

**RAILROAD LAWS OF THE
STATE OF NEW
YORK, FROM 1850
TO 1871, INCLUSIVE**

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Railroad Laws of the State of New York, from 1850 to 1871, Inclusive by Various

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VARIOUS

**RAILROAD LAWS OF THE
STATE OF NEW
YORK, FROM 1850
TO 1871, INCLUSIVE**

New York (State) Laws, statutes, of Railroad Law

RAILROAD LAWS

**LEARNED HAND,
ALBANY, N. Y.**

OF THE

STATE OF NEW YORK,

From 1850 to 1871, inclusive.



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ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1871.

Chap. 140.

AN ACT to authorize the formation of railroad corporations,
and to regulate the same.

PASSED April 3, 1850. three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the number of years the same is to continue; the places from and to which the road is to be constructed, or maintained and operated; the length of such road as near as may be, and the name of each county in this state through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than ten thousand dollars for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of thirteen directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the secretary of state, who shall indorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title three of chapter eighteen of the first part of the Revised Statutes, except the provisions contained in the seventh section of the said title.

§ 2. Such articles of association shall not be filed and recorded in the office of the secretary of state, until at least one thousand dollars of stock for every mile of railroad proposed to be made is subscribed

thereto, and ten per cent paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is indorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association, as aforesaid.

§ 3. A copy of any articles of association filed and recorded in pursuance with this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the secretary of this state, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

§ 4. When such articles of association and affidavit are filed and recorded in the office of the secretary of state, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors ten per cent on the amount subscribed by him, in money; and no subscription shall be received or taken without such payment.

§ 5. There shall be a board of thirteen directors of every corporation formed under this act, to manage its affairs. Said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. Every corporation formed under this act shall be subject to the regulations concerning the election of directors of moneyed corporations, contained in article second of the second title of the eighteenth chapter of the first part of the Revised Statutes. The inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the

election at which he shall be chosen. At every election of directors, the books and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

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

§ 7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited, until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the 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 shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

§ 8. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable until all previous calls thereon shall have been fully paid in; and it shall not be lawful for such company to use any of its funds in the purchase of any stock in its own, or in any other corporation.

§ 9. In case the capital stock of any company, formed under this act, is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him, at the post-office nearest his usual place of residence, in the post-office, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings

of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

§ 10. Each stockholder of any company formed under this act, shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company; and all the stockholders of every such company shall be jointly and severally liable for all the debts due or owing to any of its laborers and servants, for services performed for such corporation; but shall not be liable to an action therefor, before an execution shall be returned unsatisfied, in whole or in part, against the corporation; and then the amount due on such execution shall be the amount recoverable, with costs, against such stockholders.

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

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

of the section of the road on which such labor was performed, personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

§ 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

§ 14. For the purpose of acquiring such title, the said company may present a petition, praying for the appointment of commissioners of appraisal, to the supreme court, at any general or special term thereof held in the district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company has been in good faith subscribed as required by this act; that the company has surveyed the line or route of its proposed road, and made a map or survey thereof, by which such route or line is designated, and that they have located their said road according to such survey, and filed certificates of such location, signed by a majority of the directors of the company, in the clerk's office of the several counties through or into which the said road is to be constructed; that the land described in the petition is required for the purpose of constructing or operating the proposed road; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate; and if any such persons are infants, their ages, as near as may be, must be stated; and if any of such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the supreme court, must be served on all persons whose interests are to be

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affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

1. If the person on whom such service is to be made resides in this state, and is not an infant, idiot or person of unsound mind, service of a copy of such petition and notice must be made on him or his agent or attorney, authorized to contract for the sale of the real estate described in the petition, personally, or by leaving the same at the usual place of residence of the person on whom service must be made as aforesaid, with some person of suitable age.

2. If the person on whom such service is to be made resides out of the state, and has an agent residing in this state, authorized to contract for the sale of the real estate described in the petition, such service may be made on such agent, or on such person personally out of the state; or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in the state paper, and in a paper printed in the county in which the land to be taken is situated, once in each week for one month next previous to the presentation of the petition. And if the residence of such person residing out of this state, but in any of the United States, or any of the British colonies in North America, is known, or can by reasonable diligence be ascertained, the company must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the post-office, properly folded and directed to such person at the post-office, nearest his place of residence, at least thirty days before presenting such petition to the court, and pay the postage chargeable thereon in the United States.

3. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this state, such service shall be made as aforesaid on his general guardian; or if he has no such guardian, then on such infant personally, if he is over the age of fourteen years; and if under that age, then on the person who has the care of, or with whom such infant resides.

4. If the person on whom such service is to be made is an idiot, or of unsound mind, and resides in this state, such service may be made on the committee of his person or estate; or if he has no such committee, then on the person who has the care and charge of such idiot or person of unsound mind.

5. If the person on whom such service is to be made is unknown, or his residence is unknown, and can not by reasonable diligence be ascertained, then such service may be made, under the direction of the court, by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a description of the land to