

# TABLE OF CONTENTS

---

## THE CORPORATION

---

### CHAPTER I.

#### DEFINITIONS.

##### SECTION

1. Railroad companies—Definition and characteristics.
- 1a. Usually but not always corporations—Other characteristics.
2. Dual nature of railroad corporations.
3. "Railroad" or "railway."
4. What are railroads.
5. "Railroad track"—"Right of way"—"Road-bed" and "roadway."
6. Street railways.
- 6a. Street railways further considered.
7. Elevated railroads.
8. Electric railroads.
9. Cable railroads.
- 9a. Interurban railroads.

### CHAPTER II.

#### PROMOTION AND FORMATION OF THE CORPORATION.

##### SECTION

10. Promoters—Who are.
11. Fiduciary relation of promoters—Duties and liabilities.
12. Promoter may sell property to the corporation.
13. Personal liability of promoters—When partners.
- 13a. Representations by promoters.
14. Contracts of promoters—When binding on corporation.
15. Legislative authority essential to creation of corporation.
16. Creation by special charter.
17. Acceptance of charter.
18. Incorporation under general laws.
19. Perfecting the organization.
20. Defective organization—Waiver—Collateral attack.

## CHAPTER III.

## LEGAL STATUS.

## SECTION

21. As individual, person, citizen.
22. Corporation confined to jurisdiction creating it—Business elsewhere—Comity.
23. Citizenship—Removal of causes.
24. Residence and domicile—Jurisdiction.
25. Federal corporations.
26. Railroad in more than one state—Citizenship.
27. Control of railroads in more than one state.
28. Result of consolidation or concurrent action of several states creating new corporations.
29. Railroad only a citizen or domestic corporation of the states that charter it—Effect of mere license.
30. Foreign corporations—Condition of admission to state.
31. Railroads as property.
32. Railroads as monopolies.
33. Railroads as public highways.

## CHAPTER IV.

## CHARTERS.

## SECTION

34. Special charters and general laws.
35. Acceptance of charter.
36. Terms upon which charter is granted must be complied with—Provisions in general laws.
37. Particular corporation must be authorized.
38. Construction of charter—General rules.
39. Grants of monopolies and powers in derogation of public rights—Perpetuity.
40. Practical construction.
41. Charter to build and operate a railroad—What powers are included.
42. Other powers of railroad companies—Implied powers included in certain grants.
43. Amendment—Power must be reserved.
44. Police regulations.
45. Material amendments require unanimous consent of stockholders—What are material.
46. Statutory provisions authorizing amendments.
47. Forfeiture—Statutory provisions dispensing with judicial determination.

## SECTION

48. Implied condition that corporate franchise is subject to forfeiture—Judicial determination—Causes for forfeiture.
49. Grounds of forfeiture—Illustrative cases.
50. When duty to declare forfeiture is mandatory and when discretionary.
51. What is not cause for forfeiture.
52. Waiver of forfeiture—Collateral proceedings.
53. Proceedings to forfeit—Quo warranto—Parties.
54. Proceedings must generally be in court of law—Statutory provisions.
55. Collateral proceedings—Pleadings and judgment in forfeiture proceedings.
56. Repeal of charter—Reserved power.
57. Repeal where conditional power is reserved.
58. Rule where power to repeal is not reserved.
59. Effect of repeal.
60. Repeal of by general laws.
61. Charter is subject to general laws reserving power to repeal.
62. Expiration of charter.

## CHAPTER V.

## FRANCHISES.

## SECTION

63. Definition.
64. Charter and franchise distinguished.
65. Grant of corporate franchises.
66. Consideration for the grant of a franchise.
67. Nature of a franchise further considered.
68. Franchise of being a corporation.
69. Difference between a franchise and a license.
70. Sale of corporate property essential to exercise of franchises—Limitations of right to sell.
71. Effect of attempt to sell franchise.
72. Judicial sale of franchises.
73. Sequestration.
74. Seizure of corporate franchise under power of eminent domain.
75. Dissolution effected by authorized sale of franchises.

## CHAPTER VI.

## SECTION

## STOCK.

76. Definition.
77. Classes of stock.
78. Shares of stock—Certificates.
79. Certificates—How far negotiable—Shares are personal property.
80. New certificates in place of lost—Fraud.

SECTION
81. Preferred stock.
82. When preferred stock may be issued—Rights and remedies of dissenting stockholders.
83. Holder of preferred stock not a creditor—His rights and remedies.
84. Rights of preferred stockholders after payment of guaranteed dividend—Future dividend.
85. Rights of preferred stockholders on dissolution.
86. Guaranteed, interest-bearing, income and debenture stock.
87. Increase and reduction of capital stock.
88. Watered stock.
89. Watered stock not absolutely void.
90. Rights of creditors and liabilities of holders of watered stock.
91. Stock paid for by overvalued property—Sale of stock on market.
92. Sale and transfer of stock.
93. Who may own and transfer shares.
94. Purchase and sale by trustees and fiduciaries.
95. Right of corporation to buy and sell stock.
96. Gifts and bequests of stock.
97. Formalities of transfer.
98. Registry of transfer.
99. Lien of corporation on stock.
100. When and to what the lien attaches.
101. Waiver of lien—Enforcement of lien.
101a. Condemnation of stock.

## CHAPTER VII.

## SUBSCRIPTIONS.

SECTION
102. Preliminary agreements to subscribe.
103. Subscriptions generally—Form.
104. Construction of contract of subscription.
105. Contracts of subscription are several.
106. Effect of statutes requiring cash deposit to complete subscription.
107. Who may subscribe for stock.
108. Presumption that one whose name is subscribed is a stockholder.
109. Implied promise to pay subscription—Consideration.
110. Payment of subscription—Trust fund doctrine.
111. Conditional subscription.
111a. Implied conditions.
112. Valid and invalid conditions.
113. Conditional subscription is a mere offer until accepted.
114. Subscriptions in escrow—Parol evidence.
115. Waiver of conditions.
116. When conditional subscription becomes payable.

SECTION
117. Construction of conditional subscriptions—What is a sufficient compliance with conditions as to time of beginning and completing road.
118. Subscriptions payable as work progresses or upon expenditure of a certain amount.
119. Failure to perform parol condition will not defeat subscription.
120. Conditions in notes.
121. Subscriptions conditioned upon location or construction of the road.
122. Effect of alteration in route fixed by charter.
123. Effect of abandonment or sale of road.
124. Condition as to terminus—Question of intention for jury.
125. What is sufficient compliance with condition as to terminus or location of depot at a certain place.
126. General rule of construction—Performance of condition by consolidated company.
127. Fraudulent representations in obtaining subscriptions.
128. Misrepresentations in prospectus and by agents generally.
129. Fraud may be shown by parol evidence.
130. Subscriber must be free from negligence in order to be released upon the ground of fraud.
131. Subscription induced by fraud is merely voidable—When it will be enforced.
132. Ratification and estoppel—Rescission.

## CHAPTER VIII.

## CALLS AND ASSESSMENTS.

SECTION
133. When payment of subscription must be made.
134. Calls—Nature and effect of.
135. Directors may make calls—Delegation and ratification.*
136. Directors must act as a body—De facto board—Illegal calls.
137. Discretion of board in making calls.
138. Charter and statutory limitations upon discretion—Periodical instalments.
139. Call should affect all alike—Motive and expediency.
140. Subscriptions payable upon demand—Notice.
141. Requisites of notice.
142. Constructive notice.
143. Waiver by stockholder of notice and formalities of call—Estoppel.
144. Demand and suit for assessment.
145. Assignment of right to collect subscription or assessment.
146. When courts may compel call and payment.
147. Extent of stockholder's liability for assessments—Agreements as affecting liability.
148. Construction of charter and statutory provisions regarding assessments.

- SECTION
- 149. Remedies where stockholder fails to pay subscription or assessment—Forfeiture.
  - 150. Cumulative remedies—Election.
  - 151. Effect of forfeiture.
  - 152. Statutory method of forfeiture must be pursued.
  - 153. Notice of forfeiture.
  - 154. Defeating and annulling forfeiture—Estoppel.

## CHAPTER IX.

## STOCKHOLDERS.

- SECTION
- 155. When one becomes a stockholder.
  - 156. Rights of stockholders—Right to vote.
  - 157. Who has right to vote—How determined.
  - 158. Right of trustees and receivers to vote.
  - 159. Right of corporations and voting trusts to vote.
  - 160. Number of votes to which stockholder is entitled—Cumulative voting.
  - 161. Quorum must be present.
  - 162. Voting by proxy.
  - 163. Other powers of stockholders—Rights of minority.
  - 164. Stockholders' meetings.
  - 165. Remedies of stockholders.
  - 166. Unregistered assignees and third persons cannot sue.
  - 167. When stockholders may sue or become parties.
  - 168. Right to recover insurance.
  - 169. Other rights and remedies of stockholders.
  - 170. Stockholders as agents of the corporation.
  - 171. Notice to stockholders.
  - 172. Stockholders' right to inspect books.
  - 173. Stockholder is disqualified to serve as judge or juror where corporation is interested.
  - 174. Unlawful combinations and conspiracies to vote or prevent voting—Injunction.
  - 175. Liability of stockholders for unpaid subscriptions.
  - 176. Release of stockholders—Withdrawal.
  - 177. Compromises with stockholders.
  - 178. Liability where stock is transferred.
  - 179. When creditors may enforce unpaid subscriptions—Judgment and execution against corporation.
  - 180. Effect, as against stockholder, of judgment against the corporation.
  - 181. Stockholder's defense.
  - 182. Methods of enforcing stockholder's liability.
  - 183. Contribution.
  - 184. Suits by assignees and receivers.

- SECTION
- 185. Statutory liability of stockholders.
  - 186. Defenses to actions to enforce statutory liability.
  - 187. Who may institute action to enforce statutory liability.
  - 188. How statutory liability is enforced—Judgment and execution against the corporation.
  - 189. Priority among creditors—Forum—Contribution.
  - 190. When stockholders are liable as partners.

## CHAPTER X.

## BY-LAWS, RULES AND REGULATIONS.

- SECTION
- 191. Power to make by-laws.
  - 192. Who are affected by corporate by-laws.
  - 193. Limits of power to make by-laws—Reasonableness a question for the court.
  - 194. Power to make by-laws resides in stockholders—When directors may make.
  - 195. Formalities of enactment—Proof.
  - 196. Amendment and repeal.
  - 197. Enforcement of by-laws.
  - 198. Rules and regulations in England.
  - 199. Distinction between by-laws and rules and regulations—Right of railroad company to make rules and regulations.
  - 200. Examples of rules and regulations which railroad companies may make—Rules affecting passengers.
  - 200a. Rules affecting shippers and freight.
  - 200b. Rules affecting employes.
  - 201. Enforcement of rules—Penalties.
  - 202. Reasonableness of rules—When a question of fact and when a question of law.
  - 202a. Failure to enforce rules—Waiver or abrogation.

## CHAPTER XI.

## CORPORATE REPRESENTATIVES.

- SECTION
- 203. Railroad corporations act through officers, agents or other representatives.
  - 204. Appointment of officers and agents—General doctrine.
  - 205. Statutory privileges bestowed on agents.
  - 206. Officers generally.
  - 207. Qualifications of officers.
  - 208. Election of officers—Generally.

## SECTION

- 209. Agents generally.
- 210. Proof of the existence of the relation of principal and agent.
- 211. Proof of authority.
- 212. Agency inferred.
- 213. Powers, duties and authority of officers and agents generally.
- 214. Authority of agent—Line of duty.
- 215. Scope of authority—General conclusions.
- 216. Contracts by agents—General doctrine.
- 217. Declarations and admissions of agents.
- 218. Declarations of agent—Res gestæ.
- 219. Declarations must relate to transaction or event in controversy.
- 220. Exercise of authority by agents—Illustrative cases.
- 221. Scope of authority—Illustrative cases.
- 221a. Authority of agent—Emergencies and special circumstances.
- 222. Authority of agents—Employment of surgeons.
- 223. Physicians and surgeons.
- 224. Delegation of power by directors.
- 225. Employment of sub-agents and servants.
- 226. Notice to agents or officers.
- 227. Ratification.
- 228. Acts that may be ratified.
- 229. Ratification—What constitutes.
- 230. Compensation of officers.
- 231. Liability of agents for their torts.
- 232. Bonds of officers and agents.
- 233. Sureties—Bonds of officers and agents.

## CHAPTER XII.

## DIRECTORS.

## SECTION

- 234. Different classes of officers—Generally.
- 235. The governing board—Generally.
- 236. Governing board not the corporation.
- 237. The board of directors represents the corporation.
- 238. Directors—Generally.
- 239. Number of directors.
- 240. Directors—How chosen—Generally.
- 241. Eligibility to the office of director.
- 242. Ineligibility because of connection with competing lines.
- 243. Election of ineligible person to office of director.
- 244. Officers de facto—Generally.
- 245. Election of ineligible person—Who may question right to office.
- 246. Directors de facto—Illustrative cases.
- 247. De facto directors—Two boards.
- 248. Holding over—Failure to elect.

## SECTION

- 249. Powers of directors—Source of.
- 250. Powers of directors—Generally.
- 251. Powers of directors—Illustrative cases.
- 252. Directors—Powers of—Organic changes.
- 253. Directors—Extent of authority—Generally.
- 254. Powers of directors, general conclusion.
- 255. Directors—Official action—Preliminary.
- 256. Directors—Official action.
- 257. Directors—Delegation of authority.
- 258. Directors—Delegation of authority—Illustrative cases.
- 259. Directors—Action where the mode is prescribed.
- 260. Directors—Meetings.
- 261. Directors—Meetings—Stated and special.
- 262. Directors—Meetings—Notice.
- 263. Directors—Meetings—Proxies—Quorum.
- 264. Directors—Meetings outside of the state.
- 265. Directors—Proceedings—Record.
- 266. Directors—Corporate records as evidence.
- 267. Proof of the proceedings of the board of directors.
- 268. Notice to directors.
- 269. Directors—Admissions and declarations.
- 270. Ratification of the acts of directors.
- 271. Directors—Removal from office.
- 272. Compensation of directors.
- 273. Directors—Relation to stockholders—Preliminary.
- 274. Directors considered trustees.
- 275. Directors as trustees—Illustrative cases.
- 276. Directors—Dealings with corporation.
- 277. Termination of fiduciary relations.
- 278. Directors—Liability of—Generally.
- 279. Directors—Liability in matter of contract.
- 280. Directors—Errors of judgment.
- 281. Directors—Liability for negligence.
- 282. Directors—Fraud on third persons.

## CHAPTER XIII.

## EXECUTIVE AND MINISTERIAL OFFICERS AND AGENTS.

## SECTION

- 283. President—Generally.
- 284. President—Incidental powers of.
- 285. President—Implied powers.
- 286. President—Powers implied from grant of authority by the board of directors.
- 287. President—Influence of usage.
- 288. President—Apparent authority.
- 289. President—Ratification of unauthorized acts.

## SECTION

- 290. President—Dealings with corporation.
- 291. President—Relation to shareholders.
- 292. Treasurer—Generally.
- 293. Treasurer—Duties—Liabilities.
- 294. Treasurer—Care of corporate funds.
- 295. Secretary.
- 296. Managing agents.
- 297. Superintendent.
- 298. Superintendent—General conclusion.
- 299. Intermediate agents.
- 300. Intermediate agents—Agent for one purpose not for another.
- 301. Intermediate agents and servants distinguished.
- 302. Conductors.
- 303. Station agents.

## CHAPTER XIV.

## DIVIDENDS.

## SECTION

- 304. Rights of stockholders—Dividends.
- 305. When dividend belongs to stockholder—Assignment.
- 306. To whom dividend should be paid.
- 307. Rights of life tenant and remainderman—Apportionment of dividends.
- 308. Duties of life tenant—Transfers.
- 309. Dividend is not property of the corporation—Rights of creditors and stockholders.
- 310. Dividend is irrevocable—Actions concerning.
- 311. Demand—Necessity and effect of.
- 312. Declaration of dividend discretionary with directors.
- 313. Power to borrow money or declare stock dividend.
- 314. Remedies for abuse of discretion.
- 315. Limitations upon authority to declare a dividend—Suits to reclaim.
- 316. Dividends should be paid out of the profits.
- 317. Enjoining payment of dividends.
- 318. Personal liability of directors.
- 319. Dividends payable in scrip.
- 320. Stock dividends.
- 321. Dividends payable without discrimination.

## CHAPTER XV.

## CONSOLIDATION.

## SECTION

- 322. Consolidation must be authorized by legislature.
- 322a. What is sufficient authority.

## SECTION

- 323. Statutory mode must be pursued—Collateral attack.
- 324. Intention to consolidate—Difference between succession and consolidation.
- 325. Right of majority to effect consolidation—When minority may prevent—Release of dissenting subscribers.
- 325a. Right to condemn shares of dissenting stockholder.
- 326. Statutory provisions for consolidation.
- 327. Rights of old stockholders and their relation to the new company.
- 328. Remedies for old stockholders.
- 329. Consolidated company succeeds to rights and liabilities of the old companies.
- 330. Special privileges and immunities—When they pass to the new company.
- 331. When special privileges do not pass.
- 332. Duties and obligations of new company.
- 333. Liability of new company on old contracts.
- 334. Liability of new company for torts—Extent of liability—Generally.
- 335. Constituent companies are usually dissolved—When not.
- 335a. Duration of life and franchises of consolidated company.
- 336. Effect of consolidation upon liens.
- 337. De facto consolidation—Estoppel—Liability of constituent companies where consolidation is set aside.
- 338. Effect of consolidation upon pending suits.
- 339. Consolidation with foreign corporations.

## CHAPTER XVI.

## CONTRACTS.

## SECTION

- 340. Contracts—Power to make—Generally.
- 341. Contracts—Scope of corporate power.
- 342. General power to contract—Illustrative instances.
- 343. Power to contract—Control of by courts.
- 344. Effect of changes in charter.
- 345. Contracts—Formal requisites of.
- 346. Formal defects.
- 347. Contracts—Who may make—Generally.
- 348. Contracts by interested persons.
- 349. Mode prescribed must be pursued.
- 350. Contracts—Parties bound to take notice of charter provisions.
- 351. Contracts—Unauthorized—Notice.
- 352. Estoppel—Generally.
- 353. Ratification of unauthorized acts—Rights of the public and of creditors.
- 354. Contracts in conjunction with other parties.
- 355. Pledge of corporate securities.

## SECTION

- 356. Contracts between connecting lines—Division of fares.
- 357. Contracts permitting use of part of road.
- 358. Contracts regarding terminal facilities.
- 359. Traffic contracts—Surrender to competing line.
- 360. Contracts with municipal corporations for terminal facilities.
- 361. Use of tracks constructed under grant from municipal corporation.
- 362. Contracts for location of stations.
- 363. Location of tracks, switches and the like.
- 364. Contracts that may be made by railroad companies—Particular instances.
- 365. Pooling contracts—Generally.
- 366. Pooling contracts—The authorities.
- 367. Pooling contracts—Presumption.
- 368. Contracts—Ultra vires.
- 369. Contracts—Ultra vires—General doctrine.
- 370. Contracts—What are ultra vires—Generally.
- 371. Contracts—Ultra vires—Estoppel.
- 372. Contracts—Ultra vires—Executed and executory contracts.
- 373. Contracts—Ultra vires—Cases discriminated.
- 374. Contracts—Ultra vires—Illustrative instances.
- 375. Contracts—Ultra vires—Rule where statute prescribes consequences.
- 376. Contracts—Ultra vires—Injunction.
- 377. Contracts—Ultra vires—Denial of relief—Laches.
- 378. Contracts—Ultra vires—Who may contest.
- 379. Contracts—Ultra vires—Creditors.
- 380. Contracts—Ultra vires—Non-assenting stockholders.
- 381. Prohibited contracts—Effect of prescribing penalties.
- 382. Illegal contracts—Generally.
- 383. Illegal contracts and ultra vires contracts discriminated.
- 384. Classes of illegal contracts.
- 385. Contracts void because against public policy.
- 386. Contracts against public policy—Location of stations and tracks.
- 387. Contracts void as against public policy—General conclusions.
- 388. Contracts void as against public policy—Illustrative cases.

## CHAPTER XVII.

## REAL ESTATE.

## SECTION

- 389. What railroad property is real estate.
- 390. Statutory authority requisite.
- 391. Power to acquire real estate—Implied power—Generally.
- 392. Implied power to acquire—General rule.
- 393. Implied power—Illustrative instances.
- 394. Power to acquire real estate—Instances of denial of power.
- 395. Title to real estate is in the company.

## SECTION

- 396. Title once vested not divested because property subsequently becomes unnecessary.
- 397. Effect of conveyance to corporation of land it has no power to hold.
- 398. Right of foreign corporation to hold real estate.
- 399. The power to acquire by grant broader than the power to acquire by condemnation.
- 400. Acquisition of the fee by private grant.
- 401. Acquisition of title by adverse possession.
- 402. Possession of land—To what right referred.
- 403. Rights of company where land is owned in fee.
- 404. Effect of conveyance of property the company is not authorized to acquire.
- 405. Questioning the right to hold real estate.
- 406. Enjoining purchase of real estate where no power to receive and hold.
- 407. Executory contract of purchase not enforceable where there is no power to hold the land.
- 408. Estoppel of parties to deeds to deny corporate existence.
- 409. Deed to company not in existence.
- 410. Formal execution of conveyances and agreements relating to real estate.
- 411. Contracts under corporate seal—Effect of evidence.
- 412. Acceptance of deed.
- 413. Distinction between a donation of lands and a sale.
- 414. Deeds of company—By whom executed.
- 415. Construction of deeds to railroad companies—Generally.
- 416. Deeds to railroad companies—Construction of conditions.
- 417. Grants—Beneficial—Presumption of acceptance.
- 418. Incidents pass with principal thing granted.
- 419. Effect of designating in the deed the purpose for which the land is granted.
- 420. Covenants that run with the land.
- 421. Merger of preliminary agreement in deed.
- 422. Bonds for conveyance—Specific performance.
- 423. Presumption that there is power to hold the land.
- 424. Power to convey real estate.
- 425. Dedication of land for use as a highway.
- 426. Disposition of property corporation has no power to receive and hold—Escheat.

## CHAPTER XVIII.

## LEASES.

## SECTION

- 427. Power to lease—Generally.
- 428. What the legislature may prescribe.
- 429. Power to lease not an implied one—Legislative authority requisite.

## SECTION

- 430. The power to lease—General rule.
- 431. The foundation of the rule.
- 432. Power to accept a lease.
- 433. Statutes asserted to confer power to lease are not aided by construction.
- 434. Statutes strictly construed—Illustrative instances.
- 435. Statutes—Construction of.
- 436. What is included in the authority to execute a lease.
- 437. Scope of authority to lease.
- 438. Statutes conferring power to lease must be strictly followed.
- 439. Consent of stockholders—Statutory requirement must be obeyed.
- 440. Concurrence of stockholders necessary.
- 441. What number of stockholders must assent to the lease.
- 442. Consent of stockholders—Waiver of objections.
- 443. Lease where parties are corporations of different states.
- 444. Authority to execute lease has no extraterritorial effect.
- 445. Rights of foreign lessors.
- 446. Leases to connecting lines.
- 447. Lease to competing lines—Effect of statutes prohibiting.
- 448. Effect of executing unauthorized lease.
- 449. Lease—Construction.
- 450. Lease—Dependent and independent contracts.
- 451. Contract to permit use of track not necessarily a lease.
- 452. Traffic contract not valid if it is in effect a lease.
- 453. Contracts granting right to use—Effect and construction of.
- 454. Part performance—Effect of.
- 455. Duration of a lease.
- 456. Effect of lease on taxation.
- 457. Public duties of lessee under an unauthorized lease—Mandamus.
- 458. Authorized lease—Duty of lessee to operate the road—Mandamus.
- 459. Lessee not liable for wrongs committed prior to the execution of the lease.
- 460. Effect of a lease upon rights of creditors.
- 461. Authorized lease—Rights and duties to which lessee company succeeds.
- 462. Contract obligation of lessor—Lessee not liable thereon.
- 463. Recovery of rent under unauthorized lease.
- 464. Improvements of road by lessee operating under an unauthorized lease.
- 465. Receiver's power to lease.
- 466. Unauthorized lease—Liability of lessor—Generally.
- 467. Authorized lease—Liability of lessor for injuries caused by negligence of lessee—Cases holding lessor liable.
- 468. Authorized lease—Liability of lessor for negligence of lessee in operating the road—Authorities.
- 469. Authorized lease—Liability of lessor for negligence of lessee in operating the road—Views of the authors.
- 470. Control reserved by lessor.

## SECTION

- 471. Liability of lessee under authorized lease—Illustrative cases.
- 472. Unauthorized lease—Liability of lessor to employes of lessee—Generally.
- 473. Unauthorized lease—Liability of lessor—General rule.
- 474. Liability of lessee for injuries resulting from negligence in operating the road.
- 475. Contracts of the lessee.
- 476. Joint liability.
- 477. Liability of company where it permits another company to use track in common with itself.
- 478. Fraudulent leases.
- 479. Unauthorized lease—Injunction.

## CHAPTER XIX.

## RAILROAD SECURITIES.

## SECTION

- 480. Power of railroad companies to issue notes and bonds.
- 481. Power to guaranty bonds.
- 482. Income bonds.
- 483. Convertible bonds.
- 484. Negotiability of bonds—Bona fide purchasers.
- 485. Form and manner of issuing bonds—Effect of irregularities.
- 486. Interest coupons.
- 487. Payment of bonds and interest.
- 488. No power to mortgage without legislative authority.
- 489. Legislative authority to mortgage.
- 490. Distinction between authority to mortgage franchises and authority to mortgage property.
- 491. Who may execute the mortgage.
- 492. Ratification by stockholders of unauthorized or improperly executed mortgage.
- 493. When ultra vires mortgage may be made effective.
- 494. Recording mortgages.
- 495. Generally as to what property is covered by the mortgage.
- 496. What is covered by a mortgage of the undertaking.
- 497. Mortgage of after-acquired property.
- 497a. After-acquired property—When lien attaches—What it includes.
- 498. Fixtures—Rolling stock.
- 499. Reserved power to create prior lien or dispose of unnecessary property.
- 500. Priority of mortgages.
- 501. Trust deeds.
- 502. Equitable and defective mortgages.
- 503. Statutory mortgages.
- 504. Debentures.



## CHAPTER XX.

## FORECLOSURE.

## SECTION

- 505. Foreclosure—Default.
- 506. Option to declare whole debt due—Election.
- 507. Foreclosure for default in payment of interest.
- 508. Parties to foreclosure suit—Plaintiffs.
- 509. Bondholders as plaintiffs.
- 510. Pledgées, assignees and others as plaintiffs.
- 511. Defendants in foreclosure suits—Generally.
- 512. When other lienholders should be made defendants.
- 513. Defenses to foreclosure suit.
- 514. Effect of provisions giving trustees the right to take possession and sell.
- 515. The decree.
- 516. Consent decree.
- 517. Deficiency decree.
- 518. Final and appealable decrees.

## CHAPTER XXI.

## SALE AND REORGANIZATION.

## SECTION

- 519. Railroad company cannot sell franchise and necessary property without statutory authority.
- 520. Execution sales.
- 521. Foreclosure sales—Authority—Purchasers.
- 522. Sale on default in payment of interest—Sale of road as an entirety.
- 523. Sale of consolidated road—Sale by receiver pending foreclosure.
- 524. Discretion of trustees and officers as to time and manner of sale.
- 525. Effect of sale—Purchaser's title.
- 525a. What passes to purchaser at foreclosure sale.
- 526. When purchaser takes title free from liabilities and liens.
- 527. Disposition of proceeds of sale.
- 527a. Disposition of proceeds—Purchaser not bound to see that they are properly applied.
- 528. Preferred claims—Six months' rule.
- 529. Setting sale aside.
- 530. Redemption.
- 531. Reorganization by purchasers at sale—Power of legislature to provide for.
- 531a. Reorganization through purchasing committee.
- 532. Statutory reorganization—Liability of new corporation.

## SECTION

- 533. Reorganization by agreement—Rights of minority.
- 534. Rights and obligations of the parties—Laches and estoppel.
- 535. Fraud in the sale or reorganization.
- 536. Reorganization by the courts.

## CHAPTER XXII.

## RECEIVERS.

## SECTION

- 537. Receivers generally.
- 538. Jurisdiction of courts of equity—Statutory provisions.
- 539. Jurisdiction is sparingly exercised—Purpose of appointment.
- 540. General rules as to when receivers of railroads will be appointed.
- 541. Receivers will not be appointed merely because parties consent.
- 542. Extent to which jurisdiction has been exercised.
- 543. Insolvency as ground for appointment of receiver.
- 544. When insolvency is sufficient without default.
- 545. Default in payment of indebtedness as ground for appointment.
- 546. Appointment in foreclosure proceedings.
- 547. Other grounds for appointment.
- 548. Appointment upon application of unsecured creditor.
- 549. Appointment upon application of secured creditor.
- 550. Appointment upon application of stockholders.
- 551. Appointment upon application of corporation.
- 552. What court may appoint.
- 553. Court first obtaining jurisdiction retains it—Conflict of jurisdiction.
- 554. Extraterritorial jurisdiction.
- 555. Ancillary appointment—Comity.
- 556. Procedure—Ex parte application.
- 557. Parties to proceedings for appointment of receiver.
- 558. Appointment upon motion or petition and notice—Affidavits.
- 559. Who may appoint—Appointment in vacation.
- 560. Suit must generally be pending.
- 561. Who may be appointed receiver.
- 562. Order appointing receiver.
- 563. Effect of appointment.
- 564. Collateral attack on appointment.
- 565. Title and possession of receiver.
- 566. Authority, rights and duties of receiver—Control by court.
- 567. Contracts of receiver.
- 568. Suits by receivers—Authority to sue.
- 569. When receiver may maintain suit—Defenses to receiver's suit.
- 570. Right of receiver to sue in other jurisdictions—Comity.
- 571. Suits against receivers—Leave to sue must be obtained.
- 572. Effect of failure to obtain leave to sue.
- 573. Effect of recent act of congress.

## SECTION

- 574. Rule where suit has been commenced before appointment of receiver.
- 575. Protection of receiver by the court.
- 576. Liability of receivers—Generally.
- 577. Liability for torts.
- 578. Receiver is bound to perform public duties—Mandamus.
- 579. Liability on contracts.
- 580. Liability on claims arising from operation of the road.
- 581. Liability of corporation.
- 582. Receivers of leased lines.
- 583. Receiver's accounts.
- 584. Compensation of receiver.
- 585. Attorney's fees.
- 586. Removal and discharge.
- 587. Effect of removal or discharge.

## CHAPTER XXIII.

## RECEIVER'S CERTIFICATES.

## SECTION

- 588. Definition and nature of receiver's certificates.
- 589. Power of courts to authorize.
- 590. Purposes for which receiver's certificates may be issued—Extent of power.
- 591. Order giving authority to issue.
- 592. Lien created by receiver's certificates.
- 593. Statutory provisions as to lien.
- 594. Negotiability of receiver's certificates.
- 595. Rights of holders of receiver's certificates.
- 596. Who may question validity of receiver's certificates.
- 597. Payment and redemption of certificates.

## CHAPTER XXIV.

## INSOLVENCY AND DISSOLUTION.

## SECTION

- 598. Scope of the chapter.
- 599. Railroad company is subject to state insolvency law.
- 600. Trust fund doctrine.
- 601. When a corporation is deemed insolvent—Effect of insolvency.
- 602. Assignments by corporations.
- 603. Preferences by corporations.
- 604. Preference of stockholders and officers.

## SECTION

- 605. Statutory preference of employes.
- 606. What constitutes a dissolution.
- 607. Judicial determination of dissolution.
- 608. Voluntary dissolution—Surrender of charter.
- 609. Proceedings to dissolve.
- 610. Dissolution in case of consolidated company.
- 611. Effect of dissolution.
- 612. Corporation may have a qualified existence after dissolution.
- 613. Disposition of property on dissolution.
- 614. Rights of creditors upon dissolution.

## CHAPTER XXV.

## ACTIONS BY AND AGAINST CORPORATIONS.

## SECTION

- 615. Generally—Suits by corporations.
- 616. When incorporation must be alleged.
- 617. Actions and suits against corporations.
- 618. Power of corporation over litigation—Power to compromise and arbitrate.
- 619. Estoppel to deny corporate existence.
- 620. When stockholders may sue.
- 621. Service of process.
- 621a. Resident agent—Rule in federal courts.
- 621b. Agent need not reside in state—Agent casually in state.
- 622. Return of service.
- 623. Venue of action against corporations.
- 624. Attachment and garnishment.
- 625. Duty and liability of garnishee.
- 626. What may be reached in garnishment.
- 627. Garnishment of employes' wages.
- 628. Injunction—Generally.
- 629. Injunction where the company seeks to take or condemn lands.
- 630. Injunction where railroad is laid in a street.
- 631. Enjoining a nuisance.
- 632. Injunction at suit of the company.
- 633. Enjoining strikers.
- 634. Injunction at suit of stockholder.
- 635. Mandatory injunction—English cases.
- 636. Rule in the United States—Illustrative cases.
- 637. Mandamus—Generally.
- 638. Mandamus to compel completion and operation of road.
- 639. Mandamus to compel restoration of highway and construction of crossings or viaducts.
- 640. Mandamus to compel carriage of freight.

## SECTION

- 641. Mandamus to compel the company to maintain stations and furnish increased facilities.
- 642. When mandamus will not lie.
- 643. Who may be relator.
- 644. Quo warranto.

## CHAPTER XXVI.

## REMOVAL OF CAUSES.

## SECTION

- 645. When removal is authorized—Statutes now in force.
- 646. What are suits of a civil nature under the removal acts.
- 647. Parties.
- 648. Rights of removal as affected by amount in controversy.
- 649. Diverse citizenship as a ground for removal.
- 650. Separable controversy.
- 650a. Action against company and employe.
- 651. Prejudice or local influence as a ground for removal.
- 652. Removal where federal question is involved.
- 653. Time and manner of making application for removal.
- 654. Effect of application on jurisdiction of state and federal court.
- 655. Remanding and dismissing cause.
- 655a. Remanding—Amendment—Waiver.
- 656. Pleading and practice in federal court after removal.
- 656a. Recent cases—Miscellaneous.