

CHAPTER IX.—CORPORATIONS.

CONCERNING FOREIGN CORPORATIONS.

AN ACT relating to foreign corporations, and to repeal certain laws in conflict therewith.

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

SECTION 1. That any corporation incorporated under the laws of any state or territory in the United States, or of any foreign country, state or colony, for any of the purposes for which domestic corporations are authorized to be formed under the laws of this state, shall have full power, and is hereby authorized, to sue and to be sued in any court having competent jurisdiction; to acquire, purchase, hold, mortgage, sell, convey, or otherwise dispose of in the corporate name all real estate or personal property necessary or convenient to carry into effect the objects and purposes of its corporation, and also any interest in real estate by mortgage or otherwise do [due] to, or loans made by such foreign corporations within the boundaries of this state, either prior to or after the passage of this act, and generally do and perform every act and transact every kind of business within this state, in the same manner and to the same extent as corporations incorporated and organized under the laws of this state are authorized to do under the laws of this state, by a compliance with all the conditions prescribed by the second and third sections of this act: *Provided, however,* That this act shall not be construed as to allow such foreign corporation to transact business within the state on more favorable conditions than are prescribed by law for similar corporations organized under the laws of this state: *And provided further,* That no corporation the majority of the capital stock of which is owned by

Powers of foreign corporations.

Equality of terms.

aliens other than those who in good faith have declared their intentions to become citizens of the United States, shall acquire the ownership of any lands in this state, other than lands containing valuable deposits of minerals, metals, iron, coal or fire-clay, and the necessary land for mills and machinery to be used in the development thereof, and the manufacture of products therefrom, except where acquired under mortgage or in good faith in the ordinary course of justice in the collection of debts: *Provided further*, That no foreign corporation which is hereafter organized, which has among its other powers the business of dealing in real estate, and buying and selling the same, and for the purpose of carrying on a real estate brokerage business, shall be permitted to transact such business of buying and selling, and dealing in real estate and carrying on a brokerage business therein in this state; but this prohibition shall not extend to any other business for the transaction of which such corporation may be organized.

Limit of ownership of lands.

Shall not transact real estate business.

SEC. 2. Such corporations shall cause to be filed and recorded in the office of the secretary of state a certified copy of its charter, articles of incorporation, memorandum of association, or certificate of incorporation certified to by the officer who is the custodian of the same, according to the laws of the state or territory, country or colony, where such corporation is incorporated, or who is authorized to issue certificates of incorporation, according to the laws of such state, territory, or foreign country or colony. The instruments herein required to be filed and recorded shall be attested by such certifying officer, under his hand and seal of office, which attestation shall be *prima facie* proof of the facts therein stated, and of the genuineness of the certificate. If such officer has no official seal, his certificate shall state that fact over his signature, and thereupon the secretary of state, or of the territory, in case of corporations within the United States, and the consul general, consul, vice consul, deputy consul, consular agent, or commercial agent of the United States, at or nearest to the place where such certificate is made, in the case of corporations not within the United States, shall certify, under his hand and seal of office, to the genuineness of the

Must file and record papers.

signature of the officer making the certificate, and to the fact that at the time of making such certificate the person making the same held the office described in the certificate.

Must appoint a resident agent.

SEC. 3. Such corporations shall also constitute and appoint an agent who shall reside at the place in the state where the principal business of the corporation is to be carried on, to be designated as hereinafter required. Such appointment shall be in writing, signed by the president or chief officer of such corporation, and shall be attested by its corporate seal, and shall contain the name of the agent, his place of residence and the place where the principal business of such is to be carried on, and shall authorize such agent to accept service of process in any action or suit pertaining to the property, business or transactions of such corporation within this state in which such corporation may be a party. The signature of such president or chief officer, attested by the corporate seal to such written appointment, shall be sufficient proof of the appointment of such agent. Such appointment, when duly executed, shall be filed for record in the office of the secretary of state by such corporation, and shall be there recorded; and such corporation shall have and keep continually some resident agent, empowered as aforesaid during all the time such corporation shall conduct or carry on any business within this state, and service of any process, pleading, notice or other paper shall be taken and held as due service on such corporation. Such corporation may change its agent or its principal place of business, from time to time, by filing and recording with the secretary of state a new appointment, stating the change of such agent or the change in the principal place of business.

Appointment must be recorded.

SEC. 4. No corporation which has heretofore complied with the laws of the State or Territory of Washington hitherto existing regarding foreign corporations, and has kept a duly appointed agent within the boundaries of the state as heretofore required, shall be required to file for record or cause to be recorded the certified copies required by this act, or to execute or file for record or cause to be recorded a new appointment of agent as herein required.

SEC. 5. All acts and parts of acts heretofore passed by the Territory of Washington in conflict with any of the provisions of this act be and the same are hereby repealed.

Approved March 28, 1890.

RELATING TO TRANSPORTATION COMPANIES.

AN ACT requiring all transportation companies to promptly forward all freight, and making them liable for damages when failing promptly to forward the same.

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

SECTION 1. That all transportation companies doing business wholly or in part within this state shall, upon receipt of any article of freight, promptly forward the same to its marked destination, by the route directed by the shipper, or if no directions are given by shipper, then to any connecting company whose line or route reaches nearest to the point to which such freight is marked.

Must forward
without delay

SEC. 2. Any transportation company failing to comply with section one of this act shall be liable for any damages that may be sustained, either to the shipper or consignee, from any cause, upon proof that said damages resulted on account of a failure of the transportation company to comply with section one of this act.

Penalty for
failure to comply.

SEC. 3. Suit for damages may be instituted either at the place of shipping or destination, either by the shipper or consignee, and before any court competent and qualified to hear and determine like causes between individuals resident of the district in which said court is holding.

Jurisdiction.

Approved March 6, 1890.

TELEGRAPH AND TELEPHONE COMPANIES;
TO PROVIDE FOR THE REGULATION OF.

AN ACT to define and establish the rights and obligations of telegraph and telephone corporations and companies.

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

Eminent domain.

SECTION 1. The right of eminent domain is hereby extended to all telegraph and telephone corporations and companies organized or doing business in this state.

Must receive and transmit messages.

SEC. 2. Said corporations and companies shall receive, exchange and transmit each other's messages without delay or discrimination, and all telephone companies shall receive and transmit messages for any person.

Right-of-way over railroad lines.

SEC. 3. Every railroad operated in this state, and carrying freight and passengers for hire, or doing business in this state, is and shall be designated a "post road," and the corporation or company owning the same shall allow telegraph and telephone companies to construct and maintain telegraph and telephone lines on and along the right-of-way of such railroad.

Equal privileges.

SEC. 4. No railroad corporation or company organized or doing business in this state shall allow any telegraph or telephone company, or any individual, any facilities, privileges or rates for transportation of men or material, or for repairing their lines, not allowed to all telegraph and telephone companies and individuals.

General rights.

SEC. 5. Any telegraph or telephone corporation or company, or the lessees thereof, doing business in this state, shall have the right to construct and maintain all necessary lines of telegraph or telephone for public traffic along and upon any public road, street or highway, along or across the right-of-way of any railroad corporation, and may erect poles, posts, piers or abutments for supporting the insulators, wires and any other necessary fixture of their lines, in such manner and at such points as not to incommode the public use of the railroad or highway, or interrupt the navigation of the waters: *Provided*, That when the right-of-way of such corporation has not been

acquired by or through any grant or donation from the United States, or this state, or any county, city or town therein, then the right to construct and maintain such lines shall be secured only by the exercise of right of eminent domain, as provided by law: *Provided further*,^{Eminent domain.} That where the right-of-way as herein contemplated is within the corporate limits of any incorporated city, the consent of the city council thereof shall be first obtained before such telegraph or telephone lines can be erected thereon.^{Within incorporated cities.}

SEC. 6. Any person who injures or destroys, through want of proper care, any necessary or useful fixtures of any telegraph or telephone corporation or company, is liable to the corporation or company for all damages sustained thereby. Any vessel which, by dragging its anchor or otherwise, breaks, injures or destroys the sub-aqueous cable of a telegraph or telephone corporation or company, subjects its owners to the damages hereinbefore specified.^{Liability for injuring or destroying property.}

SEC. 7. Any person who wilfully and maliciously does any injury to any telegraph or telephone property mentioned in the preceding section, is liable to the corporation or company for five times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction.^{Willful or malicious injury.}

SEC. 8. In case of the refusal or neglect of any telegraph or telephone corporation to comply with the provisions of section number two, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense.^{Penalty.}

SEC. 9. In case of the refusal or neglect of any railroad company or corporation to comply with the provisions of section number three, said company or corporation shall be liable for damages in the sum of not less than one thousand dollars nor more than five thousand dollars for each offense, and one hundred dollars per day during the continuance thereof.^{Penalty as to section 3.}

SEC. 10. No telegraph or telephone corporation or company can recover damages for the breaking or injury of any sub-aqueous telegraph cable, unless such corporation or company has previously erected on either bank of the

Marking location of cables.

waters under which the cable is placed, a monument indicating the place where the cable lies, and publishes for one month, in some newspaper most likely to give notice to navigators, a notice giving a description and the purpose of the monuments, and the general course, landings and termini of the cable.

SEC. 11. All laws and parts of laws in conflict with this act are hereby repealed.

Received by the governor March 28, 1890.

[*Note by the Secretary of State.*—The foregoing act having been presented to the governor of the state for his approval, and not having been filed in the office of the secretary of state within the time prescribed by the constitution of the state, with his objections thereto, has become a law under the provisions of the constitution.]

APPROPRIATION OF LANDS BY CORPORATIONS ; TO REGULATE PROCEEDINGS FOR.

AN ACT to regulate the mode of proceeding to appropriate lands, real estate or property, by corporations for corporate purposes, and of ascertaining and securing compensation therefor, and repealing laws in conflict with this act, and declaring an emergency.

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

SECTION 1. Any corporation authorized by law to appropriate land, real estate, premises or other property for right-of-way or any other corporate purposes, may present to the superior court of the county in which any land, real estate, premises or other property sought to be appropriated shall be situated, or to the judge of such superior court in any county where he has jurisdiction or is holding court, a petition in which the land, real estate, premises or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, incumbrancer or other

Petition to superior court.

person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money, irrespective of any benefit from any improvement proposed by such corporation, to such owner or owners, respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such lands, real estate, premises or other property, or in case a jury be waived as in other civil cases in courts of record in the manner prescribed by law, then that the compensation to be made, as aforesaid, be ascertained and determined by the court, or judge thereof.

SEC. 2. A notice, stating briefly the objects of the petition, and containing a description of the land, real estate, premises or property sought to be appropriated, and stating the time and place, when and where the same will be presented to the court, or the judge thereof, shall be served on each and every person named therein as owner, incumbrancer, tenant, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of minors, on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons, on their guardian, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other property sought to be appropriated is

Notice must be served.

In case of domestic corporations.

Minors.

State lands. state, school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be appropriated is situated. In all cases where the owner or person claiming an interest in such real or other property, is a non-resident of this state, or where the residence of such owner or person is unknown, and an affidavit of the agent or attorney of the corporation shall be filed that such owner or person is a non-resident of this state, or that after diligent inquiry his residence is unknown, or can not be ascertained

As to non-resident owners. by such deponent, service may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest to the county in which lies the land sought to be appropriated. And such publication shall be deemed service upon each of such non-resident person or persons whose residence is unknown. Such notice shall be signed by the president, manager, secretary or attorney of the corporation; and in case the proceedings provided for in this act are instituted by the owner or any other person or party interested in the land, real estate, or other property sought to be appropriated, then such notice shall be signed by such owner, person or party interested, or his, her or its attorney. Such notice may be served by any competent person over twenty-one

Service by publication. years of age. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, orders and other papers in the proceedings authorized by this act may be made as the superior court or the judge thereof may direct.

Proof of service.

SEC. 3. The court or judge may, upon application of ^{Powers of court.} the petitioner or of any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

SEC. 4. At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property, described in said petition, have been duly served with said notice as above prescribed, and shall be further satisfied by competent proof that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really a public use and that the public interest requires the prosecution of such enterprise, and that the land, real estate, premises or other property so sought to be appropriated are required and necessary for the purposes of such enterprise, the court or judge thereof may make an order, to be recorded in the minutes of said court, directing the sheriff to summon from the citizens of the county in which any land, real estate, premises or other property sought to be appropriated shall be situated, as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the parties to the ^{Jury.} proceedings consent to a less number (such number to be not less than three), and such consent shall be entered by the clerk in the minutes of the trial. If necessary to complete the jury, the sheriff, under direction of the court or judge thereof, shall summon as many qualified persons as may be required to complete the jury from the bystanders, citizens of the county where the land, real estate, premises or other property is situated.

SEC. 5. A judge of the superior court shall preside at the trial which shall be held at such time as the court or the judge thereof may direct, at the court house in the county where the land, real estate, premises or other property sought to be appropriated is situated, and the jurors at such trial shall make in each case a separate ^{Separate assessment for each owner.} assessment of damages which shall result to any person,

corporation or company, or to the state, or to any county, by reason of the appropriation and use of such land, real estate, premises or other property by such corporation as aforesaid for any and all corporate purposes, and shall ascertain, determine and award the amount of damages to be paid to said owner or owners respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property for the purpose of such enterprise, irrespective of any benefit from any improvement proposed by such corporation. Upon the trial, witnesses may be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpœna in such proceedings shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. Upon the verdict of the jury, judgment shall be entered for the amount of the damages awarded to such owner or owners respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property. In case a jury is waived as in civil cases in courts of record in the manner prescribed by law, the compensation to be paid for the property sought to be appropriated shall be ascertained and determined by the court or the judge thereof, and the proceedings shall be the same as in trials of an issue of fact by the court.

Basis of estimate of damages.

Judgment for damages.

Judgment for appropriation of lands.

SEC. 6. At the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate, premises, right-of-way or other property sought to be appropriated, thereby vesting the legal title to the same in the corporation seeking to appropriate such land, real estate, premises, right-of-way or other property for corporate purposes. Whenever said judgment or decree of appropriation shall affect lands, real estate or other premises, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate, or other premises are situated, and shall be recorded by said auditor like a deed of real estate, and with like effect.

If the title to said land, real estate, premises or other property attempted to be acquired is found to be defective from any cause, the corporation may again institute proceedings to acquire the same, as in this act provided.

SEC. 7. Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the petitioner, or any officer of, or other person duly appointed by said corporation, may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs, to any land, real estate, premises or other property mentioned in said petition, such corporation shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or other person or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court, and the costs of appeal: *Provided*, That in case of an appeal to the supreme court of the state by any party to the proceedings, the money so paid into the superior court by such corporation as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court.

SEC. 8. Any person, corporation, state or county, claiming to be entitled to any money paid into court, as provided in this act, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or it is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he or it shall be found entitled to; but if, upon application, the court or judge thereof shall decide that the title to the land, real estate, premises or other property specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced and the con-

flicting claims to such land, real estate, premises or other property be determined according to law.

Right of appeal.

SEC. 9. Either party may appeal from the judgment for damages entered in the superior court, to the supreme court of the state, within thirty days after the entry of judgment as aforesaid, and such appeal shall bring before the supreme court the propriety and justness of the amount of damages in respect to the parties to the appeal: *Provided, however,* That no bond shall be required of any person interested in the property sought to be appropriated by such corporation, but in case the corporation appropriating such land, real estate, premises or other property is appellant, it shall give a bond like that prescribed in the next following section, to be executed, filed and approved in the same manner: *And provided further,* That if the owner of the land, real estate, premises or other property accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively an appeal to the supreme court, and final judgment by default may be rendered in the superior court as in other cases.

Bond of corporation

SEC. 10. The construction of any railway or canal, or the prosecution of any works or improvements, by any corporation as aforesaid, shall not be hindered, delayed or prevented by the prosecution of the appeal of any party to the proceedings: *Provided,* The corporation aforesaid shall execute and file with the clerk of the court in which the appeal is pending, a bond to be approved by said clerk, with sufficient sureties, conditioned that the persons executing the same shall pay whatever amount may be required by the judgment of the court therein, and abide any rule or order of the court in relation to the matter in controversy.

In case of proper bond, corporation not delayed.

Actions pending.

SEC. 11. No rights acquired in actions now pending under existing laws shall be affected by anything herein contained, and as to all pending actions, such laws are continued in full force and effect. Except as provided in this section, all laws and parts of laws relating to the appropriation of lands or other property by corporations for corporate purposes are hereby repealed.

SEC. 12. Any railroad company whose right-of-way ^{Rights-of-way.} passes through any canon, pass or defile shall not prevent any other railroad company from the use and occupancy of said canon, pass or defile for the purpose of its road in common with the road first located or the crossing of other railroads at grade, and any railroad company authorized by law to appropriate land, real estate, premises or other property for right-of-way or any other corporate purpose may present a petition, in the manner and form herein- ^{Petition to court.} before provided, for the appropriation of a right-of-way through any canon, pass or defile for the purpose of its road where right-of-way has already been located, condemned or occupied by some other railroad company through such canon, pass or defile for the purpose of its road, and thereupon, like proceedings shall be had upon such petition as herein provided in other cases; and at the time of rendering judgment for damages, whether ^{Proceedings.} upon default or trial, the court or judge thereof shall enter a judgment or decree authorizing said railroad company to occupy and use said right-of-way, road-bed and track, if necessary, in common with the railroad company or companies already occupying or owning the same, and defining the terms and conditions upon which the same shall be so occupied and used in common.

SEC. 13. Whereas, it is evident that unless this act shall take effect immediately, great embarrassment, inconvenience and delay will arise in the construction of railway lines and canals, and the prosecution of any works or improvements by any corporation as aforesaid, with great detriment to the public interest; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 21, 1890.