was not signed by him, nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

COUNTY SEATS.

Preamble.*

Sec.

1. Validating location of certain county seats in newly organized counties.

Sec.

2. Emergency clause.

CHAP. 29.—[H. S. S. B. No. 15.] An Act to validate the location of County seats in certain counties where the same were organized and their county seats

RAILROAD DEPOTS.

Sec.

1. Amends article 4238, Revised Statutes, as amended by act April 8, 1889.
Depots to be lighted and warmed; penalty.

Sec.

2. Emergency clause.

CHAP. 27.—[H. B. No. 430.] An Act to amend article 4238 of the Revised Statutes of the State of Texas as amended by an act approved April 8, 1889.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That article 4238 of the Revised Statutes of the State of Texas, be and the same is hereby so amended, that the same shall hereafter read as follows:

Article 4238. Every railroad company doing business in this State shall keep its depots or passenger houses in this State, lighted and warmed, and open to the ingress and egress of all passengers who are entitled to go therein, for a time not less than one hour before the arrival and after the departure of all trains carrying passengers on such railroad, and every such railroad company for each failure or refusal to comply with the provisions of this act, shall forfeit and pay to the State of Texas, the sum of fifty dollars, which may be sued for and recovered in the name of of the State in any court of competent jurisdiction and shall be liable to the party injured, for all damages by reason of such failure.

SEC. 2. The fact that the law as it now is, works a useless hardship on many citizens and railroads in this State and that injustice is daily done by reason thereof creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and said rule is hereby suspended, and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same by two-thirds vote ayes 83, noes 0; and passed the Senate by two-thirds vote ayes 24, noes 0.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 6th day of March A. D. 1891, but was not signed by him or returned to the house in which it originated with his objections thereto within the time prescribed by the constitution and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

RAILROADS.

SEC. 1. Amends Revised Statutes, Article 4338, as to connecting depots.

CHAP. 23.—[S. H. B. Nos. 59 and 362.] An Act to amend Article 4238 of the Revised Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That article 4238 of the Revised Statutes of the State of Texas be and the same is hereby so amended as hereafter to read as follows:

Article 4238. The point at which two railroads cross or intersect each other is declared to be a depot for the receipt of freight and passengers: *Provided,* That this act shall not apply to crossings or intersections in or adjacent to cities and towns where a union depot is established: and it shall be the duty of each and every railroad company at each of such crossings of its road with another railroad in this state not in or within five miles of any city or town where a union depot is established, or where it is impracticable to establish a union depot, where the character of the land and grade of the roads at such crossing will admit of the same, to erect, build, and maintain, either jointly with the railroad company whose road is so crossed, or separately by each railroad company, a depot or passenger house, with room or rooms sufficient to comfortably accommodate all passengers awaiting the arrival and departure of trains from such junction or railroad crossing; and each and every railroad company shall keep its depots or passenger houses in this state lighted and warmed and open to the ingress and egress of all passengers a reasonable time before the arrival and after the departure of all trains carrying passengers on such railroad, or both of such railroads, if at a crossing. Each and every railroad company which shall fail, neglect, or refuse to comply with any provision of this section shall, for each day of any such failure, neglect, or refusal after this act takes effect, forfeit and pay the sum of twenty-five dollars, which may be recovered by and in the name of the state of Texas, and it shall be the duty of the attorney-general, or the district or county attorney of the district or county in which said crossing or depot is situated, to sue, prosecute for, and recover the same.

Approved, April 8, 1889.

RAILROADS.

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| <p>SEC.
1. As to rights of purchasers of roadbeds, etc., sold for debt.</p> | <p>SEC.
2. Jurisdiction over companies availing of the provisions of this law.
3. Emergency clause.</p> |
|---|---|

CHAP. 24.—[S. H. B. No. 574.] An Act to amend Chapter 11, Title LXXXIV, of the Revised Civil Statutes of the State of Texas, so as to add thereto another article to be known as Article 4260a.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Chapter 11, Title LXXXIV, of the Revised Civil Statutes of the State of Texas, be amended by adding thereto the following article:

Article 4260a. That in case of any such sale heretofore or hereafter made of the roadbed, track, franchise, or chartered right of a railway company or any part thereof as mentioned in article 4260 above, the purchaser or purchasers thereof and their associates shall be entitled to form a corporation under chapter one of this title, for the purpose of acquiring, owning, maintaining, and operating the portion of the road so purchased as if such road or portion of the road were the road intended to be constructed by the corporation, and when such charter has been filed the said new corporation shall have

all the powers and privileges conferred by the laws of this state upon chartered railroads, including the power to construct and extend: *Provided*, That notwithstanding such incorporation the portion of the road so purchased shall be subject to the same liabilities, claims, and demands in the hands of the new corporation as in the hands of the purchaser or purchasers of the sold out corporation: *Provided*, That by such purchase and organization no rights shall be acquired under any former charter or law in conflict with the provisions of the present constitution in any respect, nor shall the main track of any railroad once constructed and operated be abandoned or removed.

SEC. 2. No railway company availing itself of any of the privileges herein provided shall claim to be under the jurisdiction of the federal courts by reason thereof, and any railway company which may avail itself of the said privileges which shall claim to be subject to the jurisdiction of the federal courts in pursuance of this act shall *ipso facto* forfeit its reorganization and be re-manded to the same condition as it was prior to said reorganization.

SEC. 3. Whereas there is in existence no law which sufficiently provides the manner in which a railroad company sold out under decree of the court or otherwise may form a corporation for the purpose of acquiring, owning, and extending such sold out property, and the lateness of the session, create an emergency and imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and that this act shall take effect and be in force from and after its passage; therefore it so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 75 yeas, no nays; and passed the senate March 27, 1889.]

Approved, March 29, 1889.

RAILROAD COMPANIES—RELIEF OF.

- SEC. 1. For relief of railroad companies from forfeiture, under Article 4278, Revised Statutes.
2. Emergency clause.

CHAP. 25.—[S. H. B. No. 319.] An Act for the relief of railway companies chartered since January 1, 1887, which have failed or may fail to comply with Article 4278, Revised Statutes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the time in which any railroad company is required to begin the construction of its road, and construct, equip, and put the same in good running order, as provided for in Article 4278 of the Revised Statutes of the State of Texas, is and the same shall be extended until the first day of January, A. D. 1891. And any railway company which shall have forfeited its corporate existence, rights, and powers, by reason of failure to comply with said article 4278 in less than sixty days prior to the passage of this act, shall have restored and preserved to it its corporate existence, and it shall have and enjoy all of the corporate franchises, property, rights, and powers held or acquired by it previous to any cause of forfeiture on account of such failure as aforesaid: *Provided*, The benefit of this act shall not extend to any road which was chartered prior to January first, 1887: *Provided further*, That this act shall not be construed to revive, restore, or extend in favor of any railroad company any contract or agreement of any kind or character between said railroad and any other person or persons, which contract or agreement has or would become void or invalid if this act were not passed.

SEC. 2. The fact that no good can result to the state from the forfeitures

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provided against in this act, and that the public convenience will be promoted, and citizens in parts of the state having invested in railway enterprises saved from great loss unless the relief herein provided for be granted, create an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and demanding that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 88 yeas, 7 nays; and passed the senate by a vote of 21 yeas, 7 nays.]

Approved, January 26, 1889.

Article 4429a. Overseers shall dismiss from the road any hand or hands, whether working for themselves or as substitutes for others, who shall fail to do good and efficient work, or who shall hinder other hands from doing their work properly, or dismiss any hand who may be intoxicated, or who shall refuse to obey any reasonable order of the overseers; and the overseer shall proceed against such hand or hands so dismissed in the same manner as if they had refused to obey the summons to work upon the road.

Approved, April 2, 1889.

BRIDGES.

- SEC. 1. Amends Revised Statutes, Article 4434, as to bridging streams where dividing line of two counties, etc.
2. Emergency clause.

COUNTY INDEBTEDNESS—SALE OF BONDS.

SEC.

- 1. Commissioners authorized to sell certain bonds and reinvest proceeds.
- 2. Conditions respecting such sales.

SEC.

- 3. Order for such sale, how made, etc.
- 4. Emergency clause.

CHAP. 140.—[H. B. No. 271.] An Act to provide for the sale of a certain class of bonds and the reinvestment of their proceeds.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That any county at any time having its school funds derived from the sale of its county school lands invested in the bonds of the United States, of this State, or of any county, shall have the authority to sell these bonds, when in the opinion of the county commissioners court it shall be deemed for the best interest of the fund, and invest the proceeds in its own or any other county bonds duly and lawfully issued.

SEC. 2. Such sale and reinvestment shall be made only when the proceeds of the sale can be reinvested in such county bonds bearing the same or a greater rate of interest, and having the same or a longer time to run before their maturity, and no commissions shall be paid the county judge or any other officer for making such sale or reinvestment. And the said court shall never pay a higher price for the bonds in which it is proposed to reinvest such proceeds, than the price at which such other bonds were sold.

SEC. 3. The order for the sale and reinvestment shall be made by the county commissioners court at some regular term thereof, when there is a full court present, and not less than four in number shall concur in the said order, the names of those concurring being spread on the minutes of the said court. Whenever county bonds are purchased for the permanent public school fund of any county in this State, the commissioners court of the county purchasing or owning such bonds shall cause to be written upon the face of each of said bonds in substance as follows, "This bond belongs to the public school fund of (naming the county), and shall not be assigned or transferred except by an order of the commissioners court of this county," and upon each coupon on any such bond shall be written as follows, "Owned by (naming the county) county." These endorsements shall be signed by the county judge of the county owning such bonds and coupons. Any such bond or coupon thus endorsed shall be non-negotiable.

SEC. 4. Whereas in one or more counties bonds have been issued by said county or counties bearing a higher rate of interest than those held by said county or counties against the State; therefore, an emergency exists, and an imperative public necessity requires that the rule requiring that

RAILROADS—REGULATING SHIPMENT OF FREIGHT.

SEC.

- 1. Regulates applications for cars by shippers, and duties of railroads as to furnishing cars thereto.
- 2. Application shall state number of cars, and when wanted, etc.

SEC.

- 4. Applicant to deposit one-fourth of freight charge, unless, etc.—Forfeiture for failing to use cars.
- 5. Delivery of freight, unloading cars, etc.
- 6. As to burden of proof in suits for delayed freights.

CHAP. 139.—[S. B. No. 272.] An Act to regulate the shipment of freights, and to require railway companies to furnish sufficient cars to transport the same, and to provide penalties for failure so to do.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That when the owner, owners, or managers of any freight of any kind shall make application in writing to the superintendent or person in charge of transportation, to any railway company operating a line at the point the cars are desired, upon which to ship any freight, it shall be the duty of such railway company to supply the number of cars required at the point indicated in the application within a reasonable time, not to exceed six days from the receipt thereof, and shall furnish such cars to the persons applying therefor in the order applied for, without giving preference to any person.

SEC. 2. Said application for cars shall state the number of cars desired, the place at which they are desired, and the time they are desired: *Provided,* That the place designated shall be at some station or switch on the railroad.

SEC. 3. When cars are applied for under the provisions of this act, if they are not furnished, the railway company so failing to furnish them shall forfeit to the party or parties so applying for them the sum of twenty-five dollars per day for each car failed to be furnished, to be recovered in any court of competent jurisdiction, and all actual damages that such applicant may sustain.

SEC. 4. Such applicant shall at the time of applying for such car or cars deposit with the agent of such company one-fourth the amount of the freight charge for the use of such cars unless the said road shall agree to deliver said cars without such deposit, and said applicant shall within forty-eight hours after such car or cars have been delivered and placed as hereinbefore provided, it shall be the duty of the applicant to fully load the same, and upon failure to do so he shall forfeit and pay to the company the sum of twenty-five dollars for each car not used. And if the said applicant shall not use such cars so ordered by him and shall so notify the said company or its agent, he shall forfeit and pay to the said railroad company in addition to the penalty herein prescribed the actual damages that such company may sustain by the said failure of the applicant to use said cars.

SEC. 5. When cars have been supplied and loaded it shall be the duty of the railway company to deliver the same to the party or parties to whom they are consigned within a reasonable time, and the party or parties to whom the cars are consigned shall unload the same within forty-eight hours after delivery and notice, or forfeit to the railway company the sum of twenty-five dollars per day for each car so left unloaded, to be recovered in any court of competent jurisdiction.

SEC. 6. It shall be necessary for the party or parties bringing suit against any railroad company under the provisions of this act, to show by evidence that he or they had on hand at the time any demand for cars was made the amount of lumber, cotton, wool, hides, or other freight necessary to load the cars so ordered: *Provided,* That the provisions of this law shall not apply in cases of strikes or other public calamity.

SEC. 7. The near approach of the close of the present session of the Legislature creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended.

Approved, April 4, 1887.

proper exposure, together with all costs and expenses of recovering the same, including necessary attorney's fees (P. D., 4923.)

ART. 4237. **Fees for Storage, when allowed.**—Railroad companies shall in no case be allowed to charge storage upon freight received by them for delivery, unless the owner or consignee thereof neglect to remove it from the depot of the company within three days after notice of its reception, which notice may be given by posting the same on the depot door, and after the expiration of such time the company may remove and store said freight at the expense of the owner or consignee, and said freight shall be held liable for the freight and charges due thereon. (P. D., 4923.)

ART. 4238. **Depots of Connecting Lines—Duty to receive and deliver Freight, etc.**—The point at which the roads of two companies intersects or connects, is declared to be a depot for the receipt and delivery of freight, and the companies must receive, carry and deliver freight and passengers to and from the same, under the same regulations and the same penalties as in other cases. (P. D., 4933.)

*Amended
Act 1889
April 8th
again
Amended
Act 1891
Ch. 27, P. 29*

ART. 4239. **Switch Cars to be furnished—Penalty.**—When a company constructs a switch on its road for the accommodation of freighters, they shall be bound to furnish a sufficient number of cars for the transportation of freight therefrom when requested so to do, and in default shall be subject to the same penalties as in other cases of neglect of the like character. (P. D., 4934.)

ART. 4240. **Cattle Guards.**—Each and every railroad company whose railway passes through a field or inclosure, is hereby required to place a good and sufficient cattle guard or stop at the points of entering such field or inclosure, and keep them in good repair. (P. D., 4925.) (a)

ART. 4241. **Continued.**—In case an inclosure or field through which a railway passes shall be enlarged or extended, or the owner of the land over which a railway runs, shall clear and open a field so as to embrace the track of a railway, such railroad company is hereby required to place good and sufficient cattle-guards or stops at the margins of such extended inclosures or fields, or such new fields, and keep the same in repair.

ART. 4242. **Continued.**—Such cattle-guards or stops shall in all cases be so constructed and kept in repair as to protect such fields and inclosures from the depredations of stock of every description.

(a) Duty and responsibility to construct cattle-guards, construct and maintain fences, etc., cannot be shifted to a contractor. The company will be liable for the contractor's neglect of duty in such a case. Houston, etc., R. Co. vs. Meador, 50 Tex., 77.

ART. 4243. Continued—Owner of adjoining Land may construct, when. Should any such company fail to construct and keep in repair such cattle-guards and stops, the owner of such inclosure or field may have such cattle-guards and stops placed at the proper places and kept in repair, and may recover the costs thereof from such railroad company, unless it be shown that the enlargement or extension, as above provided, was made capriciously and with intent to annoy and molest such company. (P. D., 4925.)

ART. 4244. Continued—Damages for Failure to construct.—Should any such company neglect to construct the proper cattle-guards and stops and keep the same in repair, as required by law, such company shall be liable to the party injured by such neglect, for all damages that may result from such neglect, to be recovered by suit in any court having jurisdiction. (Ib.)

ART. 4245. Killing Stock—Road to be fenced.—Each and every railroad company shall be liable to the owner for the value of all stock killed or injured by the locomotives and cars of such railroad company in running over their respective railways, which may be recovered by suit before any court having competent jurisdiction of the amount. If the railroad company fence in their road, they shall only then be liable in cases of injury resulting from the want of ordinary care. (P. D., 4926.) (a)

ART. 4246. Competing Lines not to be Consolidated.—No railroad corporation, or the lessees, purchasers or managers thereof, 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 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 control of a competing or parallel line. (Const., art. 10, § 5.) (b)

ART. 4247. Continued.—No railroad company organized under the laws of this State shall consolidate, by private or judicial sale or otherwise, with any railroad company organized under the laws of any other State or of the United States. (Ib., § 6.)

(a) A railroad company is liable for damages resulting from injury or killing of stock by its train on the railway track, when the train is moving at a greater rate of speed than is allowed by law. *Houston, etc., R. Co., vs. Terry*, 42 Tex., 451. Burden of proof in this class of cases. *Bethje vs. Houston, etc., R. Co.*, 26 Tex., 604. The owner may assign the right to sue the company for the damage sustained. This tort is one not to the person but to the estate. *Galveston, etc., R. Co., vs. Freeman*, 57 Tex., 156. A railway company is not liable under the statute for interest on the value of stock or cattle killed by its locomotives or cars. The measure of damages under the statute is the value of the stock at the time of the injury or killing. *Houston, etc., R. Co., vs. Muldrow*, 54 Tex., 233.

(b) See note to the constitutional provision, *ante* p. 8.

SEC.

1. Prohibits the consolidation of parallel or competing lines.
2. Prescribes penalty against officers, etc., for violating terms of this act.

SEC.

3. Defines term corporation as used in this act.
4. Venue of prosecutions under this act.
5. Emergency clause.

CHAP. 144.—[S. B. No. 220.] An Act to carry into effect Section Five, of Article Ten, of the Constitution of the State of Texas, prohibiting the consolidation of parallel or competing railroads, and to prescribe a penalty for the violation thereof.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That it shall be unlawful for any railroad corporation or other corporation, or the lessees, purchasers, or managers of any railroad corporation, to consolidate the stocks, property, works, or franchises of such corporation with, or lease or purchase the stocks, property, works, or franchises of any other railroad corporation owing or having under its control or management a competing or parallel line; nor shall any officer, agent, manager, lessee, or purchaser of such railroad corporation act as or become an officer, agent, manager, lessee, or purchaser of any other railroad corporation in leasing or purchasing any parallel or competing line.

SEC. 2. Any officer, director, manager, superintendent, agent, purchaser, or lessee of any such railroad corporation or other corporation, who shall violate or aid in violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one thousand dollars nor more than four thousand dollars: *Provided*, That no person shall be liable to punishment under this act who has not,

by virtue of his office, agency, or position, a voice in the management of the railway company, or who has not, by virtue of his office, agency, or position, some power to prevent a violation of this act.

SEC. 3. Railroad corporation or other corporation, as used in this act, is declared to mean any corporation, company, person, or association of persons who own or control, manage, or operate any line of railroad in this State.

SEC. 4. Indictments and prosecutions under the provisions of this act may be found and made in any county through or into which the line of railroad may run, and it shall be the duty of district judges to charge the grand juries upon this law the same as in other cases.

SEC. 5. Whereas there is no law enforcing the above provision of the Constitution, and whereas the near approach of the close of this session of the Legislature rendering it impracticable to read this bill on three several days, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended.

Approved, April 4, 1887.

the State, and to render to said officials such assistance as to him may seem necessary or expedient.

SEC. 2. The near approach of the close of the session, and the fact that litigation affecting important interests of the State is pending, impending, and necessary, and that there is no law now in force sufficiently regulating this subject, create an imperative public necessity and an emergency that the constitutional rule requiring a bill to be read on three several days be suspended, that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House, and passed the same by a vote of 86 yeas; and passed the Senate by a vote of 23 yeas, 5 nays.]

Approved, April 4, 1887.

GENERAL APPROPRIATION FOR CURRENT EXPENSES OF STATE GOVERNMENT.

CHAP. 146.—[H. B. No. 448.] An Act making an appropriation for the support of the State government for the years beginning March 1, 1887, and ending February 28, 1889, and for other purposes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the following sums of money, or so much thereof as may be necessary, be and the same are hereby appropriated, out of any moneys in the treasury

1835, and was in the Grass fights and other engagements which resulted in the independence of Texas.

SEC. 3. The county of Glasscock be and is hereby attached to the county of Martin for judicial, surveying, and all other purposes.

SEC. 4. The new county to be created by this act shall pay a *pro rata* share of the existing debt of the county of Tom Green contracted for public buildings, and there shall be set apart so much of the county tax levied and collected upon the property situated in the portion so taken from the county of Tom Green annually as shall be sufficient to speedily liquidate said debt, if any.

SEC. 5. Whereas the fact that another regular session of the Legislature will not be held for two years, and the further fact that the present session

the date of the record of such will in this State, the validity of such will may be contested in a proceeding instituted for that purpose, as the original might have been.

SEC. 2. A copy of such will and testament, or testamentary instrument, and its probate so attested, together with the certificate that said attestation is in due form as required by the preceding section of this act, shall be prima facie evidence that said will has been duly admitted to probate according to the laws of the State wherein it has been admitted to probate, and shall be sufficient to authorize the same to be recorded in the proper county or counties in this State.

SEC. 3. Every such will and testament, or testamentary instrument, and its probate, which shall be attested and proven as provided in section one of this act, and delivered to the clerk of the proper court to be recorded, shall take effect and be valid and effectual as a deed of conveyance of said property, and the record thereof shall have the same force and effect as the record of deeds or other conveyances to land from the time when such instrument was delivered to such clerk to be recorded, and from that time only.

SEC. 4. The record of such will and testament, or testamentary instrument, and its probate, duly attested and proven as provided in the preceding sections of this act, and duly made in the proper county, shall be taken and held as notice to all persons of the existence of such will and testament, and of the title or titles conferred thereby.

SEC. 5. The near approach of the close of the session creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended.

Approved, March 23, 1887.

RAILROAD CROSSINGS.

- SEC.
1. Requires openings and crossings every mile and a half where railways fence their right of way— Provides for at least one opening and crossing in every enclosure where the railways have fenced their right of way.
 2. Such crossings shall be thirty feet wide, and provides the condition in which they shall be kept.
 3. Such openings and crossings shall be made on demand of two citizens who live in five miles of the railway.
 4. Such demand shall be made in writing to the nearest local agent of such railway.

- SEC.
5. Railways shall have thirty days to make such crossing, and are not required to make such crossing under certain circumstances.
 6. What shall be deemed a compliance to demand for an opening and crossing.
 7. Persons making such demand can recover from such railway five hundred dollars for each month they fail to comply therewith.
 8. This law does not affect the law which requires crossings at intersections of roads and streets.

CHAP. 57.—[S. S. B. No. 44.] An Act to require railway corporations when they fence their right of way, or where they have already fenced it, to leave or make certain crossings or openings therein, and to provide a penalty for the violation hereof.

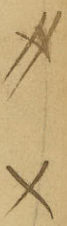
SECTION 1. Be it enacted by the Legislature of the State of Texas: That all railway corporations in this State which have, or which may hereafter fence their right of way, may be required to make openings or crossings through their fence and over their road-bed along their right of way every one and one-half miles thereof: Provided, That if such fence shall divide any enclosure that at least one opening shall be made in said fence within such enclosure.

SEC. 2. Such crossings shall be not less than thirty feet in width, and shall be made and kept in such condition as to admit of the free and easy passage of horses, cattle, sheep, hogs, all other domesticated animals, wagons, and other vehicles.

SEC. 3. Such crossings shall be made at such times and places as may

unconstitutional

see 70 Texas pg 298
form pg 307.



be demanded by any two or more citizens of the State who either live or own land within five miles of the place where such crossings may be demanded.

SEC. 4. Such demand shall be made in writing, of the nearest local agent of such railway company to the place where such crossing or crossings are demanded, and shall state when and where such crossing is desired.

SEC. 5. No railway company shall be required to complete such crossings as may be demanded under this act in a shorter time than thirty days from the day on which such demand is first made, nor shall they be required to make any crossings where they have already left such crossings in each one and one-half miles of their road, except inside of inclosures, as is provided in section one.

SEC. 6. Any railway company, upon such demand, shall be deemed to have complied therewith upon making such crossings within four hundred yards of the place where they are demanded, within the time herein allowed.

SEC. 7. Whenever any railway company shall fail or refuse to comply with the requirements of this act after demand is made in accordance herewith, such railway company shall pay to the persons who made such demand each the sum of five hundred dollars for each and every month they shall so fail or refuse to comply with such demand, the same to be recovered by suit in any court of this State having jurisdiction of the amount.

SEC. 8. Nothing in this act shall be so construed as to affect the law requiring railroad companies to provide proper crossings at intersection of all roads and streets.

Approved, March 23, 1887.

PRIVATE CORPORATIONS.

SEC. 1. Amends act of March 27, 1885, amendatory of Art. 566, Chap. 2, Revised Statutes, declaring for what purposes charters may be granted.

CHAP. 58.—[S. H. Bs. Nos. 43, 45.] An Act to amend an act entitled "An Act to amend Chapter 2, Article 566, of the Revised Civil Statutes of the State of Texas," approved March 27, 1885.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That an act to amend Chapter 2, Article 566, of the Revised Civil Statutes of the State of Texas, approved March 27, 1885, be so amended as to hereafter read as follows:

Article 566. The purposes for which private corporations may be formed are:

1. The support of public worship.
2. The support of any benevolent, charitable, educational or missionary undertaking.
3. The support of any literary undertaking, the maintenance of a library, or the promotion of painting, music, or other fine arts.
4. The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock and farm products.
5. The maintenance of a public or private cemetery.
6. The construction and maintenance of any species of road except a railroad and a bridge in connection therewith.
7. The construction and maintenance of a bridge.
8. The construction and maintenance of a telegraph or telephone line.
9. The establishment and maintenance of a ferrv.

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ART. 4248. Profile of Road to be filed in General Land and County Offices.—Every such corporation shall, within a reasonable time after their road shall be located, cause to be made—

1. A map and profile thereof and of the land taken or obtained for the use thereof, and file the same in the General Land Office, and also like maps of the parts thereof located in different counties, and file the same in the offices of the county clerk and district surveyor of the county in which such parts of said roads shall be, there to remain as a record forever. Every such map shall be drawn on a scale and on paper to be designated by the Commissioner of the General Land Office, and certified and signed by the president of the corporation.

2. A certificate specifying the line upon which it is proposed to construct the railroad and the grades and curves, certified and signed and filed as aforesaid. (P. D., 4904.)

ART. 4249. Annual Report—Contents of.—Every such corporation shall make an annual report to the Comptroller of Public Accounts of the operations of the year, ending on the first day of October, which report shall be verified by the oaths of the treasurer and acting superintendent of operations, and filed in his office by the twentieth of October in each year, and shall state—

1. The capital stock and the amount actually paid in.

2. The amount expended for the purchase of land, for the construction of the road, for buildings and for engines and cars, respectively.

3. The amount and nature of its indebtedness, and the amount due the corporation. (*a*)

4. The amount received for the transportation of passengers, of property, of the mail, and from all other sources.

5. The amount of freight, specifying the quantity in tons, of the product of the forest, of animals, of vegetable food, other agricultural products, manufactures, merchandise and other articles.

6. The amount paid out for repairs, engines, cars, buildings and salaries, respectively.

7. The number and amount of dividends and when made.

8. The number of engine-houses and shops, of engines and cars, and their character.

(*a*) A railway company, in an action against it by a stockholder for a wrongful conversion of his interest, is not precluded by the erroneous estimates of its officials, embodied in a published report, from showing the true value of its assets. *International, etc., R. Co., vs. Bremond*, 53 Tex., 96.

9. The number of miles run by passenger, freight and other trains, respectively.

10. The number of men employed and their occupations.

11. The number of persons injured in life or limb, and the cause of such injuries.

12. Whether any accidents have arisen from carelessness or negligence of any person in the employment of the corporation, and whether such person is retained in the service of the corporation. (a)

(a) (1) *Master and Servant.* Whether a minor be of sufficient age and discretion to justify his employment as a brakeman, is a question for the jury. If the minor has not sufficient discretion to comprehend and guard against the dangers of employment, when fully explained to him, the contract with him will not place him in the position of an employe, or preclude a recovery for injuries suffered through the negligence of other employes. *Hamilton vs. Galveston R. Co.*, 54 Tex. 556. Case of brakeman fifteen years of age. *Ib.* The master is not liable for injuries sustained by his servant through the negligence of a fellow servant. *Houston etc., R. Co. vs. Miller*, 51 Tex., 270; *Robinson vs. Houston etc., R. Co.*, 46 Tex., 540. This rule held applicable in the case of an employe, a minor aged nineteen years. *Houston etc. R. Co. vs. Miller, supra.* If a railway company is not guilty of negligence in the selection of a locomotive engineer, it is not liable to his fellow servant (a brakeman) for injuries which are the result of a want of proper care on the part of the engineer. *Houston etc., R. Co. vs. Willie*, 53 Tex., 318. Liability of company for retention in service of an incompetent employe. *Houston etc. R. Co. vs. Meyers*, 55 Tex., 110; the *Texas M. R. Co. vs. Whitmore*, 58 Mo., 276. An employe, knowing the reckless character of a fellow servant, by continuing in service with such fellow servant and placing himself in a position to be injured by his carelessness, cannot recover damages for such injury. *Ib.* If the usage in a particular case imposes upon a railroad employe an extra hazardous duty, and in its performance he sustains an injury, the burden is on him to show that the existence of the established usage had been concealed from him by the company. *Watson vs. Houston etc. R. Co.*, 58 Tex., 434.

(2) *Defective Machinery, etc.* The test of diligence required of railroad companies towards employes in furnishing and maintaining proper cars, machinery, etc., is that of ordinary care—not that high test adopted for the safety of passengers, so far as human care and foresight can accomplish the result. *The Missouri Pacific R. Co. vs. Lyde*, 57 Tex., 505. Duty of company to furnish its employes with implements and machinery reasonably safe and strong. *Galveston etc., R. Co. vs. Delehanty*, 53 Tex., 206. Injury to section hand from working of handle to crank of hand car. *International, etc., R. Co. vs. Doyle*, 49 Tex., 190. Injury to employe from negligent construction of tank. *Houston, etc., R. Co. vs. Oram*, 49 Tex., 341. Employe knowingly using defective machinery, who is injured thereby, cannot recover damages of the company for such injury. Facts precluding a recovery by a brakeman injured in coupling cars while the fireman was acting as engineer. *Houston, etc., R. Co. vs. Meyers*, 55 Tex., 110. The duty of a train master to examine for defect, etc., in machinery does not, as matter of law, relieve the company employing him from responsibility for negligence in the use of defective machinery. *International, etc., R. Co. vs. Kindred*, 57 Tex., 491. See also, *The Texas M. R. Co. vs. Whitmore*, 58 Tex., 276.

(3) *Negligence.* In the absence of a law declaring an act to be negligence, it is a fact to be found by the jury. It is error to instruct the jury as to an act that it is negligence. *Houston etc., R. Co. vs. Miller*, 51 Tex., 271. Ordinary care defined. *Houston etc., R. Co. vs. Smith*, 52 Tex., 178. Injury to pedestrian on track, *Ib.* Contributory negligence discussed. *Houston etc., R. Co. vs. Smith*, 52 Tex., 178. *Houston etc. R. Co. vs. Nixon*, 52 Tex., 19. Injury to children at play upon track, *Ib.*; *Texas & Pacific R. Co. vs. O'Donnell*, 58 Tex., 27. Damages may be recovered for injuries to children who, through want of discretion, have contributed thereto, under circumstances which would defeat a recovery by persons of more mature age and discretion. See case of injury to a child seven years of age while playing on the turntable of a railway. *Evansich vs. Gulf etc. R. Co.*, 57 Tex., 126, s. c. 57 Tex., 123. Expert evidence is admissible on behalf of the company to show that the management of a switch, from which it is claimed damage resulted, is the mode adopted generally by prudent railroad men in switching

FELLOW SERVANTS.

Supp. 215

Sec.

- 1. Vice principals defined.
- 2. Fellow servants defined.

Sec.

- 3. No contract on contingency of injury or death of employe valid.

CHAP. 24.—[H. B. No. 386.] An Act to define who are fellow servants and who are not fellow servants.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That all persons engaged in the service of any railway corporations, foreign or domestic, doing business in this State, who are entrusted by such corporation with the authority of superintendence, control or command of other persons in the employ or service of such corporation, or with the authority to direct any other employe in the performance of any duty of such employe, are vice principals of such corporation, and are not fellow servants with such employe.

SEC. 2. That all persons who are engaged in the common service of such railway corporations and who, while so engaged are working together at the same time and place to a common purpose, of same grade, neither of such persons being entrusted by such corporations, with any superintendence or control over their fellow employes, are fellow servants with each other; provided, that nothing herein contained shall be so construed as to make employes of such corporation, in the service of such corporation, fellow servants with other employes of such corporation, engaged in any other department or service of such corporation. Employees who do not come within the provisions of this section shall not be considered fellow servants.

SEC. 3. No contract made between the employer and employe, based upon the contingency of the injury or death of the employe, limiting the liability of the employer under this act, or fixing damages to be recovered, shall be valid and binding.

Approved March 10, 1891.

or more which have heretofore attempted to accept the provisions of this title and to become incorporated cities of one thousand inhabitants or more, under the general laws of Texas, and have failed to comply with all the requirements of said general law, or which are not included within the literal meaning of those cities which are authorized to accept the provisions of said general law, and all towns and villages incorporated under chapter 11, of title 17, of the Revised Civil Statutes or by special charter or otherwise, but which now have one thousand inhabitants or more, and which have heretofore attempted to accept the provisions of this title in lieu of their said town or village charter and become incorporated cities of one thousand inhabitants or more; but which said cities have from and after the dates of their several attempted incorporations and their several efforts to accept the provisions of this title exercised the functions of cities of the class named, and were by the State of Texas recognized as such cities, be and the same are hereby declared to be cities of one thousand inhabitants or more, and the several acts whereby they attempted to accept the provisions of said law are hereby in all things validated. And that all subsequent acts of said cities and towns done and performed as a city of one thousand inhabitants or more, after they had attempted to accept the provisions of said law as aforesaid, be and the same are hereby validated and declared to be as binding as if said cities had been duly and legally incorporated, provided, that nothing herein shall be construed as validating any act of said cities or the councils thereof, unless same were authorized by the general laws of the State under which they were attempting to act, at the several dates when said acts were done, and provided further, that the provisions of this act shall not validate the act of any town or city in unlawfully adding additional territory to such town or city, without the consent of such inhabitants so added to said town or city.

SEC. 2. Whereas there are many cities in Texas of one thousand inhabitants or more which have heretofore attempted to accept the provisions of the general law as stated in the preceding section of this or

See Acts of 22^d Leg. Ch. 24 P 25 Mch 10th 1891
Defining who are and who are not fellow servants
and forbidding contracts limiting liability to servants -

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situated.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Chapter Two, Title Ninety-six, of the Revised Civil Statutes, be amended by adding thereto Article 4676a, which shall read as follows:

Article 4676a. All persons, companies, and corporations owning pastures in the State which lie on county boundaries, shall be required to list for assessment all live stock of every kind owned by them in said pastures in the several counties in which such pastures are situated, listing in each county such portion of said stock as the land in such county is of the whole pasture. All persons, companies, and corporations owning any kind of live stock not their own, shall list such live stock in the several counties in which such pastures are situated in the same manner, and in both cases the tax assessed upon such live stock shall be paid to the tax collectors of the several counties in which such live stock is listed and assessed.

SEC. 2. The near approach of the close of the session of the Legislature creates an imperative public necessity that the rule requiring bills to be read on three several days should be suspended, and an emergency exists that this act take effect and be in force from and after its passage, and it is so enacted.

Approved, April 2, 1887.

RAILROADS—DUTIES AND LIABILITIES OF. *Sept 216*

- SEC. 1. Amends Article 4251, Revised Statutes — Railroads shall draw cars, freight, and passengers of other roads without delay or discrimination.
Amends Art. 4252. Defining connecting lines, and prohibiting discrimination.
Amends Art. 4253. Penalty for failure to draw cars, etc.
Amends Art. 4254. Terms to be advertised, and penalty for failure to observe same.
Amends Art. 4255. Recovery of damages to railroads for refusing to interchange freight, passengers, receive tickets and checks of other companies.

CHAP. 120.—[S. B. No. 256.] An Act to amend Articles 4251, 4252, 4253, 4254, and 4255, of Chapter 10, Title 84, of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Articles 4251, 4252, 4253, 4254, and 4255, of Chapter 10, Title 84, of the Revised Civil Statutes of the State of Texas, be amended so as to hereafter read as follows:

Article 4251. That all railway companies doing business in this State shall be and they are hereby required to receive from all other railway companies with which they may connect at the State line of this State, or at any place within this State, or at any or all places where they may cross the line of any other railway doing business or operating a line of railway in this State, all freights and passengers coming to it from such connecting line and destined to points on its line, or to points beyond its line or any other line of railway with which

13. The sales of lands donated by the State and the quantity remaining unsold.

ART. 4250. Continued—Penalty for Neglect to make.—Any such corporation which shall neglect to make such report shall be liable to a penalty of one thousand dollars, to be sued for in the name of the State. (P. D., 4901.)

ART. 4251. Connecting Lines must receive Passengers, Freight and Cars of each other.—Compensation, how fixed.—Every such company shall, for a reasonable compensation, draw over their railroad, without delay, the passengers, merchandise and cars of every other railroad company which may enter and connect with their railroad; and if the respective companies cannot agree upon the compensation aforesaid, it shall be the duty of the president of each company to select one man as commissioner, and the two commissioners so selected (and in case of disagreement the State Engineer, or such person as the Governor may appoint, shall be the umpire), neither of whom shall be a stockholder in either road, nor shall at any time have been in the employment of either company, or in any way interested in either company, and they shall fix the rates at which said cars shall be drawn over said roads, which rates shall not be changed for one year from the time of going into effect. (Const., Art. 10, § 1; Act, Nov. 3, 1866, p. 84; P. D., 7352.)

ART. 4252. Continued—Cars to be hauled how often.—The said commissioners shall also fix the stated periods at which said cars shall drawn over said roads without delay as aforesaid, which shall not be less than three times a week, and oftener if the necessities of the company may require it, due regard being had to the conven-

cars under like circumstance. *Houston etc., R. Co. vs. Cowser*, 57 Tex., 293. In a suit for damages for personal injuries, it is not necessary that the petition should negative by its averments the existence of contributory negligence on the part of the person injured, unless it contain allegations which, unexplained, would establish a prima facie case of negligence by the injured party. *Houston etc., R. Co. vs. Cowser*, 57 Tex., 293. *Texas & Pacific R. Co. vs. Murphy*, 46 Tex., 356.

(4) *Damages.* Where the verdict is manifestly excessive, it is the duty of the court in which the case is tried, to set it aside and send the case to another jury; and, on it being made to appear, on appeal, that the court below erred in refusing to do so, the case will be reversed and remanded. See facts such as to warrant a court in sustaining a verdict of \$12,000 for personal injuries. *Houston etc., R. Co. vs. Randall*, 50 Tex., 254. In a suit for damages for personal injury against a railroad company, brought by the injured party, the wealth or poverty of the plaintiff is an immaterial issue, although he may show the nature of his business and the value of his services in conducting it as grounds for estimating damages. *The Missouri Pacific R. Co. vs. Lyde*, 57 Tex., 505. Measure of damages in action by parent for injury to minor child. *Evansich vs. Gulf etc., R. Co.*, 57 Tex., 123; in case of injury to an employe, a minor. *Houston etc., R. Co. vs. Miller*, 51 Tex., 270; in case of an employe (a brakeman) permanently disabled. *Houston etc., R. Co. vs. Willie*, 53 Tex., 318. Exemplary damages for injury to an employe. *Houston etc., R. Co. vs. Cowser*, 57 Tex., 293. Measure of damages in case of death, see arts. 2901, 2909 and notes, *ante* pp. 46, 48; in case of injury to passenger, see note to art. 4215, *ante*, p. 80.

ience and interest of each company and the public who shall be accommodated thereby. (P. D., 7353.)

ART. 4253. Continued—Penalty for Refusal to haul.—In case said companies or either of them should fail or refuse to make, or carry out when made, the necessary agreement or arrangement to draw the cars of each over their respective roads without delay as aforesaid, the president of said company so failing shall be individually responsible to the person or his agent who is deprived thereby of the privilege of shipping freight on the cars which should be drawn over said road, in the sum of five hundred dollars, which sum shall be recovered in any court of competent jurisdiction. (P. D., 7354.)

ART. 4254. Continued—Terms of hauling to be advertised—Penalty for Refusal to carry on.—When the agreement for drawing cars of companies over their respective roads as prescribed in this section, is effected, a synopsis of the terms of the same shall be posted up in the office of the respective companies, and shall be published by said companies as a standing advertisement in a newspaper published in the cities of Houston and Galveston, and said companies shall be required to receive and receipt for freight to be shipped over the roads of the companies with which they may connect, in cars to be drawn over said roads, as prescribed by the agreement aforesaid, which freight shall go through on said cars without breaking bulk and re-shipping the same at any depot where said roads connect; and should any railroad agent fail or refuse to receive and receipt for freights to be shipped over the road of his principal, or to be shipped by drawing cars over roads that connect with the road of his principal, in the manner prescribed in this chapter, said agent shall pay to the party, or his agent so refused, the sum of two hundred dollars, which sum shall be recovered before any court of competent jurisdiction. (P. D., 7355.)

ART. 4255. Continued—State Engineer to compel regular Connections—Powers in Case of Refusal.—The State Engineer, and in case there is no such officer, such person as the Governor shall appoint to act as such, shall have the right and power to compel all railroads that connect with each other in this State to make their connections regular and proper, so as to accommodate the public travel on said roads, and shall have the right and power to compel said companies to draw the passengers and freights of each other on their respective roads and and cars, and in case said company should refuse to do so, then said Engineer, or such person as may be appointed by the Governor, shall take possession of said railroad and rolling stock in the name of the State, and report the same to the Governor thereof; said road so taken shall be used for the use and

said line may connect or cross, and shall transport the same over its said line to destination if on its line, or to the next connecting or cross line in the direction of destination if beyond its line, without delay or discrimination in favor of or against the line from which such freight or passengers are received, and upon the same terms and conditions with those made by such line for like or similar service against any other railway in or out of this State with which it does business: *Provided, however,* That the words "without delay or discrimination," as used herein, are hereby declared to mean that the freight received for transportation as required herein shall be shipped in the order in which it is received, giving preference in all cases to live stock and other perishable freight in the order received, and the charges for the business required by this act to be interchanged shall be no greater pro rata per cent per mile for freight, and no greater rate per mile for passengers and baggage, than is charged to any other line for transporting like freight and passengers and baggage, or that it accept for itself when transported wholly on its own line, no matter on what part of the line or in what direction the transporting is done.

Article 4252. Whenever any two or more railroads doing business in this State shall connect with each other, by crossing each other's track, or otherwise, so as to form a continuous or connected line from one point in the State to another point in this State, such lines so crossing are hereby declared to be connecting lines; and when such connecting lines receive from any other railway or transportation line passengers or freight for transportation over the combined line at a rate or division agreed upon between themselves and such other railway or transportation line from which the business is received as aforesaid, then in every such case it shall be the duty of such connecting railways forming such through line, and of either or both of them, to receive from every other railway or transportation line with which they or either of them may connect by crossing of track or otherwise, all passengers or freight that may be destined to points on either of the lines making up such combined line, and transport the same to the point of destination if on such combined lines or either of them, or to the next connection or crossing in the direction of the destination of such freight or passengers, without delay or discrimination, and at no greater rate than is paid, and on the same conditions as is or shall be required, by such combined line for like or similar services from any other railway or transportation line with which they or either of them shall interchange business.

Article 4253. Every railroad or person or corporation operating a railway for the carriage of freight and passengers in this State, shall receive freight, passengers, and baggage for transportation to or into this State, or through any part thereof, from every other connecting railway, upon the same terms and conditions as to the division of charges for carrying or transporting the same upon a mileage or any other basis, and upon terms and conditions as to bills of lading, way bills, tickets, coupon tickets, and baggage checks, that any such person or corporation or transportation line may receive or contract to receive from any other person or corporation engaged in like business in this State.

Article 4254. Every railway which may interchange business with any other connecting railway under the provisions of this act or otherwise, is hereby declared to be a trustee for such connecting railway, to the extent of all sums of money received by it for the joint business interchanged between them, and which may properly belong to such other railway. Such sums of money shall be due and payable from one connecting line to the

other once every ninety days; and each connecting railway shall have a lien upon the property and franchises of connecting railways to the extent of balances due each quarter, which lien shall be superior to all other liens upon said property and franchises, save and except laborers' liens, as already provided by law, and may be enforced in any of the courts of this State having jurisdiction by law of the subject matter and of the parties.

Article 4255. If any railway company doing business in this State shall fail or refuse to interchange business with any other railway company; or shall fail or refuse to interchange business on the same terms or for the same *pro rata* that it interchanges business with any other railway company in this State; or shall fail or refuse to honor or receive the tickets, coupon tickets, way bills, or baggage checks of any connecting railway upon the same terms and conditions that it receives or honors the tickets, coupon tickets, way bills, or baggage checks of any other railway company; or shall violate in any manner any other provisions of this and the four preceding articles, such railway company so offending shall be deemed guilty of discrimination within the meaning of this act, and shall forfeit and pay to the person or corporation aggrieved thereby the sum of one thousand dollars as penal damages for each and every act of discrimination or violation of this act, which may be recovered in a civil action in any of the courts of this State having jurisdiction by law of such an amount, in the name of the person or corporation so sung: *Provided*, Nothing in this act shall be so construed as to prevent the recovery of any other damages, by any aggrieved person, firm, or corporation, occurring by reason of the violation of this or the four preceding articles, nor to relieve any railway company, or its officers, managers, or agents, from prosecution for the violation of any penal law of the State.

Approved, April 2, 1887.

AGRICULTURAL EXPERIMENT STATIONS.

Sec.

1. Assenting to purposes of grant by Congress.

Sec.

2. Emergency clause.

CHAP. 121.—[S. B. No. 349.] An Act to give the assent of the State of Texas to the purposes of a grant of money authorized and appropriated by an act of the Congress of the United States, approved March 2nd, A. D. 1887, and entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an act approved July 2nd, A. D. eighteen hundred and sixty-two, and of the acts supplementary thereto."

Whereas the Congress of the United States, by an act approved March 2, A. D. 1887, and entitled "An Act to establish agricultural experiment stations in connection with colleges established in the several States under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto," has granted to each of the States and Territories of the United States an appropriation of fifteen thousand dollars for the purposes indicated in the title of said act, and fully set forth in the body thereof; and whereas said act in Section 9 thereof provides that the grants of money therein authorized are made subject to the legislative assent of the several States and Territories to the purposes of said grants: Therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the State of Texas does hereby assent to the purposes of said grant.

SEC. 2. That the near approach of the close of the present session of the Legislature rendering it impracticable to read this bill on three several days, and the importance of the subject matter hereof, creates an imperative

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benefit of the State until said company make satisfactory arrangements with the Governor to insure the State that they will carry out in good faith the objects of this title ; but unavoidable circumstances, when proven, shall be a good defense to any recovery under this article. (P. D., 7356.)

ART. 4256. **Maximum Rate of Passenger Fare.**—No railroad company shall demand or receive for transporting a passenger over its line of road exceeding three cents for each mile, or fraction of a mile, it may transport such passenger, and any passenger shall be entitled to have transported with him baggage, not to exceed one hundred pounds, free of charge. (As amended by Laws, 1882, Called Session, ch. 4, p. 3.)

ART. 4257. **Maximum Rate of Freight—Discrimination.** Railroad companies may charge and receive not exceeding the rate of fifty cents per 100 pounds per 100 miles for the transportation of freight over their roads, but the charges for transportation on each class or kind of freight shall be uniform, and no unjust discrimination in the rates or charges for the transportation of any freight shall be made against any person or place on any railroad in this State ; and it shall be *prima facie* evidence of an unjust discrimination for any railroad company to demand or receive from one person, firm or company a greater compensation than from another for the transportation in this State of any freight of the same kind or class, in equal or greater quantities, for the same or a less distance, which *prima facie* evidence may be rebutted by competent testimony on the part of such company, showing that the discrimination, if any, was not an unjust one, and the question, upon an issue as to whether any alleged discrimination is unjust or not, shall be a question of fact to be tried and determined as any other issue of fact in a case: *Provided*, that when the distance from the place of shipment to the point of destination of any freight is fifty miles or less, a charge not exceeding thirty cents per hundred pounds may be made for the transportation thereof. (As amended by Laws, 1879, Regular Session, ch. 109, p. 117.) (a)

(a) The rates for freight, to which the Southern Pacific Railroad Company is limited by its charter, have no reference to any road except that which the company is authorized to build and operate in Texas; therefore, a charge of freight, in excess of the limits prescribed by its charter, over a road which the company owns and operates outside of the State, is no violation of the provisions of its charter. Knight vs. Southern Pacific Railroad, 41 Tex., 406. In a suit against a company for overcharging on certain freight, by rating cotton as "measurement freight" instead of "weight freight," (the company's charges being limited per foot as well as per 100 pounds,) it was held erroneous to admit the testimony of merchants and shippers to prove that, by custom, cotton was "weight freight" and not "measurement freight." The company might lawfully rate cotton either by measurement or by weight, but could not charge according to both standards on the same lot of freight. Central R. Co. vs. Hearne, 32 Tex., 546. Independently of the act of 1879, and before its enact-

ART. 4258. **Penalty for Violation of Two preceding Articles.**—Any railroad company which may violate either of the two preceding articles shall forfeit and pay to the person injured thereby the sum of five hundred dollars, to be recovered before any court having jurisdiction of the amount, in any county through or into which the passenger or freight may have been transported.

CHAPTER 11.

OF THE COLLECTION OF DEBTS FROM RAILROAD CORPORATIONS.

<p>ARTICLE 4259. All property of company subject to execution. 4260. Purchaser of road and franchises vested with the powers of the company. 4261. Sale under deed of trust, when and where made. 4262. Road-bed, track, franchise and chartered powers to be sold as an entirety.</p>	<p>ARTICLE 4263. Continued—Effect of—Stockholders not released from unpaid subscriptions. 4264. Continued—Directors of sold out company continue trustees for stockholders and creditors. 4265. Suits not to abate by reason of sale. 4266. This title not to apply to certain debts.</p>
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ART. 4259. **All Property of Company subject to Execution.**—The rolling stock and all other movable property belonging to any railroad company or corporation shall be considered personal property, and its real and personal property or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals, and no such property shall be exempt from execution and sale. (Const., art. 10, § 4.)

ART. 4260. **Purchaser of Road and Franchises vested with the Powers of the Company.**—In case of the sale of the entire road bed, track, franchise and chartered right of a railroad company, whether by virtue of an execution, order of sale, deed of trust or any other power, the purchaser or purchasers at such sale and their associates, shall be entitled to have and exercise all the powers, privileges and franchises granted to said company by its charter, or by virtue of the general laws; and the said purchaser or purchasers and their associates shall be deemed and taken to be the true owners of said charter and corporators under the same, and vested with all the powers, rights, privileges and benefits thereof, in the same manner and to the same extent as if they were the original corporators of said com-

ment, railway companies were held to the strictest impartiality in the conduct of their business, in withholding privileges or preferences from one customer which were not extended to all others. But this rule was subject to the qualification, that where the rate of freight was reasonable for all customers, contracts for a less rate might be made in special cases, when under all the circumstances, the discrimination was reasonable and just Houston, etc., R. Co. vs. Rust, 58 Tex., 98.

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RAILROADS—PURCHASE AND MAINTENANCE.

Sec.

1. Corporations may be formed for purchase of railway corporations ordered sold.

Sec.

2. Property subject to judgments claims, etc., of old company; joinder of parties in suits against new company; executions; service against new company.
3. Emergency clause.

CHAP. 86.—[S. B. No. 300.] An act to provide for the incorporation of Railway Companies for the purpose of acquiring, owning, maintaining and operating any line or lines of railway within this State, authorized by law to be sold and to empower such companies when so organized to purchase and extend.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That whenever any line or lines of railway or railway properties within

For the purchase of one hundred copies of a map, to be prepared by Langerman & Pressler, to be on the same general plan as the map prepared by them in 1879, on a scale of 8 miles to an inch, to show the result of the topographical survey of the geological department, and the location of railroad, school, university and asylum lands and county lines; to be paid to said Langerman & Pressler on the order of the governor, after said map has been certified to by the commissioner of the general land office and

this State are by special law authorized to be sold and conveyed, the persons contemplating or engaging for the purchase thereof, may be formed into a corporation for the purpose of acquiring, owning, maintaining and operating such line or lines of railway by complying, as far as is applicable with the requirements of chapter one (1) of title eighty four (84) of the Revised Statutes of this State. In the formation of such corporation, the requirements of Art. 4100 and so much of Art. 4103 of the Revised Statutes as relates to the affidavit therein provided for may be dispensed with, and words applicable to the case of a purchase may be used and substituted when necessary or proper in the articles of incorporation or elsewhere for or in lieu of words applicable to the building or construction of a railway. And when such corporation has been formed, it shall have the power to purchase, acquire, own, maintain and operate such line or lines of railway, and properties pertaining thereto and all other rights, powers, and privileges given by the laws of this State to Railway Companies, including the right to complete and extend such line or lines of railway and to construct branch lines thereto, and any proposed extension or branch lines may be provided for and included in the original articles of incorporation, or the same may, by amendment thereto at any time thereafter, be projected and provided for by such Company.

SEC. 2. Every railroad company organized under the preceding section of this act, shall take the property so purchased subject to all incumbrances, judgments, claims, suits, claims for damages and for right of way against the old company and subject to all debts and claims for damages, accruing against any receiver which may have been appointed for the old company, to the same extent that such property would have been liable in the hands of the railroad company from which it was purchased, and such new company may be made a party to every suit pending against the company from which it purchased, or which may be pending against any receiver of such company, to enforce any right against such new company, and the new company may be sued to enforce any such rights, without joining the old company or the receiver, and in case any judgment has been rendered against the company from which the purchase is made or against a receiver for such last named company and for which the property is liable, execution may be issued on such judgment against such property in the possession of the new company without any suit therefor. When any corporation shall be formed under the provisions of the first section of this act, service of process may be had upon any agent of such corporation in the county where suit may be pending. Such service shall bind each and every railroad operated or owned under such charter in the same manner as if it were one railroad.

SEC. 3. Whereas, there is doubt whether under existing laws a railway corporation may be formed for the purposes specified in and as provided for by this act, and there is a present public need for such provision of law creating an imperative public necessity and emergency, justifying a suspension of the constitutional rule requiring bills to be read on three several days, and it is therefore so suspended, and that this act take effect and go into force from and after its passage, and it so enacted.

[NOTE.—The foregoing act originated in the Senate and passed the same by a vote of 26 yeas and 1 nay; and passed the House by a vote of 77 yeas and no nays.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the second day of April, A. D. 1891, and was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

LAND BOARD—VALIDATING ACTS OF.

Preamble.

Sec. 1. Failure of land board to comply with act of April 12, 1883, does not render invalid the right of the purchaser under contract with the land board; does not apply to any right, etc., acquired prior to this act.

2. Emergency clause.

CHAP. 87.—[H. B No. 236.] An act to make valid and confirm contracts of sale made by the Land Board of the State of Texas, with divers persons for the sale of the free school, university and asylum lands of the State of Texas sold under the act of the legislature of the State of Texas, approved April 12th, 1883.

Whereas, the land board of the State of Texas, duly appointed for that purpose did make contracts under the act of April 12th, 1883, for the sale to divers persons of the free school, university and asylum lands of this State; and,

Whereas, many of such persons acting in good faith believing that the said contracts were valid and binding and secured to them the right to acquire valid titles to said lands by a compliance with said act, have paid to the State a part of the purchase price of the said lands and the interest on the amount of said contract price for several years; and,

Whereas, it has been found that said contracts have been made by said land board, in many instances, without a strict compliance with the requirements of the said law, whereby the said contracts are rendered invalid, and said purchasers have failed to acquire any right under the purchases and contracts so made; and,

Whereas, it is inequitable and unjust that the said parties so acting in good faith, and who have complied with the requirements of said act, should be deprived of their equities, so intended to be acquired, and which the State in good faith intended to confer upon them by reason of the failure of said land board to comply with said law, and thus lose the benefit of what they have paid on said contracts, and be deprived of said lands; therefore,

SECTION 1. Be it enacted by the Legislature of the State of Texas That the failure of the land board to comply with the requirements of the act of April 12th, 1883, in placing the free school, university and asylum lands of the State upon the market or in selling the same, shall not have the effect to render invalid the right, title or claim of any purchaser of such lands under any contract made with said land board, and in any case in which such purchaser bought but one section of land or who bought not exceeding three sections where the rules and regulations of the land board permitted the purchase of three sections and actually settled upon the same in good faith for the purpose of becoming a bona fide settler thereon and has complied with the requirements of the said act of April 12th, 1883, the rules and regulations of the land board and the terms of the contract made with such land board, or where such purchaser has complied with the law in such particulars as the rules and

Act of 1889 Laws 21 Leg. Ch 24 P 19 adds
 Art. 4260 a. authorizing incorporation by purchase
 See Also Act 1891 22 Leg. Ch 86 P 128 on same subject.
 These acts of 1889 return p 86 + 87 and
 Act of 1891 were inserted

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[Faint, illegible handwriting on lined paper]

pany; and shall have power to construct, complete, equip and work the road upon the same terms and under the same conditions and restrictions as are imposed by their charter and the general laws. (P. D., 4912.) (a)

ART. 4261. Sale under Deed of Trust, when and where made.—Whenever a sale of the road-bed, track, franchise and chartered rights and privileges of any railroad company is made by virtue of any deed of trust or power, the same shall be made at the time and place mentioned in the deed of trust or power, and in accordance with the provision of the same as to notice, and in other respects; and if the same be not specified, such sale shall be made as hereinafter provided for sales under execution or order of sale. (P. D., 4913.)

ART. 4262. Road-bed, Track, Franchise and chartered Powers to be sold as an Entirety.—Whenever judgment is rendered against any railroad company, execution shall issue thereon, and be levied and collected as in other civil causes, except that when the road-bed, track, franchise and chartered powers and privileges of said railroad company is levied upon, the levy and sale must take place in the county where the principal office of such company is situated, and the entire road-bed, track, franchise and chartered powers and privileges of such company shall be levied upon and sold. The provisions of this article shall be observed so far as they are applicable in all cases where, by any decree of a competent court, a sale of the road-bed, track, franchise and chartered powers and privileges of any railroad company is directed to be made. (P. D., 4914.) (b)

(a) In *Scogin vs. Perry*, 32 Tex., 21, it was held that in view of the statutory provisions contained in arts. 4930 and 4912, of Paschal's Digest, railroads cannot be regarded as "real estate," in Texas; and further, that judgments, whether recorded or not, did not operate as a lien on the railroad of the Southern Pacific Railroad Company, against which they were rendered; and, also, that the execution first levied, was entitled to the proceeds resulting from the sale of the road. Under the act of December 19, 1857, (Paschal's Dig., arts. 4912, 4914), the railroad track, franchise, chartered powers and privileges of a railway company were deemed an entire thing, and a levy was held to embrace the whole road-bed and track whether situated in one county or not, and the same could be advertised and sold at the court house door of the county of the principal office. *Central R. Co. vs. Henning*, 52 Tex., 466.

(b) When the franchises, track, etc., of a railroad company are sold under execution, as allowed by art. 4914, Pasch. Dig., (Rev. Stats., 1879, art. 4262,) the directors become trustees by virtue of the subsequent art. 4916 (Rev. Stats., 1879, art. 4264,) and all unsold property of the company passes to such trustees, for the benefit of any creditors of the company. Stockholders can claim no priority over creditors of the company. *Good vs. Sherman*, 37 Tex., 660. The law relating to the administration of the assets of sold out railroad companies construed. *Witherspoon vs. Texas Pacific R. Co.*, 48 Tex., 309. The trust cast by the statute upon the directory existing at such sale, is to be exercised collectively, and in their aggregate capacity, and not as individuals, *Ib.* The directors must have accepted the trust before they can be held responsible for the discharge of the duties of trustees, *Ib.* Equitable proceeding by judgment creditor against the trustee of a sold out railroad company. Garnishment of another company alleged to be indebted to sold out company. Effect of twelve years lapse of time. *Galveston, etc., R. Co., vs. Butler*, 56 Tex., 506; *Galveston, etc., R. Co., vs. McDonald*, 53 Tex., 510.

ART. 4263. Continued—Effect of—Stockholders not released from unpaid Subscriptions.—The sale of the road-bed, track, franchise and chartered rights, as hereinbefore provided, shall not be held to pass or convey to the purchaser any right or claim to recover from the former stockholders of said company any sums which may remain due upon their subscriptions of stock, but the said stockholders shall continue liable to pay the same in discharge and liquidation of the debts due by the sold-out company, as herein-after provided. (P. D., 4915.)

ART. 4264. Continued—Directors of sold-out Company continue Trustees for Stockholders and Creditors.—Whenever a sale of the road-bed, track, franchise and chartered powers and privileges is made as hereinbefore provided (unless other persons shall be appointed by the Legislature, or by some court of competent authority), the directors or managers of the sold-out company at the time of the sale, by whatever name they may be known in law, shall be the trustees of the creditors and stockholders of the sold-out company, and shall have full powers to settle the affairs of the sold-out company, collect and pay the outstanding debts, and divide among the stockholders the money and other property that shall remain after the payment of the debts and necessary expenses; and the persons so constituted trustees, shall have authority to sue by the name of the trustees of such sold-out company, and may be sued as such, and shall be jointly and severally responsible to the creditors and stockholders of such company, to the extent of its property and efforts that shall come to their hands. (P. D., 4916.) (a)

ART. 4265. Suits not to abate by Reason of Sale.—No suit pending for or against any railroad company at the time that the sale may be made of its road-bed, track, franchise and chartered privileges shall abate, but the same shall be continued in the name of the trustees of the sold-out company. (Ib.)

ART. 4266. This Title not to apply to certain Debts.—The provisions of this title shall not apply to any debt, execution or deed of trust held by the State against any railroad company, because of any loan made by the State to any company under the provisions of the act to provide for the investment of the special school fund, or any other law which authorizes the loan of money to railroad companies; nor shall any creditor of any railroad company be allowed to make the State a party to any suit brought for the enforcement of

(a) See note to art. 4262, *ante*. As to service of process upon directors as trustees, after sale of corporate property, see *Witherspoon vs. Texas Pacific R. Co.* 48 Tex., 309.

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any debt, mortgage, or deed of trust or lien on any railroad, or permitted to require the State to foreclose any lien which it may have upon any road, but the lien of the State and its right to enforce the same shall continue as if this title had never been passed, and as if no sale had been made under the provisions of the same. (P. D., 4917.)

CHAPTER 12.

OF LANDS OF RAILROAD COMPANIES.

- ARTICLE
4267. State grant of sixteen sections for every mile.
- 4268. Certain narrow guage roads not entitled to lands.
- 4269. Prismoidal roads entitled to eight sections.
- 4270. Construction of this chapter.
- 4271. Governor to appoint engineer to inspect road.
- 4272. Contents of engineer's report.

- ARTICLE
4273. Land certificates to be issued to company, when.
- 4274. Land to be surveyed upon application of holder of certificate.
- 4275. Surveys, how made.
- 4276. Land Commissioner to issue patents for odd sections.
- 4277. Lands of railroad company must be alienated.

ART. 4267. State Grant of Sixteen Sections for every Mile.—Any railroad corporation heretofore chartered, or which may be hereafter organized under the general laws, shall, upon the completion of a section of ten miles or more of its road, be entitled to receive, and there is hereby granted to every such railroad sixteen sections of land for every mile of its road so completed and put in good running order. (Act, Aug. 15, 1876, p. 153, § 1.) (a)

(a) The act of January 30, 1854, (Pasch. Dig., art. 4945,) granting sixteen sections of land to railroad companies for every mile of road constructed and put in running order was within the constitutional powers of the Legislature. *Houston, etc., R. Co., vs. Kuechler*, 36 Tex., 332. The limitation of ten years within which the work was to be completed was suspended by the subsequent acts of 1862 for the relief of railroad companies. (Pasch. Dig., arts. 4961, 4965.) The act of 1854 was, therefore, in force Nov. 13, 1866, when by an "act for the benefit of railroad companies," the grant of lands to such companies was extended for ten years more. *Houston, etc., R. Co., vs. Kuechler, supra*. It has been the policy of the State to reserve alternate sections, in making donations of land to railroads, from the act of Jan. 30, 1854 (Pasch. Dig., art. 4955,) until the Constitution of 1869 went into effect prohibiting land grants to railroads. *Galveston, etc., R. Co., vs. Gross*, 47 Tex., 428. A railroad company is not entitled to certificates under its land grant otherwise than on the alternate section plan. *Ib.* The *alternate* or *even* sections of land reserved for the use of the State by the act of Feb. 4, 1856, incorporating the Memphis, El Paso and Pacific Railroad Company, when surveyed and delineated on the map of the district surveyor ceased to be public land, and cannot again be regarded as a part of the public domain so as to subject them to location. By section 3 of article 10 of the Constitution of 1866, such lands are set aside as a part of the perpetual school fund of the State. *Kuechler vs. Wright*, 40 Tex., 600. Fact case involving priority of location of a tract of land claimed by both parties. *Houston, etc., R. Co., vs. McGehee*, 49 Tex., 481. As to forfeiture of land grant of International Railroad Company, see note to sec. 22, art. iv. Const., 1876, *ante* p. 4.

ART. 4268. Certain Narrow Gauge Roads not entitled to Lands.—No company whose road is of less than three feet gauge shall be entitled to receive any grant of lands under the preceding article. (Ib.)

ART. 4269. Prismoidal Roads entitled to Eight Sections. Companies constructing railroads on the prismoidal plan shall be entitled to receive from the State eight sections of land to the mile, on the same terms as other roads. (Ib.)

ART. 4270. Construction of this Chapter.—This chapter shall not be construed to renew or continue any right to any company which has failed or may fail, to comply with the terms of its charter, with reference to the completion of portions of its road in stated times; nor so as to grant the aid herein provided for to any railroad that has already received or is otherwise entitled to receive aid from the State to the amount of sixteen sections of land to the mile. (Ib.)

ART. 4271. Governor to appoint Engineer to inspect Road.—Any railroad company having completed and put in good running order a section of ten miles or more of its road may give notice of the same to the Governor, whose duty it shall be to appoint some skillful engineer, if there be no State engineer, to examine said completed road, and report in writing and under oath to the Governor the result of such examination. (15th Leg., p. 153, § 2.)

ART. 4272. Contents of Engineer's Report.—It must appear from said report—

1. That said road is substantially built.
2. That it is fully equipped for the transportation of both passengers and freight.
3. That the same is operated by steam or other mechanical power.
4. That it is constructed of iron rails not less than thirty pounds to the lineal yard.
5. If it be a prismoidal road, that the rails weigh not less than twenty-two pounds to the lineal yard.
6. The length of such completed road; and,
7. That the same has been constructed in accordance with its charter, or with the general laws under which it may be constructed, or with the general laws in force regulating railroads. (Ib.)

ART. 4273. Land Certificates to be issued to Company, when.—The report mentioned in the preceding article shall be made to the Governor, and thereupon, if the Governor be fully satisfied that

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Sup.
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No. 3.—[S. J. R. No. 4.] Joint Resolution requesting the Attorney-General to at once institute suit in the District Court of Travis County, Texas, against all railroad companies or any chartered company or association of individuals, for the forfeiture and recovery of all lands and grants made and patented to them by the State, and who have obtained aid from this State in the donation of lands under their respective charters, or under a general or special law of this State, who have failed to comply with the law or the requirements in their respective charters to alienate such lands, or have made such alienation in fraud of the rights of the State.

SECTION 1. *Be it resolved by the Legislature of the State of Texas:* That the Attorney-General of this State is hereby requested to at once institute suit in the District Court of Travis County, Texas, against all railroad companies or any other chartered company or association of individuals, for the forfeiture and recovery for the State of all lands and grants made and patented to them by the State, and who have obtained aid from the State in the donation of lands under their respective charters, or under a general or special law of this State, who have failed to comply with the law or the requirements in their respective charters to alienate such lands, or have made such alienation in fraud of the rights of the State.

Approved, March 17, 1887.

No. 1.—[H. J. R. No. 2.] Joint Resolution to amend Section 20 of Article 16 of the State Constitution.

SECTION 1. *Be it resolved by the Legislature of the State of Texas:* That Section 20 of Article 16 of the Constitution be so amended as to read as follows, to-wit:

Section 20. The manufacture, sale, and exchange of intoxicating liquors, except for medical, mechanical, sacramental, and scientific purposes, is hereby prohibited in the State of Texas. The Legislature shall, at the first session held after the adoption of the amendment, enact necessary laws to put this provision into effect.

SEC. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of the State of Texas at an election to be held for that purpose on the first Thursday in August, 1887, at which election all voters favoring said proposed amendment shall have written or printed on their ballots, "For State Prohibition," and those voting against said amendment shall have written or printed on their ballots, "Against State Prohibi-

the same is correct and true, he may certify the fact to the Commissioner of the General Land Office, stating in such certificate the number of sections of land to which said railroad company is entitled, and said commissioner shall file said certificate in his office, and proceed to issue certificates to said company for the number of sections of land to which they are entitled.

ART. 4274. Land to be Surveyed upon Application of Holder of Certificate.—When said certificates have been issued, the company to whom issued, or its assignees, may apply to the surveyor of any land district to survey such lands out of any unappropriated public land in his district. (Ib., p. 153, § 2.)

ART. 4275. Surveys, how made.—Said surveys shall be made in alternate sections or half sections, as nearly square as practicable, one of such surveys for the company and one for the State for the benefit of the public school fund. (Ib.)

ART. 4276. Land Commissioner to issue Patents for odd Sections.—A map of all such surveys shall be returned with the field notes thereof to the General Land Office, when the Commissioner of the General Land Office shall number contiguous surveys with even and odd numbers, and shall issue to the company patents for the odd surveys. (Ib.)

ART. 4277. Lands of Railroad Company must be alienated.—All lands acquired by railroad companies, under the provisions of this chapter or any general laws, shall be alienated by said companies, one-half in six years and one-half in twelve years from the issuance of patents to the same, and all lands so acquired by railroad companies, and not alienated as herein required, shall be forfeited to the State and become a part of the public domain and liable to location and survey as other unappropriated lands. (Ib., § 3.) (a)

CHAPTER 13.

OF FORFEITURE OF THE CHARTER.

ARTICLE
4278. Upon failure to construct road.
4279. So as to branch lines.

ARTICLE
4280. Neglect to make annual report.

(a) The representations of the agent of a railway company, made in the sale of lots at a depot town, as to the future location of the road with reference thereto, when made as inducements to the purchaser of a lot to contract therefor, become, when acted on in making the purchase, assurances and undertakings, which the road is bound to comply with. *Greenwood vs. Pierce*, 58 Tex., 130.

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Amended by Act 1889 Laws 21 L. 9.
Ch. 21 P. 17 Sec 2 exempting local
and suburban roads.
See report Ch. 1 P. 15 this year.

This article is self acting and no judicial
proceeding necessary.
By mail to R.P. & G. W. R. R. Co 73 T, 624

ART. 4278. Upon Failure to construct Road.—If any railway corporation organized under this title shall not, within two years after its articles of association have been filed and recorded as provided by this title, begin the construction of its road, and construct, equip and put in good running order at least ten miles of its proposed road, and if any such railroad corporation, after the first two years from the date of its organization, shall fail to construct, equip and put in good running order at least twenty additional miles of its road each and every succeeding year until the entire completion of its line, such corporation shall, in either such cases, forfeit its corporate existence, and its powers shall cease as far as it relates to that portion of said road then unfinished, and shall be incapable of resumption by any subsequent act of incorporation. (Act, Aug. 15, 1876, p. 149, § 31.) (a)

ART. 4279. So as to Branch Lines.—The preceding article shall apply as well to branch lines as to main lines of railroad. (Ib., p. 143, § 7.)

ART. 4280. Neglect to make Annual Report.—Any railroad corporation which shall neglect to make the annual report to the comptroller required by this title, and which has been notified by the comptroller of such failure, and shall still neglect to make such report, within three months after such notice, shall forfeit its charter. (P. D., 4902.) (b)

(a) Chapter 51, acts 1879, extra session, instead of amending the above article, amends section thirty-one of the act of 1876, and cuts the following figure in amending the Revised Statutes:

“SEC. 31. If any railway corporation, organized under this act, shall not, within two years after its articles of association shall be filed and recorded as provided in the second section of this act, begin the construction of its road, and construct, equip and put in good running order at least ten miles of its proposed road; and if such railroad corporation, after the first two years, shall fail to construct, equip and put in good running order at least twenty additional miles of its road, each and every succeeding year, until the entire completion of its line, such corporation shall, in either of such cases, forfeit its corporate existence, and its powers shall cease as far as relates to that portion of said road then unfinished, and shall be incapable of resumption by any subsequent act of incorporation: *Provided*, that any railroad company heretofore organized under the act to which this is an amendment, which shall, previous to the taking effect of this amendment, have graded as much as ten miles of its road-bed, shall have an additional time of twelve months from the day of the passage of this amended act, to construct, equip and put in good running order at least ten miles of its proposed road, as required in the section herein amended; and any such company may then and thereafter proceed to construct twenty miles of its proposed road each and every succeeding year after the lapse of the additional period of twelve months hereby given, and shall not, in such case, forfeit its corporate existence, or any of the powers or privileges conferred by said act or any other law of this State.

“SEC. 2. That article 4278, of chapter 13, [title LXXXIV] of the Revised Statutes, be and the same is hereby repealed, in so far as it conflicts with the provisions of this act.”

(b) A constitutional provision that “two-thirds of the Legislature shall have power to revoke and repeal all private corporations by making compensation for the franchise” is not a limitation upon the power of the State to that mode of revocation alone. *State vs. Southern Pacific R. R. Co.*, 24 Tex., 80. Where facts are presented which conclusively show that the high public trusts involved in the franchise granted to a corporation have been grossly abused to the public detriment, or that the company has placed itself or is placed in such irretrievable embarrassment as to be certainly unable to progress with the enterprise, as contemplated by the charter, then the State has the right to resume the franchise. (Ib.)

- Sec. 1. Time for construction and equipment extended; forfeited franchises restored.
 2. Emergencies restored.

CHAP. 4.—[S. B. No. 29.] An Act for the relief of railway companies having charters made or amended since January 1st, 1887, which have failed or are about to fail to comply with article 4278 Revised Statutes.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the time in which any railroad company chartered under the laws of this State since January 1st, 1887, or the charter to which has been amended since said date, is required to begin the construction of its road and construct, equip and put the same in good running order as to part of such road as provided for in article 4278 of the Revised Statutes of the State of Texas, and amended April 8, 1889, is and the same shall be extended until the 1st day of January A. D. 1893. And any railway company having been chartered since January 1st, 1887, or the charter to which has been amended since said date, which shall have forfeited its corporate existence, rights and powers, or is about to do so, by reason of failure to comply with said article 4278, or any part of said article, shall have restored and preserved to it its corporate existence, and it shall have and enjoy all of the corporate franchises property and right and powers held or acquired by it previous to any cause of forfeiture on account of such failure as aforesaid.

SEC. 2. The fact that no good can result to the State from the forfeiture provided against in this act, and that the public convenience will be promoted by work, beginning at once on some of said railways, and that citizens in many parts of the State having invested in railway enterprises, saved from great loss unless the relief herein provided for be granted, create an emergency and an imperative public necessity authorizing the suspension of the constitutional rule, requiring bills to be read on three several days, and demanding that this act take effect and be in force from and after its passage and it is so enacted.

[NOTE—The foregoing act originated in the Senate and passed the same by a vote of yeas 25, nays 1; and passed the House by a vote of yeas 88, nays none.]

Approved February 11, 1891.

SEC. 2. The governor, upon the certificate of such district judges that such vacancy exists, shall order a special election to fill said vacancy.

SEC. 3. Whereas, a vacancy in the office of District clerk of Bexar county now exists and there is no law providing for the filling of such vacancy.

And whereas, the district courts of said county of Bexar are now in session and unable to transact business for want of a clerk, therefore, an emergency and imperative public necessity exists for the suspension of the constitutional rules requiring bills to be read on three several days and that this act shall take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate, and passed the same by a vote of yeas 24, nays none; and passed the House by a vote of yeas 92, nays none.]

Approved February 12, 1891.

NACOGDOCHES COUNTY—JURISDICTION OF COUNTY COURT RESTORED.

Sec.

1. Defines the original and concurrent jurisdiction of the county court.
2. Appellate jurisdiction of county court in civil cases.
3. Power to grant certain writs.
4. Forfeiture of bonds and recognizances.
5. Gives exclusive original jurisdiction of misdemeanors; exceptions; appellate jurisdiction in criminal cases.

Sec.

6. Jurisdiction of District Court; district clerk to make transcripts of dockets; duty of county clerks.
7. Terms of county court held as provided by law; process.
8. Repealing clause.
9. Emergency clause.

CHAP. 6.—[H. B. No. 135.] An Act to restore to, and confer upon the County Court of Nacogdoches county the civil and criminal jurisdiction heretofore belonging to it under the Constitution and general laws of the State, and to conform the jurisdiction of the District Court of said county to such change.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the county court of Nacogdoches county shall hereafter have exclusive original jurisdiction in civil cases when the matter in controversy

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An Act for the relief of Railway Companies.

Whereas, on account of the stringency of the money market which has rendered it impossible to raise the necessary funds, many railway corporations, chartered under the laws of the State, have failed, or will fail, without fault, to comply with articles 605 and 4278 of the Revised Statutes, requiring the construction and equipment of a certain number of miles of road annually, for which necessary grounds for forfeiture have arisen or will arise under the provisions of the said articles for the forfeiture of their corporate existence; and

Whereas, no good can result to the State from the forfeiture of their charters; therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all limitations as to the time within which any part of any railroad shall be constructed, contained in articles 605 and 4278 of the Revised Statutes, shall be suspended until January 1st, 1887, and the period of time within which any part of any road shall be constructed, equipped and put in good running order shall begin to run from said date.

Approved March 27th, 1885.

Time extended to Jan 1st 1891 by Act 1889 21st Leg Ch 25 P 20
then Act - Volume P. 86 + 87
Time further extended to Jan 1st 93 by
Act of Feb 11th 91 22^d Leg Ch. 4 P. 5

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force as if had under and by virtue of this act, and the several terms of the county courts held in accordance with the times specified and ordered by said county commissioners' courts, be and the same are hereby validated and made lawful terms of said county courts.

SECTION 3. The near approach of the close of the session, rendering it doubtful as to whether this act can pass in the regular course of legislation, and the fact that county courts are being continually held under the law now in force, create an imperative public necessity and emergency requiring the suspension of the constitutional rule which requires bills to be read on three several days and that this act take effect and be in force from and after its passage, and it is so enacted.

I do hereby certify that the within S. B. No. 235 originated in the Senate and passed the same by a vote of 22 yeas, 1 nay, February 25, 1885.

WM. NEAL RAMEY,
Secretary of the Senate.

I do hereby certify that the within S. B. No. 235, passed the House by a vote of 71 yeas, 1 nay, March 24th, 1885.

A. D. SADLER,
Chief Clerk House of Representatives.

Approved March 26th, 1885.

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TITLE 89.

SEALS AND SCROLLS.

ARTICLE 4487.—Abolition of use of seal except in case of corporations.

ART. 4487. **Abolition of Seal except in Case of Corporations.**—No private seal or scroll shall be necessary to the validity of any contract, bond or conveyance, whether respecting real or personal property, or any other instrument of writing, whether official, judicial or private, except such as are made by corporations, nor shall the addition or omission of a seal or scroll in any way affect the force and effect of the same. (Acts, April 28, 1873; Feb. 2, 1858; P. D., 5087).

TITLE 93.

STOCK LAWS.

CHAPTER 2.

OF THE SALE, SLAUGHTER AND SHIPMENT OF ANIMALS.

ARTICLE 4568.—Register of cattle shipped to be kept. | ARTICLE 4569.—County clerk to make a copy.

ART. 4568. **Register of Cattle shipped to be kept.**—The commanders, or agents of all vessels, and the agents of all railroads on which cattle are exported from the State, and the proprietors or agents of all establishments for the slaughter of cattle within the State, shall keep a register of all cattle shipped or slaughtered, with the marks, brands and general description of such animals, and the names of the persons shipping or selling the same, the date of their shipment or purchase, and the county from which they were driven. (Act, Sept. 5, 1850, p. 27, § 1; P. D., 460.)

ART. 4569. **County Clerk to make a Copy.**—Such register shall be deposited with the clerk of the county court of the county where the cattle were shipped or slaughtered on the first day of each month, and such clerk shall at once copy the same in a well bound book to be kept for that purpose, and return the original to the party depositing it. The record kept by the county clerk shall be open at all times to public inspection without charge. (Ibid, § 2; P. D., 461.)

TITLE 95.

TAXATION.

CHAPTER 1.—Of the levy of taxes and payment of occupation taxes.

2.—Of the property subject to taxation and the mode of rendering the same.

3.—Of the assessment of taxes.

6.—Of municipal taxes to pay subsidies in aid of railroads and other internal improvements.

CHAPTER 1.

OF THE LEVY OF TAXES AND PAYMENT OF OCCUPATION TAXES.

ARTICLE 4665.—Express, sleeping car and railroad companies.

ART. 4665. **Express, Sleeping Car and Railroad Companies.**—There shall be levied on and collected from every person, firm, company or association of persons pursuing any of the following named occupations, an annual tax, except when herein otherwise provided, on every such occupation or separate establishment, as follows:

* * * * *

From any person, firm, or association of persons, doing an express business in this State, an annual tax of five hundred dollars shall be levied and collected, this tax to be paid by such person, firm, or association of persons, doing an express business, to the Comptroller of Public Accounts, whose receipt, under seal, shall be issued to the company or companies, certified copies of which shall be evidence of the payment of the State, county and municipal occupation tax.

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From every person, firm, or association of persons owning or running any palace, sleeping, or dining-room cars, on any railroad in this State, there shall be collected an annual tax of fifty cents per mile for each and every mile of any and all railroads in this State over which such cars may run. The tax herein due shall be paid by such person, firm, or association of persons, to the Comptroller of Public Accounts, whose receipt under seal shall be issued to the person, company or firm, certified copies of which shall be evidence of the payment of State tax: *Provided*, that nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons. (a.)

From every person, firm or association of persons owning or running any railroad cars, steamboats or stage coaches in this State there shall be collected quarterly on the first days of January, April, July and October of each year, a tax of three-fourths of one per centum on steamboats and stage coaches, and one-half of one per centum on railroads upon their gross receipts from all passenger travel within this State, the said gross receipts to be returned under oath by said owner, agent or manager to the Comptroller, and said tax to be collected by the Comptroller under such regulations as he may prescribe: *Provided*, That nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons. (As amended by Laws, 1882, Called Session, ch. 17, pp. 18, 22.)

(a) Chapter 134 of the Acts of 1879, (regular session), levied an occupation tax on the owners of palace, sleeping and dining-room cars in the following terms, viz.: "From every person, firm or association of persons owning or running any palace, sleeping or dining-room cars, not owned by the railroad company, on any railroad in this State, there shall be collected an annual tax of two dollars per mile, for each and every mile of any and all railroads in this State over which such cars may run; the tax herein due shall be paid by said person, firm or association of persons to the comptroller of public accounts, whose receipt under seal shall be issued to the company, person or firm, certified copies of which shall be evidence of the payment of State tax: *Provided*, That nothing herein contained shall authorize the levy of any county or municipal tax upon such person, firm or association of persons." This provision was repealed by chapter 43 of the acts of the same year at the special session, which levied an annual direct *ad valorem* tax of one-half of one per cent. upon the value of such cars. Chapter 55 of the general laws of 1881, re-enacted the provisions found in chapter 134 of the acts of 1879. The matter in the text is art. 4665 as amended by Laws, 1882, called session, ch. 17, pp. 18, 22.

CHAPTER 2.

OF THE PROPERTY SUBJECT TO TAXATION, AND THE MODE OF RENDERING THE SAME.

ARTICLE

4671. Personal property includes what.
4672. Definition of terms.
4675. Listing of property by receiver.
4678. Listing of property by railroad companies.
4681. Continued.

ARTICLE

4686. Continued.
46-7. Continued—Rolling stock, how listed.
4688. Assessments and collections of corporate property.

ART. 4671. Personal Property, includes what.—Personal property shall, for purposes of taxation, be construed to include all goods, chattels and effects, and all moneys, credits, bonds and other evidences of debt owned by citizens of the State, whether the same be in or out of the State; all ships, boats and vessels belonging to inhabitants of this State, if registered in the State, whether at home or abroad, and all capital invested therein; all moneys at interest, either within or without this State, due the person, to be taxed over and above what he pays interest for, and all other debts due such persons over and above their indebtedness; all public stock and securities; all stock in turnpikes, railroads, canals and other corporations, (except national banks) out of the State, owned by inhabitants of this State; all personal estate of moneyed corporations, whether the owners thereof resides in or out of this State, and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares in any bank organized or that may be organized under the law of the United States; all improvements made by persons upon lands held by them, the title to which is still vested in the State of Texas, or in any railroad company, or which have been exempted from taxation for the benefit of any railroad company or any other corporations, or any other corporation whose property is not subject to the same mode and rule of taxation as other property. (Act, Aug. 21, 1876, p. 275, § 3; Acts, 1879, ch. 40, p. 39.) (a)

(a) The full text of the act of 1879, is as follows: SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That section third-of an act entitled "An act defining what money and property is subject to taxation or exemption and the mode of listing the same," approved August 21, 1876, shall be so amended as to read as follows: SEC. 3. Personal property shall, for the purpose of taxation, be construed to include all goods, chattels, moneys, credits and effects, wheresoever they may be in this State: *Provided*, that moneys, credits, bonds and other evidences of debt shall be included, whether the same be in or out of this State; all ships, boats and vessels belonging to the inhabitants of this State, if registered in this State, whether at home or abroad, and all capital invested therein; all moneys at interest, either within or without this State, due the persons to be taxed over and above what he pays interest for; and all other debts due such persons over and above their indebtedness; all public stocks and securities; all stocks in turnpikes, railroads, canals and other

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ART. 4672. **Definition of Terms.**— * * * * *

The term "person" shall be construed to include firm, company or corporation.

ART. 4675. **Listing of Property by Receiver.**—All property

shall be listed or rendered in the manner following: * * *

7. The property of corporations whose assets are in the hands of receivers, by such receivers.

ART. 4678. **Listing of Property by Railroad Companies.**

All railroads, telegraph, plank road and turnpike companies shall list all of their real and personal property, giving the number of miles of road-bed and line in the county where such road-bed and line is situated, at the full and true value, except when such company may own personal property or real estate in an unorganized county or district, then they shall list such property to the comptroller.

ART. 4681. **Continued.**—Such statement shall truly and distinctly set forth—

1. The name of the owner.
* * * * *

11. The number of miles of railroad in the county.

12. The value of railroads and appurtenances.
* * * * *

27. Office furniture and the value thereof.
* * * * *

42. Value of all property of companies and corporations other than property hereinbefore enumerated.
* * * * *

45. Every franchise, the description and value thereof.

46. Value of all other property not enumerated above.

corporations (except national banks) out of the State owned by inhabitants of this State; all personal estate of moneyed corporations, whether the owners thereof reside in or out of the State, and the income of any annuity unless the capital of such annuity be taxed within the State; all shares in any bank organized or that may be organized under the law of the United States; all improvements made by persons upon lands held by them, the title to which is still vested in the State of Texas, or in any railroad company, or which have been exempted from taxation for the benefit of any railroad company, or any other corporation, whose property is not subject to the same mode and rule of taxation as other property: *Provided*, that nothing in this section shall be construed as to exempt from taxation any improvements on lands granted to any railroad company or other corporation and exempted from taxation for a term of years. Whereas, the time for assessment of property in this State is at hand, and thousands of dollars worth of property in this State is escaping taxation under the present law, such an emergency exists as [is] contemplated by the Constitution of the State for the immediate passage of this bill; therefore, this act shall take effect from and after its passage. Approved March 20th, A. D. 1879. Takes effect from and after its passage. [Laws, 1879, Regular Session, ch. 40, p. 39.]

ART. 4686. Continued.—It shall be the duty of every railroad corporation in this State to deliver a sworn statement, on or before the first day of June in each year, to the assessor of each county and incorporated town into which any part of their road shall run, or in which they own or are in possession of real estate, a classified list of all real estate owned or in the possession of said company in said county or town, specifying—

1. The whole number of acres of land owned, possessed or appropriated for their use, with a valuation affixed to the same.

2. The whole length of their superstructure and value thereof; and construing "superstructure" to mean the ties, chairs, rails, spikes, frogs and switches, whether such superstructure be laid on land or on artificial foundations.

3. The buildings, machinery and tools therein belonging to the company or in their possession, describing them by location, with the estimated value.

ART. 4687. Continued—Rolling Stock, how listed.—It shall be the duty of every railroad corporation in this State to deliver a sworn statement, on or before the first day of April in each year, to the assessor of the county in which its principal office is located, setting forth the true and full value of the rolling stock of such railroad, together with the names of the different counties through which the road may run, and the number of miles of road-bed in each county. Such statement shall be made in duplicate, and one copy thereof shall be forwarded immediately by the assessor to the comptroller of public accounts, who shall proceed at once to apportion the tax upon such rolling stock among the several counties according to the amount of road-bed in each, and to certify such apportionment to the assessors of such counties, who shall list and enter the same upon the rolls for taxation as other personal property situated in the county. (Const., art. 8, § 8; Act, Aug. 21, 1876, p. 280, § 19.)

ART. 4688. Assessments and Collections of Corporate Property.—All property of private corporations, except in cases where some other provision is made by law, shall be assessed in the name of the corporation, and in collecting the taxes on the same all the personal property of such corporation shall be liable to be seized whenever the same may be found in the county, and sold in the same manner as the property of individuals may be sold for taxes. All statements and lists made by corporations that are required to be sworn to shall be verified by the affidavit and signature of the secretary of said corporation, and if they have no secretary, the officer who discharges the duties of secretary of said corporation. (Ibid., §§ 20, 21.)

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An Act to amend article 4686, title 95, chapter 2 of the Revised Civil Statutes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That article 4686 of the Revised Statutes of the State of Texas be and the same is hereby amended, so as to hereafter read as follows:

ARTICLE 4686. It shall be the duty of every railroad corporation in this State to deliver a sworn statement, on or before the first day of June of each year, to the assessor of each county and incorporated city or town, into or through which any part of their road may run or in which they own or are in possession of real estate, a classified list of all real estate owned by or in possession of said company in said county, town or city, specifying: 1st, the whole number of acres of land, lot or lots, exclusive of their right of way and depot grounds owned, possessed or appropriated for their use, with a valuation affixed to the same; 2nd, the whole length of their railroad and the value thereof per mile, which valuation shall include right of way, road-bed, superstructure, depots and grounds upon which said depots are situate, and all shops and fixtures of every kind used in operating said road; 3rd, all personal property of whatsoever kind or character, except the rolling stock belonging to the company or in their possession in each respective county listing and describing the said personal property in the same manner as is now required of citizens of this State.

Approved March 28th, 1885.

of all the business, civil and criminal, disposed of by the Supreme Court and Court of Appeals, so far as the State of Texas may be a party to such litigation, and of all civil causes to which the State is a party prosecuted or defended by him in any other courts, State or Federal.

ARTICLE 30. He may require the several district and county attorneys, clerks of the district and county courts in the State, to communicate to him at such times as he may designate, and in such form as he may prescribe, all the information necessary for his compliance with the requirements of the preceding article. And whenever the clerk of the district court of any county neglects or fails within thirty days after the adjournment of a term of his court to report to the Attorney General the proceedings thereof, the Comptroller shall thereafter, if notified of such failure, audit no more claims in favor of such clerk until receipt of such report by the Attorney General.

SECTION 2. The near approach of the close of the session of the Legislature, rendering it doubtful if this bill can be passed in its regular order, and the great importance of this measure create an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days should be suspended, and it is so suspended.

Approved March 28th, 1885.

H. B. No. 428.] CHAPTER 30.

An Act to amend article 4687 of the Revised Civil Statutes of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That article 4687 of the Revised Civil Statutes of the State of Texas, be so amended as to read as follows:

ARTICLE 4687. It shall be the duty of every railroad corporation in this State, to deliver a sworn statement on or before the first day of April in each year, to the assessor of the county in which its principal office is situated, setting forth the true and full value of the rolling stock of said railroad, together with the names of all the counties through which they run, and the number of miles of road bed in each of said counties, and the said assessment shall be submitted to the board of equalization, of the county in which its principal office is situated for review, as is provided by article 4715 of this code, and the other laws of this State in respect to boards of equalization, on the first Monday in June in each year, or as soon thereafter as practicable, and such board shall certify such final valuation when made, without delay, to the Comptroller of Public Accounts, who shall proceed at once to apportion the amount of such valuation among the said counties in proportion to the distance such road may run through any such county, and shall certify such apportionment to the assessors of such counties, and the same shall constitute part of the tax assets of such counties, and the assessor of each of said counties shall list and enter the same upon the rolls for taxation as other personal property situated in said county, provided that any railway company organized, and having its principal office without the State, and which may own or operate, as lessee or otherwise, any line of railroad, which is partly within the State and partly without, may render its rolling stock for taxation in the county where such company owning said railroad has established its office within this State, and a proportional part of such company's rolling stock shall be rendered and assessed for taxation within the State, according to the number of miles of such railway therein as compared with the number of miles without the State.

SECTION 2. Whereas, the time for rendering the statement provided for in this act is near at hand, this fact creates an emergency and an imperative public necessity exists, that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

I hereby certify that H. B. No. 428 originated in the House and passed the same, February 18th, 1885, by a two-thirds vote; ayes 84, nays 1.

A. D. SADLER,
Chief Clerk House of Representatives.

I hereby certify that H. B. No. 428 passed the Senate March 12th, 1885; ayes 24, nays 1.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved March 17th, 1885.

Harrison, Hays, Henderson, Hidalgo, Hopkins, Houston, Jackson, Jasper, Jefferson, Karnes, Lamar, La Salle, Lee, Liberty, Limestone, Marion, Mason, Matagorda, McMullen, Menard, Milam, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Pecos, Polk, Presidio, Rains, Reeves, Red River, Refugio, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Somervell, Starr, Stephens, Titus, Tom Green, Trinity, Tyler, Upshur, Van Zandt, Victoria, Waller, Washington, Webb, Wharton and Zapata.

SECTION 2. Whereas, there is no provision in some of the counties mentioned in section 1 of this act to pay for taking the census of the school districts, thus embarrassing the school system, which creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days, be, and the same is hereby suspended, and that this act shall take effect and be in force from and after its passage.

I hereby certify that S. H. Bs. Nos. 13, 61, 64, 104, 161, originated in the House and passed the same February 2nd, 1885, by a two-thirds vote; ayes 78.

A. D. SADLER,
Chief Clerk House Representatives.

I hereby certify that S. H. Bs. Nos. 13, 61, 64, 104, 161, passed the Senate February 10th, 1885; ayes 23.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved March 12th, 1885.

S. B. No. 65.]

CHAPTER 29.

An Act to amend article 690, chapter 90 of the Penal Code, as amended April 4th, 1881.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That article 690, chapter 90 of the Penal Code, as amended April 4th 1881, be so amended as to hereafter read as follows:

ARTICLE 690. If any person shall herd any drove of horses, mules, cattle, sheep, goats or hogs, numbering more than five head, upon any land not his own, and within one half mile of the residence of any citizen of this State, whenever the owner, lessee or legal representative of such land shall forbid such herding and shall fail, neglect or refuse to remove such drove at once upon request of such owner, lessee or legal representative, he shall be fined in any sum not exceeding one hundred dollars.

Approved March 13th, 1885.

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CHAPTER 3.

OF THE ASSESSMENT OF TAXES.

ARTICLE 4710. Manner and form of assessing.

ARTICLE 4715. Powers of boards of equalization.

ART. 4710. Manner and Form of Assessing.—The manner and form of assessing property rendered for taxation shall be substantially as follows, to wit:

1. The name of the owner.

* * * * *

11. Number of miles of railroad in the county.

12. Value of railroads and appurtenances, including the proportionate amount of rolling stock to the county after the assessment of such rolling stock and its apportionment among the several counties by the comptroller, as hereinbefore provided.

* * * * *

42. The value of property of companies and corporations other than property hereinbefore enumerated.

* * * * *

45. Every franchise, the description and value thereof.

46. The value of all other property not enumerated above.

ART. 4715. Powers of Boards of Equalization.—The boards of equalization shall have power, without complaint from any one, to supervise the assessments of their respective counties, and if satisfied that the valuation of any property is not just and fair, to increase or diminish the same, and to affix a proper valuation thereto; and their action in such cases shall be a final and not subject to revision by said board or any other tribunal thereafter. (See Acts, 1879, ch. 47.)

CHAPTER 6.

OF MUNICIPAL TAXES TO PAY SUBSIDIES IN AID OF RAILROADS AND OTHER INTERNAL IMPROVEMENTS.

ARTICLE 4778. Such taxes how applied. 4779. To be collected by city officers. 4780. Bond of the collecting officer.

ARTICLE 4781. Taxes may be paid in what. 4782. To be paid over every month. 4783. If insufficient, additional levy to be made.

ART. 4778. Such Taxes how applied.—All taxes levied, assessed and collected for the purpose of paying the interest and principal of bonds heretofore issued by cities or towns to aid in the construction of railroads and other works of internal improvement, shall be applied solely to the objects for which they were levied, under the direction of the comptroller, as follows: *First*, to the payment of the expenses of assessing and collecting the same; *second*, to the payment of the annual interest of such bonds, and not less than two per cent. of the principal; and if there be any excess on hand after making the above payments for the current year, it shall be used in the purchase and cancellation of said bonds. (Act, Aug. 18, 1876, p. 174, § 1.)

ART. 4779. To be collected by City Officers.—All such taxes shall be assessed and collected by the same officers whose duty it is to assess and collect the other municipal taxes, who shall receive the same rates of commission allowed for assessing and collecting the *ad valorem* tax of such city. The same remedies shall be used to enforce the assessment, collection and paying over of such taxes as are or may hereafter be provided by law to enforce the assessment, collection and paying over of other municipal taxes. (Ibid., § 2.)

ART. 4780. Bond of the Officer.—The officer whose duty it is to collect the aforesaid taxes shall give bond, with two or more sufficient sureties, to be approved by the mayor and board of aldermen of such city, in a sum fifty per cent. greater than the estimated annual amount of said taxes, which bond shall be payable to the State, and shall be conditioned for the faithful assessing, collecting and paying over of said tax into the State treasury, as provided by law, and said collector shall be amenable and subject to all laws enacted to secure the honest and faithful performance of the duties of collectors of taxes. (Ibid., § 3.)
(a)

ART. 4781. Taxes may be paid in what.—It shall be lawful for the collector to receive in payment of the taxes herein specified, current money or the matured coupons of the bonds for the payment of which such tax may have been levied. (Ibid., § 4.)

ART. 4782. To be paid over every Month.—The collector of taxes, levied under the provisions of this chapter, shall pay over to the State Treasurer, at the beginning of each and every month, all moneys

(a) Chapter 105, section 8, acts of 1879, makes collectors liable for damages on their official bonds, at the suit of any person holding bonds or coupons, for neglecting or refusing to collect the taxes levied for the payment of the interest and sinking fund of "compromise" bonds provided for in that chapter; and if anyone elected or appointed collector fails, neglects or refuses to give bond for the collection of such taxes, and the board of aldermen neglect or refuse to appoint some person who will give said bond and collect said taxes, it is made the duty of the governor to appoint some suitable person to collect it.

or coupons he may have collected during the preceding month, deducting his legal commissions on the amount so paid, and shall make a report of his collections to the mayor and city council at its first regular meeting in each month. (Ibid., § 5.)

ART. 4783. If Insufficient, additional Levy to be made.

If it shall be ascertained, at any time, that the tax which has been levied for the payment of the city bonds issued under the provisions of law is insufficient to pay the annual interest and two per cent. annually of the principal of such bonds, besides the expenses of assessing, collecting and paying over such tax, it shall be the duty of the comptroller to inform the mayor of said city of the fact; and it shall be the duty of the city council, and they shall, upon such information, levy such additional tax, and cause the same to be collected, as will be sufficient to make such payment; which levy shall be continued in force until the whole amount of principal and interest of said bonds shall have been fully paid. (Ibid., § 6.)

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PROVISIONS
OF THE
PENAL CODE OF TEXAS, 1879,
RELATING TO
RAILROADS.

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PROVISIONS

OF THE

PENAL CODE OF TEXAS, 1879,

RELATING TO

RAILROADS.

TITLE 1.

GENERAL PROVISIONS RELATING TO THE WHOLE CODE.

CHAPTER 2.

OF DEFINITIONS.

ARTICLE 24. "Person" includes corporation.

ART. 24. "Person" includes Corporation.—Whenever property or interest is intended to be protected by a provision of the penal law, and the general term "person," or any other general term is used to designate the party whose property it is intended to protect, the provision of such penal law, and the protection thereby given, shall extend to the property of the State, and of all public or private corporations.

TITLE 7.

OFFENSES WHICH EFFECT THE FREE EXERCISE OF RELIGIOUS OPINION.

CHAPTER 2.

OF SUNDAY LAWS.

<p><small>ARTICLE</small> 183. Penalty for working or compelling work on Sunday.</p>		<p><small>ARTICLE</small> 184. Exception in favor of railroad employes.</p>
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ART. 183. Penalty for working or compelling Work on Sunday.—Any person who shall hereafter labor, or compel, force or oblige his employes, workmen or apprentices, to labor on Sunday, shall be fined not less than ten nor more than fifty dollars. (Act, Dec. 2, 1871, p. 62.)

ART. 184. Exception in Favor of Railroad Employes.—The preceding article shall not apply to household duties, works of necessity or charity; nor to necessary work on farms or plantations in order to prevent the loss of any crop; nor to the running of steamboats and other water crafts, rail cars, wagon trains, common carriers, nor to the delivery of goods by them or the receiving or storing of said goods by the parties, or their agents to whom said goods are delivered; nor to stages carrying the United States mail or passengers; nor to foundries, sugar mills, or herders who have a herd of stock actually gathered and under herd; nor to persons traveling; nor to ferrymen or keepers of toll-bridges, keepers of hotels, boarding houses, and restaurants and their servants; nor to keepers of livery stables and their servants; nor to any person who conscientiously believes that the seventh or any other day of the week ought to be observed as the Sabbath, and who actually refrains from business and labor on that day for religious reasons. (Ib.)

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SUNDAY LAW.

Sec. 1. Amends article 186a, Penal Code, approved April 2, 1887; exemptions.

CHAP. 110.—[H. B. No. 214.] An Act to amend article 186a of an act to amend article 183 of the Penal Code of the State of Texas, and to amend an act entitled an act to amend article 186 of the Penal Code, approved April 10, A. D. 1883, chapter 2, title 7, and to amend said chapter and title by adding thereto article 186a providing additional exemptions from the operation of the Sunday Law, approved April 2, 1887, so as to leave off the exemption of "barber shops."

SECTION 1. Be it enacted by the Legislature of the State of Texas: That article 186a of the Penal Code of Texas, approved April 2nd, 1887, be amended so as to hereafter read as follows:

Article 186a. The preceding article shall not apply to markets or dealers in provisions as to sales of provisions made by them before 9 o'clock a. m., nor to the sale of burial or shrouding material, newspapers, ice, ice cream, milk, nor to the sending of telegraph or telephone messages at any hour of the day, nor to keepers of drug stores, hotels, boarding houses, restaurants, livery stables, bath houses, or ice dealers, nor to telegraph or telephone offices.

SEC. 2. The near approach of the close of the present session of the Legislature creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—J. R. CURL, Chief Clerk and Acting Secretary of State.]

county and shall receive such compensation as the Commissioners court may prescribe not to exceed one dollar and fifty cents per day for the time actually engaged.

SEC. 3. Each overseer shall, within twenty days after his appointment, take the oath prescribed in the constitution, and enter into bond payable to the County Judge in such sum as may be fixed by the Commissioners court, to be approved by the County Judge, conditioned that he will faithfully discharge all of the duties incumbent upon him as

Whereas, the detaching of said territory from the county of San Patricio, in further violation of the constitution of this State, reduces the area of said county of San Patricio far below the minimum area of seven hundred square miles; therefore,

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the act entitled, "an act to amend article 711 of the Revised Civil Statutes, defining the boundary of Aransas county," approved March 17, 1887, be and the same is hereby repealed, and that article 711 of the Revised Civil Statutes be so amended as to read as follows:

Beginning at the boundary of the State, on the Gulf of Mexico, opposite the center of the channel of Aransas Pass, between the islands of Saint Joseph and Mustang; thence with the line between the counties of San Patricio and Refugio to the center of Aransas river; thence down the center of said stream to Capano bay; thence with the channel of said bay parallel with the shore to the east end of the same, at the mouth of Capano creek; thence up said creek to the mouth of Alamito creek; thence in a direct line to the southeast corner of J. C. Salberg's survey on Esperitu Santo bay; thence in a direct line to Cedar Bayou; thence through said bayou to the boundary of the State on the Gulf of Mexico; thence with said boundary of the State to the place of beginning; the same as it was prior to the passage of said act of March 17, 1887.

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TITLE 9.

OFFENSES AGAINST THE PUBLIC PEACE.

CHAPTER 3.

OF AFFRAYS AND DISTURBANCES OF THE PEACE.

ARTICLE

314. Penalty for disturbing peace in a public place.

ARTICLE

315. "Public place" defined

ART. 314. **Penalty for disturbing Peace in a Public Place.**—If any person shall go into any public place, or into or near any private house, or along any public street or highway near any private house, and shall use loud and vociferous or obscene, vulgar or indecent language, or swear, or curse, or expose his person, or rudely display any pistol or other deadly weapon in such public place, or upon such public street or highway, or near such private house, in a manner calculated to disturb the inhabitants thereof, he shall be fined in a sum not exceeding one hundred dollars. (Act, June 20, 1876, p. 24; P. C., 382.)

ART. 315. **"Public Place" defined.** A public place within the meaning of the two preceding articles, is any public road, street or alley, of a town or city, inn, tavern, store, grocery, work shop, or any place to which people commonly resort for purposes of business, recreation or amusement. (P. C., 383.)

TITLE 13.

OFFENSES AFFECTING PROPERTY HELD IN COMMON FOR USE OF THE PUBLIC.

CHAPTER 1.

OF THE OBSTRUCTION OF NAVIGABLE STREAMS, ROADS, STREETS AND BRIDGES.

ARTICLE 405. Obstructing public highway or bridge.

ART. 405. **Obstructing Public Highway or Bridge.**—If any person shall willfully obstruct or injure, or cause to be obstructed or injured in any manner whatsoever, any public road or highway, or any street or alley in any incorporated town or city, or any public bridge or causeway, he shall be fined in a sum not exceeding five hundred dollars. (Act, Feb. 11, 1860, p. 97; P. C., 399d.)

TITLE 14.

OFFENSES AGAINST TRADE, COMMERCE AND THE CURRENT COIN.

CHAPTER 1.

OF FORGERY AND OTHER OFFENSES AFFECTING WRITTEN INSTRUMENTS.

ARTICLE 431. Forgery defined.

ARTICLE 436. "Another" includes corporation.

ART. 431. **Forgery defined.**—He is guilty of forgery who, without *lawful authority*, and with intent to *injure* or *defraud*, shall make

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a false *instrument in writing*, purporting to be the act of *another*, in such manner that the false instrument so made, would (if the same were true) have created, increased, diminished, discharged, or defeated any *pecuniary obligation*, or would have transferred, or in any manner have affected any *property* whatever. (P. C., 431.)

ART. 436. "Another" includes Corporation. The instrument must purport to be the act of "another," and within the meaning of this word, as used in defining forgery, are included this State, the United States, or either of the States or territories of the Union; all the several branches of the government of either of them; all public or private bodies, politic and corporate; all courts; all officers, public or private, in their official capacity; all partnerships in professions or trades; and all other persons, whether real or fictitious, except the person engaged in the forgery. (P. C., 439.)

TITLE 16.

OFFENSES AGAINST REPUTATION.

CHAPTER 1.

OF LIBEL.

ARTICLE		ARTICLE
637. Recorder of minutes of corporation, not liable.		639. Intent to injure not presumed.
638. Members of corporation assenting to libel, liable.		644. Scope of this title.

ART. 637. Recorder of Minutes of Corporation not Liable.—Where any person, by virtue of his office, is required to record the proceedings of any department of the government or of any body, corporate or politic, or of any association organized for purposes of business, or as a religious, moral, benevolent, literary or scientific institution, he cannot be charged with libel for any entry upon the

minutes or records of such department, body or association, made in the course of his official duties. (P. C., 638.)

ART. 638. Members of Corporation assenting to Libel Liable.—If any false statement be entered upon the minutes of record of proceedings of any corporate body or association included within the meaning of the preceding article, which would be libel if written, printed, published or circulated by an individual, according to the previous articles of this chapter, the persons being members of such body or association, who assent to, and direct such libelous statement to be made, are guilty of libel under the same rules as if the false statement had been written, published or circulated in any other manner than as a part of the record or proceedings of such body or association, subject, however, to the restrictions contained in the succeeding article. (P. C., 639.)

ART. 639. Intent to injure not presumed.—The libelous statement referred to in the preceding article is not to be presumed to have been made with intent to injure, from the mere fact that such would be the natural result thereof, unless it appear from other facts that the statement was in fact made with that intention. (P. C., 640.)

ART. 644. Scope of this Title.—This title regulates the law with regard to libel when prosecuted as a penal offense, and is not intended to have any operation upon the subject so far as it relates to civil remedies for the recovery of damages. (P. C., 645.)

TITLE 17.

OFFENSES AGAINST PROPERTY.

- CHAPTER 2. Of wilful burning.
3. Of malicious mischief.
 6. Of burglary.
 7. Of offenses on board vessels, steamboats and railroad cars.
 15. Of offenses relating to the protection of stock raisers in certain localities.
 16. Of embezzlement.

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CHAPTER 2.

OF WILFUL BURNING.

ARTICLE 668. Burning bridge on public highway.

ART. 668. **Burning Bridge on Public Highway.**—If any person shall wilfully burn any bridge, which by law or usage is a public highway, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years, or by fine not exceeding five thousand dollars. (Act, Feb. 12, 1858, p. 177; P. C., 701.)

CHAPTER 3.

OF MALICIOUS MISCHIEF.

ARTICLE 678. Wrecking railroad trains.

ARTICLE 683a. Baggage smashing punished as a misdemeanor.

ART. 678. **Wrecking Railroad Trains.**—If any person shall willfully place any obstruction upon the track of any railroad, or remove any rail therefrom, or in any other way injure such road, or shall do any damage to any railroad, or car, whereby the life of any person might be endangered, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years. If the life of any person is lost by any such unlawful act the offender is guilty of murder. (P. C., 711.)

ART. 683a. **Baggage Smashing punished as a Misdemeanor.**—That any baggage-master, express agent, stage or hack driver, or other common carrier, whose duty it is to handle, remove, transfer or take care of trunks, valises, boxes or other baggage while loading, transporting, unloading, transferring, delivering, storing or handling the same, whether or not in the employ of any transportation company or common carrier, who shall maliciously or carelessly or recklessly break, injure or destroy the said baggage, shall be deemed guilty of a misdemeanor, and, on conviction, be fined in a sum not exceeding one hundred dollars: *Provided*, That a prosecution for a misdemeanor, as provided in this section, shall not be a bar to a civil action for damages. [Act of March 5, 1881, Laws, 1881, p. 17.]

CHAPTER 6.

OF BURGLARY.

ARTICLE
704. "Burglary" defined.

ARTICLE
709. "House" includes buildings of a private corporations.

ART. 704. "**Burglary**" defined.—The offense of "burglary" is constituted by entering a house by force, threats or fraud, at night, or in like manner by entering a house during the day, and remaining concealed therein until night, with the intent, in either case, of committing felony or the crime of theft. (Act, Aug. 21, 1876, p. 231; P. C., 724.)

ART. 709. "**House**" includes **Buildings of Private Corporations**.—A "house," within the meaning of this chapter, is any building or structure erected for public or private use, whether the property of the United States, of this State, or of any public or private corporation or association, or of any individual, and of whatever material it may be constructed. (P. C., 728.)

CHAPTER 7.

OF OFFENSES ON BOARD VESSELS, STEAMBOATS AND RAILROAD CARS.

ARTICLE
717. Burglary of railroad car.
718. Breaking and entering railroad car by day.
719. Theft after entering punished in addition.

ARTICLE
720. Rules applicable to breaking and entering railroad cars.
721. Theft by railroad employe on train.

ART. 717. **Burglary of Railroad Car**.—If any person, by any of the means enumerated in article 704, shall at night enter any vessel, steamboat or railroad car, with intent to commit a felony or theft, he shall be punished by confinement in the penitentiary not less than two nor more than five years. (P. C., 738.)

ART. 718. **Breaking and Entering Railroad Car by Day**.—If any person shall, by breaking, enter a vessel, steamboat or railroad car in the day time, with intent to commit a felony or theft, he shall be punished as prescribed in the preceding article. (P. C., 739.)

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ART. 719. Theft after Entering punished in addition.—

If a vessel, steamboat or railroad car be entered in such manner as that the entry, if made in a house, would be burglarly, and the person so entering shall commit theft or any other offense after entry, he shall be punished for the offense defined in article 717, and also for whatever other offense he may so commit.

ART. 720. Rules applicable to Breaking and Entering Railroad Cars.—

The definitions, rules and explanations of terms in the preceding chapter are applicable to such terms in this chapter, and the rules prescribed in articles 704, 705, 706, 707 and 708 of the preceding chapter shall also apply to similar cases on board of a vessel, steamboat or railroad car. (P. C., 741.)

ART. 721. Theft by Railroad Employe on Train.—

A theft on board a steamboat, vessel or railroad car, committed by a servant or employe, except in cases where there has been an actual breaking in, is punishable simply as theft. (P. C., 742.)

CHAPTER 15.

OF OFFENSES RELATING TO THE PROTECTION OF STOCK RAISERS IN CERTAIN LOCALITIES.

ARTICLE 784. Penalty for receiving cattle for shipment without inspection.

ART. 784. Penalty for Receiving Cattle for Shipment without Inspection.—

If any agent of any railroad, steamship, sailing vessel, or shipping company of any kind, shall receive for shipment any horses or cattle, unless such horses or cattle have been duly inspected according to law, he shall be fined not less than twenty-five nor more than one thousand dollars for each animal so unlawfully shipped. (Act, Aug. 23, 1876, p. 302, § 45, as amended by Laws, 1883, Regular Session, ch. 71, p. 71.)

CHAPTER 16.

OF EMBEZZLEMENT.

ARTICLE

786. Embezzlement by agents defined and punished.

ARTICLE

788. Embezzlement by carrier.

ART. 786. Embezzlement by Agents defined and punished.—If any officer, agent, clerk, or attorney at law or in fact, of any incorporated company or institution, or any clerk, agent, attorney at law or in fact, servant or employe of any private person, copartnership, or joint stock association, or any consignee or bailee of money or property, shall embezzle, fraudulently misapply, or convert to his own use without the consent of his principal or employer, any money or property of such principal or employer which may have come into his possession, or be under his care by virtue of such office, agency or employment, he shall be punished in the same manner as if he had committed a theft of such money or property. (P. C., 771.)

ART. 788. Embezzlement by Carrier.—If any carrier to whom any money, goods or other property shall have been delivered to be carried by him, or if any other person who shall be entrusted with such property, shall embezzle or fraudulently convert to his own use any such money, goods or property, either in the mass as the same were delivered or otherwise, he shall be deemed guilty of theft, and shall be punished as prescribed for that offense, according to the value of the money, goods or other property so embezzled or converted. (Act, Feb. 12, 1858, p. 182; P. C., 772.)

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PROVISIONS

OF THE

Code of Criminal Procedure of Texas, 1879,

RELATING TO

RAILROADS.

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PROVISIONS

OF THE

Code of Criminal Procedure of Texas, 1879,

RELATING TO

RAILROADS.

TITLE 3.

PREVENTION AND SUPPRESSION OF OFFENSES.

CHAPTER 6.

OF THE SUPPRESSION OF OBSTRUCTIONS OF PUBLIC HIGHWAYS.

- ARTICLE
- 124. Public highways not to be obstructed.
 - 125. Obstructions removed on order of county judge.
 - 126. Suit upon bond of person applying for removal.

- ARTICLE
- 127. Defects of form in establishing highway do not vitiate.
 - 128. Removal of obstruction on conviction of defendant.

ART. 124. Public Highways not to be Obstructed.—
 Whenever any road, bridge, or the crossing of any stream is made, by the proper authority, a public highway no person shall place an ob-

struction across such highway, or in any manner prevent the free use of the same by the public, except when expressly authorized by law. (C. C. P., 112.)

ART. 125. Obstructions removed on Order of County Judge.—After indictment or information presented against any person for violating the preceding article, any one, in behalf of the public, may apply to the county judge of the county in which such highway is situated, and upon hearing proof, such judge, either in term time or in vacation, may issue his written order to the sheriff or other proper officer of the county, directing him to remove the obstruction; but before the issuance of such order the applicant therefor shall give bond with security in an amount to be fixed by the judge, to indemnify the accused, in case of his acquittal, for the loss he sustains. Such bond shall be approved by the county judge and filed among the papers in the cause. (C. C. P., 113.)

ART. 126. Suit upon Bond of Persons applying for Removal.—If the defendant, in such indictment or information, be acquitted after a trial upon the merits of the case, he may maintain a civil action against the applicant, and his sureties upon such bond, and may recover the full amount of the bond or such damages, less than the full amount thereof, as may be assessed by the jury: *Provided*, he shows on the trial that the place was not in fact, at the time he placed the obstruction or impediment thereupon, a public highway, established by proper authority, but was in fact his own property or in his lawful possession. (C. C. P., 114.)

ART. 127. Defects of Form in establishing Highway do not vitiate.—No mere defect of form shall vitiate any order or proceeding of the commissioners' court in establishing a highway. (C. C. P., 115.)

ART. 128. Removal of Obstruction on Conviction of Defendant.—Upon the conviction of a defendant for obstructing the free use of any public highway, if such obstruction still exists, the court shall order the sheriff or other proper officer to forthwith remove the same at the costs of the defendant, which costs shall be taxed and collected as other costs in the case.

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PROVISIONS

OF THE

SESSION LAWS OF TEXAS,

(Passed since the Revision of 1879.)

RELATING TO

RAILROADS.

PROVISIONS

OF THE

SESSION LAWS OF TEXAS,

(Passed since the Revision of 1879,)

RELATING TO

RAILROADS.

LIENS OF MECHANICS AND LABORERS.

CHAPTER XII.—An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors, or agents, to pay their wages when due, and provide a lien for such wages.

SECTION

1. Mechanics, laborers and operatives to have a first lien upon railroads.
2. Suit and judgment upon such lien—Intervenors.

SECTION

3. Venue of such action.
4. Lien must be enforced within one year.
5. Emergency clause.
6. Repealing clause.

SECTION 1. Mechanics, Laborers and Operatives to have a first Lien upon Railroads.—*Be it enacted by the Legislature of the State of Texas, That all mechanics, laborers and operatives who*

may have performed labor in the construction or repair of any railroad, locomotive, car or other equipment to a railroad, or who may have performed labor in the operating of a railroad, and to whom wages are due or owing, shall hereafter have a lien prior to all others upon such railroad and its equipments for such wages as are unpaid.

SEC. 2. Suit and Judgment upon such Lien—Intervenors.—In all suits for wages due by a railroad company for such labor as heretofore mentioned, upon proof being satisfactorily made that such labor had been performed, either at the instance of said company, a contractor or sub-contractor, or agent of said company, and that such wages are due, and the lien given by this act is sought to be enforced, it shall be the duty of the court having jurisdiction to try the same, to render judgment for the amount of wages found to be due, and to adjudge and order said railroad and equipments, or so much thereof as may be necessary, to be sold to satisfy said judgment. In all suits of this kind it shall not be necessary for the plaintiff to make other lien holders defendants thereto, but such lien holders may intervene and become parties thereto, and have their respective rights adjusted and determined by the court.

SEC. 3. Venue of such Action.—Suits by mechanics, laborers and operatives, for their wages due by railroad companies, may be instituted and prosecuted in any county in this State where such labor was performed, or in which the cause of action or part thereof accrued, or in the county in which the principal office of such railroad company is situated, and in all such suits service of process may be made in the manner now required by law.

SEC. 4. Lien must be enforced within one Year.—The lien created by this act shall cease to be operative in twelve months after the creation of the lien, if no steps be sooner taken to enforce it.

SEC. 5. Emergency Clause.—It being important that the benefits of this act be realized at once, because the parties to be benefited by this act have no adequate protection under existing law, creates such imperative public necessity and an emergency as requires that it be of force and effect upon its passage, and it is so enacted.

SEC. 6. Repealing Clause.—That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed. Approved, February 18, 1879. [Laws 1879, Regular Session, p. 8.] Takes effect from and after its passage. (a)

(a) The lien given to mechanics and workmen by this act was intended to apply only to labor done or materials furnished after its passage. *Central, etc., R. Co. vs. Henning*, 52 Tex., 466. Prior to this act, neither under the constitution nor the statute law, was a mechanic's lien given on a

RAILROADS—LABORER'S LIEN.

Sup. 305

SEC. 1. Provides for prior liens to secure wages of laborers, etc., on railroads.

CHAP. 25.—[H. B. No. 16.] An Act to amend Section 1 of an act entitled An Act to protect mechanics, laborers, and operatives on railroads, against the failure of owners, contractors and sub-contractors or agents to pay their wages when due, and provide a lien for such wages, approved February 18th, 1879.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Section 1 of an act entitled "An Act to protect mechanics, laborers, and operatives on railroads, against the failure of owners, contractors and sub-contractor or agents to pay their wages when due, and provide a lien for such wages," approved February 18, 1879, be so amended to read hereafter as follows:

Section 1. That all mechanics, laborers, and operatives, who may have performed labor, or worked with tools, teams, or otherwise, in the construction, operation, or repair of any railroad, locomotive, car, or other equipment of a railroad, and to whom wages are due or owing for such work, or for the work of tools or teams thus employed, or for work otherwise performed, shall hereafter have a lien prior to all others upon such railroad and its equipments for the amount due him for personal services, or for the use of tools or teams.

Approved, March 10, 1887.

who are anxious to redeem the same, an emergency exists and an imperative public necessity demands that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House, and passed the same by a vote of 87 yeas, no nays; and passed the Senate by a vote of 26 yeas, 1 nay.]

Approved, March 10, 1887.

APPROPRIATIONS—DEFICIENCY.

Sec.

1. \$266,459.90 appropriated, to be applied to enumerated claims.

Sec.

1. Emergency clause.

CHAP. 28.—[S. H. B. No. 295.] An Act making appropriations for deficiencies in the appropriations heretofore made for payment of expenses in support of the government from March 1, A. D. 1885, to February 28, A. D. 1887, being for payments of claims registered in the Comptroller's office, in accordance with law, and for outstanding claims not registered, and other deficiencies.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated for deficiencies incurred in support of the State government for the period beginning March 1, A. D. 1885, and ending February 28, 1887, and for previous years:

For registered salaries District Attorneys

\$1,222 16

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COUNTIES AUTHORIZED TO PROVIDE SUBSTITUTES FOR THEIR OUTSTANDING BONDS.

CHAPTER XLVI.—An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide by special tax for the payment of interest and principal of the same.

SECTION 1. Commissioners' court authorized to take up certain bonds.	SECTION 2. Sinking fund and payment of interest provided for.
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SECTION 1. Commissioners' Court authorized to take up Certain Bonds.—*Be it enacted by the Legislature of the State of Texas,* That any county of this State that may have heretofore issued bonds under any special law for the purpose of erecting court-houses and jails, and funding other outstanding indebtedness existing prior to the adoption of the present Constitution, and the same are still outstanding and unpaid, the commissioners' court thereof shall have power, with the consent of the holders of said bonds, to take up and destroy the same, and issue therefor other bonds with interest and principal payable at such times and places as may be agreed upon by the commissioners' court and the holders of a majority of the bonds: *Provided,* That all bonds issued under this act shall be redeemable at the option of the county at any time after two years from their issuance, and shall not bear a higher rate of interest than the county is now paying, or required by existing laws to pay.

SEC. 2. Sinking Fund and Payment of Interest provided for.—The commissioners' courts of the counties that may issue bonds under this act, shall levy and cause to be collected an annual special *ad valorem* tax of twenty-five cents on the one hundred dollars worth of property in their respective counties, to pay the interest and provide a sinking fund for the payment of its bonds. Approved March 22, 1879. [Laws 1879, Regular Session, p. 43.] Takes effect ninety days after adjournment.

railroad, including its road-bed and franchise, for work and labor done and materials furnished. The act of August 7, 1876, so far from showing a legislative intent to subject railroads to mechanics' liens, contains provisions to the contrary. (R. S., arts. 3169, 3171.) Tyler Tap R. Ro. vs. Driscoll, 52 Tex., 13. Section 35 of art. 16 of the Constitution of 1876, did not give to laborers on railroads a lien on the property of the company on which they labored, as was provided by art. 37 to mechanics, artisans and material men. Central, etc., R. Co. vs. Henning, 52 Tex., 466.

COUNTIES, CITIES AND TOWNS AUTHORIZED TO SCALE AND FUND DEBTS.

CHAPTER LIV. An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same.

SECTION

1. Maximum rate of interest on new bonds—No debts prior to April 18, 1876, to be funded.
2. Scaling of debts, bonded or otherwise authorized.

SECTION

3. Sinking fund of two per cent per annum.
4. Emergency clause.

SECTION 1. Maximum Rate of Interest on New Bonds—No Debt prior to April 18, 1876, to be funded.—*Be it enacted by the Legislature of Texas,* That all counties, incorporated cities and towns in this State owing debts, are hereby authorized to fund the same in bonds of said counties, cities and towns, in such sums and at such rate of interest as may seem best to the authorities of said counties, cities and towns: *Provided,* That in no case shall the rate of interest be greater than six per cent. per annum: *And, provided further,* That this act shall not apply to any indebtedness of any counties, cities or towns made and undertaken since the eighteenth day of April, 1876: *Provided further,* That no city shall issue bonds to a greater amount than is authorized by its charter, where a limit is placed on the issue of bonds in its charter.

SEC. 2. Scaling of Debts, bonded or otherwise, authorized.—All the counties, incorporated cities and towns of this State, are hereby authorized to scale their debts of every description, bonded or otherwise, by adjustment and compromise with their creditors, and may issue bonds as provided for in section one of this act, in any sums and at any rate of interest not greater than six per cent. per annum, in settlement or compromise with their said creditors, or with any one or more of them.

SEC. 3. Sinking Fund of two per cent. per Annum.—Said counties, cities and towns, in funding and scaling their said indebtedness, made and undertaken before said eighteenth day of April, 1876, as herein provided, shall provide a suitable sinking fund of two per cent. per annum, to be applied to the payment of the principal of the bonds issued under this act; and shall annually levy and collect a sufficient tax on all the taxable property of said counties, cities and towns to pay the interest and sinking fund aforesaid: *Provided,* That should there be annually collected more than is necessary to pay the interest already due and the two per cent. sinking fund such excess

JUDICIAL DISTRICTS—SIXTEENTH DISTRICT.

SEC.

1. Prescribes the terms of court in several counties of said district.

SEC.

2. Emergency clause.

CHAP. 87.—[S. B. No. 328.] An Act to amend an act to amend an act entitled An Act to amend Section 16 of an act entitled "An Act to redistrict the State into judicial districts, and fix the times for holding court therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884," approved April 9th, 1883, approved March 30th, 1885.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Section 16 of the above recited act be amended so as hereafter to read as follows:

Section 16. The Sixteenth Judicial District shall be composed of the counties of Denton, Montague, and Cooke, and the district court shall be held therein as follows:

In the county of Denton on the first Mondays in January and the second Mondays in July, and may continue in session six weeks.

In the county of Montague on the twelfth Mondays after the first Mondays in January and second Mondays in July, and may continue in session four weeks.

In the county of Cooke on the sixteenth Mondays after the first Mondays in January and the second Mondays in July, and may continue in session

RAILROADS.

SEC.

1. Repeals act of April 18, 1879, requiring railroad companies to stop their trains at State boundary lines.

SEC.

2. Emergency clause.

CHAP. 89.—[H. B. No. 559.] An Act to repeal Chapter 95 of the General Laws of the State of Texas, passed at the regular session of the Sixteenth Legislature.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Chapter 95 of the General Laws of the State of Texas passed at the regular session of the Sixteenth Legislature, being an act approved April 18, 1879, and entitled "An Act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time," be and the same is hereby repealed.

SEC. 2. The evils designed to be remedied by this act are of a character so serious as to create an emergency and an imperative public necessity for this act to take effect and be in force from and after its passage, and the near approach of the close of the session makes it an imperative public necessity that the rule requiring this bill to be read on three several days be suspended, and it is therefore so enacted.

[NOTE.—The foregoing act originated in the House, and passed the same by a two-thirds vote; and passed the Senate by a vote of 27 yeas, 2 nays.]

Approved, March 30, 1887.

and sinking fund, may be used in the purchase and cancellation of the bonds for which said sinking fund is set aside.

SEC. 4. **Emergency Clause.**—Whereas, many counties, cities and towns in this State are suffering under heavy indebtedness, which might be satisfactorily compromised and reduced, an imperative public necessity exists for the immediate passage of this act, and an emergency existing that it immediately take effect, it is enacted that this act take effect and be in force from and after its passage. Approved March 25, A. D. 1879. [Laws, 1879, Regular Session, p. 61.] Takes effect from and after its passage.

TRAINS TO STOP AT STATE LINE.

CHAPTER XCV. An act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time.

SECTION 1. Penalty for failure to stop train thirty minutes.		SECTION 2. Emergency clause.
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SECTION 1. **Penalty for Failure to Stop Train Thirty Minutes.**—*Be it enacted by the Legislature of the State of Texas,* That any railroad or railway company in this State, whose line of road does now or may hereafter terminate at the boundary line of this State, shall stop its trains at least thirty minutes at said line, or at their depot established thereat: *Provided,* Said company have a depot within three hundred yards of said line; and any railroad or railway company, its conductors, engineers, or agents in charge of any such train failing or refusing to comply with the provisions of this act, shall be fined in a sum not less than fifty dollars, nor more than two hundred dollars for every such violation, one-half of said fine to be paid to the informer and the other half to be paid into the county treasury. (a)

SEC. 2. **Emergency Clause.**—Whereas, the evils which it is the design of this act to remedy are of a character so serious as to cre-

(a) In Galveston, etc., R. Co., vs. Le Gierse, 51 Tex., 189, the Supreme Court refused to hold unconstitutional an act requiring the conductors of passenger trains to stop not less than five minutes at each station (Paschal's Dig. art. 6532), unless it should plainly appear that the vested, charter or other important rights of the railroad company were unduly prejudiced thereby.

ate an emergency and imperative public necessity for this act to take effect and go into force from and after its passage, therefore, it is so enacted. Approved April 18, A. D. 1879. [Laws 1879, Regular Session, p. 103.] Takes effect ninety days after adjournment.

COUNTIES, CITIES AND TOWNS AUTHORIZED TO COMPROMISE DEBTS.

CHAPTER CV.—An act to authorize any county, city or town in this State to compromise existing bonded indebtedness, and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of taxes to pay the principal and interest of such new bonds.

SECTION

1. County commissioners' court or mayor and aldermen may issue new bonds in compromise.
2. Certain debts not to be compromised—Maximum rate of compromise.
3. New bonds exempt from county and city taxes.
4. New bonds how prepared and executed.
5. Sale of new bonds or exchange for old, authorized.

SECTION

6. Certain laws concerning old bonds to remain in force.
7. Payments upon the new bonds to be aided by same laws as applicable to State.
8. Additional provision to this effect.
9. Ratification of compromise by tax-payers.
10. This act repeals other acts, how far.
11. Emergency clause.

WHEREAS, In some of the counties, cities and towns in this State there is an existing bonded indebtedness against the same, necessitating the collection of an overdue tax upon the people to pay the interest and provide a sinking fund, as required by law for the ultimate extinguishment of said indebtedness; and,

WHEREAS, It is believed a satisfactory adjustment, settlement and compromise of much of said indebtedness could be effected between said counties, cities and towns, and the holders of such indebtedness, if duly authorized by law, by which such indebtedness would be greatly reduced, and the taxation necessary to meet the same greatly lessened in amount; and,

WHEREAS, The accomplishment of this adjustment, settlement and compromise, is a great public necessity, which requires the rules to be suspended that this act may become a law at the present session of the Legislature, and that it take effect and be in force from and after its passage; therefore,

SECTION 1. County Commissioners' Court or Mayor and Aldermen may issue New Bonds in Compromise.—Be it en-

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acted by the Legislature of the State of Texas, That the county commissioners' court of any county, or the mayor and board of aldermen of any city or town in this State, are hereby authorized and empowered to compromise and fund any existing bonded indebtedness by such county, city or town issued, and the coupons due thereon, to aid in the construction of railroads or other works of internal improvement, or other bonds issued by authority of law; and for this purpose they are hereby authorized and empowered to issue new bonds in denomination of not less than fifty nor more than one hundred dollars, in their discretion, with interest coupons payable annually at the office of the State Treasurer; said new bonds to become due and payable in twenty years, and to bear such rate of interest, not exceeding eight per cent. per annum, as in their discretion may best subserve the purpose intended by this act.

SEC. 2. Certain Debts not to be Compromised.—No compromise shall be made under the provisions of this act, by which any debt now barred by the statute of limitation, or which may be barred at the time of such compromise, shall be received, nor shall such new bonds, to be used in funding the principal of such old bonds, be issued for any greater amount than three-fourths of the principal of the old bonds outstanding: *Provided*, That when the rate of interest of such new bonds is not more than five per cent. per annum, then new bonds may be issued to the full amount of the old bonds outstanding: *And provided further*, that the amount of new bonds to be issued for the funding of the matured interest shall be left to the discretion of the county commissioners' court or the mayor and board of aldermen, as the case may be, but in no case to exceed the amount of such matured interest.

SEC. 3. New Bonds Exempt from County and City Taxes.—The new bonds then issued by any county shall be exempt from the payment of all county taxes, general and special, in the county by which they are issued; and the new bonds then issued by any city or town shall be exempt from the payment of all taxes levied by such city or town.

SEC. 4. New Bonds, how prepared and executed.—That the county commissioners' court or mayor or board of aldermen, as the case may be, shall cause to be prepared the necessary blank bonds to give effect to the provisions of this act, the cost of which shall be paid out of the treasury of such county, city or town; said bonds, when issued by any county, shall be signed by the county judge and attested by the county clerk of such county, with the seal of the county court affixed; and when issued by any city or town, shall be signed by the

mayor and attested by the recorder (or secretary, if there be no recorder), with the seal of such city or town affixed; and such new bonds, whether issued by any county, city or town, shall be registered in the office of the State Comptroller.

SEC. 5. Sale of New Bonds or Exchange for Old authorized.—Such new bonds may be exchanged for the old bonds at the rate specified in the second section of this act, or they may be sold and the proceeds applied to the purchase of such old bonds at the rate specified in said second section: *Provided*, that no delivery of such new bonds shall take place unless a contract has already been entered into for the purchase of a corresponding amount of such old bonds: *And, provided further*, no bonds issued under this act shall be sold at less than par, each bond sold shall be made to bear the lowest rate of interest that will give it a par value.

SEC. 6. Certain Laws concerning Old Bonds to remain in Force.—That all laws now in force, providing for the collection of taxes for the payment of the principal and interest of such existing bonds, shall apply and be in force for the collection of taxes for the payment of the principal and interest of such new bonds: *Provided*, that the sinking fund may be used in the purchase and cancellation of such new bonds whenever the same can be bought at not more than their par value.

SEC. 7. Payments upon the New Bonds to be aided, how.—The object and intention of this act being to enable the counties, cities or towns in this State which have granted subsidy bonds to railroads or other works of internal improvement, or created any bonded indebtedness whatever to compromise the same, and thereby reduce the burden of taxation, it is hereby declared as an inducement to the holders of said bonds to accept the compromise, that whenever such compromise shall be entered into and accepted in good faith, either by the holder of the present bonds, or by any person purchasing said new bonds as provided in this act; that all laws now in force or which may hereafter be in force for the assessment and collection of the State taxes, shall also be in force and apply to the assessment and collection of the taxes levied to meet the interest and sinking fund of said new bonds; and in any suits which may hereafter be instituted to enforce the payment of said new bonds or coupons, against any such county, city or town, no defense, either in law or equity, shall be admitted in any of the courts in this State, except such as originated upon or subsequent to the issuance of such new bonds.

SEC. 8. Additional Provision to this Effect.—Whenever a collector of taxes shall neglect or refuse to collect the taxes levied for

the payment of the interest and sinking fund of such new bonds, he shall be liable on his official bond, at the suit of any person or persons holding any of said bonds or coupons, for all such damages as said person or persons shall have sustained by reason of his neglect or refusal ; nor shall such collector or his sureties be relieved of such liability by his resignation of the office ; and whenever any person who may be elected collector of taxes of any county, city or town, shall fail, neglect or refuse to give the bond required by law for the collection of such tax, or whenever the commissioners' court or the mayor and board of aldermen, as the case may be, shall appoint any person who shall fail, neglect or refuse to give said bond, or whenever they shall fail, neglect or refuse to appoint some person who will give said bond and collect said tax, then it is hereby made the duty of the Governor to appoint some suitable person to collect said taxes, who shall perform all the duties required by this act or any other law of this State relating to the collection of said taxes from the time of his said appointment until the next general election.

SEC. 9. Ratification of Compromise by Tax-payers.—No compromise which may be agreed upon between the commissioners' court or the mayor and board of aldermen, as the case may be, and the bondholders or others, shall be binding upon the tax-payers of any county, city or town, until the terms of said compromise shall have been submitted to a vote of the property tax payers at an election held by order of the commissioners' court, or mayor and board of aldermen, as the case may be, and a majority of the said tax-payers shall vote in favor of and ratify the terms of said compromise ; said election shall be held in accordance with the general law regulating elections : *Provided*, that none but property tax-payers shall vote at any such election : *Provided, further*, that notice of such election shall be published for thirty days in some newspaper published in the county, city or town, as the case may be ; and in case there shall be no paper published in such county, city or town, then by posting in ten public places in such county, city or town, as the case may be, for thirty days prior to any election under this act.

SEC. 10. This Act repeals other Acts, how far.—That this act shall not be construed to repeal an act entitled "An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same," approved March 26, A. D. 1879, except in so far as said act may apply to bonds issued under an act entitled " An act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement," approved April 12, 1871, and to that extent it is hereby repealed.

SEC. 11. Emergency Clause.—That this act take effect and be in force from and after its passage. Approved April 18, A. D. 1879, [Laws, 1879, Regular Session, p. 109.] Takes effect ninety days after adjournment.

TAXES LEVIED TO PAY RAILROAD SUBSIDIES.

CHAPTER CXLVI.—An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements, to receive the State and county taxes from persons who refuse to pay the tax levied for such purpose.

SECTION

1. Tax-payer may refuse to pay railroad subsidy tax—Collector bound to receive balance of tax bill.

SECTION

2. Collector liable in damages for refusal to receive balance of tax bill.

3. Remedy for collection of subsidy taxes unimpaired—Emergency clause.

WHEREAS, In a number of counties in this State money subsidies have been granted to railroads or other works of internal improvement; and

WHEREAS, The people in such counties, in many instances, are refusing to pay the tax levied for the payment of such subsidies, and are disputing the validity of the same; and

WHEREAS, The collectors of taxes of several of such counties are refusing to receive the tax levied for State and county purposes, without the payment at the same time of such subsidy tax, and are thereby greatly delaying and obstructing the collection of State and county revenues, therefore there exists a public imperative necessity and emergency for the suspension of the rule which requires this bill to be read on three several days in each house; therefore,

SECTION 1. Tax-payer may refuse to pay Railroad Subsidy Tax—Collector bound to receive Balance of Tax Bill. *Be it enacted by the Legislature of the State of Texas,* That collectors of taxes for such counties wherein taxes have been levied for the payment of subsidies granted to railroads or other works of internal improvement, and who may be vested with authority to collect such subsidy tax, are hereby authorized and required to receive the State and county taxes, where the same are tendered for payment, and receipt therefor, except the said subsidy tax, and shall not refuse to receive and receipt for such State and county taxes on account of any refusal or failure of the tax-payer to pay such subsidy tax.

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SEC. 2. Collector Liable in Damages for Refusal to receive Balance of Tax Bill.—Any tax collector who shall violate the provisions of this act shall be liable on his official bond for such damages as may result to any one by reason of such violation.

SEC. 3. Remedy for Collection of Subsidy Taxes unimpaired.—Emergency Clause.—That it shall be lawful for said collectors to proceed to collect the county and State taxes in such manner as the law provides without at the same time proceeding to collect subsidy taxes: *Provided*, this law shall not be so construed as to destroy any present remedy for the collection of subsidy taxes. That an imperative public necessity exists for authorizing collectors of taxes to proceed in accordance with this act as such collectors in several counties as are described in section one are now engaged in the collection of taxes, therefore this act shall take effect and be in force from and after its passage.

Approved April 24, A. D. 1879. [Laws 1879, Regular Session, p. 160.] Takes effect ninety days after adjournment.

SURRENDER OF RIGHTS TO THE PUBLIC DOMAIN.

CHAPTER CLV.—An act to authorize and allow railroad companies to surrender their rights to reservations of the public domain.

SECTION 1. Surrender a substitute for judicial forfeiture. SECTION 2. Emergency clause.

SECTION 1. Surrender a Substitute for Judicial Forfeiture.—*Be it enacted by the Legislature of the State of Texas*, That any railroad company in whose favor a reservation from the public domain of the State may heretofore have been created by any law of the State, general or special, may surrender its exclusive right to further locate lands within said reservation; and whenever any such railroad company shall file in the office of the Secretary of State, within ninety days from the passage of this act, an instrument in writing, to be approved as to form by the attorney general, relinquishing or surrendering its claim to any such reservation as aforesaid, said relinquishment or surrender shall, upon the payment of all the costs of suit, if any has been instituted, be accepted by the State, instead of a judicial forfeiture of such company's claim to such reservation; such relinquishment or surrender shall be deemed and held a satisfaction and settlement of

said suit; and it is hereby specially provided that the lands that may be relinquished under the provisions of this act shall be subject to location only under the provisions of the act reserving from location lands forfeited to the State, approved August 17, 1876: *Provided*, that nothing herein contained shall be so construed as to prevent any railroad company which may make any such surrender or relinquishment, as hereinbefore provided for, from thereafter proceeding with the construction of its road in accordance with the requirements of its charter; and all the laws of this State regulating such railroads, and acquiring from the State so much land per mile of constructed road, as all other railroad companies can or may acquire for constructing railroads under the general laws then in force, not to exceed sixteen sections of land per mile; and any action taken by any railroad company, under the provisions of this act, shall be considered and held to be a complete acceptance of all the provisions of the constitution applicable to railroads and of the laws of this State regulating railroads.

SEC. 2. Emergency Clause.—The near approach of the close of the session creates an imperative public necessity that the rule requiring this act to be read on three several days be suspended, and it is hereby so suspended.

Approved April 29, A. D. 1879. [Laws 1879, Regular Session, p. 175.] Takes effect ninety days after adjournment.

QUO WARRANTO PROCEEDINGS.

CHAPTER XLVIII.—An act to prescribe the remedy and regulate the proceedings by *quo warranto*, and confer the jurisdiction in certain cases upon the district court of Travis county.

SECTION

1. Information on extortionate charge for transportation—For refusal to draw cars of other road.
2. Rights of divers parties determined on information.
3. Form of citation.
4. Rights of defendant same as in civil causes—
Appeals.

SECTION

5. Judgment of ouster and fine for usurpation of franchise.
6. Remedy under this act cumulative.
7. Jurisdiction of district court of Travis county.
8. Emergency clause.

SECTION 1. Information on Extortionate Charge for Transportation—For Refusal to draw Cars of other Road.
Be it enacted by the Legislature of the State of Texas, That in case any person shall usurp, intrude into, or unlawfully hold or execute, or is now intruded into, or now unlawfully holds or executes

any office or franchise, or any office in any corporation created by authority of this State, or any public officer shall have done or suffered any act which, by the provisions of law, works a forfeiture of his office, or any association or number of persons shall act within this State as a corporation without being legally incorporated, or any incorporation does or omits any act which amounts to a surrender or a forfeiture of its rights and privileges as a corporation, or exercises powers not conferred by law, or if any railroad company doing business in this State shall charge an extortionate rate for the transportation of any freight or passengers, or refuse to draw or carry the cars of any other railroad company over its line as required by the laws of this State, the Attorney-General, or district or county attorney, of the proper county or district, either of his own accord or at the instance of any individual relator, may present a petition to the district court of the proper county, or any judge thereof, in vacation, for leave to file an information in the nature of a *quo warranto*, in the name of the State of Texas; and if such court or judge shall be satisfied that there is probable ground for the proceeding, the court or judge may grant the petition and order the information to be filed and process to issue.

SEC. 2. Rights of Divers Parties determined on Information.—When it appears to the court or judge that the several rights of divers parties to the same office or franchise may properly be determined on one information, the court or judge may give leave to join all such persons in the same information in order to try their respective rights to such office or franchise.

SEC. 3. Form of Citation.—When the information is filed, as hereinbefore provided, the clerk shall issue citation in like form as in civil suits commanding the defendant to appear at the return time [term] of said court to answer the relator in an information in the nature of a *quo warranto*. If the information is filed in vacation, the citation shall be returnable on the first day of the next succeeding term; if in term time, it may be made returnable on any day of the same term, not less than five days after the date of the writ, as shall be directed by the court.

SEC. 4. Rights of Defendant same as in Civil Causes—Appeals.—Every person or corporation who shall be cited as hereinbefore provided, shall be entitled to all the rights in the trial and investigation of the matters alleged against him, as in cases of trial of civil causes in this State; and in case of appeal to the Supreme Court, to which either party shall be entitled, the said court shall give preference to such case and hear and determine the same at the earliest day practicable; and all such appeals shall be prosecuted to the term

of the court in session, at either branch, or the first term to be held, if not in session, after judgment has been rendered in the district court.

SEC. 5. Judgment of Ouster and Fine for Usurpation of Franchise.—In case any person or corporation against whom any such [information] is filed, shall be adjudged guilty, as charged in the information, the court shall give judgment of ouster against such person or corporation from the office or franchise, and may fine such person or corporation for usurping, intruding into or unlawfully holding and executing such office or franchise, and shall also give judgment in favor of the relator for the costs of the prosecution.

SEC. 6. Remedy under this Act Cumulative.—The remedy and mode of procedure hereby prescribed shall be construed to be cumulative of any now existing.

SEC. 7. Jurisdiction of District Court of Travis County. Suits against persons illegally claiming or holding any State office or appointment, as contra-distinguished to a county or district office, shall be brought in the district court of Travis county.

SEC. 8. Emergency Clause.—Whereas, this session of the Legislature must adjourn in less than three days from this date, therefore there exists an imperative public necessity for the passage of this act to supply a defect now existing in the laws of this State; it is therefore enacted that the constitutional rule requiring bills to be read on three several days be suspended. Approved July 9, A. D. 1879. [Laws, 1879, Special Session, p, 43.] Takes effect ninety days after adjournment.

COUNTIES AUTHORIZED TO FUND BONDED INDEBTEDNESS.

CHAPTER CIV.—An act to authorize counties to fund their bonded indebtedness, and to provide means to pay the same.

SECTION

1. County commissioners' court to issue new bonds and levy tax to pay interest and principal.
2. These taxes to be used for no other purpose.
3. These taxes how collected.
4. Bond of collecting officer.
5. Collections paid out on warrant of county judge.

SECTION

6. Duty of collector of taxes.
7. New bonds to be sold at what rate.
8. Expenses under this act how paid.
9. Laws aiding collection of taxes to remain in force.
10. Repealing clause.
11. Emergency clause.

SECTION 1. County Commissioners' Court to issue New Bonds and levy Tax to pay Interest and Principal.—*Be it enacted by the Legislature of the State of Texas, That the county*

commissioners' court of any county in this State is hereby authorized and empowered to fund any existing bonded indebtedness and coupons due thereon, made and undertaken by such county by authority of law prior to the eighteenth day of April, A. D. 1876, and for this purpose the said commissioners' courts are hereby authorized and empowered to issue new bonds in denominations of not less than five hundred dollars, with interest coupons payable semi-annually; said new bonds to become due and payable twenty years from the date of their issuance, and to bear interest not exceeding six per cent. per annum, and the said commissioners' courts are further authorized and empowered to levy a tax upon all real and personal property situated in the county, not to exceed fifty cents on the hundred dollars on the assessed value of such property, in any one year, to pay the annual interest, and not less than two per cent. annually of the principal of said bonds, besides the expenses of assessing and collecting the same; and no bonds shall be issued under this act until a levy, as herein provided, shall have been made, and when said levy shall have been so made the same shall continue in force until the whole amount of the principal and interest of said bonds shall have been fully paid.

SEC. 2. These Taxes to be used for no other Purpose.—All taxes levied under this act shall be applied solely to the objects for which they were levied, as follows: First—to the payment of the expenses of assessing and collecting the same; second—to the payment of the annual interest of such bonds, and not less than two per cent. of the principal; and if there be any excess on hand, after making the above payments for the current year, it shall be used in the purchase and cancellation of said bonds.

SEC. 3. These Taxes how collected.—All taxes levied under this act shall be assessed and collected by the same officers, whose duty it is to assess and collect the State tax, and they shall receive for their services one-fourth the rates of commission allowed for assessing and collecting the State tax. The said tax shall be assessed and collected in the same manner as the State tax, and the same remedies shall be used to enforce its collection that are provided by law to enforce the collection of the State tax: *Provided*, That all such taxes shall be assessed and collected separately from that levied, assessed and collected for current expenses of municipal government, and shall, when levied, specify in the act of levying the purpose therefor.

SEC. 4. Bond of Collecting Officer.—The officer whose duty it is to collect the taxes levied under this act, shall give a bond, with two or more sufficient sureties, to be approved by the county commissioners' court, in a sum to be equal to double the estimated annual amount

of said tax, which bond shall be payable to the county and shall be conditioned for the faithful collection and payment of said tax into the county treasury.

SEC. 5. Collections paid out on Warrant of County Judge.—It shall be the duty of the county treasurer to receive all moneys collected under this act, and to keep separate accounts thereof, and to pay out the same on warrants drawn by the county judge in the usual legal form.

SEC. 6. Duty of Collector of Taxes.—The collector of the taxes levied under this act shall pay over to the county treasurer, at the beginning of each and every month, all moneys he may have collected during the next preceding month, deducting his legal commissions on the amount so paid, and he shall, at each regular meeting of the county commissioners' court, make a report of his collections and payments to the county treasurer since the next preceeding term.

SEC. 7. New Bonds to be sold at what Rate.—Said bonds shall not be sold or exchanged for existing bonds by any county for less than par value and accrued interest.

SEC. 8. Expenses under this Act how paid.—All expenses necessary to give effect to the provisions of this act shall be paid out of the treasury of the county; and all bonds issued by any county, under this act, shall be signed by the county judge and attested by the clerk of the commissioners' court, with the seal of said court affixed thereto.

SEC. 9. Laws aiding Collection of Taxes to remain in Force.—All laws now in force providing for the levy and collection of taxes for the payment of the principal and interest of any existing bonds, which may be fundable under this act, shall apply and be in force for the levy and collections of taxes for the payment of the principal and interest of all bonds that may be issued under the provisions of this act.

SEC. 10. Repealing Clause.—That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 11. Emergency Clause.—Whereas, many counties in this State have debts and bonds falling due; and, whereas, the session is fast drawing to a close; therefore, an imperative public necessity and an emergency exist that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect at once, and it is so enacted. Approved April 6, A. D. 1881. [Laws, 1881, Regular Session, p. 117.] Takes effect from passage.

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GRANTS OF LANDS AND LAND CERTIFICATES REVOKED.

CHAPTER VI. An act to repeal all laws granting lands or land certificates to any person, firm, corporation or company for the construction of railroads, canals and ditches.

SECTION
1. Laws making grants repealed.

SECTION
2. Emergency clause.

SECTION 1. **Laws Making Grants repealed.**—*Be it enacted by the Legislature of the State of Texas,* That all laws or parts of laws now in force granting lands or land certificates to any person, firm, corporation or company for the construction of railroads, canals and ditches, be and the same are hereby repealed.

SEC. 2. **Emergency Clause.**—The fact that the public domain subject to location by the owners of these certificates has been exhausted creates an imperative public necessity and an emergency requiring the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended; and that this act take effect and be in force from and after its passage, and it is so enacted. Approved April 22, A. D. 1882. [Laws, 1882, Called Session, p. 3.] Takes effect from passage.

EXCESSIVE CHARGES PROHIBITED.

CHAPTER XXVI.—An act to prohibit railroad companies, their officers, agents and employes from making excessive charges for carrying and transporting freight, goods, wares and merchandise, and to require said companies, their officers, agents and employes, to deliver freight, goods, wares and merchandise, on the payment of the freight charges due as shown by the bill of lading, and to provide penalties for the violation of this act.

SECTION
1. Charges in excess of bill of lading unlawful.
2. Goods delivered upon payment of charges in bill of lading.

SECTION
3. Damages for refusal to deliver.

SECTION 1. **Charges in Excess of Bill of Lading are Unlawful.**—*Be it enacted by the Legislature of the State of Texas,* That it shall be unlawful for any railroad company in this State, its officers, agents and employes, to charge and collect, or to endeavor to charge and

collect, from the owner, agent or consignee of any freight, goods, wares and merchandise, of any kind or character whatever, a greater sum for transporting said freight, goods, wares and merchandise than is specified in the bill of lading.

SEC. 2. Goods delivered upon Payment of Charges in Bill of Lading.—That any railroad company, its officers, agents or employes having possession of any goods, wares and merchandise, of any kind or character whatever, shall deliver the same to the owner, his agent or consignee, upon payment of the freight charges as shown by the bill of lading.

SEC. 3. Damages for Refusal to Deliver.—That any railroad company, its officers, agents or employes that shall refuse to deliver to the owner, agent or consignee, any freight, goods, wares and merchandise, of any kind or character whatever, upon the payment, or tender of payment, of the freight charges due as shown by the bill of lading, the said railroad company shall be liable in damages to the owner of said freight, goods, wares or merchandise, to an amount equal to the amount of the freight charges for every day said freight, goods, wares and merchandise is held after payment, or tender of payment, of the charges due as shown by the bill of lading, to be recovered in any court of competent jurisdiction. Approved May 6, A. D. 1882. [Laws, 1882, Called Session, p. 35.] Takes effect ninety days after adjournment.

PUBLIC SCHOOL LANDS.

CHAPTER VII.—An act concerning public lands heretofore surveyed by railroads, or corporations, or any company or person, for the benefit of public free schools of this State.

SECTION

1. Lands surveyed as such belong to public free schools.

2. Repealing clause.

SECTION

3. Emergency clause.

SECTION 1. Lands surveyed as such belong to Public Free Schools.—*Be it enacted by the Legislature of the State of Texas,* That any and all public lands heretofore surveyed by railroads or corporations, or any company or any person in this State, for the benefit of the public free schools of this State, by virtue of any certificate, valid or invalid, void or voidable, be and the same are hereby declared to be lands belonging to the public free schools of this State.

SEC. 2. **Repealing Clause.**—All laws and parts of laws in conflict with this act be and the same are hereby repealed.

SEC. 3. **Emergency Clause.**—Whereas, the protection of the interest of the public free schools creates an imperative public necessity for the suspension of the constitutional rule which requires that all bills be read on three several days, said rule is therefore suspended, and an emergency exists that this act should take effect from and after its passage, and it is so enacted. Approved at 2 o'clock p. m., February 3, 1883. [Laws, 1883, Regular Session, p. 4.] Takes effect from and after its passage.

REGULATION OF RAILROADS—STATE ENGINEER—DISCRIMINATION PROHIBITED.

CHAPTER LXX.—An act to further provide for the regulation of railroad and transportation lines in the State of Texas, and to provide for the creation of the office of, and appointment of a State Engineer and his secretary, and their salaries and duties; to prevent unjust discrimination and extortion in the rates charged for transportation of freight and passengers in this State, and to provide a mode of procedure in relation thereto.

SECTION

- 1. State engineer.
- 2. Continued—Salary—Traveling Expenses—May accept pass.
- 3. Continued—Office and expenses—Engineer's secretary—Vouchers for expenses.
- 4. Continued—Oath of.
- 5. Continued—Duties of—Report to Attorney-General.
- 6. Continued—Report to Governor—Schedule of maximum rates for Nineteenth Legislature.
- 7. Uniform rates of transportation—Discrimination punished—Schedule of rates to be posted—Notice of change of rates—Station agent guilty of misdemeanor for failure to keep schedule posted.

SECTION

- 8. Goods forwarded in order of receipt—Notice to consignee of arrival of freight—Afterwards, company liable as warehousemen.
- 9. Maximum passenger fare—Allowance of baggage—Fare paid to conductor—Children under ten years.
- 10. Duties of Attorney-General—Notice to company of violation of law by its agents—Action by aggrieved party.
- 11. Emergency clause.

SECTION 1. **State Engineer.**—*Be it enacted by the Legislature of the State of Texas,* That the Governor shall appoint, by and with the advice and consent of the Senate, an engineer, experienced in the construction and maintenance of railways, who shall be State Engineer, who shall hold his office for two years, or until his successor is qualified, but shall be subject to removal by the Governor at any time. In case of removal, the Governor may appoint a successor until the meeting of the next Legislature, when said appointment shall be submitted to the Senate for approval.

SEC. 2. **Continued—Salary—Traveling Expenses—May Accept Pass.**—The State Engineer shall receive an annual salary of

three thousand dollars. In traveling upon the line of any railway in this State, in the discharge of his duties, he shall also be entitled to charge for the actual amount paid out for railway fare and traveling expenses, in no case to exceed four dollars per day in excess of railway fare paid; and should any railway company voluntarily provide said State Engineer with free transportation over its line, he shall be authorized to accept the same in behalf of the State, and shall not charge the State the amount which would otherwise be paid for such transportation. He shall, in his report, state the amount paid by him for transportation on each railway line in the State, also what railway lines have provided him with free transportation.

SEC. 3. Continued—Office and Expenses—Engineer’s Secretary—Vouchers for Expenses.—The office of the State Engineer shall be in the Capitol building in the city of Austin, in rooms to be designated by the Secretary of State. There shall be allowed the State Engineer for office furniture, stationery, postage, and other office expenses one thousand dollars per annum. The State Engineer shall employ a secretary, who shall be a competent draftsman, and perform such duties as may be required by the State Engineer. The secretary of the State Engineer shall receive a salary of fifteen hundred dollars per annum. The salary of the State Engineer and his secretary shall be paid monthly from the State Treasury. All vouchers for traveling and office expenses of the State Engineer and his secretary shall be paid monthly from the State Treasury. All vouchers for traveling and office expenses of the State Engineer and his secretary shall be paid upon certified vouchers, approved by the Governor.

SEC. 4. Continued—Oath of.—Before entering upon the duties of his office, the State Engineer and his secretary each shall subscribe to the following oath, in addition to the usual oath of office: “And I do further swear (or affirm), that I am not connected, officially or otherwise, with any railroad company or transportation line, either within or outside of this State, and that I am not a stockholder or in any manner interested in any railroad company or transportation line whatever, so help me God.”

SEC. 5. Continued—Duties of—Report to Attorney-General.—The State Engineer shall perform such duties as are now, or may hereafter be prescribed by law, and shall twice in each year, and at such other times as he may deem it necessary, carefully inspect the railroads in this State, and keep himself informed of the condition of the same, and manner in which they are operated, with the special reference to the safety and proper accommodation of the public, which inspection shall include the condition of road-bed, track and

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bridges; character and condition of cars, station houses, platforms and other facilities incident to transportation business. Should such inspection indicate a non-compliance with the law on the part of any railroad, such non-compliance shall be presented in proper and official form to the Attorney-General, who shall proceed to investigate and enforce penalty for dereliction, according to existing statutes, or as hereinafter provided.

SEC. 6. Continued—Report to Governor—Schedule of Maximum Rates for Nineteenth Legislature.—The State Engineer shall, on the first day of December of each year, make a report to the Governor of all matters pertaining to his office, and especially report upon the inspection of all the railroads in the State, and he shall incorporate in said report any suggestions he may have to make in regard to changes in existing laws connected with the management and control of railroads in this State. He shall also, whenever required by the Governor, make a special report of the inspection authorized and required under this act of any railroad in this State. That the said engineer shall prepare and transmit to the next Legislature a complete freight classification and schedule of reasonable maximum rates for freight transportation for each of the railroads operated in this State; and copies of the same shall be furnished to the members of the Nineteenth Legislature thirty days before the meeting of the said Legislature.

SEC. 7. Uniform Rates of Transportation—Discrimination punished—Schedule of Rates to be posted—Notice of Change of Rates—Station Agent Guilty of Misdemeanor for Failure to keep Schedule posted.—Be it further enacted, that charges for transportation on each class or kind of freight moving in the same direction, shall be uniform, and any unjust discrimination in the rates or charges for the transportation of any freight made against any person or place, on any railroad operated in this State, is declared to be unlawful. If any railroad corporation shall wilfully charge, collect, or receive from any person or persons for the transportation of any freight upon its railroad, a higher or greater rate of toll or compensation than it shall charge, collect, or receive from any other person or persons, for the transportation of the like quantity of freight of the same class, being transported from the same point in the same direction, over equal distances of the same railroad, or if it shall charge, collect, or receive from any person or persons for the use and transportation of any railroad car or cars upon its railroad, a higher or greater sum than it shall charge, collect, or receive from any other person or persons for the use or transportation of a car or cars of the same class

for a like purpose, from the same point in the same direction and an equal distance; or if any railroad company shall charge one person more for transporting freight of the same class, in equal or less quantities, over its road, for the same or a less distance, than it charges another for the same or a greater distance, all such discriminating rates, charges or collections, whether made directly or by means of any rebate, or other shift or evasion, shall be considered and taken as *prima facie* evidence of extortion and unjust discrimination, which is hereby prohibited and declared unlawful, and any railroad company or companies, for such violation of law, shall forfeit and pay to the person or persons injured thereby the sum of five hundred dollars, to be recovered before any court having jurisdiction of the amount, in any county through, or into which the freight may have been transported. Every railroad company or corporation doing business in this State, shall hereafter be required to keep posted in a conspicuous place, at all depots, a printed or written schedule of its freight charges from its principal office or place of business to all depots on its line or lines of road within this State. Such schedule shall specify the different classes or kinds of freight, with an enumeration of the articles belonging to each class, the charge for each class, per car load, and the charge for each class per hundred pounds in quantities less than car loads. It shall be unlawful for any railroad company to change such freight tariffs without giving five days notice to the public in the manner above required, and it shall be the duty of every railroad company in this State to furnish its station agents with the printed or written notices herein mentioned at least five days before any changes are to take effect. Any railroad company violating any of the provisions of this act shall, for every five days it neglects to furnish the notices herein required to any of its station agents, forfeit the sum of five hundred dollars to the county in which the depot is situated, to be recovered in any court having competent jurisdiction, said amount, when recovered, to be used for road and bridge purposes. It shall be the duty of every station agent of the railroads of this State upon being furnished with the printed or written notices mentioned in the foregoing, to post the same in some conspicuous place in his depot buildings, and keep them posted until the changes proposed take effect. Any station agent failing or refusing to post up said notices within two days after the same shall have been furnished him, or failing to keep the same posted, as herein required, shall be deemed guilty of a misdemeanor, and upon conviction of the same before any court having the proper jurisdiction, shall be fined not less than twenty-five dollars and not more than one hundred dollars. The road of the company shall include all the road

in use by such company, whether owned or operated under control or lease: *Provided*, That nothing herein contained shall be construed to repeal article 4257 of the Revised Civil Statutes, prescribing maximum rates, and prohibiting discriminations.

SEC. 8. Goods forwarded in the Order of Receipt—Notice to Consignee of Arrival of Freight—Afterwards, Company liable as Warehouseman.—Where railroads within this State receive goods for transportation into their warehouses or depots, they shall forward them in the order in which they are received: the first received to be the first forwarded, without giving the preference to one over another: and in case of failure to do so they shall be liable for all loss occurring while the goods remain, and for all damage occasioned or in any wise resulting from delay: *Provided*, That the trip or voyage shall be considered as having commenced from the time of the signing of bill of lading, and as having ended upon the arrival of freight at point of destination, and written notices served upon the consignee that it is ready for delivery upon payment of freight and charges. It is further provided, that should the consignee of the goods fail to receive them promptly after such notice is served, the liability of the railroads thereafter shall be the same as that of warehousemen.

SEC. 9. Maximum Passenger Fare Allowance of Baggage—Fare paid to Conductor—Children under Ten Years.—The passenger fare upon all railroads in this State shall be three cents per mile, with an allowance of baggage to each passenger not to exceed one hundred pounds in weight: *Provided, however*, That where the fare is paid to the conductor, the rate shall be four cents per mile, except from stations where no tickets are sold, and that the minimum charge in no case shall be less than twenty-five cents: *And provided further*, That when the passenger fare does not end in five or naught, the nearest sum so ending shall be the fare: *Provided, further*, That in no case shall children under ten years of age be charged a higher rate of fare than two cents per mile: *Provided, further*, Railroads shall be required to keep their ticket offices open half an hour prior to the departure of trains, and upon failure to do so they shall not charge more than three cents per mile.

SEC. 10. Duties of Attorney-General—Notice to Company of Violations of Law by its Agents—Action by aggrieved Party.—That direct and prompt remedies may be had, and penalties enforced in case of violation of any laws herein named, it is made the special duty of the Attorney General, whenever information is filed with him by the State Engineer, or any other person, that any railroad company in this State has violated any provisions of the laws

of this State, providing for the transportation of passengers or freight, or is unjustly discriminating in its charges for transportation against any person or place in this State, or is guilty of extortion in its charges for transportation against any persons or place in this State, or is guilty of extortion in its charges for transportation of passengers and freight, or for improper condition of road-bed, track, bridges, or other structures, cars, station-houses or platforms, to give ten days notice in writing to said corporation of said complaint, and after an investigation of the matter he shall proceed to determine whether the matters complained of are violations of the law, and shall give notice to said company of his decision respecting the same, and if any such violation of the law is continued, after the railroad company is so notified, or if the actual damage is not paid to the party aggrieved, within ten days after such notification, he shall cause proceedings to be instituted against said railroad company or companies, to recover the penalties provided by law: *Provided*, That nothing herein contained shall be construed to prevent any citizen of this State from bringing suit in his own name against any railroad or transportation company for discrimination in freight or passenger charges: *Provided further*, That the penalties prescribed by law for any overcharge shall not be recoverable unless the party aggrieved shall give notice thereof in writing, to the railway company, or to the agent demanding or receiving the same, and said company shall fail within twenty days thereafter, to refund to such party aggrieved, the amount of such overcharge.

SEC. 11. Emergency Clause.—The near approach of the close of the session, and the importance of a law regulating the management and control of railroads in this State, creates an imperative public necessity and emergency that the constitutional rule requiring bills to be read on three several days should be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted. Approved April 10, 1883. [Laws, 1883, Regular Session, p. 67.] Takes effect after passage.

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APPENDIX.

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PROVISIONS OF THE REVISED STATUTES.

TITLE 93.

STOCK LAWS.

CHAPTER 5.

OF REGULATIONS FOR THE PROTECTION OF STOCK-RAISERS IN CERTAIN LOCALITIES.

ARTICLE	ARTICLE
4611. Inspector of hides and animals to be elected.	4628. Bill of sale to be taken and animals to be inspected before shipment out of county.
4616. Inspector's seal of office.	4630. Contents of certificate of inspection—Record of with county clerk.
4619. Certain terms construed.	4633. Exportation of cattle to Mexico.
4620. Inspector to authenticate bills of sale, etc.	4650. Inspections to be personal.
4621. Inspector to examine all hides and animals about to be shipped out of county.	4651. Contents of certificate of inspection.
4623. Sheep, goats and swine not included herein.	4652. Power to make a second inspection.
4624. Unbranded hides and animals—No certificate of inspection granted, unless, etc.	4655. Continued—Writ of sequestration in aid of inspection.
4625. Unbranded calves and yearlings may be seized, when.	4658. Change of destination after inspection.
4626. Unbranded hides and animals may be seized, when.	4659. Certain counties excepted—Cattle on board railroad trains not subject to inspection, unless, etc.

ART. 4611. Inspectors of Hides and Animals to be elected.—Each organized county, not expressly excepted herein, shall constitute an inspection district for the inspection of hides and animals, and at each general election an officer to be styled "Inspector of hides and animals" shall be elected by the qualified voters of such county

in the same manner as other county officers are elected. (Const., Art. 16, § 23; Act, Aug. 23, 1876, p. 265, § 1.) (a)

ART. 4616. Inspector's Seal of Office.—The county commissioners' court of each county shall furnish to the inspector for such county a seal of office, having upon it the words "Inspector of Hides and Animals, —— county, Texas," [the blank to be filled with the name of the county], and each inspector and his deputy shall certify their official acts with the impress of such seal. Upon his retirement from office the inspector shall deliver such seal, together with the books, papers and records of his office, to his successor. (Ib., § 6.)

ART. 4619. Certain Terms construed.—Whenever in this chapter the word "inspector" is used, it shall be taken and deemed to be "the inspector of hides and animals," the words "deputy inspector" shall be taken to mean the "deputy inspector of hides and animals," and the words "county, district or inspection district" shall be held to include each organized county in this State not herein excepted, together with any unorganized county that may be attached for judicial purposes to any such county. (Ib., § 27.)

ART. 4620. Inspector to authenticate Bills of Sale, etc. Every inspector shall have authority to authenticate bills of sale of animals, and give certificates of acknowledgment of the same under his hand and seal. (Ib., § 30.)

ART. 4621. Inspector to examine all Hides and Animals about to be Shipped out of County.—It shall be the duty of the inspector, in person or by deputy, to faithfully examine and inspect all hides or animals known or reported to him as sold, or as leaving or going out of the county, for sale or shipment, and all animals driven or sold in his district for slaughter, packeries or butcheries, and the inspector shall keep a record, in a well bound book, in which he shall record a correct statement of the number, ages, marks and brands of all animals inspected by him, and the number, mark and brand of all hides inspected by him, and whether the same are dry or green, and the name or names of the vendor or vendors, and of the purchaser or purchasers thereof. (Ib., § 7.)

ART. 4623. Sheep, Goats and Swine not included herein. The provisions of this chapter shall not be so construed as to include sheep, goats, swine, or hides of either, nor to involve the re-inspection

(a) Sec. 2, ch. 79, acts of 1879, p. 89, provides as follows: "Sec. 2. The Governor is hereby authorized to appoint, with the advice and consent of the Senate, one notary public and one cattle and hide inspector in each of the unorganized counties of the State."

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of salted hides in packeries or other slaughter houses taken from animals previously inspected and returned, as provided in the preceding articles. (Ib., § 7.)

ART. 4624. Unbranded Hides and Animals—No Certificate of Inspection granted, unless, etc.—No inspector shall grant any certificate of inspection of any unbranded hides or animals, or of hides or animals upon which the marks or brands cannot be ascertained; and he shall prevent the same from being taken or shipped out of the county unless they are identified by proof or by a bill of sale signed by the owner of such hides or animal, and acknowledged before some officer authorized to authenticate instruments for record in this State. (Ib., § 8.)

ART. 4625. Unbranded Calves and Yearlings may be seized, when.—Every inspector shall have power to, and may seize and sequester all unmarked or unbranded calves or yearlings; and all calves or yearlings, freshly marked or branded, and on which the fresh marks or brands are unhealed, which are about to be slaughtered, or driven or shipped out of the county, unless such animals are accompanied by the mothers thereof, or are identified by the presentation of a bill of sale from the person proved to be the owner thereof, signed by him or his legally authorized agent, and acknowledged before some officer authorized to authenticate instruments for record in this State. (Ib., § 9.)

ART. 4626. Unbranded Hides and Animals may be seized, when.—Every inspector shall have power to, and may seize and sequester all unbranded animals or hides, and animals or hides upon which the mark or brand cannot be ascertained, which are about to be taken or shipped out of the county, or which animals are about to be slaughtered, unless such animals or hides are identified as provided in the preceding article. (Ib., § 10.)

ART. 4628. Bill of Sale taken and Animals inspected before Shipment out of County.—Every person who shall buy or drive any animal or animals for sale or shipment out any county, or who shall buy or drive any animal or animals for slaughter, shall, at the time of purchasing and before driving the same, procure a bill of sale from the owner or owners thereof, or from his or their legally authorized agent, which bill of sale shall be in writing, properly signed and acknowledged before some officer authorized to authenticate instruments for record in this State. Such bill of sale shall distinctly enumerate the number, kind and age of animals sold, together with all the marks and brands discernable on said animals; and said animals shall, before leaving the county in which they have been

gathered, be inspected by the inspector of such county or his deputy. (Ib., § 11.)

ART. 4630.—Contents of Certificate of Inspection—Record of with County Clerk.—Whenever an inspector shall have inspected any animal or animals, as herein provided, he shall, on the presentation of a bill of sale or power of attorney from the owner or owners of such animal or animals, or his or their agent, duly authorized in writing, which bill of sale, power of attorney or authority shall be in writing, duly signed and acknowledged by the person executing the same before some officer authorized to authenticate instruments for record in this State, and on payment to said inspector of his legal fees, deliver to the purchaser of the animals mentioned in such bill of sale or power of attorney, or his agent, a certificate setting forth that he has carefully examined and inspected such animal or animals, and that said purchaser has in all respects complied with the provisions of this chapter, which certificate shall not be complete until the same and bill of sale herein provided for shall be recorded in the office of the clerk of the county court of the county and be certified to by said clerk under his hand and seal. Such certificate shall be then delivered to the purchaser or purchasers, and shall protect him or them from the payment of inspection fees in any other district for the animals therein described, except the county from which the same may be exported. (Ib., § 13.)

ART. 4633. Exportation of Cattle to Mexico.—Any person intending to drive or ship any animals to the republic of Mexico, may ship the same from any point on the coast of Texas, or may drive or ship them across the Rio Grande river at any point where a custom-house of the United States is located; and shall not drive or ship such animals across the Rio Grande at any other point or points; and he shall cause all such animals to be inspected by the inspector of the district in which the point of shipment or place at which they are to be driven across said river is situated; such inspection shall be made before shipment from the state or passage across said river of said animals. (Ib., § 16.)

ART. 4650. Inspection to be Personal.—In making inspections the inspector shall not trust to the statements or representations of any person, but he shall in person carefully inspect and examine each animal or hide separately, so as to identify the marks and brands, and, in case of animals, the ages and sexes. (Ib., § 29.)

ART. 4651. Contents of Certificate of Inspection.—He shall also carefully examine the bills of sale and lists of brands and

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marks for the cattle inspected by him, and if satisfied that the person claiming the cattle inspected has correct bills of sale or chain of transfer in writing from the recorded owner, or is the owner himself in whole or part, of the mark and brand of each animal in his drove or herd, which should be inspected, and that he has none other in said herd, or under his control to be carried with it, he will then, and not until then, make out a certificate, which he shall first enter in his record, under his hand and seal, containing the number of cattle in each mark and brand, with their respective ages and sexes, thus-inspected, and that they appear to be the property of the person for whom they were inspected, naming him or her, as appears by bills of sale from the recorded owner of the marks and brands on the cattle inspected by him, or the owner of the brand and mark himself or herself, and that he has none other in his herd or under his control that should be inspected; and that he intends to drive or ship them, naming the place in the State, for sale or slaughter; or, if out of the State, he shall then name the place on the border of the State through which it is proposed to drive or ship such stock. (Ib., § 29.)

ART. 4652. Power to make a Second Inspection.—Whenever any person shall be about to drive or ship any stock out of the State, if the inspector shall believe, or is informed by any creditable person, that said person has other stock in his herd than those covered by his original certificate of inspection, or by subsequent purchase duly attested by proper bill of sale, the inspector at said point of shipment, or border county where said person leaves the State, shall be authorized to inspect said stock in the same manner as in the original inspection; and if any stock is found in said herd other than those covered by his original certificate of inspection, or by subsequent purchase duly and properly authenticated by bill of sale, the fees of said inspection shall be paid as provided in article 4635 of this chapter: (*Provided*, That the said inspector shall in no case be authorized to receive or demand more than three cents per head for each head of cattle inspected); but if not, then said fees shall be paid by the person at whose instance said inspection was made; and if said inspection is made by the inspector, at his own instance, and no stock is found in said herd except those properly accounted for under the provisions of this article, then said inspector shall receive no fees for said inspection. (Acts, 1879, Extra Session, ch. 22.)

ART. 4655. Continued—Writ of Sequestration in Aid of Inspection.—If the person in charge of any such cattle shall refuse to deliver the same into the possession of the inspector, such inspector may apply for and obtain a writ of sequestration from any justice of

the peace, county judge or district judge, according as the value of such cattle may come within the jurisdiction of either. Such writ may be obtained upon the affidavit of the inspector, stating that he believes such cattle have been unlawfully acquired, and shall issue without bond, and be forthwith executed by the sheriff or any constable of the county; and thereupon the proceedings referred to in the preceding article shall be had before the officer issuing the writ, either in term time or in vacation. (Ib.)

ART. 4658. Change of Destination after Inspection.—If the owner of the inspected herd should desire to sell, slaughter or ship the cattle, or any of them, at any other place than the destination named in the original certificate of inspection, he may do so by first having his herd inspected at the point of destination therein named, and a new certificate of inspection issued to him at that point, naming the new point of destination or shipment; and upon his arrival at such new point of destination like proceedings shall be had, in the way of inspection, comparison and return of the certificates of inspection as are prescribed for the original point of destination. (Ib.)

ART. 4659. Certain Counties excepted—Cattle on Board Railroad Trains not Subject to Inspection, unless, etc.—That the counties of Anderson, Austin, Angelina, Bowie, Brazos, Burleson, Bastrop, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Freestone, Falls, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Henderson, Hill, Hunt, Jackson, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Liberty, Madison, Marion, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wise, Wood, Calhoun and Victoria, Wheeler, Oldham, Donley and the unorganized counties attached to Wheeler, Oldham and Donley counties, Hidalgo, and Starr are hereby exempted from the operations of this act and the provisions of the same shall in no wise relate or apply to the aforesaid counties: *Provided*, That in those counties bordering on the lines of the State, except those bordering on Red River, whether organized or unorganized, the Governor shall appoint an inspector, whose duty it shall be to inspect under the provisions of this act: All stock about to be driven or shipped out of the State or in any other county exempt from the operations of this act where there is a depot or place for the shipment of cattle: *Provided*, That such cattle shall not be subject to inspection on board of any railroad, unless the same

SECTION 46. That the counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Bureson, Bastrop, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Falls, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Henderson, Hill, Hunt, Jackson, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Liberty, Madison, Marion, Montgomery, Morris, Nacagdoches, Newton, Orange, Panola, Parker, Pecos, Polk, Raines, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, De Witt, Wise, Wood, Jack, Calhoun, Young, Wheeler, Lavaca, Oldham, Nueces, Bee, Refugio, Limestone, San Patricio, Donley, Montague, and the unorganized counties attached to Wheeler, Oldham and Donley counties are hereby exempt from the operations of this act and the provisions of the same shall in nowise relate or apply to the aforesaid counties; provided that in those counties bordering on the lines of the State except those bordering on Red River, whether organized or unorganized the Governor shall appoint an inspector whose duty it shall be to inspect under the provisions of this act all stock about to be driven or shipped out of the State or in any other county exempt from the operations of this act when there is a depot or place for the shipment of cattle; provided that such cattle shall not be subject to inspection on board of any railroad unless the same have been placed on board of such train for the purpose of evading the provisions of this act; and provided further that the counties of Limestone, Gonzales, McLennan, Bell, Calhoun, Navarro, Hood, Houston, Somervell, Bosque, Jackson, Austin, Freestone, Coryell and Hamilton shall be exempt from all laws regulating inspection of hides; and provided further that the Governor is hereby authorized and required to appoint one inspector of animals for Freestone county who shall hold his office until the next general election and until his successor shall be elected and qualified.

SECTION 2. The Governor shall appoint inspectors in counties not exempt from the operations of the act which failed to elect such officers at the late general election.

SECTION 3. The near approach of the close of the session of the 19th Legislature creates an emergency and imperative public necessity the constitutional rules requiring bills to be read on three several days be suspended and this act take effect from and after its passage, and it is so enacted.

I hereby certify that H. B. No. 590 originated in the House and passed the same March 30, 1885.

A. D. SADLER,
Chief Clerk House of Representatives.

I hereby certify that H. B. No. 590 passed the Senate March 31st, 1885.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved March 31st, 1885.

*This again amended Acts of 1891
Ch 38 P 40. Id Ch 84 P. 106.*

Amended by Acts 1889 as Leg Ch 57 P 46.

H. B. No. 532.]

CHAPTER 104.

An Act to restore the civil jurisdiction of the county court of Orange county and to repeal all laws in conflict therewith.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all the civil jurisdiction which the county court of Orange county had under the Constitution and laws of the State of Texas prior to the 27th day of March 1879, be and the same is hereby fully restored, and that so much of the act approved March 27th 1879, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this State, and conform the jurisdiction of the district courts of said counties to such change as relates to the civil jurisdiction of the county court of Orange county, be and the same is hereby repealed.

SECTION 2. That all civil causes now pending in the district court of Orange county, over which the county court of said county has exclusive jurisdiction under the provisions of this act and the laws giving jurisdiction to county courts shall be transferred to the county court of said county.

SECTION 3. That the clerk of the district court of the county of Orange shall within thirty days from the date that this act takes effect, transfer to the clerk of the county court of said county all the original papers in causes transferred under this act, together with a certified transcript of all the entries made on the docket of the district court in such causes, and a certified bill of all costs accrued in such causes, and for making out such transcript of the docket, the clerk of the district court shall be allowed such fees as are now allowed for making out transcripts in cases of appeals, such fees to be taxed as costs in such suits.

STOCK LAWS.

Sec.

1. Counties exempted from operations of Section 46 of recited act.
2. Certain counties placed under operation of the stock laws.

Sec.

3. Certain counties exempt from the stock laws.
4. Emergency clause.

CHAP. 51.—[H. B. No. 36.] An Act to amend Section 46, Chapter 25, of the Acts of 1885, entitled An Act to amend Chapter 79 of the Acts of 1883, entitled An Act to amend Chapter 48 of the Acts of 1887, An Act to amend Section 46 of an act to encourage stock-raising and to protect stockraisers, approved April 22, 1879, and amended April 4, 1881, and April 12, 1880, and March 27, 1887.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Section 46 of the above recited act shall hereafter read as follows: The counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Bastrop, Bosque, Burleson, Brazoria, Caldwell, Camp, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Rains, Red River, Robertson, Rockwall,

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Rusk, Sabine, San Augustine, San Jacinto, Shackelford, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Chambers, Clay, Young, Wheeler, Lavaca, Nueces, Bee, Refugio, Limestone, San Patricio, Somervell, Matagorda, Victoria, Milam, Live Oak, Williamson, Brewster, Cameron, El Paso, Encinal, Duval, Clay, Presidio, Webb, Mills, Liberty, and Travis County, to take effect after the next general election, are hereby exempt from the operations of this act, and that the provisions of the same shall in no wise relate or apply to the aforesaid counties: *Provided*, That in those counties bordering on the line of the state, except those bordering on Red River and the Rio Grande and the counties of Nueces and Cameron, whether organized or unorganized, the governor shall appoint an inspector whose duty it shall be to inspect under the provisions of this act all stock about to be driven or shipped out of the state. Where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one for each of such counties, except the counties of Nueces and Cameron, shall be appointed by the governor and confirmed by the senate, who shall hold office for two years and until his successor shall be appointed and confirmed; said inspector so appointed to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such inspector shall receive the same fees now allowed to inspectors of hides and animals, and perform the same duties: *Provided*, That such cattle shall not be subject to inspection on board of any railroad unless the same have been placed on board of such train for the purpose of evading the provisions of this act: *And provided further*, That the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Cameron, Duval, Encinal, Webb, Zapata, Starr, Hidalgo, Hays, Guadalupe, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Jackson, Victoria, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, and Fannin counties shall be exempt from all laws regulating inspection of hides.

SEC. 2. That the counties of Wichita, Wilbarger, Hardeman, Childress, Donley, Armstrong, Carson, Potter, Oldham, Hartley, Dallam, Gray, Hemphill, Roberts, Lipscomb, Callahan, Taylor, Nolan, Mitchell, Howard, Martin, and Karnes be placed under the operations of the inspection laws now in force and which may be in force under the provisions of this act.

SEC. 3. That the counties of Jones, Fisher, Scurry, Borden, Dawson, Grimes, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Throckmorton, Baylor, Knox, King, Dickens, Crosby, Lubbock, Hockley, Cochran, Bailey, Lamb, Hall, Floyd, Motley, Cottle, Hale, Briscoe, Swisher, Castro, Parmer, Deaf Smith, Randall, Ochiltree, Hansford, Hutchinson, Moore, Sherman, Harris, Glasscock, and Liberty are hereby exempt from the operation of the stock law.

SEC. 4. The great necessity for this law creates an imperative public necessity and emergency requiring the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same March 25, 1889; and passed the senate March 25, 1889.]

Approved, March 29, 1889.

VENUE.

SEC. 1. Venue of suits for damages for suing out writs of attachment, etc.

CHAP. 52.—[S. B. No. 53.] An Act to amend an act entitled "An Act to provide for the venue of suits for damages growing out of attachment and sequestration suits," approved March 25, 1887.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Chapter 69, of the Acts of the Twentieth Legislature of the State of Texas, approved March 25, 1887, be so amended as to hereafter read as follows: That any suit for damages growing out of the suing out of any writ of attachment or sequestration, or for the levy of any such writ, may be brought in any county from which such writ was issued, or in any county where such levy was made, in whole or in part, within this state.

Approved, March 29, 1889.

COUNTY COURTS—GREER AND DONLEY COUNTIES.

SEC.		SEC.
1. Restores civil and criminal jurisdiction to county courts in Greer and Donley.		2. Repealing clause.
		3. Emergency clause.

CHAP. 53.—[H. B. No. 342.] An Act to restore the jurisdiction of the county courts of the counties of Greer and Donley, and to repeal all laws in conflict therewith.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all the civil and criminal jurisdiction taken from the county court of Greer by an act of the Twentieth Legislature, approved March 26, 1887, and all civil and criminal jurisdiction taken from the county court of Donley by act of the Eighteenth Legislature, approved March 16, 1883, be and the same is hereby restored.

SEC. 2. All laws and parts of law in conflict with this act are hereby repealed.

SEC. 3. The fact that said counties are now without the jurisdiction sought creates an imperative public necessity and emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this act be in force and effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a two-thirds vote; and passed the senate by a two-thirds vote.]

Approved, March 21, 1889.

PUBLIC LANDS—SCRAP LANDS.

SEC. 1. For the sale of certain appropriated lands in organized counties.

CHAP. 54.—[S. H. B. No. 348.] An Act to amend Section 1 of An Act to provide for the sale of such appropriated public lands situated in organized counties of the state of Texas as contain not more than six hundred and forty acres, approved March 29, 1887.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That any person desiring to purchase any of such appropriated public lands situated in organized counties of the state of Texas as contain not more than six hundred and forty acres, appropriated by an act to provide for the investment of the proceeds of such sale, approved July 14, A. D. 1879, may do so by causing the tract or tracts which such person may desire to purchase to be surveyed by the authorized public surveyor of the county in which such land is situated. The provisions of this act shall not be so construed as to prohibit the right

- Sec.
 1. Pretended transfer of coin, notes or bonds deemed prima facie a fraud, when.
 2. Parties to such fraudulent sale guilty of a misdemeanor; penalty.

- Sec.
 3. Oath required.
 4. Emergency clause.

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CHAP. 37.—[S. S. B. No. 159.] An Act to define, prevent and punish fraud and evasion in the assessment and collection of the public revenue, arising upon money in coin, notes or bonds subject to taxation, and to provide a punishment therefor.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That any evasion by any means of artifice or temporary or fictitious sale exchange or pretended transfer upon any bank books of gold and silver coin, bank notes or other notes or bonds, subject to taxation under the laws of this State, for United States non-taxable treasury notes or any notes or bonds not so subject to taxation, and any such pretended sale, exchange or

- Sec.
 1. Amends act of March 25, 1889. (Sec. 28.) Counties composing Twenty-eighth district; terms of court.
 2. Forty-ninth district created; counties in same; terms of court.
 3. Encinal county is attached to Webb county.

- Sec.
 4. Judge and district attorney for Twenty-eighth district to continue in office.
 5. Governor to appoint judge and district attorney of Forty-ninth district.
 6. Return of process.
 7. Repealing clause.
 8. Emergency clause.

CHAP. 39.—[H. B. No. 325.] An act to amend an act approved March 25th, 1889, being an act to amend an act to re-enact section 28, of an act to redistrict the State into Judicial Districts, and fix the time for holding court therein, and to provide for the election of Judges and District Attorneys in said District, at the next general election to be held on the first Tuesday after the first Monday in November, 1884, approved April 9th, 1883; and to amend said section 28 of said act approved February 26th, 1885, and to create the 49th Judicial District, to provide for the appointment and election of a District Judge and District Attorney therein, and to repeal all laws and parts of laws in conflict herewith.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That section 28 of the above recited act, approved April 9th, 1883, be so amended as to hereafter read as follows:

Section 28. The 28th Judicial District of the State of Texas shall be composed of the counties of Cameron, Hidalgo, Starr and Nueces, and the District Courts shall be therein held as follows:

In the County of Cameron, on the first Monday in February and September, and may continue in session four weeks.

In the County of Hidalgo, on the fourth Monday after the first Monday in February and September, and may continue in session two weeks.

In the County of Starr, on the sixth Monday after the first Monday in February and September, and may continue in session three weeks.

In the County of Nueces, on the ninth Monday after the first Monday in February and September and may continue in session six weeks.

SEC. 2. The forty-ninth Judicial District is hereby created, and shall be composed of the Counties of Duval, Encinal, Webb and Zapata, and the District Courts shall be therein held as follows:

In the County of Webb, on the first Monday in January, May and September, and may continue in session six weeks.

In the County of Duval, on the fifth Monday before the first Monday in May, and on the sixth Monday after the first Monday in September, and may continue in session three weeks.

In the County of Zapata, on the second Monday before the first Monday in May, and on the ninth Monday after the first Monday in September, and may continue in session two weeks.

SEC. 3. The unorganized County of Encinal is hereby attached to the County of Webb for judicial purposes.

SEC. 4. The District Judge and the District Attorney, heretofore elected and now acting for the 28th Judicial District, shall continue the exercise of their said offices respectively within said District as herein defined.

SEC. 5. That immediately after the taking effect of this act, the Governor shall appoint a suitable person as District Judge, and a suitable

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CHAP. 38.—[H. B. No. 211.] An act to amend section 1 of an act entitled "an act to amend section 46, chapter 25, of the acts of 1885, entitled an act to amend chapter 79, of the acts of 1883, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22nd 1879, and amended April 4th, 1881, and April 12th, 1880, and March 27th, 1887, and March 29th, 1889.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That section 46 of the above entitled act shall hereafter read as follows:—The counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Bastrop, Bosque, Bureson, Brazoria, Caldwell, Camp, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, De

Witt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Raines, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shackelford, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Chambers, Clay, Young, Wheeler, Lavaca, Nueces, Bee, Refugio, Limestone, San Patricio, Somervell, Matagorda, Waller, Karnes, Victoria, Milam, Live Oak, Williamson, Miller, Liberty, Wichita, Wilbarger, Archer, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Travis, Navarro, Brown, Coryell, Hamilton, Lampasas and Mills, are hereby exempt from the operation of this act; and that the provisions of the same shall in nowise relate or apply to the aforesaid counties; provided, that in those counties, bordering on the line of the State, except those bordering on Red River, and the Rio Grande where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one for each of such counties shall be appointed by the Governor, who shall hold office for two years, and until his successor shall be appointed, and said inspector, so appointed, to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such inspector shall receive the same fees now allowed to inspectors of hides and animals and perform the same duties; provided, that such cattle shall not be subject to inspection on board of any railroad unless the same have been placed on board of such train for the purpose of evading the provisions of this act; and provided further that the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Hays, Guadalupe, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Johnson, Hill, Ellis, Jackson, Victoria, De Witt, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, Coryell, Lampasas, Mills, Wichita, Wilbarger, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Fannin, Camp, Delta, Franklin, Hopkins, Hunt and Navarro shall be exempt from all laws regulating inspection of hides; that all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SEC. 2. The great necessity for this law, creates an imperative public necessity and emergency requiring that the constitutional rule that bills be read on three several days in each house be suspended, and the same is therefore suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house and passed the same by a vote of 78 yeas, and no nays; and passed the senate by a vote of 22 yeas and no nays.]

Approved March 23, 1891.

I hereby certify that H. B. No. 232 passed the Senate February 19th 1885; ayes 22, nays none.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved March 4th, 1885.

H. B. No. 136.]

CHAPTER 25.

An Act to amend chapter 79 of the acts of 1883, entitled "An Act to amend section 46 of an act to encourage stockraising and to protect stockraisers, approved April 22nd, 1879, and amended April 4th, 1881, and April 12th, 1883."

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That section 46 of the above recited act shall hereafter read as follows:

SECTION 46. That the counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Burleson, Bastrop, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Falls, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Henderson, Hill, Hunt, Jackson, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Liberty, Madison, Marion, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Parker, Polk, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, DeWitt, Wise, Wood, Jack, Calhoun, Young, Wheeler, Lavaca, Oldham, Nueces, Bee, Refugio, Aransas, Limestone, San Patricio, Donley, Matagorda, and the unorganized counties attached to Wheeler, Oldham and Donley counties are hereby exempted from the operations of this act, and the provisions of the same shall in nowise relate or apply to the aforesaid counties, provided, that in those counties bordering on the lines of the State, except those bordering on Red River, whether organized or unorganized, the Governor shall appoint an inspector whose duty it shall be to inspect under the provisions of this act, all stock about to be driven or shipped out of the State or in any other county exempt from the operations of this act, where there is a depot or place for the shipment of cattle; provided, that such cattle shall not be subject to inspection on board of any railroad, unless the same have been placed on board of such train for the purpose of evading the provisions of this act, and provided further, that the counties of Limestone, Gonzales, McLennan, Bell, Calhoun, Navarro, Hood, Houston, Somervell, Bosque, Austin, Jackson, Victoria, Freestone, Coryell and Hamilton, shall be exempt from all laws regulating inspections of hides, and provided further, that the Governor is hereby authorized and required to appoint one inspector of animals for Freestone county, who shall hold his office until the next general election, and until his successor shall be elected and qualified.

SECTION 2. The Governor shall appoint inspectors in counties not exempt from the operations of this act which failed to elect such officers at the late general election.

SECTION 3. The near approach of the close of the session of

SECTION 7. That whereas, the fact that another regular session of the Legislature will not be held for two years, and the further fact that the present session is drawing to a close, and the isolated condition of the people of the proposed new county amounts to a practical denial of justice, creating an emergency and an imperative public necessity, which requires that the constitutional rule that bills be read on three several days be suspended, and it is so enacted.

I hereby certify that H. B. No. 335 originated in the House and passed the same February 21st, 1885, by a two-thirds vote; ayes 82, nays 2.

A. D. SADLER,

Chief Clerk House of Representatives.

I hereby certify that H. B. No. 335 passed the Senate February 28th, 1885, by a two-thirds vote; ayes 22, nays 1.

WM. NEAL RAMEY,

Secretary of the Senate.

Approved March 4th, 1885.

H. B. No. 232.]

CHAPTER 24.

An Act to authorize the county commissioners' courts to assume control of the streets and alleys of any city or incorporated town within their jurisdiction in which there is no de facto municipal government, and to have the same worked as public roads.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That in all cities and incorporated towns in the State of Texas in which from any cause there is not a de facto municipal government in the active discharge of their official duties, the commissioners' court of the county in which such city or incorporated town is situated shall assume and have control of the streets and alleys thereof, and shall have the same worked under the law and regulations for the working of public roads, and such streets and alleys for the purposes of this act shall be held and denominated public roads, provided, that all residents of any city or town, having no de facto city government, not otherwise exempt from road duty, shall be liable to road service as in other cases.

SECTION 2. All laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

SECTION 3. That whereas, there are such cities and towns in this State which are without any municipal government, with their streets and alleys greatly in need of being worked, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

I hereby certify that H. B. No. 232 originated in the House and passed the same February 3d, 1885, by a two-thirds vote; ayes 79, nays 1.

A. D. SADLER,

Chief Clerk House of Representatives.

the date of said election held on the first day of July, A. D. 1884: Therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That when fifty or more taxpayers of Hardin county, who pay taxes upon real estate situated in said county, shall petition the county commissioners court thereof for the removal of the county seat from the town of Hardin to the town of Kountze, it shall be the duty of said court to order an election for that purpose, giving due notice thereof, by posting or causing to be posted at or near each voting place in said county, written notices, for at least twenty days prior to the day of such election; and such election shall be held at the same places and conducted in the same manner as elections for State and county officers, and the result of such election, unless set aside in accordance with law, shall establish the county seat of said county.

SEC. 2. The returns of such election shall be made to the county judge of said Hardin county, as in the case of elections for county officers, and he shall count the votes, declare the result, and enter or cause the same to be entered of record.

SEC. 3. The fact that it is important to the interests of the people and taxpayers of Hardin county that all controversy and differences connected with and arising from the desire upon the part of one portion of the people thereof to remove the county seat from, and upon the part of another portion to retain it at, the town of Hardin, creates an emergency and an imperative public necessity which requires the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect from and after its passage, and it is so enacted.

Approved, April 2, 1887.

RECEIVERS.

- SEC.
1. Cases in which receivers may be appointed by the courts.
 2. No party nor attorney at interest shall be appointed, and receiver must be a citizen of the State.
 3. Providing for oath and bond of receiver.
 4. Powers of receiver, under control of the court, to sue, defend suits, etc.
 5. Providing for investment of the funds.
 6. Application of moneys coming to hands of receiver as such, etc.
 7. As to deposit of funds by receiver operating railroads, etc.
 8. Suits by or against receivers without consent of controlling court.
 9. Venue of actions against receivers.
 10. Appointment and qualification of a special clerk and master.

- SEC.
11. Receiver to return inventory.
 12. No court without the limits of the State to appoint receivers of property in this State.
 13. Receivers for corporations shall be appointed in county where their principal office is.
 14. Duties of receiver—Payment of debts—Improvements, etc.
 15. As to payment of judgments and concluded claims at time of appointment of receiver.
 16. Receivership must be closed within three years unless prevented by appeals.
 17. Receiver of incorporated company, etc., shall not be appointed on petition thereof.
 18. Repealing clause.
 19. Rules of equity to apply where not inconsistent with the provisions of this act.
 20. Emergency clause.

CHAP. 131.—[H. B. No. 157.] An Act to provide for the appointment of receivers, and to define their powers and duties, and to regulate proceedings under such appointment of receivers.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That a receiver may be appointed by any judge of a court of competent jurisdiction in this State, in the following cases:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff or any party whose right to or interest in the property or fund or the proceeds thereof is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.
2. In an action by a mortgagee for the foreclosure of his mortgage and

*See Amendment to this Act. 1889
Laws 21st Leg. Ch 57 P 53*

sale of the mortgaged property when it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and the property is probably insufficient to discharge the mortgage debt.

3. In cases where a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

4. In all other cases where receivers have heretofore been appointed by the usages of the court of equity.

SEC. 2. No party, attorney, or person interested in an action shall be appointed receiver therein, nor shall any person be appointed receiver in any case where the property lies within this State unless he is a *bona fide* citizen of the State of Texas and qualified to vote.

SEC. 3. When a receiver is appointed he shall, before he enters upon his duties, be sworn to perform them faithfully, and shall execute a bond, with three or more good and sufficient sureties, to be approved by the court appointing him, in such sum as the court shall see proper to fix, conditioned that he will faithfully discharge all of the duties of receiver in the action (naming it) and obey the orders of the court therein.

SEC. 4. The receiver shall have power, under the control of the court, to bring and defend actions in his own name as receiver, to take charge and keep possession of the property, to receive rents, collect, compound for, compromise demands, make transfers, and generally to do such acts respecting the property as the court may authorize.

SEC. 5. The funds in the hands of a receiver may be invested upon interest by order of the court, but no such order shall be made except upon consent of all of the parties to the action.

SEC. 6. All moneys that come into the hands of a receiver as such receiver, shall be applied first to the payment of all costs and expenses of the suit in which he was appointed, and the expenses of operating and managing the property, including all materials and supplies procured by him therefor, and all liabilities incurred by him in such operation and management; and all judgments recovered against a receiver during his receivership, or for wages of employes, or work done, or materials furnished, while he is operating or managing the road, and all judgments recovered against the person, or persons, or corporations, in suits brought before the appointment of a receiver in the action, shall be a lien on the funds in his hands as receiver, but shall affect him only in his trust capacity, and not individually.

SEC. 7. When a line of a railroad operated by a receiver lies wholly within this State, all money which comes into the hands of the receiver, whether from operating the road or otherwise, shall be kept and deposited in such place within this State as the court may direct, until properly disbursed; but if any portion of the road lies in another State the receiver shall be required to deposit in this State at least such share of the funds in his hands as is proportioned to the value of the property of the company within this State.

SEC. 8. When any property of any kind within the limits of this State has been placed, by order of court, in the hands of a receiver, who has taken charge of such property, such receiver may, in his official capacity, sue or be sued in any court of this State having jurisdiction of the cause of action, without first having obtained leave of the court appointing such receiver to bring said suit, and if a judgment is recovered against said receiver it shall be the duty of the court to order said judgment paid out of any funds in the hands of said receiver as such receiver.

SEC. 9. Actions may be brought against the receiver of the property of any person where said person resides. Actions may be brought against re-

ceivers of a corporation in the county where the principal office of said corporation may be located, and against receivers of railroad companies in any county through or into which the road is constructed, and service of summons may be had upon the receiver, or upon the general or division superintendent of the road, or upon any agent of said receiver who resides in the county in which the suit is brought.

SEC. 10. The court shall, in every case of the appointment of receiver, also after his qualifying, appoint a master in chancery, who shall be a citizen of this State, and not an attorney for either party to the action, nor related to either party, who shall perform all of the duties required of him by the court, and shall be under orders of the court, and have such power as a master of chancery has in a court of equity.

SEC. 11. The receiver, as soon after his appointment as possible, shall return to the court appointing him a true and correct inventory of all property received by him as such receiver.

SEC. 12. When a person resides in this State and a receiver is applied for, or if the property sought to be placed in the hands of a receiver is situated within the limits of this State, no court other than one within the limits of this State shall have power to appoint any receiver of said property.

SEC. 13. If the property sought to be placed in the hands of a receiver is a corporation whose property lies within this State, or partly within this State, then the action to have a receiver appointed shall be brought in this State in the county where the principal office of said corporation is located.

SEC. 14. When a receiver of a corporation has, under the order of the court, made improvements upon the property of said corporation, and has also, under the order of the court appointing him, purchased rolling stock, machinery, and made other improvements whereby the value of the property of said corporation has been increased, or has extended such road, or acquired any property in connection with said road, and has paid for same out of the current receipts of the corporation that came into his hands as receiver, then, if there be any floating debts against said corporation, said corporation shall be made to contribute to the floating indebtedness to the full value of the money so spent by said receiver as aforesaid; and if there are any liens of any kind upon the property of said corporation in the hands of such receiver, and said property is sold under the order of the court, and said liens foreclosed, then it shall be and is hereby made the duty of the court appointing such receiver, if there be any unpaid debts or judgments, or claims against the corporation itself, to detain in the hands of the clerk of the court money to the full value of the improvements made by said receiver of said property out of the proceeds of the sale of the property sold, and pay the same over to any person or persons who has or may have a claim, debt, or judgment against said corporation; and the court in ordering the sale of the property shall require sufficient cash money to be paid in at date of sale to cover the full value of the improvements so made by said receiver out of the current funds received by him from the property while receiver.

SEC. 15. All judgments, claims, or causes of action when determined, existing against any corporation at the time of the appointment of a receiver, shall be paid out of the earnings of such corporation while in the hands of the receiver, to the exclusion of mortgage action; and the same shall be a lien on such earnings.

SEC. 16. No corporation shall be administered in any court for a longer period than three years from the date of such appointment; and within

thereto," has granted to each of the states and territories of the United States an appropriation of fifteen thousand dollars for the purpose indicated in the title of said act and fully set forth in the body thereof; and whereas said act in section 9 thereof provides that the grants of money therein authorized are made subject to the legislative assent of the several states and territories to the purpose of said grants: Therefore,

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the state of Texas does hereby assent to the purposes of said grant, and designates the Agricultural and Mechanical College of Texas as such station.

SEC. 2. The fact that no further benefits from the grant made by congress to the several states for experiments in agriculture can be had until the state designates the beneficiary of such grant in this state, creates an imperative necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this bill take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same March 19, A. D. 1889; and passed the senate by a vote of 26 yeas, no nays.]

Approved, April 3, 1889.

RECEIVERS.

- Sec. 1. Amends Sections 2 and 6, of Chapter 131, Laws Twentieth Legislature.
- Sub-section 2. No party or persons at interest to be appointed receiver, etc.
- Sub-section 6. Application of moneys coming into hands of receivers, etc.

CHAP. 59.—[H. B. No. 194.] An Act to amend Sections 2 and 6, of Chapter 131, of an act to provide for the appointment of receivers, and to define their powers and duties, and to regulate proceedings under such appointment of receivers, as passed by the Twentieth Legislature and approved April 2, 1887.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Sections 2 and 6, of Chapter 131, of an act to provide for the appointment of receivers, and to define their powers and duties, and to regulate proceedings under such appointment of receivers, as passed by the Twentieth Legislature of the State of Texas and approved April 2, 1887, be so amended as to hereafter read as follows:

Section 2. No party, attorney, or any person interested in any way in an action for the appointment of a receiver, shall be appointed receiver therein, nor shall any person be appointed receiver in any case where the property lies within this state unless the person appointed at the time of his appointment is a bona fide citizen of the state of Texas and qualified to vote, and during the pendency of said receivership the person or persons so appointed receiver to keep and maintain actual residence within this state. And if [in] any action for the appointment of a receiver the property sought to be placed in the hands of a receiver is situated partly in this state and partly without, then no person shall be appointed receiver of that part of the property situated in this state unless such person at the time is a bona fide citizen of this state and qualified to vote, and during the pendency of said receivership the person or persons so appointed receiver to keep and maintain actual residence within this state. And if any person should be appointed receiver of property situated in this state, or a part of which is situated in this state and a part without, who is not at the time a bona fide citizen of this state and entitled to vote, all such appointments shall be absolutely null and void in so far as the property situated within this state is concerned. And if any corporation owning property in this state and chartered by this state shall have a receiver of its prop-

erty situated in this state appointed who is not at the time of appointment a bona fide citizen of this state and qualified to vote, said corporation shall thereby forfeit its charter, and it shall be the duty of the attorney-general to at once to prosecute a suit by quo warranto against said corporation so offending to forfeit its charter, and the court trying the cause shall forfeit the charter of said corporation upon proof that a person has been appointed receiver of its property situated in this state who is not qualified to act under the provisions of this section.

Section 6. All moneys that come into the hands of a receiver as such receiver shall be applied as follows: First, to the payment of all court costs of the suit; second, to the payment of all wages of employes due by the receiver; third, to the payment of all debts due by the receiver for materials and supplies purchased during the receivership by the receiver for the improvement of the property in his hands as receiver; fourth, to the payment of all debts due for betterments and improvements done during the receivership to the property in his hands as such receiver; fifth, to the payment of all claims and accounts against the receiver on contracts made by the receiver during the receivership, and for all claims for stock and personal injury claims against said receiver accruing during said receivership, and all judgments rendered against said receiver for personal injuries and for stock killed; sixth, all judgments recovered against the person or persons or corporations in suits brought before the appointment of a receiver in the action. And said claims shall have a preference lien on all of the moneys coming into the hands of the receiver which are the earnings of the property in his hands, and the court shall see that the money coming into the hands of the receiver as earnings of the property in his hands is paid out on the claims against said receiver in the order of their preference as named above, and it shall be the duty of the receiver to pay the funds in his hands which are the earnings of the property while in his hands as receiver on the claims against him in the order of preference named above.

All judgments recovered against a receiver for cause of action arising during the receivership shall be a preference lien upon all the property in his hands as such receiver superior to the mortgage lien; and if a receiver is discharged pending suits against him for causes of action growing out of and arising during the receivership, the cause of action shall not abate, but may be prosecuted to final judgment against the receiver, and the plaintiff in the action may if he sees proper make the party or corporation to whom the receiver has delivered the property that was in his hands as receiver a party to the suit, and if judgment is finally rendered in favor of the plaintiff against the receiver, the court shall also enter up judgment in favor of the plaintiff against the party to whom the property was delivered by the receiver. If any person should sue a receiver and obtain judgment against such receiver, and said receiver shall have in possession moneys subject to the payment of said judgment, and the plaintiff owning the judgment shall apply to the court appointing the receiver for an order to pay said judgment, and if the court appointing the receiver should refuse to order said judgment paid, when there is money in the hands of said receiver subject to the payment of the judgment, then it shall be the duty of the court rendering the judgment to order an execution to issue on said judgment against said receiver upon the filing by the plaintiff in the court where the judgment was rendered an affidavit stating the facts that the plaintiff had applied to the court appointing the receiver for an order for said receiver to pay said judgment, and that it was proven to the court that there was money in the hands of the receiver at that time which was subject to the payment of the

judgment, and that the court appointing the receiver refused to order the receiver to pay the judgment; said execution when so issued shall be levied upon any property in the hands of the receiver and shall be sold as under ordinary executions, and a sale of the property will convey the title of the same to the purchaser. All judgments rendered against a receiver for causes of action arising during the receivership shall be a lien upon all of the property in the hands of the receiver superior to the mortgage lien; and if the property should be turned back into the possession of the party or corporation who were owning same at the time of the appointment of a receiver or any one else for them, or as their assigns or purchasers, the party or corporation so receiving said property from said receiver shall take said property charged with all of the unpaid liabilities of the receiver occurring during the receivership to the value of the property delivered by the receiver. If a receiver is discharged by the court before all of the liabilities of the receiver arising during the receivership are settled in full, then the person, persons, or corporation to who the receiver delivers the property that was in his hands as receiver shall be liable to the persons having claims against said receiver for the full amount of the liabilities. The discharge of a receiver shall not work an abatement of the suit against a receiver, nor shall it in any way e[ffect] the right of the party to sue the receiver if he sees proper.

All judgments rendered against a receiver on causes of action arising during the receivership shall be a lien on all of the property in the hands of said receiver superior to the mortgage lien.

All parties and corporations whose property has been placed in the hands of a receiver by order of court, and which was not sold by the receiver, and which property has been redelivered back to the original parties or corporation without any sale of said property, shall be liable and held to pay all of the unpaid liabilities of the receiver in causes of action arising out of and during the receivership; and if there are any suits pending against a receiver at the date of discharge, on causes of action arising during the receivership, the plaintiff shall have the right to make the party or corporation to whom the receiver delivered the property which was in his hands as receiver a party defendant along with the receiver; and if any judgment is rendered against the receiver for causes of action arising out of and during the receivership, then the court shall also at the same time (if the party or corporation receiving back the property have been made party defendants) render judgment in favor of the plaintiff against both defendants for the amount so found for plaintiff and all costs, and plaintiff shall have the right to foreclose his lien on the property delivered back by said receiver to said party or corporation. If at the date of the discharge of the receiver there are any judgments or claims not sued on against a receiver arising during the receivership, and which judgments and claims not sued on are unpaid at the date of the discharge of said receiver, said unpaid judgments and unpaid claims not sued on shall be a preference lien on all of the property that was in the hands of the receiver superior to the mortgage lien, and the person or corporation to whom the receiver has delivered the property that was in his hands as receiver, shall be liable for all unpaid judgments and unpaid claims not sued on to the value of the property that was delivered by the receiver to said person or corporation.

And any person having a claim against a receiver not sued on at the date of the discharge of the receiver, shall have the right to sue said receiver either alone or jointly with the person or corporation to whom the receiver delivered said property that was in his hands as such receiver; and if any judgment is rendered against said receiver, a judgment shall also be rendered

against the person or corporation for the same amount that is rendered against the receiver, not to exceed the value of the property so received by said person or corporation.

That from and after the passage of this act, in any case in which any receiver is sued in any of the courts of this state, and such receiver desires to take an appeal from any judgment which may be rendered against him in any justice or county court, or to take an appeal or writ of error from any judgment which may be rendered against him in any district court, before such appeal or writ of error shall be perfected or allowed such receiver shall enter into bond with two or more good and sufficient sureties, to be approved by the clerk of the court or justice of the peace, payable to the appellee or the defendant in error, in a sum at least double the amount of the judgment, interest, and cost, conditioned that such receiver shall prosecute his appeal or writ of error with effect; and in case the judgment of the court to which such appeal or writ of error be taken shall be against him, that he will perform its judgment, sentence, or decree, and pay all such damages and costs as said court may award against him. In the event that the judgment of the court to which such appeal or error is taken shall be against such receiver, judgment shall at the same time be entered against the sureties on his said bond, and execution thereon may issue against such sureties within twenty days after the rendition of such judgment.

Approved, March 19, 1889.

PUBLIC EDUCATION.

- SEC. 1. Office of County Superintendent may be abolished.
2. Emergency clause.

CHAP. 60.—[H. B. No. 452.] An Act to amend An Act to establish and maintain a system of public free schools for the state of Texas, by adding thereto a new section, to be known as Section 43b, providing for abolishing the office of county superintendent of public instruction whenever the county commissioners court of any county shall deem it advisable to do so.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the county commissioners court of any county in this state shall have the power and authority, when in their judgment such court may deem it advisable, to abolish the office of county superintendent of public instruction in their county by an order entered on the minutes of their court at a regular term thereof. Whenever such office is abolished the county judge of such county shall from the date of said order perform the duties of such office; and the county superintendent shall immediately turn over to such county judge all the books, papers, records, and other school property in his possession.

SEC. 2. The near approach of the close of the session, and the fact that there is no law giving the authority to abolish the office of county superintendent of public schools, creates an imperative public necessity and emergency which authorizes the suspension of the rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act shall take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 77 yeas, no nays; and passed the senate by a vote of 24 yeas, 1 nay.]

Approved, April 6, 1889.

SEC.

1. Railway companies may abandon portions of track.

SEC.

2. Emergency clause.

CHAP. 8.—[S. B. No. 103.] An Act to authorize railway companies to abandon certain portions of their roads near the coast, when their *termini* are at points where towns being county sites have been destroyed by storms and cyclones.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That any railway company in the State of Texas having a terminus on the coast, the said terminus being a county site, and the same having been destroyed by storms and cyclones, and when said county site has been removed back from the coast near the line of said railway, it shall be lawful for said railway company to remove and take up its track from its original terminus on the coast to a point opposite, or near, said new county site: *Provided*, Said railway company make its terminus at, and build its road to, said new county site.

SEC. 2. This being a matter of great general interest and importance, and there being no law regulating the same, an imperative public necessity exists for its immediate passage; it is therefore enacted that the constitutional rule requiring bills to be read on three several days before passage be suspended, and this act take effect from and after its passage.

[NOTE.—The foregoing act originated in the Senate, and passed the same by a vote of 27 yeas, 1 nay; and passed the House by a vote of 80 yeas, no nays.]

Approved, February 16, 1887.

a vote of 93 yeas, no nays; and passed the Senate by a vote of 27 yeas, no nays.]

Approved, February 2, 1887.

AFFIDAVITS, OATHS, AND AFFIRMATIONS.

SEC. 1. By what officers oaths, etc., may be administered.

CHAP. 5.—[S. B. No. 21.] An Act to amend An Act to amend Article 4, Title 2, of the Revised Civil Statutes of the State of Texas, approved March 31, 1885, concerning the administration of affidavits, oaths, and affirmations.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That an act to amend An Act to amend Article 4, Title 2, of the Revised Civil Statutes of Texas, approved March 31, 1885, be so amended as to hereafter read as follows, to-wit: Article 4. All oaths, affidavits, or affirmations necessary or required by law, may be administered, and a certificate of the fact given, by any judge or clerk of a court of record, justice of the peace, or by any notary public, within this State.

Approved, February 5, 1887.

SPECIAL VENIRE.

SEC. 1. Manner of serving list of jurors on defendants. †

CHAP. 6.—[S. B. No. 12.] An Act to amend Article 617, Chapter Two, Code

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who shall hold their offices for two years. He shall be a married man, a skillful physician, and also experienced in the treatment of insanity. He shall reside at the asylum with his family, and shall devote his whole time exclusively to the duties of his office.

SECTION 2. Whereas, the time for electing a Superintendent for the asylum at Austin has arrived, and the board of managers are unable to find a man in the State of Texas who is eligible under existing law, and at the same time otherwise acceptable; and whereas, it is believed that competent men can be found in the State of Texas, and the insane properly cared for, without importing a Superintendent from another State, therefore an imperative public necessity exists justifying the suspension of the constitutional rule requiring bills to be read on three several days, and it is enacted that the rule be suspended, and that this bill take effect from and after its passage.

I hereby certify that H. B. No. 183 originated in the House, and passed the same January 27th, 1885, ayes 80, nays 1.

A. D. SADLER,
Chief Clerk House of Representatives.

I hereby certify that H. B. No. 183 passed the Senate February 5th, 1885, ayes 24, nays none.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved February 5th, 1885.

An Act to amend article 677 of the Penal Code of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas.* That article 677 of the Penal Code of the State of Texas be so amended as to hereafter read as follows:

ARTICLE 677. If any person shall intentionally break, cut, pull or tear down, misplace, or in any other manner injure any telegraph or telephone wire, post, machinery, or other necessary appurtenance to any telegraph or telephone, line or in any way wilfully obstruct or interfere with the transmission of messages along such telegraph or telephone line, he shall be punished by confinement in the penitentiary not less than two nor more than five years, or by fine not less than one hundred nor more than two thousand dollars.

SECTION 2. Whereas, there is no law in force in this State affording protection to the telephone lines thereof, and whereas, great damage is being done them in some portions of the State, therefore an emergency and imperative public necessity exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

I hereby certify that H. B. No. 21 originated in the House and passed the same January 27th, 1885, by a two-thirds vote, ayes 83, nays 1.

A. D. SADLER,
Chief Clerk House of Representatives.

I hereby certify that H. B. No. 21 passed the Senate February 5th, 1885, ayes 17, nays 6.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved February 10, 1885.

have been placed on board of such train for the purpose of evading the provisions of this act: *And provided further*, That the counties, of Limestone, McLennan, Bell, Calhoun, Navarro, Hood, Houston, Somerville, Bosque, Austin, Jackson and Victoria shall be exempt from all laws regulating inspections of hides: *And provided further*, That the Governor is hereby authorized and required to appoint one inspector of hides and animals for Harris county, who shall hold his office until the next general election and until his successor shall be elected and qualified. (Act of April 12, 1883; Laws, 1883, regular session, ch. 79, p. 79.)

PROVISION OF THE PENAL CODE.

TITLE 17.

OF OFFENSES AGAINST PROPERTY.

CHAPTER 3.

MALICIOUS MISCHIEF.

ARTICLE 677. Destroying telegraph wire or obstructing message.

ART. 677. Destroying Telegraph Wire or Obstructing Message.—If any person shall intentionally break, cut, pull or tear down, misplace, or in any other manner injure any telegraph wire, post, machinery, or other necessary appurtenance to any telegraph line, or in way wilfully obstruct or interfere with the transmission of messages along such telegraph line, he shall be punished by confinement in the penitentiary not less than two nor more than five years, or by fine not less than one hundred nor more than two thousand dollars. (P. C., 710.)

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TRUSTS—CONSPIRACIES AGAINST TRADE.

- Sec.
1. Defines trusts.
 2. Corporations to forfeit charter for violation of this law.
 3. Duty of attorney-general, etc.
 4. Foreign corporations violating this act forbidden to do business.
 5. Quo warranto proceedings.
 6. Conspiracy against trade.
 7. Requisites of indictment.

- SEC.
8. Requisites of proof.
 9. Persons out of the state liable to indictment.
 10. Associations violating this act to forfeit \$50 a day, recoverable on suit.
 11. Contracts or agreements in violation hereof void.
 12. The provisions hereof cumulative.
 13. Exempts live stock and agricultural products in hands of producers.
 14. Emergency clause.

CHAP. 117.—[S. H. Bs. Nos. 9, 117, 136, 192, and 313.] An Act to define trusts, and to provide for penalties and punishment of corporations, persons, firms, and associations of persons connected with them, and to promote free competition in the state of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That a trust is a combination of capital, skill, or acts by two or more persons, firms, corporations, or associations of persons, or of either two or more of them for either, any, or all of the following purposes: First—To create or carry out restrictions in trade. Second—To limit or reduce the production, or increase or reduce the price of merchandise or commodities. Third—To prevent competition in manufacture, making, transportation, sale, or purchase of merchandise, produce, or commodities. Fourth—To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce, or commerce intended for sale, use, or consumption in this state. Fifth—To make or enter into, or execute or carry out any contract, obligation, or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce, or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine, or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

SEC. 2. That any corporation holding a charter under the laws of the state of Texas which shall violate any of the provisions of this act shall thereby forfeit its charter and franchise, and its corporate existence shall cease and determine.

SEC. 3. For a violation of any of the provisions of this act by any corporation mentioned herein it shall be the duty of the attorney-general or district or county attorney, or either of them, upon his own motion, and without leave or order of any court or judge, to institute suit or quo warranto proceedings in Travis County, at Austin, or at the county seat of any county in the state, where such corporation exists, does business, or may have a domicile, for the forfeiture of its charter rights and franchise, and the dissolution of its corporate existence.

SEC. 4. Every foreign corporation violating any of the provisions of this act is hereby denied the right and prohibited from doing any business within this state, and it shall be the duty of the attorney-general to enforce this provision by injunction or other proper proceedings in the district court of Travis County, in the name of the State of Texas.

SEC. 5. That the provisions of Chapter 48, General Laws of this state, approved July 9, 1879, to prescribe the remedy and regulate the proceedings by quo warranto, etc., shall, except in so far as they may conflict herewith,

govern and control the proceedings when instituted to forfeit any charter under this act.

SEC. 6. Any violation of either or all the provisions of this act shall be and is hereby declared a conspiracy against trade, and any person who may be or may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall, as principal, manager, director, agent, servant, or employe, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, or orders thereunder or in pursuance thereof, shall be punished by fine not less than fifty dollars nor more than five thousand dollars, and by imprisonment in the penitentiary not less than one nor more than ten years or by either such fine or imprisonment. Each day during a violation of this provision shall constitute a separate offense.

SEC. 7. In any indictment for an offense named in this act it is sufficient to state the purposes or effects of the trust or combination, and that the accused was a member of, acted with or in pursuance of it, without giving its name or description, or how, when, or where it was created.

SEC. 8. In prosecutions under this act it shall be sufficient to prove that a trust or combination as defined herein exists, and that the defendant belonged to it or acted for or in connection with it, without proving all the members belonging to it, or proving or producing any article of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

SEC. 9. Persons out of the state may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this act which do not in their commission necessarily require a personal presence in this state, the object being to reach and punish all persons offending against its provisions whether within or without the state.

SEC. 10. Each and every firm, person, corporation, or association of persons, who shall in any manner violate any of the provisions of this act shall for each and every day that such violation shall be committed or continued forfeit and pay the sum of fifty dollars, which may be recovered in the name of the state of Texas in any county where the offense is committed or where either of the offenders reside, or in Travis County, and it shall be the duty of the attorney-general or the district or the county attorney to prosecute for and recover the same.

SEC. 11. That any contract or agreement in violation of the provisions of this act shall be absolutely void and not enforceable either in law or equity.

SEC. 12. That the provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

SEC. 13. The provisions of this act shall not apply to agricultural products or live stock while in the hands of the producer or raiser.

SEC. 14. Whereas the people of this state are without a remedy against trusts, therefore an emergency and imperative public necessity exists requiring that the constitutional rule which requires that all bills shall be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 86 yeas, no nays; and passed the senate by a vote of 26 yeas, no nays.]

Approved, March 30, 1889.

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CHAPTER XXIV.—*An act to amend chapter 3, of title 17, of the Penal Code of Texas, by adding after article 683 article 683a.*

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That the Penal Code of Texas be amended by adding after the article 683 article 683a, which shall read as follows, viz: "That any baggage-master, express agent, stage or hack-driver, or other common carrier, whose duty it is to handle, remove, transfer or take care of trunks, valises, boxes or other baggage while loading, transporting, unloading, transferring, delivering, storing or handling the same, whether or not in the employ of any transportation company or common carrier, who shall maliciously or carelessly or recklessly break, injure or destroy the said baggage, shall be deemed guilty of a misdemeanor, and, on conviction, be fined in a sum not exceeding one hundred dollars; *provided*, that a prosecution for a misdemeanor, as provided in this section, shall not be a bar to a civil action for damages."

Approved March 5, A. D. 1881.

Takes effect ninety days after adjournment.

returnable to the next ensuing terms of said courts

INTIMIDATION.

Sec. 1. Punishment for preventing another from engaging in a lawful employment.

CHAP. 18.—[S. B. No. 51.] An Act to make it penal to prevent or attempt to prevent any person from engaging or remaining in or performing the duties of any lawful employment, and to fix a penalty therefor.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That any person who shall, by threatening words, or by acts of violence or intimidation, prevent or attempt to prevent another from engaging or remaining in or from performing the duties of any lawful employment, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by confinement not less than one nor more than six months in the county jail.

Approved, March 8, 1887.

RAILROADS—PAYMENT OF EMPLOYEES.

Sec. 1. Railroad companies shall promptly pay employes—Measure of damages for failure to comply with this act.

CHAP. 91.—[H. B. No. 31.] An Act to require railroads to pay their employes promptly, and prescribing a penalty for failure to pay them.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That whenever any railroad company shall discharge any employe, or whenever the time of service of any employe of a railroad company shall expire, or whenever any railroad company shall be due and owing any employe, such railroad company, upon such discharge, or upon the termination of the term of such service, or upon the maturity of such indebtedness, shall, within fifteen days after demand therefor upon the nearest station agent of said railroad company, pay to such employe the full amount due and owing him; and in case said railroad company fails or refuses to pay such employe, then it shall be liable and pay to such employe twenty per cent on the amount due him, as damages, in addition to the amount so due, in no case the damages to be less than five nor more than one hundred dollars.

Approved, March 30, 1887.

RAILROADS—TO PREVENT THE DETENTION OF TRAINS.

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SEC.

1. Prescribes penalty for interfering with the running of trains.

SEC.

2. Constitutes each day train is prevented a separate offense.

3. Prescribes penalty for injuring locomotives, etc.

CHAP. 92.—[H. B. No. 112.] An Act to prevent the detention of any railroad passenger train, freight train, or construction train running upon any railroad in this State, or any injury thereto, or to the track or other property of any railroad in this State, and to prescribe the punishment therefor.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That any person or persons who shall, by force, threats, or intimidation of any kind whatever, against any railroad engineer or engineers, or any conductor, brakeman, or other officer or employe, employed or engaged in running any passenger train, freight train, or construction train running upon any railroad in this State, prevent the moving or running of said passenger, freight, or construction train, shall be deemed guilty of an offense, and upon conviction thereof each and every person so offending shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and also imprisoned in the county jail for any period of time not less than three months nor more than twelve months.

SEC. 2. Each day said train or trains mentioned in section one of this act are prevented from moving on their road as specified in section one of this act, shall be deemed a separate offense, and shall be punished as prescribed in section one of this act.

SEC. 3. Any person who shall wilfully injure any railroad, locomotive-engine, or tender, or baggage, passenger, or freight car, of any railroad in this State, so as to prevent the use of the same, shall be punished by fine in any sum not less than one hundred dollars, and imprisoned in the county jail not less than three nor more than twelve months.

Approved, March 30, 1887.

of theft, and shall be punished as prescribed in the Penal Code for like property.

Approved, March 8, 1887.

MALICIOUS MISCHIEF.

SEC. 1. Obstructing railway track, displacing switch, etc.

CHAP. 22.—[S. B. No. 73.] An Act to amend Article 678, Chapter 3, Title 17, of the Penal Code of the State of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 678, Chapter 3, Title 17, of the Penal Code of the State of Texas, be so amended as to hereafter read as follows:

Article 678. If any person shall wilfully place any obstruction upon the track of any railroad, or remove any rail therefrom, or displace or interfere with any switch thereof, or in any way injure such road, or shall do any damage to any railroad, locomotive, tender, or car, whereby the life of any person might be endangered, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years. If the life of any person be lost by such unlawful act, the offender is guilty of murder.

Approved, March 8, 1887.

JUDGMENTS—NOTICE OF TRANSFERS OF.

Sup. 6. 388

- SEC. 1. Herein as to form of transfers of judgments, etc.
2. Herein as to notice.

CHAP. 89.—[S. B. No. 148.] An Act to regulate the sale and transfer of judgments of courts of record, and of causes of action or interest therein where suit has been filed thereon, and to provide for recording such transfers.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the sale of a judgment, or any part thereof, of any court of record within this state, or the sale of any cause of action, or interest therein, after suit has been filed thereon, shall be evidenced by a written transfer, which when acknowledged in the manner and form required by law for the acknowledgment of deeds, may be filed with the papers of such suit, and when thus filed by the clerk, it shall be his duty to make a minute of said transfer on the margin of the minute book of the court where said judgment is recorded of said court, or if judgment be not rendered when such transfer is filed, the clerk shall make a minute of such transfer on the court trial docket when the suit is entered, giving briefly the substance thereof, for which services he shall be entitled to a fee of twenty-five cents, to be paid by the party applying therefor, and this section shall apply to any and all judgments, suits, claims, and causes of actions, whether assignable in law and equity or not.

SEC. 2. That when said transfer is duly acknowledged, filed, and noted as aforesaid, the same shall be full notice and valid and binding upon all persons subsequently dealing with reference to said cause of action or judgment, whether they have actual knowledge of such transfer or not.

Approved, March 26, 1889.

purchase in the state, and the purchaser shall have the prior right for the period of six months after such resurvey shall have been made, in which to purchase such excess on the same terms on which such purchaser has already bought or may buy.

SEC. 3. That all such surveys which under the direction of the commissioner of the general land office have been or may be hereafter corrected, so that all excess in the original surveys shall be placed in the surveys belonging to the public free schools, are hereby validated, and the action of the commissioner is hereby ratified; and he is directed and authorized to issue patents to the owners thereof, and to sell such surveys belonging to the public free schools, securing to the state the benefit of such excesses.

SEC. 4. That the provisions of this act shall not apply to nor affect the rights of the third persons heretofore acquired in good faith.

SEC. 5. *Provided*, That nothing in this act shall apply to any lands for which patents have been issued.

SEC. 6. Whereas there is much confusion and uncertainty in regard to certain lands surveyed in this state, and the rights of actual settlers and purchasers are dependent upon the validity of such surveys, creates an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and demanding that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the senate, and passed the same by a vote of 23 yeas, 1 nay; and passed the house by a vote of 80 yeas, 2 nays.]

Approved, March 22, 1889.

wood, Hutchinson, Jack, Johnson, Jones, Karnes, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamar, Lamb, Lampasas, LaSalle, Lee, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Martin, Mason, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Palo Pinto, Parker, Pecos, Potter, Presidio, Randall, Reeves, Roberts, Robertson, Runnels, San Saba, Scurry, Shackelford, Sherman, Somervelle, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Travis, Uvalde, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Wise, Yoakum, Young and Zavalla shall be returnable to the terms of said court held at Austin.

SECTION 2. The near approach of the close of the session, and the great press of business, rendering it improbable that this bill will be reached in its regular order, and the importance of this bill create an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and such rule is hereby suspended.

Approved March 26th, 1885.

H. B. No. 489.]

CHAPTER 53.

An Act to amend chapter 6, title 8 of the Penal Code by adding article 259a.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That chapter 6, title 8 of the Penal Code be amended by adding article 259a:

ARTICLE 259a. Should any member of the county commissioners' court of any county in this State, wilfully fail or refuse to attend any regular meeting or term of said court at which the business or question of levying a county tax for any purpose is to be acted on, he shall be guilty of a misdemeanor, and upon

An Act to restrict the employment of sailors and crews of foreign vessels from rolling cotton, handling cargo or laboring on the wharves or levees of ports in the State of Texas, beyond the end of the ship-tackle.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That no sailor or portion of the crew of any foreign sea-going vessel shall engage in working on the wharves or levees of ports in the State of Texas beyond the end of the vessels' tackle.

SECTION 2. That any officer, sailor or member of the crew of a foreign sea-going vessel violating section 1 of this act, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail for not less than ten nor more than thirty days, or both in the discretion of the court or jury.

SECTION 3. Whereas, the near approach of the close of the session of the Legislature creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days; therefore said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

I hereby certify that H. B. No. 430 originated in the House and passed the same March 12th, 1885.

A. D. SADLER,
Chief Clerk House of Representatives.

I hereby certify that H. B. No. 430 passed the Senate March 25, 1885, by ayes 15, nays 9.

WM. NEAL RAMEY,
Secretary of the Senate.

Approved March 26th, 1885.

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SEC. 4. The Commissioners court may for good cause remove any overseer and in case of vacancy from any cause may fill the same by appointment.

SEC. 5. Each road overseer shall take charge of all tools, implements and teams placed under his control by the Commissioners court and execute his receipt therefor which shall be filed with the County Clerk, and he shall be responsible for all such tools, teams, implements and machinery and the proper expenditures and paying out of all money belonging to the road fund that may come into his hands, and shall be liable for the loss, injury or destruction of any such tools, teams, implements, or machinery, if the result of his negligence, or for the wrongful or improper expenditure of such money, and upon the expiration of his term of office, or in case of his resignation or removal he shall deliver all such money and property to his successor or such other person as the commissioners court may direct.

SEC. 6. The Commissioners court shall require all county convicts not otherwise employed to labor upon the public roads under such regulations as may be most expedient. Each county convict worked on the roads in satisfaction of any fine and cost, shall receive a credit thereon of fifty cents for each day he may labor, and the county shall pay to the officers one-half of any cost that may have been adjudged against such convict coming to such officers. The Commissioners court may grant a reasonable commutation of time for faithful services and good behavior.

SEC. 7. The overseers may contract with any person subject to road duty for the use of teams, and permit such person to discharge his road duty by the use of such double team; he shall never allow more than \$2.00 per day for any team, nor more than \$3.00 for any hand and double team.

SEC. 8. It shall be the duty of each road overseer to see that all of the roads and bridges in his road precinct are kept in good repair and see that every person subject to road duty in his road precinct performs the work for which he is liable under the law. He shall act as supervisor of the roads in his road precinct and perform all the duties as supervisor that now devolves upon the commissioner; and the county commissioners of said county are relieved from the performance of the duties prescribed by article 4390a, Revised Civil Statutes.

SEC. 9. Each road overseer shall make a report under oath to the Commissioners court every six months showing an itemized statement of all money belonging to the road fund he has received, from whom received, and what disposition he has made of the same, the condition of all roads and bridges in his road precinct and such other matters as the court may require information upon and shall make such other reports at such times as such court may require.

SEC. 10. Any road overseer who shall wilfully fail or refuse to comply with any provisions of this act or order of the Commissioners court or to perform any duty required of him by law shall be guilty of a misdemeanor and on conviction thereof punished by fine of not less than ten nor more than two hundred dollars.

SEC. 11. This act shall be cumulative of all general laws on the subject of roads and bridges not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict with general laws the provisions of this act shall govern.

SEC. 12. The fact that there is now no sufficient road law in Lavacca county and that the roads therein are in bad condition, creates an

emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and said rule is suspended, and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him, nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

GUARANTY AND FIDELITY COMPANIES—REGULATION OF.

Sec.

1. Certified copy of articles of incorporation to be filed with Commissioner of Insurance, etc.
2. Copy of by-laws, and names and residences of directors and statement of assets and liabilities and amount of capital stock, to be filed.
3. Capital stock required.
4. Amount of deposit of money or securities with state treasurer required; proof of value of real estate.
5. Deposit, or real estate, subject to judgments against the corporation; not permitted to withdraw deposit or sell the real estate pending suit, or while any judgment is unsatisfied.
6. Service of process, on whom made.

Sec.

7. Commissioner of insurance, etc., shall issue certificate to corporation to transact business.
8. Who are agents under this act.
9. Penalty for acting as agent before certificate is issued to the corporation.
10. Penalty against corporation for acting without certificate of authority.
11. Statement required when corporation refuses to further guarantee fidelity of any person; penalty.
12. If corporation fails to comply with section 11, certificate to be revoked.
13. Corporations created for purposes mentioned in section 1, declared charged with a public use.
14. Emergency clause.

CHAP 112.—[S. B. No. 276.] An Act to regulate corporations engaged in the business of guaranteeing, or acting as security for the fidelity of persons in public and private offices, employments or positions, and the agents of such corporations, and prescribing penalties for failure to comply with the provisions thereof.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That hereafter any corporation, organized or created under the laws of this State, or of any other State or Territory, or of any municipality of such State or Territory, or of any foreign government, sovereignty or municipality, for the purpose of issuing surety, guaranty or indemnity bonds, guaranteeing the fidelity of persons in private offices, employments, or positions of trusts and contracts, or for acting as security on any such bonds, shall file with the Commissioner of insurance, statistics, history and agriculture a certified copy of its articles of incorporation and all amendments thereto.

SEC. 2. Be it further enacted that such corporation shall file with the certified copy of articles of incorporation and amendments thereto, a copy of its by laws, together with the names and places of residence of its officers and directors and a statement of its assets and liabilities, showing its net capital stock and of what it consists, certified to by the president or secretary thereof.

SEC. 3. Be it further enacted that no such corporation shall transact any business in this State unless it is possessed of at least one hundred thousand dollars actual capital stock; and if the capital stock of such corporation consists, either in whole or in part, of bonds, mortgages, secu-

ties or other property than money, the Commissioner of insurance, statistics, history and agriculture, shall require satisfactory evidence that the market value thereof is at least one hundred thousand dollars.

SEC. 4. Be it further enacted that such corporation shall, before the certificate of authority, hereafter provided for, is issued, deposit with the treasurer of this State, money or bonds or other securities, to be approved by the Commissioner of insurance, statistics, history and agriculture to the amount of twenty five thousand dollars, or shall produce satisfactory proof that such corporation owns real estate in this State the value of which shall be not less than twenty five thousand dollars.

SEC. 5. Be it further enacted that the deposit or real estate required by the preceding section shall be held liable to pay any judgments that may be rendered against such corporation; and may be so decreed by the court rendering judgment against it. Nor shall such company be permitted to withdraw its deposit from the State treasury or to sell its real estate while any suit is pending or any judgment against it in this State remains unsatisfied.

SEC. 6. Be it further enacted, that such corporation shall file with the certified copy of its articles of incorporation a power of attorney, under its corporate seal, authorizing the Commissioner of insurance, statistics, history and agriculture, or some designated agent, to accept service of any civil process for and on behalf of such corporation, and consenting that the service of any civil process upon the Commissioner of insurance, statistics, history and agriculture, or designated agent, as the case may be, in any suit or proceeding in which the corporation is a party, shall be taken and held to be valid. Said power of attorney shall be embodied in a resolution duly adopted by such corporation, and shall be signed by the president, manager or secretary thereof officially. If any agent other than the Commissioner of insurance, statistics, history and agriculture be designated by said power of attorney, he shall be a citizen of this State, and his full name and place of residence shall be stated in the power of attorney.

SEC. 7. Be it further enacted than when any such corporation has complied with the provisions of this act, the Commissioner of insurance, statistics, history and agriculture shall issue his certificate of authority authorizing said corporation to transact business in this State.

SEC. 8. Be it further enacted, that any person who solicits business for or on behalf of such corporation or makes or transmits for any person other than himself any application for guaranty or security, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a contract of guaranty or security, or who shall examine or investigate the character of any applicant for guaranty or security than himself, or who shall refer any applicant for guaranty or security to such corporation, whether any of said act shall be done at the instance and request or by the employment of such corporation, or other corporation or person, or any person who shall issue indemnifying bonds or contracts, whose solvency and compliance with his said bonds or obligations is guaranteed, directly or indirectly, by any corporation, shall be held to be the agents of the corporation so far as relates to all the liabilities and penalties prescribed by this act.

SEC. 9. Be it further enacted, that any person who shall perform any of the acts or things mentioned in the preceding section for any such corporation, without such corporation having first complied with the

provisions of this act, and having received the certificate of authority from the Commissioner of insurance, statistics, history and agriculture as provided in section 7 of this act, shall be deemed guilty of a misdemeanor and upon conviction for the first offense shall be fined in any sum not less than five hundred dollars, and not more than one thousand dollars and imprisoned in the county jail for the period of three months, and for each subsequent offense such person shall be fined in any sum not less than one thousand dollars and not more than two thousand dollars, and confined in the county jail for a period of six months.

SEC. 10. Be it further enacted, that any persons, association of persons or corporation, who shall accept any corporation created for the purposes, or either of them, mentioned in section 1 of this act, without such corporation having previously complied with the provisions and requirements of this act, and having received from the Commissioner of insurance, statistics, history and agriculture, the certificate of authority provided for in section 7 of this act, shall forfeit as a penalty the sum of five hundred dollars, to be recovered by suit in the name of the State in any court of competent jurisdiction.

SEC. 11. Be it further enacted, that when any such corporation shall cancel a bond of guaranty or indemnity, or shall notify the employer of the person whose fidelity is guaranteed, that said corporation will no longer guarantee or be security for the fidelity of said person, or when said corporation has once guaranteed the fidelity of any person, or acted as security therefor, and on application refuses to do so again, it shall furnish to such person a full statement in writing of the facts on which the action of the corporation is based, and if such action be based in whole or in part on information, all such information, together with the name or names of the informants, with their place of residence, and any such corporation failing or refusing to furnish such written statement within thirty days after a request therefor, shall be liable to the person injured in the sum of five hundred dollars, in addition to all other damages caused thereby, which may be sued for and recovered in any court of competent jurisdiction.

SEC. 12. Be it further enacted, that if any such corporation shall fail or refuse to comply with the provisions of section 11 of this act, the Commissioner [of] insurance, statistics and agriculture shall revoke the certificate of authority issued to said corporation.

SEC. 13. Be it further enacted, that corporations created for the purposes mentioned in section 1 of this act are hereby declared to be charged with a public use.

SEC. 14. The near approach of the close of the present session of the Legislature, and the unjust discrimination now existing against employees of railroad companies, bonded by foreign companies, engaged in business in this State, creates an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the same is hereby suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the thirteenth day of April, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto; nor were any objections thereto filed by him in this office after adjournment of the Legislature, within the time prescribed by the constitution. This act thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

RAILROAD EMPLOYEES.

Sup 388

SEC.

1. Railway employes entitled to thirty days notice of reduction in wages.

SEC.

2. Form and manner of such notice.

3. Affixes a penalty for violating this act.

CHAP. 30.—[S. S. B. No. 50.] An Act to require railway companies to give their employes thirty days notice before reducing their wages, and to provide a remedy for the violation thereof.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all persons in the employment of any railway company shall be entitled to receive thirty days notice from said company before their wages can be reduced by such company, and in all cases of reduction the employe shall be entitled to receive from such company wages at his contract price for the full term of thirty days after such notice is given, to be recovered in any court of competent jurisdiction.

SEC. 2. The notice referred to in this act is declared to mean thirty full days immediately prior to the day upon which such reduction is to take effect, and may be given by posting written or printed handbills, specifying the parties whose wages are to be reduced and the amount of such reduction, in at least three conspicuous places in or about each shop, section house, station, depot, train, or other places where said employes are at work: *Provided,* Such employe shall within fifteen days from the date of such notice inform such railway company, by posting like notices as given by such railway company, whether he will or will not accept such reduction, and if no such information is given such company by such employe, then such employe shall forfeit his right to such notice, and such reduction shall take effect from the date of such notice instead of at the expiration of the thirty days.

SEC. 3. Any railway company violating or evading any of the provisions of this act shall pay to each employe affected thereby one month's extra wages, to be recovered by such employe in any court of competent jurisdiction.

Approved, March 14, 1887.

For amount for City Water Company, of Austin, for fire protection, from February 21, 1883, to February 21, 1887, as per contract.....	400 00	
For amount to City Water Company, of Austin, for domestic use.....	331 16	
For amount to City Water Works, for work at the Lunatic Asylum.....	445 00	
For amount to City Water Works for work furnished State Cemetery.....	162 25—	1,338 41
To pay for services of volunteer guards and their officers, including brigade and regiment officers, and for transportation of troops to Laredo,		821 50
To pay Dawson & Boyd for unconsumed liquor license by reason of local option.....		197 14
To pay S. B. Watts for unconsumed liquor license by reason of local option.....		126 66
To pay G. B. Maloney for unconsumed liquor license by reason of local option.....		177 46
To pay claims yet to be filed for unconsumed license taxes by reason of local option.....		500 00
For deficiencies for Court of Appeals, Galveston,		262 30
For deficiencies for Court of Appeals, Austin... ..		188 30
For amount due W. P. Lane, A. Deffenbaugh, and S. H. Darden, as members of the Texas Veteran Board.....		450 00
For gas for use of Temporary Capitol.....		251 60
For account of J. B. Smith for work done on Temporary Capitol		19 87

SEC. 2. The fact that there is no appropriation to pay the claims herein stated, which are outstanding against the State, creates an emergency and an imperative public necessity which justify the suspension of the constitutional rule requiring bills to be read on three several days, and that this act should go into effect from and after its passage, and it is so enacted.

be valid for a period of not more than three years from date thereof, and all certificates heretofore issued by board of city examiners are hereby validated; provided that a city or town which is authorized by the provisions of this act to have a city board of examiners may, at the discretion of the superintendent of the city schools, employ a teacher of some special branch not included in the requirements for a state certificate without requiring an examination or teachers certificate.

(b.) Any teacher desiring to teach in any city, town or district in this state shall, before contracting with any board of trustees or with any city school board, exhibit a teacher's certificate valid in the city, town or school district. And any county or city superintendent or board of trustees who shall approve any teacher's contract or voucher until the person has presented a valid certificate, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than \$25 nor more than \$100; and any teacher who shall teach in any public school in this state without having a valid certificate shall not receive from the free school fund any compensation for such services.

SEC. 10. A county certificate shall be valid only in the county in which it is issued. A city certificate shall be valid only in the city in which it is issued. A summer normal certificate, a state certificate, a certificate from a Texas state normal school, a diploma from a Texas state normal school or the Peabody Normal at Nashville, Tennessee, shall be valid anywhere in Texas. Certificates shall be valid for the time they are issued, unless cancelled by the authority issuing the same for good cause shown. Any teacher who may hold a diploma conferring on him the degree of Bachelor of Arts, Bachelor of Science, or any higher academic degree from any college or university of the first-class, and who shall have taught for a period of not less than five years in Texas, may upon the payment of a fee of five dollars, which shall be placed to the credit of the state available school fund, receive from the state superintendent of public instruction a certificate of the first grade which shall be valid anywhere in this state during good behavior.

SEC. 11. All laws and parts of laws conflicting with this act be and the same are hereby repealed.

SEC. 12. The near approach of the end of the session and the great number of bills before the Legislature, creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so enacted.

Approved April 28, 1891.

TAXATION—STATE AD VALOREM TAX.

Sec. 1. Ad valorem tax of sixteen and two-thirds cents for 1891, and fifteen cents annually thereafter on one hundred dollars value.

2. Emergency clause.

CHAP. 117.—[S. H. B. No. 256.] An act to provide for the levy and collection of an annual ad valorem State tax for general revenue purposes of fifteen cents on the hundred dollars.

SECTION 1. Be it enacted by the Legislature of the State of Texas: There shall be levied and collected for the year 1891, an ad valorem tax of sixteen and two thirds cents, and annually thereafter an ad valorem tax of fifteen cents on the hundred dollars of the cash value thereof estimated

in lawful currency of the United States on all real property situated and on all property owned in the State on the first day of January in each and every year, and on all property sent out of the State prior to the first day of January for the purpose of evading the payment of taxes thereon, and afterwards returned to the State, except so much thereof as may be exempted by the constitution and laws of the State or United States, which cash value shall be estimated in the manner prescribed by law.

SEC. 2. The near approach of the close of the session creates an imperative public necessity and an emergency exists, therefore, the constitutional rule requiring all bills to be read on three several days should be suspended, and that this bill be put on its third reading and final passage, and it is so enacted.

Approved April 29, 1891.

QUARANTINE.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Governor may declare quarantine. 2. Governor to appoint State health officer. 3. Pay of health officer. 4. Temporary quarantine, when and by whom declared. 5. State quarantine law to remain in force on the coast; changes in stations, etc. 6. Local quarantine law to remain in force; disputes between localities, how decided. 7. Bond and term of office of health officer; may be removed by the governor. 8. County or corporate authorities to establish stations, when; subject to rules prescribed by the governor or State health officer. 9. Shall furnish persons detained with subsistence and shelter. 10. Expenses of enforcing quarantine, how paid; commissions and pay of officers; authorized to administer oaths; false swearing, how punished. | <p>Sec.</p> <ol style="list-style-type: none"> 11. Governor may appoint health officer, when. 12. Vessels arriving from infected port may be taken and held by health officer until fines are paid or vessel replevied. 13. Payment of fine shall not release vessel from quarantine. 14. Appointment, duties and salaries of county physicians. 15. Commissioners court may direct county physicians to declare quarantine, establish stations, etc., payment of expenses; incorporated town or city may maintain local quarantine. 16. Bond of health officer at Galveston. 17. Governor and State health officer to prescribe rules for disinfection of vessels and cargoes. 18. Laws in conflict are herewith repealed; penal statute to punish violations of quarantine laws shall remain in force. 19. Emergency clause. |
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CHAP. 118.—[H. B. No. 623.] An act to regulate the establishment of quarantines in the State of Texas, and in the counties, cities and towns thereof, and to repeal all laws and parts of laws in conflict therewith.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the Governor is empowered to issue his proclamation declaring quarantine on the coast or elsewhere within this State, whenever in his judgment quarantine may become necessary, and such quarantine may continue for any length of time as in the judgment of the Governor, the safety and security of the people may require.

SEC. 2. It shall be the duty of the Governor of the State of Texas, and he is hereby authorized and empowered to select and appoint, by and with the advice and consent of the Senate, from the most skillful physicians of the State of Texas, one physician who shall be known as health officer of the State, and shall from previous and active practice be familiar with yellow fever and pledged to the importance of both quarantine and sanitation.

SEC. 3. Such health officer shall, during the time he is actively engaged in public duty, receive for his services ten dollars per day and all necessary traveling expenses, a bill of which must be made out in detail, then approved by the Governor, on which approved account the Comptroller shall issue his warrant on the Treasurer for the amount of such approved account.

SEC. 4. Whenever the Governor has reason to believe that the State of Texas is threatened at any point or place on the coast, border or elsewhere within the State with the introduction or dissemination of yellow fever, contagion or any other infectious and contagious disease that can and should, in the opinion of the State health officer, be guarded against by State quarantine, he shall, by proclamation, immediately declare said quarantine against any and all such places and direct the State health officer to promptly establish and enforce the restrictions and conditions imposed and indicated by said quarantine proclamation, and when from any cause the Governor cannot act, and the exigencies of the threatened danger require immediate action, the State health officer is empowered to declare quarantine as prescribed in this article and maintain the same until the Governor shall officially take such action as he may see proper.

SEC. 5. The laws in regard to State quarantine shall remain and be in full force and operation on the coast or elsewhere in the State as the Governor or health officer may direct and be enforced as heretofore with such additional changes as the provisions of this act prescribe and with such additional changes in station and general management as the Governor may think proper.

SEC. 6. The law in regard to local quarantine by the inhabitants of any point or points on the coast or elsewhere in the State shall remain in full force when in conformity with this act; provided, that in all differences and disputes between any such points, contiguous or remote within this State, such differences and disputes shall be immediately by the local health authorities, if any, and if none, by the inhabitants themselves, reported and submitted to the Governor, and on the receipt of such report he shall forthwith order the State health officer to such points with instructions to investigate the same and report the exact condition of things, and upon investigation of such report shall issue his proclamation declaring the determination of the issue and by said proclamation the aforesaid differences shall be governed and determined.

SEC. 7. Said health officer shall give a bond with two good and sufficient sureties in the sum of ten thousand dollars, made payable to the Governor, to be approved by him and conditioned for the honest and impartial performance of his duties and such health officer shall hold his position for the term of two years, subject however, to removal at any time by the Governor whenever, in his judgment, the public good demands such removal.

SEC. 8. Whenever quarantine is declared by the Governor or by any county or corporate authorities in the State, it shall be the duty of such authorities to establish a quarantine station or stations where any person may be detained for such length of time as, in the discretion of the quarantine officers, the public safety may demand; provided, that all county and municipal quarantine shall be subordinate, subject to and regulated by such rules and regulations as may be prescribed by the Governor or State health officer.

SEC. 9. It shall be the duty of the State health officer to furnish persons detained by him, with necessary shelter and subsistence (not including crews of vessels, except such as are removed by the quarantine officers from infected vessels) and to provide all other things essential for the protection and comfort of those held in quarantine, and all such expenses, authorized by the State health officer and approved by the Governor, shall be paid by the State.

SEC. 10. All the cost and expenses of enforcing and maintaining the

general quarantine or such as are ordered by the Governor or State health officer shall be paid out of the fund appropriated for quarantine purposes. All quarantine officers appointed by the Governor shall be selected and commissioned by the Governor of the State and shall be paid by the State, and all health authorities of the State or of any county or city thereof shall obey the rules and regulations prescribed by the Governor or State health officer. The regular officer in charge of regular established quarantine stations on the coast shall be allowed ten dollars per day while on duty; temporary officers, or those commissioned by the Governor to guard against threatened epidemics or those temporarily assigned to duty by the health officer of the State, under the provisions of section 4 of this act, shall be allowed and paid not more than five dollars per day and such other pay for extra expenses actually incurred as may be deemed just by the Governor and State health officer. All quarantine officers, whether of towns, cities, counties or State shall be authorized to administer oaths to any person or persons suspected of violating any quarantine regulations; and any person or persons swearing falsely shall be punished according to the provisions of the penal code.

SEC. 11. Whenever, on the coast of Texas or elsewhere in this State, the authorities of any county, town or city, fail, refuse or neglect to establish quarantine as provided in the preceding article, then and in that event the Governor shall have the power, and it shall be his duty to appoint a health officer and to prescribe such regulations for the government of the same as he may deem necessary.

SEC. 12. Any vessel arriving at any of the quarantine stations of this State, designated by the proper authorities, from any infected port or district without a clean bill of health from the proper officers from said port or district, shall be taken possession of by the health officer or other quarantine authority at the station at which said vessel arrives, and be held by the same until all fines that may have been assessed against the master of said vessel for a violation of the quarantine laws, rules and regulations, shall have been paid, or until said vessel shall have been replevied in accordance with law.

SEC. 13. The payment of the fine which may be assessed against the master of such vessel shall not operate as a release or discharge of the vessel from quarantine, but the same rules shall apply as in case of other vessels placed in quarantine.

SEC. 14. It shall be the duty of every County Judge within the State of Texas, after each general election of State and county officers, or as soon thereafter as practicable, to select from the physicians of the respective counties, one of high character and recognized ability, who shall be known as "County physician." It shall be the duty of said county physician to establish, maintain and enforce local quarantine for his county whenever declared by proclamation of Commissioners court; to furnish supplies, select medical assistants, guards and perform all other duties coincident to a reasonable, economic and consistent quarantine. The salary of county physicians must be agreed to and be paid by their respective counties, but the county physician shall receive no salary except when quarantine has been established and he is actually engaged in such service. County physicians shall in all quarantines establish rules in harmony and accord with the rules prescribed by the State health officer; shall respect and obey instructions from said officer and make written reports to him of their official acts, whenever required to

do so, giving cause and history of epidemic, number of deaths and recoveries, and all other facts of statistic or scientific value.

SEC. 15. Whenever the commissioners court of any county has reason to believe that they are threatened at any point or place within or without the county limits with the introduction or dissemination of a dangerous, contagious or infectious disease that can and shall be guarded against by quarantine, direct their county physician to declare and maintain said quarantine against any and all such dangerous diseases; to establish, maintain and supply stations or camps for those held in quarantine; to provide hospitals, tents or pest houses for those sick of contagious and infectious disease; to furnish provisions, medicine and all other things absolutely essential for the comfort of the well and the convalescence of the sick. The county physician shall keep an itemized account of all lawful expenses incurred by local quarantine, and his county shall assume and pay them as other claims against the county are paid. Chartered cities and towns are embraced within the purview of this article, and the mere fact of incorporation does not exclude them from the protection against epidemic diseases given by the Commissioners court to other parts of their respective counties. The medical officers of chartered cities and towns can perform the duties granted or commanded in their several charters, but must, (if the county physician is not, as is frequently the case, the city physician, also,) be amenable and obedient to rules prescribed by the State health officer. This article, however, must not be construed as prohibiting any incorporated town or city from declaring, maintaining and paying for a local quarantine.

SEC. 16. The quarantine or health officer at Galveston, Texas, shall give bond, with two or more good and sufficient sureties, payable to the Governor, in the sum of \$10,000 conditioned for the care and preservation of any steam vessel or vessels belonging to the State at his station and for the faithful performance of his duty.

SEC. 17. It is hereby made the duty of the Governor and State health officer upon completion of the disinfecting warehouse at Galveston or any port on the coast of Texas, to prescribe such rules and regulations as may be necessary for the disinfection of all vessels and their cargoes and passengers arriving at said ports from any infected port or district. The object of such rules and regulations being to provide safety for the public health of the State without unnecessary restrictions upon commerce and travel.

SEC. 18. All laws and parts of laws in conflict herewith are hereby repealed, and all penal statutes heretofore enacted to punish violators of quarantine laws and rules shall remain in full force.

SEC. 19. There being no law upon the subject of quarantine adequate to the protection of public health, and the near approach of the season of the year when quarantine will have to be declared, a public necessity and an emergency exists, requiring the suspension of the constitutional rule requiring bills to be read on three several days, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House and passed the same—vote not given; and passed the Senate—vote not given.]

Approved April 29, 1891.

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and this offense is becoming of common practice, therefore, there exists a public and imperative necessity for the suspension of the constitutional rule requiring bills to be read on three several days in each house, be and the same is hereby suspended.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-third day of March, A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

“RAILROAD COMMISSION OF TEXAS.”

- | | |
|---|---|
| <p>Sec.</p> <ol style="list-style-type: none"> 1. Commission created; provides for three commissioners, how appointed, term of office, their qualifications, oath, salary. 2. Organization; appointment of secretary, clerks and experts, and to fix their salaries; name “Railroad Commission of Texas;” seal; office in capitol, etc.; traveling expenses, how paid. <ol style="list-style-type: none"> (a.) May hold sessions at any place in State. 3. Vests power in commission to adopt, regulate and enforce rates; duties of railway companies as to depots. <ol style="list-style-type: none"> (a.) Power to classify freight; (b.) to fix rates. (d.) May make different rates for express companies. (e.) and (f.) Joint rates for connecting lines. (g.) When partial or special classification may be made. (h.) Power to change classification and rates. (i.) May hear and determine complaints. (k.) May establish passenger rates. 4. Notice to be given before establishment of rates; mode of procedure and powers of commission in such cases. 5. Rates conclusive until set aside by direct action. (See Secs. 6 and 7.) 6. When and where suit may be brought to hear complaint against commission; such action shall have precedence; right of appeal. 7. Burden of proof rests upon plaintiff. 8. Schedules of classification and rates to be furnished each railroad; railroads shall post same for public inspection. 9. Complaint against railroads, how made and investigated; evidence therein when reduced to writing admissible upon trial of causes, when. 10. The right to inspect books and papers of any railroad company, etc.; penalty for refusal to permit such inspection. 11. Commission to ascertain cost of construction, equipment, etc., of railroads; bonds, indebtedness, etc.; amounts paid for salaries and wages; may employ experts; shall make report to Attorney General and Comptroller. | <p>Sec.</p> <ol style="list-style-type: none"> 12. Commission may propound questions to railroads to be answered under oath. <ol style="list-style-type: none"> (a.) Penalty for refusal to answer; may prescribe a system of bookkeeping. (b.) Shall make annual report to the Governor. (c.) Shall investigate all through freight rates; Interstate Commerce Commission to be notified, when. 13. Power to summon and compel the attendance of witnesses; fees of witnesses; compensation of sheriffs. 14. Extortion defined, and penalty therefor. 15. Discrimination defined and prohibited. <ol style="list-style-type: none"> (c.) Commission may allow special rates for long hauls, when; may make group rates. (h.) Free transportation, when allowed. 16. Punishment for false billing, classification, weight, etc. 17. Liability of railroads to persons and corporations injured by violations of this act; additional penalty for extortion or discrimination; venue. 18. Penalty where not otherwise provided. 19. Penalties, how recovered; venue, attorney’s fees, rules of evidence, fines payable into State treasury. 20. Authorized copies of classifications, rates, etc., admissible in evidence. 21. Duty of commission to enforce provisions of this act; all suits between the State and railroads to have precedence. <ol style="list-style-type: none"> (a.) Contracts between connecting railroads to be approved by the commission. 22. “Road,” “railroad,” “railroad companies” and “railroad corporations” defined. <ol style="list-style-type: none"> (a.) Applies to transportation between points in this State only, and not to street railways, etc. (b.) At least one passenger train a day required, Sundays excepted. 23. Penalties cumulative. 24. Emergency clause. |
|---|---|

CHAP. 51.—[H. S. S. H. B’s. Nos. 1, 3, and 58.] An Act to establish a Railroad Commission for the State of Texas, whereby discrimination and extortion in railroad charges may be prevented, and reasonable freight and passenger tariffs may be established; to prescribe and authorize the making of rules and regulations to govern the Commission and the railroads, and afford railroad companies and other parties adequate remedies; to prescribe penalties for the violation of this act and to provide means and rules for its enforcement.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That a Railroad Commission is hereby created, to be composed of three persons to be appointed by the Governor, as follows: If the Legislature

be then in session the Governor shall, upon the taking effect of this act, or as soon thereafter as practicable, by and with the advice of the Senate, if the Legislature then be in session, appoint said Commissioners; but if the Legislature be not in session, the Governor shall make such appointments, and each Commissioner so appointed shall hold his office until the second Monday after the inauguration of the next succeeding Governor and until his successor is appointed and qualified. Each succeeding Governor shall on the second Monday after his inauguration, or as soon thereafter as practicable, appoint said Commissioners, who shall each hold his office until the second Monday after the inauguration of the next succeeding Governor and until his successor is appointed and qualified.

(a.) The persons so appointed shall be resident citizens of this State, and qualified voters under the Constitution and laws, and not less than twenty-five years of age. No person shall be appointed as such Commissioner who is directly or indirectly interested in any railroad in this State or out of it, or in any stock, bond, mortgage, security, or in the earnings of any such road; and if such Commissioner shall voluntarily become so interested his office shall become vacant; and if any Railroad Commissioner shall become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest; failing to do this, his office shall become vacant.

(b.) No Commissioner hereunder shall hold any other office under the government of the United States or of this State or of any other State government; and shall not while such Commissioner engage in any occupation or business inconsistent with his duties as such Commissioner.

(c.) The Governor shall fill all vacancies in the office of Commissioner by appointment, and the person so appointed shall fill out the unexpired term of his predecessor.

(d.) Before entering upon the duties of his office, each of said Commissioners shall take and subscribe to the oath of office prescribed in the Constitution, and shall, in addition thereto, swear that he is not directly or indirectly interested in any railroad, nor in the bonds, stock, mortgages, securities, contracts, or earnings of any railroad, and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this act and all laws of this State concerning railroads, which oath shall be filed with the Secretary of State.

(e.) Each of said Commissioners shall receive an annual salary of \$4000, payable in the same manner that salaries of other State officers are paid.

SEC. 2. The Commissioners appointed shall meet at Austin and organize and elect one of their number chairman of said Commission. A majority of said Commissioners shall constitute a quorum to transact business. Said Commission may appoint a secretary at a salary of not more than \$2000 per annum, and may appoint not more than two clerks at a salary of not more than \$1500 per annum each, and such other persons as experts as may be necessary to perform any duty that may be required of them by this act. The secretary shall keep full and correct minutes of all the transactions and proceedings of said Commission, and perform such duties as may be required by the Commission. The Commission shall have power to make all needful rules for their government and for their proceedings. They shall be known collectively as "Railroad Commission of Texas," and shall have a seal, a star of five points, with the words, "Railroad Commission of Texas" engraved thereon. They shall be furnished with an office in the Capitol at Austin, and with necessary

furniture, stationery, supplies, and all necessary expenses, to be paid for on the order of the Governor.

The Commissioners, secretary and clerks shall be entitled to receive from the State their actual necessary traveling expenses, which shall include the cost only of transportation while traveling on the business of the Commission, to be paid out on the order of the Governor upon an itemized statement thereof, sworn to by the party who incurred the expense and approved by the Commission.

(a.) Said Commissioners may hold sessions at any place in this State when deemed necessary to facilitate the discharge of their duties.

SEC. 3. The power and authority is hereby vested in the Railroad Commission of Texas, and it is hereby made its duty, to adopt all necessary rates, charges, and regulations to govern and regulate railroad freight and passenger tariffs, the power to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and to enforce the same by having the penalties inflicted as by this act prescribed through proper courts having jurisdiction.

(a.) The said Commission shall have power, and it shall be its duty, to fairly and justly classify and subdivide all freight and property of whatsoever character that may be transported over the railroads of this State into such general and special classes or subdivisions as may be found necessary and expedient.

(b.) The Commission shall have power, and it shall be its duty, to fix to each class or subdivision of freight a reasonable rate for each railroad subject to this act for the transportation of each of said classes and subdivisions.

(c.) The classifications herein provided for shall apply to and be the same for all railroads subject to the provisions of this act.

(d.) The said Commission may fix different rates for different railroads and for different lines under the same management, or for different parts of the same lines if found necessary to do justice, and may make rates for express companies different from the rates fixed for railroads.

(e.) The said Commission shall have power, and it shall be its duty, to fix and establish for all or any connecting lines of railroad in this State reasonable joint rates of freight charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(f.) If any two or more connecting railroads shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the Commission shall fix the pro rata part of such charges to be received by each of said connecting lines.

(g.) Until the Commission shall make the classifications and schedules of rates as herein provided for, and afterwards if they deem it advisable, they may make partial or special classifications for all or any of the railroads subject hereto, and fix the rates to be charged by such roads therefor; and such classifications and rates shall be put into effect in the manner provided for general classifications and schedules of rates.

(h.) The Commission shall have power, and it shall be its duty from time to time, to alter, change, amend, or abolish any classification or rate established by it when deemed necessary; and such amended, altered, or new classifications or rates shall be put into effect in the same manner as the originals.

(i.) The Commission may adopt and enforce such rules, regulations,

and modes of procedure as it may deem proper to hear and determine complaints that may be made against the classifications or the rates, the rules, regulations, and determinations of the Commission.

(j.) The Commission shall make reasonable and just rates of charges for each railroad subject hereto for the use or transportation of loaded or empty cars on its road; and may establish for each railroad or for all railroads alike reasonable rates for the storing and handling of freight and for the use of cars not unloaded after forty-eight hours' notice to the consignee, not to include Sundays.

(k.) The Commission shall make and establish reasonable rates for the transportation of passengers over each or all of the railroads subject hereto, which rates shall not exceed the rates fixed by law. The commission shall have power to prescribe reasonable rates, tolls, or charges for all other services performed by any railroad subject hereto.

(l.) It shall be the duty of each and every railway subject to this act to provide and maintain adequate, comfortable, and clean depots and depot buildings at its several stations for the accommodation of passengers, and said depot buildings shall be kept well lighted and warmed for the comfort and accommodation of the traveling public; and all such roads shall keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing, and delivering of all freights handled by such roads: *Provided*, that this shall not be construed as repealing any existing laws on the subject.

SEC. 4. Before any rates shall be established under this act, the Commission shall give the railroad company to be affected thereby ten days notice of the time and place when and where the rates shall be fixed; and said railroad company shall be entitled to be heard at such time and place, to the end that justice may be done; and it shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases.

(a.) The Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the establishment of rates, orders, charges, and other acts required of it under this law: *Provided*, no person desiring to be present at any such investigation by said Commission shall be denied admission.

(b.) The chairman and each of the Commissioners, for the purposes mentioned in this act, shall have power to administer all oaths, certify to all official acts, and to compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents, and testimony, and to punish for contempt as fully as is provided by law for the district or county court.

SEC. 5. In all actions between private parties and railway companies brought under this law, the rates, charges, orders, rules, regulations, and classifications prescribed by said Commission before the institution of such action shall be held conclusive, and deemed and accepted to be reasonable, fair, and just, and in such respects shall not be controverted therein until finally found otherwise in a direct action brought for that purpose in the manner prescribed by section 6 and 7 hereof.

SEC. 6. If any railroad company or other party at interest be dissatisfied with the decision of any rate, classification, rule, charge, order, act, or regulation adopted by the Commission, such dissatisfied company or party may file a petition setting forth the particular cause or causes of objection to such decision, act, rate, rule, charge, classification, or order,

or to either or all of them, in a court of competent jurisdiction in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court, at either of its terms, and said action so appealed shall have precedence in said appellate court of all causes of a different character therein pending: *Provided*, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days notice.

SEC. 7. In all trials under the foregoing section the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulations, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them.

SEC. 8. The said Commission shall, so soon as the classifications and schedules of rates herein provided for are prepared by them, furnish each railroad subject to the provisions of this act with a complete schedule in suitable form, showing the classification of freight made by them and the rates fixed by said Commission to be charged by such road for the transportation of each class of freight, and shall cause a certified copy of such classification and schedule of rates to be delivered to each of said railroads at its principal office in this State, if it has such office in this State, and if not, then to any agent of said company in this State, which said schedule, rules, and regulations shall take effect at the date which may be fixed by said Commission, not less than twenty days. Each of said railroad companies shall cause said schedules to be printed in type of a size not less than pica, and shall have the same posted up in a conspicuous place at each of its depots, so as to be inspected by the public. Said Commission may at any time abolish, alter, or in any manner amend the said schedules, or abolish or amend any such regulations, and in that event certified copies of the schedules, rules, or regulations, showing the changes therein, shall be delivered to each road as herein specified. In all cases where the rates shall not have been fixed by the Commission, no changes shall be made except after ten days notice to and consent of the Commission.

SEC. 9. Any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing association, or any body politic, or municipal organization, complaining of anything done or omitted to be done by any railroad subject hereto, in violation of any law of this State or the provisions of this act for which penalty is provided, may apply to said Commission in such manner and under such rules as the Commission may prescribe; whereupon, if there shall appear to the Commission to be any reasonable grounds for investigating such complaint, it shall give at least five days notice to such railroad of such charge and complaint, and call upon said road to answer the same at a time and place to be specified by the Commission. The Commission shall investigate and determine such complaint under such rules and modes of procedure as it may adopt. If the Commission find that there has been a violation, it shall determine if the same was willful; if it finds that such violation was not willful it may call upon said road to satisfy the damage done to the complainant thereby, stating the amount of such damage, and to pay the cost of such investigation; and if the said railroad shall do so within the time specified by the Commission there shall be no prosecution by

the State; but if said railroad shall not pay said damage and cost within the time specified by said Commission, or if the Commission find such violation to be wilful, it shall institute proceedings to recover the penalty for such violation and the cost of such investigation. All such complaints shall be made in the name of the State of Texas upon the relation of such complainant. All evidence taken before said Commission in the investigation of any such complaint, when reduced to writing and signed and sworn to by the witness, may be used by either party—the State, complainant, or the railroad company—in any proceeding against such railroad involving the same subject matter: *Provided further*, that the Commissioners may require the testimony so taken before them to be reduced to writing when they may deem it necessary, or when requested to do so by either party to such proceedings, and a certified copy, under the hand and seal of said Commission, shall be admissible in evidence upon the trial of any cause or proceeding growing out of the same transaction against such railroad, involving the same subject matter and between the same parties. The provisions of this section shall not abridge nor effect the right of any person to sue for any penalty that may be due him under the provisions of this act or any other law of this State.

SEC. 10. The Commissioners, or either of them, or such persons as they employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad company, and to examine under oath any officer, agent, or employe of such railroad in relation to the business and affairs of the same. If any railroad shall refuse to permit the Commissioners, or either of them, or any person authorized thereto, to examine its books and papers, such railroad company shall, for each offense, pay to the State of Texas not less than \$125 nor more than \$500 for each day it shall so fail or refuse: *Provided*, that any person other than one of said Commissioners who shall make any such demands shall produce his authority, under the hand and seal of said Commission, to make such inspection.

(a) Any officer, agent, or employe of any railroad company who shall, upon proper demand, fail or refuse to exhibit to the Commissioners, or either of them, or any person authorized to investigate the same, any book or paper of such railroad company which is in the possession or under the control of such officer, agent, or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof shall be fined for each offense a sum not less than \$125 and not [to] exceed \$500.

SEC. 11. The Commission shall ascertain as early as practicable the amount of money expended in construction and equipment per mile of every railway in Texas; the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the road, bed, track, depots and transportation, and to replace all the physical properties belonging to the railroad. It shall also ascertain the outstanding bonds, debentures and indebtedness and the amount respectively thereof, when issued and rate of interest, when due, for what purposes issued, how used, to whom issued, to whom sold, and the price in cash, property or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due and his address, the credits due on it, the property on hand belonging to the railroad company, and the judicial or other sales of said road, its

property or franchises, and the amounts purporting to have been paid, and in what manner paid therefor. The Commission shall also ascertain the amounts paid for salaries to the officers of the railroad, and the wages paid its employes. For the purpose in this section named, the Commission may employ sworn experts to inspect and assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the Attorney-General by report, and file a duplicate thereof with the Comptroller for public use, and said information shall be printed from time to time in the annual report of the Commission.

SEC. 12. The said Commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads, and as often as it may be necessary furnish said blanks to each railroad company. Any railroad company receiving from the Commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officer of said company, shall be returned to said Commission at its office in the city of Austin within thirty days from the receipt thereof.

(a.) If any officer or employe of a railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, where the fact enquired of is within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor, and shall on conviction thereof be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid a penalty of \$500, and the Commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered from the company when it appears that such person acted in obedience to its direction, permission, or request in his failure, evasion or refusal. Said Commission shall have the power to prescribe a system of bookkeeping to be observed by all the railroads subject hereto, under the penalties prescribed in this section.

(b.) The said Commission shall make and submit to the Governor annual reports containing a full and complete account of the transactions of their office, together with the information gathered by such Commission as herein required, and such other facts, suggestions, and recommendations as may be by them deemed necessary, which report shall be published as the reports of the heads of departments.

(c.) The said Commission shall have power, and it is hereby made its duty, to investigate all through freight rates on railroads in Texas; and when the same are, in the opinion of the Commission, excessive or levied or laid in violation of the interstate commerce law, or the rules and regulations of the Interstate Commerce Commission, the officials of the railroads are to be notified of the facts and requested to reduce them or make the proper corrections, as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the Commission, the latter is instructed to notify the Interstate Commerce Commission and to apply to it for relief.

SEC. 13. The said Commission, in making any examination or investigation provided in this act, shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe. Each wit-

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ness who shall appear before the Commission by order of the Commission, at a place outside of the county of his residence, shall receive for his attendance one dollar per day and three cents per mile, traveled by the nearest practicable route, in going to and returning from the place of meeting of said Commission, which shall be ordered paid by the Comptroller of Public Accounts upon the presentation of proper vouchers, sworn to by such witness, and approved by the chairman of the Commission: *Provided*, that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any railroad in this State or out of it, or who is in any wise interested in any stock, bond, mortgage, security or earnings of any such road, or who shall be the agent or employe of such road, or an officer thereof, when summoned at the instance of such railroad; and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. In case any witness shall fail or refuse to obey such subpoena, said Commission may issue an attachment for said witness, directed to any sheriff or any constable of the State of Texas, and compel him to attend before the Commission and give his testimony upon such matters as shall be lawfully required by them. If a witness, after being duly summoned, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, the Commission shall have the power to fine and imprison such witness for contempt, in the same manner that a judge of the district court might do under similar circumstances. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding: *Provided*, the Commission shall in all cases have the right in its discretion to issue proper process and take depositions instead of compelling personal attendance of witnesses. The sheriff or constable executing any process issued under the provisions of this section or under any other provisions of this bill shall receive such compensation as may be allowed by the Commission, not to exceed fees as now prescribed by law for similar services.

SEC. 14. If any railroad company subject to this act, or its agent or officer, shall hereafter charge, collect, demand or receive from any person, company, firm or corporation a greater rate, charge, or compensation than that fixed and established by the Railroad Commission for the transportation of freight, passengers, or cars, or for the use of any car on the line of its railroad, or any line operated by it, or for receiving, forwarding, handling, or storing any such freight or cars, or for any other service preformed or to be preformed by it, such railroad company and its said agent and officer shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not less than \$100 nor more than \$5000.

SEC. 15. If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback, or other device, shall charge, demand, collect, or receive from any person, firm, or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects, or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a.) It shall also be an unjust discrimination for any such railroad to make or give any undue or unreasonable preference or advantage to any

particular person, company, firm, corporation, or locality, or to subject any particular description of traffic to any undue or unreasonable prejudice, delay, or disadvantage in any respect whatsoever.

(b.) Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without delay or discrimination the passengers, tonnage, and cars, loaded or empty, of any connecting line of railroad, and every railroad which shall, under such regulations as may be prescribed by the Commission, fail and refuse to transport and deliver without delay or discrimination any passengers, tonnage, or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: *Provided*, perishable freights of all kinds and live stock shall have precedent of shipment.

(c.) It shall also be an unjust discrimination for any railroad subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers for a shorter than for a longer distance over the same line: *Provided*, that upon application to the Commission any railroad may in special cases, to prevent manifest injury, be authorized by the Commission to charge less for longer than for shorter distances for transporting persons and property, and the Commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operations of this provision: *Provided*, that no manifest injustice shall be imposed upon any citizen at intermediate points. *Provided, further*, that nothing herein shall be so construed as to prevent the Commission from making what are known as "group rates" on any line or lines of railroad in this State.

(d.) Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Texas a penalty of not less than five hundred dollars nor more than five thousand dollars.

(h.) Nothing herein shall prevent the carriage, storage, or handling of freight free or at reduced rates for the State, or for any city, county, or town government, or for charitable purposes, or to and from fairs and expositions for exhibition thereof, or the free carriage of destitute and indigent persons, or the issuance of mileage or excursion passenger tickets; nor to prevent railroads from giving free transportation to ministers of religion, or free transportation to the inmates of hospitals, eleemosynary and charitable institutions, and to the employes of the agricultural and geological departments of this State, or to peace officers of this State; and nothing herein shall be construed to prevent railroads from giving free transportation to any railroad officers, agents, employes, attorneys, stockholders, or directors, or to the Railroad Commissioners, their secretary, clerks, and employes herein provided for, or to any person not prohibited by law: *Provided*, they, or either of them, shall not receive from the State mileage when such pass is used.

SEC. 16. Any officer or agent of any railroad subject to this act who, by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person or persons to obtain transportation for property at less than the regular rates then in force on such railroad, or who by means of false billing, false classification, false weighing, or by any device whatever shall charge any person, firm, or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum of not less than \$100 nor more than \$1000.

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SEC. 17. In case any railroad subject to this act shall do, cause to be done, or permit to be done any matter, act, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing herein required to be done by it, such railroad shall be liable to the person or persons, firm, or corporation injured thereby for the damages sustained in consequence of such violation; and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then, in addition to such damages, such railroad shall pay to the person, firm, or corporation injured thereby a penalty of not less than \$125 nor more than \$500, to be recovered in any court of competent jurisdiction in any county into or through which such railroad may run: *Provided*, that such road may plead and prove as a defense to the action for said penalty that such overcharge was unintentionally and innocently made through a mistake of fact: *Provided*, that any such recovery as herein provided shall in no manner affect a recovery by the State of a penalty provided for such violation.

SEC. 18. If any railroad, as aforesaid, shall willfully violate any other provisions of this act, or shall do any other act herein prohibited, or shall fail or refuse to perform any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay the State of Texas a penalty of not more than five thousand dollars.

SEC. 19. All of the penalties herein provided, except as provided in Section 17, shall be recovered and suits thereon shall be brought in the name of the State of Texas in the proper court having jurisdiction thereof in Travis County, or in any county to or through which such railroad may run, by the Attorney-General or under his direction; and the attorney bringing such suit shall receive a fee of fifty dollars for each penalty recovered and collected by him, and ten per cent of the amount collected, to be paid by the State. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the State under this act shall be paid into the treasury of the State.

SEC. 20. Upon application of any person the Commission shall furnish certified copies of any classification, rates, rules, regulations, or orders, and such certified copies, or printed copies published by authority of the Commission, shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order, or classification therein contained and which may be in issue in the trial is the official act of the Commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements, and orders made and established by the Commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

SEC. 21. It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all such violations, with the facts in their possession, to the Attorney-General or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings; and all suits between the State and any railroad shall have precedence in all courts over all other suits pending therein.

(a.) It shall be the duty of the Commission to investigate all com-

plaints against railroad companies subject hereto, and to enforce all laws of this State in reference to railroads. But any two connecting railroads may enter into a contract whereby any part or all of the passengers, freight, or cars, empty or loaded, hauled or transported by one and destined to points on or beyond the line of the other shall be delivered to, received and transported by the other; which contract, however, shall be submitted to the Railroad Commission for examination and approval, and when so approved shall be binding; but if the said contract be not approved by the Commission the same shall be void: *Provided*, that any connecting line delivering freight to the owner or consignee of such freight may be sued by the owner thereof in the county where the freight is delivered for any damage that may be done to such freight in its transportation.

SEC. 22. The terms "road," "railroad," "railroad companies," and "railroad corporations," as used herein, shall be taken to mean and embrace all corporations, companies, individuals, and associations of individuals, their lessees or receivers (appointed by any court whatsoever), that may now or hereafter own, operate, manage, or control any railroad or part of a railroad in this State, and all such corporations, companies, and associations of individuals, their lessees or receivers, as shall do the business of common carriers on any railroad in this State.

(a.) The provisions of this act shall be construed to apply to and affect only the transportation of passengers, freight, and cars between points within this State; and this act shall not apply to street railways nor suburban or belt lines of railways in or near cities and towns.

(b.) It shall be the duty of the Commission to see that upon every railroad and branch of same carrying passengers for hire in this State shall run at least one train a day (Sundays excepted), upon which passengers shall be hauled, and the Commission shall have no power to relax this provision.

SEC. 23. This act shall not have the effect to release or waive any right of action by the State or any person for any right, penalty, or forfeiture which may have arisen or may hereafter arise under any law of this State; and all penalties accruing under this act shall be cumulative of each other, and a suit for or recovery of one shall not be a bar to the recovery of any other penalty; and all laws and parts of laws in conflict with this act are hereby repealed.

SEC. 24. The fact that there is no adequate and sufficient law for the regulation of railroads in the transportation of freight and passenger traffic, and the near approach of the close of the present session, creates an imperative public necessity and an emergency, necessitating the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the House, and passed the same by two-thirds vote yeas 92, nays 5; and passed the Senate by two-thirds vote yeas 26, nays 0.]

Approved April 3, 1891.

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COLLIN COUNTY ROADS.

Sec

1. County commissioners ex-officio road commissioners; their duties; bond.
2. Commissioners court to adopt system for working roads; to purchase teams, tools, etc.; contract work; bond of contractor; separate account to be kept by treasurer.
3. Labor of county convicts, their wages; officers' and witnesses' fees; commutation of time of convicts; care of convicts.
4. Road overseer to be furnished teams, etc.
5. County commissioner to direct manner of work in his district.

Sec.

6. Overseer to call out hands; duty of hands; compensation of overseer.
7. Exemption from road duty; treasurer to keep separate account for each road district; county commissioners to be furnished list of persons exempt.
8. Manner of condemning lands.
9. Salary of commissioners and approval of their accounts.
10. This act cumulative of general laws.
11. Emergency clause.

CHAP. 52.—[S. B. No. 371.] An Act to create a more efficient road system for the county of Collin, in the State of Texas, and making county commissioners ex-officio road commissioners and prescribing their duties as such, and providing for their compensation as Road Commissioners, and defining the powers and duties of the Commissioners Court of said county.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That each member of the commissioners court of Collin county shall be ex-officio road commissioner of their respective districts and under the direction of the commissioners court, shall have charge of all the teams, tools and machinery belonging to the county, and placed in their hands by said court; and it shall be their duty, under such rules and regulations as the commissioners court may prescribe, to superintend the laying out of new roads, the making or changing of roads, and the building of bridges. Each of said Commissioners shall, before entering upon the duties of their office, execute a bond of one thousand dollars with two or more good and sufficient sureties, payable to the County Judge of said county for the use and benefit of the road and bridge fund, conditioned that they will perform all the duties required of them by law or by the commissioners court, and that they will account for all money or property belonging to the county that may come into their possession.

SEC. 2. The commissioners court of said county shall have full power and authority, and it shall be their duty to adopt such system for working, laying out, draining and repairing the public roads in said county as they may deem best, and from time to time said court may change its plans or system of working. Said commissioners court shall have power to purchase such teams, tools and machinery as may be necessary for the working of its roads. Said court shall have power to construct, grade, gravel, or otherwise improve any road or bridge by contract; in such case, said court or the County Judge may advertise in such manner as said court may determine for bids to do such work, and the contract shall be awarded to the lowest responsible bidder, who shall enter into bond, payable to the County Judge of said county, for the use of the road and bridge fund, with good and sufficient sureties to be approved by said court, and in such sum as said court may determine, for the faithful compliance with the terms of said contract; but said court shall have the right to reject any and all bids. At the time of making any such contract, the court shall direct the county Treasurer to pass the amount to a particular fund for that purpose, and the Treasurer shall keep a separate account of such fund and the same shall not be used for any other purpose, and can only be paid out on the order of said court, and the said court shall have authority to employ any hands or teams to work on the roads under such regulations and for such price as they may deem best.

SEC. 3. The commissioners court of said county shall require all county convicts not otherwise employed to labor upon the public roads

tional rule requiring bills to be read on three several days be suspended, it is so suspended, and this act shall take effect and be in force from and after its passage.

[NOTE.—The foregoing act originated in the house and passed the same by a vote of 77 yeas and no nays; and passed the senate by a vote of 22 yeas and no nays.]

Approved March 30, 1891.

CITIES AND TOWNS—VOTING REGULATED.

- Sec. 1. Proceedings where right to vote is challenged.
2. Emergency clause.

CHAP. 44.—[S. B. No. 335.] An Act to regulate voting in cities and towns of ten thousand inhabitants or more.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That in any election, state, county or municipal, being held in any city or town of ten thousand inhabitants or more according to the last preceding United States census, when the right to vote, of any elector offering to vote is challenged the following proceedings shall be had:

The judges of election shall refuse to accept such vote of such elector unless in addition to his own oath, he proves by the oath of one well known resident of the ward, that he is a qualified voter at such election and in such ward.

When such vote is accepted the judges shall cause the clerk of election to make a minute of the name of the elector and the party testifying under oath as to his qualifications, and such memoranda shall be kept by the clerk of the county court for six months after such election is held, subject to order of the district judge.

Whenever the right of an elector to vote is challenged the word "challenged" shall be entered on the ballot if accepted by the judges. Any elector voting at any election who does not possess the legal qualifications shall be punished as now provided by law for illegal voting, and any person swearing falsely as to his own qualifications or those of a challenged elector shall be punished as now provided by law for false swearing.

SECTION 2. The fact that all municipal elections will be held on the first Tuesday in April, and the near approach of the close of the session creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate, and passed the same by a vote of yeas 26 nays 1; and passed the House by a vote of yeas 76 nays 1.]

Approved March 30, 1891.

EXPRESS COMPANIES.

Sec.

1. Express companies declared common carriers; articles to be delivered at nearest office by carrier; dangerous articles; compensation.

Sec.

2. Rates to be fixed by the railroad commission.
3. Emergency clause.

CHAP. 45.—[H. B. No. 275.] An act to regulate rates or charges to be made by express companies for the transportation of all such articles of freight, money, papers and packages of any kind; to require such express companies to receive and promptly deliver same at the express office nearest destination and to make all such express companies subject to the control and regulation of the railroad commission of Texas, and to prescribe the penalties for the violation of this act.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That every person, firm or corporation, which shall do the business of an express company, upon railroads or otherwise, in this state, by the carrying of any kind of property, money, papers, packages or other things, are hereby declared to be common carriers, and shall receive, safely carry and promptly deliver at the express office nearest destination every such article as may be tendered to them, and in the carriage of which they are engaged; provided, that no such company shall be compelled to carry any gun powder, dynamite, kerosene, naphtha, gasoline, matches or other dangerous or inflammable oils, acids or materials, except under such regulations as may be prescribed by the railroad commission. It shall be unlawful for any such person, firm or corporation so engaged to demand or receive for such service other than reasonable compensation.

SEC. 2. The railroad commission of the State of Texas shall have power, and it shall be its duty to fix and establish reasonable and just rates of charges for each class or kind of property, money, papers, packages and other things to be charged for, and received by each express company on all such property, money, papers, packages and things which by the contract of carriage are to be transported by such express company, between points wholly within this state, which rates or charges may be made to apply to all such companies, and may be changed or modified by said Commission from time to time in such manner as may become necessary. Said Commission shall have the same power to make and prescribe such rules and regulations for the government and control of such express companies as is or may be conferred upon said Commission for the regulation of railroads.

SEC. 3. Every express company doing business in this state which shall demand or receive a greater compensation than that which may be prescribed and fixed by the said Railroad Commission for the transportation of any class or kind of property, money, papers, packages or things, shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not to exceed five hundred dollars for each offense; provided, that if it shall appear that such violation was not wilful, said company shall have ten days to refund such over charges or damages, in which case the penalty shall not be incurred. And the said Commission shall have authority and it shall be its duty to sue for and recover the same in the same manner as may be prescribed by law for like suits against railroad companies.

SEC. 4. The said Commission shall have authority and it shall be its duty to call upon such express companies for reports, and investigate their books in the same manner as may be prescribed by law for the regulation of railroad companies, and the said Commission shall have power and authority to institute suits, sue out such writs and process as may be applicable and authorized for the regulation of railroad companies. All

laws, rules and regulations made and prescribed for the government and control of railroads in so far as they are applicable, shall be of equal force and effect against all express companies.

SEC. 5. The fact that there is no law for the regulation of express companies in the transportation of freights, and the near approach of the close of the present session creates an imperative public necessity and an emergency necessitating the suspension of the constitutional rule requiring bills to be read on three several days, and it is so suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house and passed the same by a vote of 83 yeas and 2 nays, and passed the senate—vote, yeas and nays not given.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the twenty-first day of March A. D. 1891, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

JUDICIAL DISTRICT—FORTY-SEVENTH.

Sec.
1. Terms of court in Forty-seventh district.
2. Unorganized counties; where attached for judicial purposes.

Sec.
3. Repealing clause.
4. Emergency clause.

CHAP. 46 —[S. B. No. 193.] An Act to prescribe the times for holding the terms of the District Court in the 47th judicial district of Texas, and to repeal all laws and parts of laws in conflict therewith.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the terms of the District Court in the several counties comprising the 47th Judicial District of Texas shall be held as follows:

In the county of Potter on the first Mondays in March and September and may continue in session three weeks.

In the county of Swisher on the second Mondays in April and October and may continue in session two weeks.

In the county of Randall on the fourth Mondays in April and October and may continue in session two weeks.

In the county of Deaf Smith on the second Mondays in May and November and may continue in session two weeks.

In the county of Oldham on the fourth Mondays in May and November and may continue in session two weeks.

In the county of Hartley on the second Mondays in June and December and may continue in session two weeks.

In the county of Sherman on the fourth Mondays in June and December and may continue in session two weeks.

SEC. 2. The unorganized county of Dallam is hereby attached to Hartley county for judicial purposes.

The unorganized county of Moore is hereby attached to Potter county for judicial purposes.

The unorganized county of Palmer is hereby attached to Deaf Smith county for judicial purposes.

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The unorganized counties of Bailey and Lamb are hereby attached to Hale county for judicial purposes.

The unorganized county of Castro is hereby attached to Oldham county for judicial purposes.

SEC. 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 4. The fact that several new counties have been organized recently in the 47th Judicial District requires the immediate passage of this act, and creates an emergency and a public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act go into immediate effect, and it is so enacted.

[NOTE.—The foregoing act originated in the Senate, and passed the same by a vote of 26 yeas, and no nays; and passed the House by a vote of 72 yeas and no nays.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the twentieth day of March, A. D. 1891, but was not signed by him, nor returned to the House in which it originated with his objections thereto within the time prescribed by the constitution, and thereupon became a law without his signature.—GEO. W. SMITH, Secretary of State.]

JUDICIAL DISTRICT—SECOND.

Sec.

1. Terms of court in second district.
2. Return of process.

Sec.

3. Repealing clause.
4. Emergency clause.

CHAP. 47.—[S. H. B. No. 553.] An Act to change the times for holding the District courts in the second judicial district of the State of Texas, to repeal all laws and parts of laws in conflict with this act, and to provide for the return of all writs and process returnable to the district courts of said counties affected by this act that have been heretofore issued by said courts and that may hereafter be issued before this act shall take effect, and made returnable to the terms of said courts as now fixed by law and make the same as valid and binding as if no change had been made.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That the second judicial district of the State shall be composed of the counties of Sabine, San Augustine, Nacogdoches, Shelby and Cherokee, and the district courts shall be held therein as follows:

In the county of Sabine on the first Mondays in February and September and may continue in session two weeks.

In the county of San Augustine, on the second Mondays after the first Mondays in February and September and may continue in session three weeks.

In the county of Nacogdoches, on the fifth Mondays after the first Mondays in February and September and may continue in session four weeks.

In the county of Shelby, on the ninth Mondays after the first Mondays in February and September and may continue in session four weeks.

In the county of Cherokee, on the thirteenth Mondays after the first Mondays in February and September and may continue in session until the business is disposed of.

SEC. 2. That all writs and process returnable to the district courts as heretofore fixed in the counties affected by this act, and all such writs and process that may hereafter be issued before this act shall take effect, and